

► **Skype (www.skype.com)**

Skype is my default for all phone calls. It allows you to call landlines and mobile phones across the globe for an average of 2–5 cents per minute, or connect with other Skype users worldwide for free. For about 40 euros per year, you can get a U.S. number with your home area code and receive calls that forward to a foreign cell phone. This makes your travel invisible. Lounge on the beach in Rio and answer calls to your “office” in California. Nice. Skype Chat, which comes with the service, is also perfect for sharing sensitive log-in and password information with others, as it’s encrypted.

► **Vonage (www.vonage.com) and Ooma (www.ooma.com)**

Vonage offers a small adapter for a monthly fee that connects your broadband modem to a normal phone. Take it on your travels and set it up in your apartment to receive calls to a U.S. number. Ooma has no monthly fees and doesn’t require a landline, but it offers similar hardware you can connect to broadband for a local U.S. number anywhere in the world.

► **VoIPBuster (www.voipbuster.com) and RebTel (www.rebtel.com)**

Both VoIPBuster and RebTel can provide “alias” numbers. Enter a friend’s overseas number on their sites, and both will give you a local number in your area code that will forward to your friend. VoIPBuster also acts as a cheaper Skype with free calls to more than 20 countries.

International Multi-Band and GSM-Compatible Phones

► **My World Phone (www.myworldphone.com)**

I’m partial to Nokia phones. Ensure whichever phone you purchase is “unlocked”—that the SIM card can be swapped out in different countries with different providers.

► **World Electronics USA (www.worldelectronicsusa.com)**

Good explanation of which GSM frequencies and “bands” function in which countries, which will determine which phone you purchase for travel (and perhaps home).

Tools for Off-the-Beaten Path

► **Satellite Phones (www.satphonestore.com)**

If you will be in the mountains of Nepal or on a remote island and want the peace of mind (or headache) of having a phone nearby, these phones work via satellite instead of towers. Iridium has been

recommended for widest reception (pole to pole), with Globalstar in second place (three continents). Rent or purchase.

► **Pocket-size Solar Panels (www.solio.com)**

Satellite phones and other small electronics are of little use (skipping stones, perhaps?) if their batteries die. Solio is about the size of two packs of cards and fans out into small solar panels. I was surprised to find that it charged my cell phone in less than 15 minutes—more than twice as fast as a wall outlet. Adapters are available for almost anything.

What to Do Once You Get There—Career Experiments and More

► **Verge Magazine (see Restricted Reading appendix)**

► **Meet Up (www.meetup.com)**

Search by city and activity to find people who share similar interests all over the world.

► **Become a Travel Writer (www.writtenroad.com)**

Get paid to travel the world and record your thoughts? This is a dream job for millions. Get the inside scoop on the travel publishing world from veteran Jen Leo, author of *Sand in My Bra and Other Misadventures: Funny Women Write from the Road*. This blog was a *Frommer's Budget Travel* Top Choice and also features great practical articles about low-tech travel and going gadgetless.

► **Teach Engrish (www.eslcafe.com)**

Dave's ESL Café is one of the oldest and most useful resources for teachers, would-be teachers, and learners of English. Features discussion boards and “teachers wanted” job postings worldwide.

► **Turn Your Brain into Play-Doh (www.jiwire.com)**

Travel the world so you can instant message (IM) with your friends in the U.S. This site lists more than 150,000 hotspots where you can feed your information OCD. Be ashamed if this becomes your default activity. If you're bored, just remember—it's your fault. I've been there, so I'm not preaching. It happens to the best of us from time to time, but get more creative.

► **Test a New Career Part- or Full-Time: Working Overseas (www.workingoverseas.com)**

This encyclopedia is an exhaustive menu of options for the globally minded, compiled and updated by

► **World Wide Opportunities on Organic Farms** (www.woof.com)

Learn and then teach sustainable organic farming techniques in dozens of countries, including Turkey, New Zealand, Norway, and French Polynesia.

Chat and E-mail in a Language You Don't Know

► **Google Chat Bots** (<http://bit.ly/imbot>)

Use this to chat in real time using almost any language. Instant message (IM) directly from your Gmail e-mail account with anyone in the world.

► **Nice Translator** (www.nicetranslator.com) and **Free Translation** (www.freetranslation.com)

Translate text from English into a dozen languages and vice versa. Surprisingly accurate, though the lost-in-translation 10–20% can get you in trouble. Nice Translator is faster and can be used on the iPhone.

Become Fluent in Record Time

Language Addicts and Accelerated Learning

For all things language related, from detailed how-to articles (how to reactivate forgotten languages, memorize 1,000 words per week, master tones, etc.) to mnemonics and the best electronic shortcuts, click on “language” at www.fourhourblog.com. Learning languages is an addiction of mine and a skill I have taken apart and reassembled to be faster. It is possible to become conversationally fluent in any language in 3–6 months.

Find Language Exchange Partners and Materials

► **LiveMocha** (www.livemocha.com),

EduFire (www.edufire.com), and

Smart.fm (<http://smart.fm/>)

I particularly like their BrainSpeed learning game.

► **About.com** (www.about.com)

Some of the more popular languages have excellent tutorials on About.com:

<http://italian.about.com>

<http://spanish.about.com>

<http://german.about.com>

<http://french.about.com>

68. The dollar figures in this chapter are all from a period immediately following President Bush's reelection in 2004, which correlated to the worst dollar exchange rates of the last 20 years.

69. I refer, of course, to the amazing bike-riding opportunities and famous pastries.

70. Coined by Joel Stein of the *LA Times*.

71. By all means, go ahead and take a post-office celebratory trip and go nuts for a few weeks. I know I did. Rock on. Ibiza and glow sticks here I come. Have some absinthe and drink lots of water. Following that, sit down and plan an introspective mini-retirement.

72. Muses are low maintenance but often expensive in one or both of two tactical areas: manufacturing and advertising. Shop for providers of both that are willing to accept credit cards as payment, and negotiate this up front if necessary by saying, "Rather than trying to negotiate you down on pricing, I just ask that you accept payment by credit card. If you can do that, we'll choose you over Competitor X." This is yet another example of a "firm offer," and not a question, that puts you in a stronger negotiating position. For a detailed explanation of how I multiply points for travel using concepts like "piggybacking" and "recycling," search for both terms on www.fourhourblog.com.

73. To see a video of how I pack to travel the world with less than 10 pounds, click on "travel" at www.fourhourblog.com.

74. Founder of www.nileproject.com.

75. <http://www.usc.edu/hsc/dental/opfs/SC/indexSC.html>.

76. Brazilian shantytowns. See the movie *City of God* (*Cidade de Deus*) to get a taste of how fun these are.

77. This is a serious step and should not be taken with those you do not trust. In this case, it helps because your accountant can then sign tax documents or checks in your name instead of consuming hours and days of your time with faxes, scanners, and expensive international FedEx'ing of documents.

78. There are also services like www.earthclassmail.com, which will receive, scan, and e-mail all of your non-junk mail to you as PDFs.

79. This would be used if you leave your computer at home or in someone else's home while traveling. This step can be skipped if you bring your computer, but that is like a recovering heroin addict bringing a bag of opium to rehab. Don't tempt yourself to kill time instead of rediscovering it.

80. "Unlocked" means that it is recharged with prepaid cards instead of being on a monthly payment plan with a single carrier such as O2 or Vodafone. This also means that the same phone can be used with carriers in other countries (assuming the frequency is the same) with a simple switch of the SIM memory card for \$10–30 U.S. in most cases. Some U.S.-compatible quad-band phones can use SIM cards.

➤ ADDING LIFE AFTER SUBTRACTING WORK

To be engrossed by something outside ourselves is a powerful antidote for the rational mind, the mind that so frequently has its head up its own ass.

—ANNE LAMOTT, *Bird by Bird*

There is not enough time to do all the nothing we want to do.

—BILL WATTERSON, creator of the Calvin and Hobbes cartoon strip

KING'S CROSS , LONDON

I stumbled into the deli across the cobblestone street and ordered a prosciutto sandwich. It was 10:33 A.M. now, the fifth time I'd checked the time, and the twentieth time I'd asked myself, "What the &%\$# am I going to do today?"

The best answer I had come up with so far was: get a sandwich.

Thirty minutes earlier, I had woken up without an alarm clock for the first time in four years, fresh off arriving from JFK the night before. I had soooo been looking forward to it: awakening to musical birdsong outside, sitting up in bed with a smile, smelling the aroma of freshly brewed coffee, and stretching out overhead like a cat in the shade of a Spanish villa. Magnificent. It turned out more like this: bolt upright as if blasted with a foghorn, grab clock, curse, jump out of bed in underwear to check e-mail, remember that I was forbidden to do so, curse again, look for my host and former classmate, realize that he was off to work like the rest of the world, and proceed to have a panic attack.

I spent the rest of the day in a haze, wandering from museum to botanical garden to museum as if on rinse and repeat, avoiding Internet cafés with some vague sense of guilt. I needed a to-do list to feel productive and so put down things like "eat dinner."

This was going to be a lot harder than I had thought.

Postpartum Depression: It's Normal

Man is so made that he can only find relaxation from one kind of labor by taking up another.

—ANATOLE FRANCE, author of *The Crime of Sylvestre Bonnard*

I've Got More Money and Time Than I Ever Dreamed Possible ... Why Am I Depressed?

It's a good question with a good answer. Just be glad you're figuring this out now and not at the end of life! The retired and ultrarich are often unfulfilled and neurotic for the same reason: too much idle time.

But wait a second ... Isn't more time what we're after? Isn't that what this book is all about? No, not at all. Too much free time is no more than fertilizer for self-doubt and assorted mental tail-chasing. Subtracting the bad does not create the good. It leaves a vacuum. Decreasing income-driven work isn't

In the beginning, the external fantasies will be enough, and there is nothing wrong with this. I cannot overemphasize the importance of this period. Go nuts and live your dreams. This is not superficial or selfish. It is critical to stop repressing yourself and get out of the postponement habit.

Let's suppose you decide to dip your toe in dreams like relocating to the Caribbean for island-hopping or taking a safari in the Serengeti. It will be wonderful and unforgettable, and you should do it. There will come a time, however—be it three weeks or three years later—when you won't be able to drink another piña colada or photograph another damn red-assed baboon. Self-criticism and existential panic attacks start around this time.

But This Is What I Always Wanted! How Can I Be Bored?!

Don't freak out and fuel the fire. This is normal among all high-performers who downshift after working hard for a long time. The smarter and more goal-oriented you are, the tougher these growing pains will be. Learning to replace the perception of time famine with appreciation of time abundance is like going from triple espressos to decaf.

But there's more! Retirees get depressed for a second reason, and you will too: social isolation.

Offices are good for some things: free bad coffee and complaining thereof, gossip and commiserating, stupid video clips via e-mail with even stupider comments, and meetings that accomplish nothing but kill a few hours with a few laughs. The job itself might be a dead end, but it's the web of human interactions—the social environment—that keeps us there. Once liberated, this automatic tribal unit disappears, which makes the voices in your head louder.

Don't be afraid of the existential or social challenges. Freedom is like a new sport. In the beginning, the sheer newness of it is exciting enough to keep things interesting at all times. Once you have learned the basics, though, it becomes clear that to be even a half-decent player requires some serious practice.

Don't fret. The greatest rewards are to come, and you're 10 feet from the finish line.

Frustrations and Doubts: You're Not Alone

People say that what we are seeking is a meaning for life. I don't think this is what we're really seeking. I think what we're seeking is an experience of being alive.

—JOSEPH CAMPBELL, *The Power of Myth*

Once you eliminate the 9–5 and the rubber hits the road, it's not all roses and white-sand bliss, though much of it can be. Without the distraction of deadlines and co-workers, the big questions (such as “What does it all mean?”) become harder to fend off for a later time. In a sea of infinite options, decisions also become harder—What the hell should I do with my life? It's like senior year in college all over again.

Like all innovators ahead of the curve, you will have frightening moments of doubt. Once past the kid-in-a-candy-store phase, the comparative impulse will creep in. The rest of the world will continue with its 9–5 grind, and you'll begin to question your decision to step off the treadmill. Common doubts and self-flagellation include the following:

1. Am I really doing this to be more free and lead a better life, or am I just lazy?

2. Did I quit the rat race because it's bad, or just because I couldn't hack it? Did I just cop out?
3. Is this as good as it gets? Perhaps I was better off when I was following orders and ignorant of the possibilities. It was easier at least.
4. Am I really successful or just kidding myself?
5. Have I lowered my standards to make myself a winner? Are my friends, who are now making twice as much as three years ago, really on the right track?
6. Why am I not happy? I can do anything and I'm still not happy. Do I even deserve it?

Most of this can be overcome as soon as we recognize it for what it is: outdated comparisons using the more-is-better and money-as-success mind-sets that got us into trouble to begin with. Even so, there is a more profound observation to be made.

These doubts invade the mind when nothing else fills it. Think of a time when you felt 100% alive and undistracted—in the zone. Chances are that it was when you were completely focused in the moment on something external: someone or something else. Sports and sex are two great examples. Lacking an external focus, the mind turns inward on itself and creates problems to solve, even if the problems are undefined or unimportant. If you find a focus, an ambitious goal that seems impossible and forces you to grow,⁸¹ these doubts disappear.

In the process of searching for a new focus, it is almost inevitable that the “big” questions will creep in. There is pressure from pseudo-philosophers everywhere to cast aside the impertinent and answer the eternal. Two popular examples are “What is the meaning of life?” and “What is the point of it all?”

There are many more, ranging from the introspective to the ontological, but I have one answer for almost all of them—I don’t answer them at all.

I’m no nihilist. In fact, I’ve spent more than a decade investigating the mind and concept of meaning, a quest that has taken me from the neuroscience laboratories of top universities to the halls of religious institutions worldwide. The conclusion after it all is surprising.

I am 100% convinced that most big questions we feel compelled to face—handed down through centuries of overthinking and mistranslation—use terms so undefined as to make attempting to answer them a complete waste of time.⁸² This isn’t depressing. It’s liberating.

Consider the question of questions: What is the meaning of life?

If pressed, I have but one response: It is the characteristic state or condition of a living organism. “But that’s just a definition,” the questioner will retort, “that’s not what I mean at all.” What do you mean, then? Until the question is clear—each term in it defined—there is no point in answering it. The “meaning” of “life” question is unanswerable without further elaboration.

Before spending time on a stress-inducing question, big or otherwise, ensure that the answer is “yes” to the following two questions:

1. Have I decided on a single meaning for each term in this question?
2. Can an answer to this question be acted upon to improve things?

“What is the meaning of life?” fails the first and thus the second. Questions about things beyond your sphere of influence like “What if the train is late tomorrow?” fail the second and should thus be ignored. These are not worthwhile questions. **If you can’t define it or act upon it, forget it.** If you take just this point from this book, it will put you in the top 1% of performers in the world and keep most philosophical distress out of your life.

Sharpening your logical and practical mental toolbox is *not* being an atheist or unspiritual. It’s not being crass and it’s not being superficial. It’s being smart and putting your effort where it can make the

The Point of It All: Drumroll, Please

What man actually needs is not a tensionless state but rather the striving and struggling for a worthwhile goal, a freely chosen task.

—VIKTOR E. FRANKL, Holocaust survivor; author of *Man's Search for Meaning*

I believe that life exists to be enjoyed and that the most important thing is to feel good about yourself.

Each person will have his or her own vehicles for both, and those vehicles will change over time. For some, the answer will be working with orphans, and for others, it will be composing music. I have a personal answer to both—to love, be loved, and never stop learning—but I don't expect that to be universal.

Some criticize a focus on self-love and enjoyment as selfish or hedonistic, but it's neither. Enjoying life and helping others—or feeling good about yourself and increasing the greater good—are no more mutually exclusive than being agnostic and leading a moral life. One does not preclude the other. Let's assume we agree on this. It still leaves the question, “What can I do with my time to enjoy life and feel good about myself?”

I can't offer a single answer that will fit all people, but, based on the dozens of fulfilled **NR** I've interviewed, there are two components that are fundamental: continual learning and service.

Learning Unlimited: Sharpening the Saw

Americans who travel abroad for the first time are often shocked to discover that, despite all the progress that has been made in the last 30 years, many foreign people still speak in foreign languages.

—DAVE BARRY

To live is to learn. I see no other option. This is why I've felt compelled to quit or be fired from jobs within the first six months or so. The learning curve flattens out and I get bored.

Though you can upgrade your brain domestically, traveling and relocating provides unique conditions that make progress much faster. The different surroundings act as a counterpoint and mirror for your own prejudices, making weaknesses that much easier to fix. I rarely travel somewhere without deciding first how I'll obsess on a specific skill. Here are a few examples:

- ➤ **Connemara, Ireland:** Gaelic Irish, Irish flute, and hurling, the fastest field sport in the world (imagine a mix of lacrosse and rugby played with axe handles)

- **– Rio de Janeiro, Brazil:** Brazilian Portuguese and Brazilian jujitsu
- **– Berlin, Germany:** German and locking (a form of upright break-dancing)

I tend to focus on language acquisition and one kinesthetic skill, sometimes finding the latter after landing overseas. The most successful serial vagabonds tend to blend the mental and the physical. Notice that I often transport a skill I practice domestically—martial arts—to other countries where they are also practiced. Instant social life and camaraderie. It need not be a competitive sport—it could be hiking, chess, or almost anything that keeps your nose out of a textbook and you out of your apartment. Sports just happen to be excellent for avoiding foreign-language stage fright and developing lasting friendships while still sounding like Tarzan.

Language learning deserves special mention. It is, bar none, the best thing you can do to hone clear thinking.

Quite aside from the fact that it is impossible to understand a culture without understanding its language, acquiring a new language makes you aware of your own language: your own thoughts. The benefits of becoming fluent in a foreign tongue are as underestimated as the difficulty is overestimated. Thousands of theoretical linguists will disagree, but I *know* from research and personal experimentation with more than a dozen languages that (1) adults can learn languages much faster than children⁸³ when constant 9–5 work is removed and that (2) it is possible to become conversationally fluent in any language in six months or less. At four hours per day, six months can be whittled down to less than three months. It is beyond the scope of this book to explain applied linguistics and the 80/20 of language learning, but resources and complete how-to guides can be found under “language” at www.fourhourblog.com. I learned six languages after failing Spanish in high school, and you can do the same with the right tools.

Gain a language and you gain a second lens through which to question and understand the world. Cursing at people when you go home is fun, too.

Don’t miss the chance to double your life experience.

Service for the Right Reasons: To Save the Whales, or Kill Them and Feed the Children?

Morality is simply the attitude we adopt toward people we personally dislike.

—OSCAR WILDE

One would expect me to mention service in this chapter, and here it is. Like all before it, the twist is a bit different. Service to me is simple: doing something that improves life besides your own. This is not the same as philanthropy. Philanthropy is the altruistic concern for the well-being of mankind—human life. Human life has long been focused on the exclusion of the environment and the rest of the food chain, hence our current race to imminent extinction. Serves us right. The world does not exist solely for the betterment and multiplication of mankind.

Before I start channeling myself to trees and saving the earth frogs, though, I should take my own advice. Do not become a cause snob.

How can you help starving children in Africa when there are starving children in Los Angeles? How can you save the whales when homeless people are freezing to death? How does doing volunteer research on coral destruction help those people who need help now?

Children, please. Everything out there needs help, so don't get baited into "my cause can beat up your cause" arguments with no right answer. There are no qualitative or quantitative comparisons that make sense. The truth is this: Those thousands of lives you save could contribute to a famine that kills millions, or that one bush in Bolivia that you protect could hold the cure for cancer. The downstream effects are unknown. Do your best and hope for the best. If you're improving the world—however you define that—consider your job well done.

Service isn't limited to saving lives or the environment either. It can also improve life. If you are a musician and put a smile on the faces of thousands or millions, I view that as service. If you are a mentor and change the life of one child for the better, the world has been improved. Improving the quality of life in the world is in no fashion inferior to adding more lives.

Service is an attitude.

Find the cause or vehicle that interests you most and make no apologies.

► Q&A: QUESTIONS AND ACTIONS

Adults are always asking kids what they want to be when they grow up because they are looking for ideas.

—PAULA POUNDSTONE

The miracle is not to walk on water. The miracle is to walk on the green earth, dwelling deeply in the present moment and feeling truly alive.

—THICH NHAT HANH

But I can't just travel, learn languages, or fight for one cause for the rest of my life! Of course you can't. That's not my suggestion at all. These are just good "life hubs"—starting points that lead to opportunities and experiences that otherwise wouldn't be found.

There is no right answer to the question "What should I do with my life?" Forget "should" altogether. The next step—and that's all it is—is pursuing something, it matters little what, that seems fun or rewarding. Don't be in a rush to jump into a full-time long-term commitment. Take time to find something that calls to you, not just the first acceptable form of surrogate work. That calling will, in turn, lead you to something else.

Here is a good sequence for getting started that dozens of **NR** have used with success.

1. Revisit ground zero: Do nothing.

Before we can escape the goblins of the mind, we need to face them. Principal among them is speed addiction. It is hard to recalibrate your internal clock without taking a break from constant overstimulation. Travel and the impulse to see a million things can exacerbate this.

Slowing down doesn't mean accomplishing less; it means cutting out counterproductive distractions and the *perception* of being rushed. Consider attending a short silence retreat of 3–7 days during which

an inner and speaking is promoted.

Learn to turn down the static of the mind so you can appreciate more before doing more:

► The Art of Living Foundation (Course II)—International—(www.artofliving.org)

► Spirit Rock Meditation Center in California (<http://www.spiritrock.org>)

► Kripalu Center for Yoga and Health in Massachusetts (<http://www.kripalu.org>)

► Sky Lake Lodge in New York (<http://www.sky-lake.org>)

2. Make an anonymous donation to the service organization of your choice.

This helps to get the juices flowing and disassociate feeling good about service with getting credit for it. It feels even better when it's pure. Here are some good sites to get started:

► Charity Navigator (www.charitynavigator.org)

This independent service ranks more than 5,000 charities using criteria you select. Create a personalized page of favorites and compare them side by side, all free of charge.

► Firstgiving (www.firstgiving.com)

[Firstgiving.com](http://www.firstgiving.com) allows you to create an online fund-raising page. Donations can be made through your personal URL. I have used Firstgiving in coordination with a nonprofit called Room to Read to build schools in both Nepal and Vietnam, with more countries pending: www.firstgiving.com/timferriss and www.firstgiving.com/timferriss2. If you specifically want to help animals, for example, you can click on a related link and access websites for hundreds of different animal charities, and then decide which one you want to donate to. The UK version of the website is <http://www.justgiving.com>.

► Network for Good (www.networkforgood.org)

Visitors to this website will find links to charities in need of donations as well as opportunities to do volunteer work. They can also set up an automated credit card donation online.

3. Take a learning mini-retirement in combination with local volunteering.

Take a mini-retirement—six months or more if possible—to focus on learning and serving. The longer duration will permit a language focus, which in turn enables more meaningful interaction and contribution through volunteering.

For the duration of this trip, note self-criticisms and negative self-talk in a journal. Whenever upset or anxious, ask “why” at least three times and put the answers down on paper. Describing these doubts in writing reduces their impact twofold. First, it's often the ambiguous nature of self-doubt that hurts most. Defining and exploring it in writing—just as with forcing colleagues to e-mail—demands clarity of thought, after which most concerns are found to be baseless. Second, recording these concerns seems to somehow remove them from your head.

But where to go and what to do? There is no one right answer to student. Use the following questions and resources to brainstorm:

What makes you most angry about the state of the world?

What are you most afraid of for the next generation, whether you have children or not?

What makes you happiest in your life? How can you help others have the same?

There is no need to limit yourself to one location. Remember Robin, who traveled through South America for a year with her husband and seven-year-old son? The three of them spent one to two months doing volunteer work in each location, including building wheelchairs in Banos, Ecuador, rehabilitating exotic animals in the Bolivian rain forest, and shepherding leather-back sea turtles in Suriname.

How about doing archaeological excavation in Jordan or tsunami relief on the islands of Thailand? These are just two of the dozens of foreign relocation and volunteering case studies in each issue of *Verge Magazine* (www.vergemagazine.com). Reader-tested resources include:

Hands on Disaster Response: www.hodr.org

Project Hope: www.projecthope.org

Relief International: www.ri.org

International Relief Teams: www.irteams.org

Airline Ambassadors International: www.airlineamb.org

Ambassadors for Children:

www.ambassadorsforchildren.org

Relief Riders International:

www.reliefridersinternational.com

Habitat for Humanity Global Village Program:

www.habitat.org

Planeta: Global Listings for Practical Ecotourism:

www.planeta.com

4. Revisit and reset dreamlines.

Following the mini-retirement, revisit the dreamlines set in **Definition** and reset them as needed. The following questions will help:

What are you good at?

What could you be the best at?

What makes you happy?

What excites you?

What makes you feel accomplished and good about yourself?

What are you most proud of having accomplished in your life? Can you repeat this or further develop it?

...that as you enjoy sharing or experiencing with other people.

5. Based on the outcomes of steps 1–4, consider testing new part- or full-time vocations.

Full-time work isn't bad if it's what you'd rather be doing. This is where we distinguish “work” from a “vocation.”

If you have created a muse or cut your hours down to next to nothing, consider testing a part-time or full-time vocation: a true calling or dream occupation. This is what I did with this book. I can now tell people I'm a writer rather than giving them the two-hour drug dealer explanation. What did you dream of being when you were a kid? Perhaps it's time to sign up for Space Camp or intern as an assistant to a marine biologist.

Recapturing the excitement of childhood isn't impossible. In fact, it's required. There are no more chains—or excuses—to hold you back.

81. Abraham Maslow, the American psychologist famous for proposing “Mas-low's Hierarchy of Needs,” would term this goal a “peak experience.”

82. There is a place for koans and rhetorical meditative questions, but these tools are optional and outside the scope of this book. Most questions without answers are just poorly worded.

83. Ellen Bialystok and Kenji Hakuta, *In Other Words: The Science and Psychology of Second-Language Acquisition* (Basic Books, 1995).

16

The Top 13 New Rich Mistakes

If you don't make mistakes, you're not working on hard enough problems. And that's a big mistake.

—FRANK WILCZEK, 2004 Nobel Prize winner in physics

Ho imparato che niente è impossibile, e anche che quasi niente è facile ... (I've learned that nothing is impossible, and that almost nothing is easy ...)

—ARTICOLO 31 (Italian rap group), “Un Urlo”

Mistake are the name of the game in lifestyle design. It requires fighting impulse after impulse from the old world of retirement-based life deferral. Here are the slipups you will make. Don't get frustrated. It's all part of the process.

1. Losing sight of dreams and falling into work for work's sake (W4W) Please reread the introduction and next chapter of this book whenever you feel yourself falling into this trap. Everyone does it, but many get stuck and never get out.

2. **Micro-managing and training to an end** Set the responsibilities, problem scenarios and rules, and limits of autonomous decision-making—then stop, for the sanity of everyone involved.

3. **Handling problems your outsourcers or co-workers can handle**

4. **Helping outsourcers or co-workers with the same problem more than once, or with noncrisis problems** Give them if-then rules for solving all but the largest problems. Give them the freedom to act without your input, set the limits in writing, and then emphasize in writing that you will not respond to help with problems that are covered by these rules. In my particular case, all outsourcers have at their discretion the ability to fix any problem that will cost less than \$400. At the end of each month or quarter, depending on the outsourcer, I review how their decisions have affected profit and adjust the rules accordingly, often adding new rules based on their good decisions and creative solutions.

5. **Chasing customers, particularly unqualified or international prospects, when you have sufficient cash flow to finance your nonfinancial pursuits**

6. **Answering e-mail that will not result in a sale or that can be answered by a FAQ or auto-responder** For a good example of an auto-responder that directs people to the appropriate information and outsourcers, e-mailinfo@fourhourworkweek.com.

7. **Working where you live, sleep, or should relax** Separate your environments—designate a single space for work and solely work—or you will never be able to escape it.⁸⁴

8. **Not performing a thorough 80/20 analysis every two to four weeks for your business and personal life**

9. **Striving for endless perfection rather than great or simply good enough, whether in your personal or professional life** Recognize that this is often just another W4W excuse. Most endeavors are like learning to speak a foreign language: to be correct 95% of the time requires six months of concentrated effort, whereas to be correct 98% of the time requires 20–30 years. Focus on great for a few things and good enough for the rest. Perfection is a good ideal and direction to have, but recognize it for what it is: an impossible destination.

10. **Blowing minutiae and small problems out of proportion as an excuse to work**

11. **Making non-time-sensitive issues urgent in order to justify work** How many times do I have to say it? Focus on life outside of your bank accounts, as scary as that void can be in the initial stages. If you cannot find meaning in your life, it is your responsibility as a human being to create it, whether that is fulfilling dreams or finding work that gives you purpose and self-worth—ideally a combination of both.

12. **Viewing one product, job, or project as the end-all and be-all of your existence** Life is too short to waste, but it is also too long to be a pessimist or nihilist. Whatever you're doing now is just a stepping-stone to the next project or adventure. Any rut you get into is one you can get yourself out of. Doubts are no more than a signal for action of some type. When in doubt or overwhelmed, take a break and 80/20 both business and personal activities and relationships.

13. **Ignoring the social rewards of life** Surround yourself with smiling, positive people who have absolutely nothing to do with work. Create your muses alone if you must, but do not live your life alone. Happiness shared in the form of friendships and love is happiness multiplied.

⁸⁴. To avoid the living room and coffee shop as offices, consider using a social “co-working” space on occasion: <http://coworking.pbwiki.com>.

The Last Chapter

— AN E-MAIL YOU NEED TO READ

There is nothing the busy man is less busied with than living; there is nothing harder to learn.

—SENECA

For the past 33 years, I have looked in the mirror every morning and asked myself: “If today were the last day of my life, would I want to do what I am about to do today?” And whenever the answer has been “No” for too many days in a row, I know I need to change something ... almost everything—all external expectations, all pride, all fear of embarrassment or failure—these things just fall away in the face of death, leaving only what is truly important. Remembering that you are going to die is the best way I know to avoid the trap of thinking you have something to lose.

—STEVE JOBS, college dropout and CEO of Apple Computer, Stanford University Commencement, 2005⁸⁵

If you’re confused about life, you’re not alone. There are almost seven billion of us. This isn’t a problem, of course, once you realize that life is neither a problem to be solved nor a game to be won.

If you are too intent on making the pieces of a nonexistent puzzle fit, you miss out on all the real fun. The heaviness of success-chasing can be replaced with a serendipitous lightness when you recognize that the only rules and limits are those we set for ourselves.

So be bold and don’t worry about what people think. They don’t do it that often anyway.

Two years ago, I was forwarded the following poem—originally written by child psychologist David L. Weatherford—by a close friend. He quit his own deferred-life plan after reading it, and I hope you will do the same. Here it is.

SLOW DANCE

*Have you ever watched kids
On a merry-go-round?*

*Or listened to the rain
Slapping on the ground?*

*Ever followed a butterfly’s erratic flight?
Or gazed at the sun into the fading night?*

*You better slow down.
Don’t dance so fast.*

*Time is short.
The music won’t last.*

*Do you run through each day
On the fly?*

*When you ask, how are you,
Do you hear the reply?*

*When the day is done,
do you lie in your bed*

*With the next hundred chores
Running through your head?*

*You'd better slow down.
Don't dance so fast.*

*Time is short.
The music won't last.*

*Ever told your child,
We'll do it tomorrow?*

*And in your haste,
Not see his sorrow?*

*Ever lost touch,
Let a good friendship die*

*Cause you never had time
To call and say, "Hi"?*

*You'd better slow down.
Don't dance so fast.*

*Time is short.
The music won't last.*

*When you run so fast to get somewhere
You miss half the fun of getting there.*

*When you worry and hurry through your day,
It is like an unopened gift thrown away.*

*Life is not a race.
Do take it slower.*

*Hear the music
Before the song is over.*

LAST BUT NOT LEAST

► THE BEST OF THE BLOG

The Art of Letting Bad Things Happen

[AFTER 3 WEEKS OFF OF THE BLOG]

Long time no see! I just landed back in California from a long overdue mini-retirement through London, Scotland, Sardinia, the Slovak Republic, Austria, Amsterdam, and Japan. Some unpleasant surprises awaited me when I checked in on the evil e-mail inbox. Why? I let them happen.

I always do.

Here are just a few of the goodies that awaited me this time:

- ► One of our fulfillment companies had been shut down due to the CEO's death, causing a 20%+ loss in monthly orders and requiring an emergency shift of all web design and order processing
- ► Missed radio and magazine appearances and upset would-be interviewers
- ► More than a dozen lost joint-venture partnership opportunities

It's not that I go out of my way to irritate people—not at all—but I recognize one critical fact: Oftentimes, in order to do the big things, you have to let the small bad things happen. This is a skill we want to cultivate.

What did I get in exchange for temporarily putting on blinders and taking a few glancing blows?

- ► I followed the Rugby World Cup in Europe and watched the New Zealand All Blacks live, a dream I've had for the last five years.

- ► I shot every gun I've ever dreamed of firing since brainwashing myself with *Commando*. Bless the Slovak Republic and their paramilitaries.
- ► I filmed a television series pilot in Japan, a lifelong dream and the most fun I've had in months, if not years.
- ► I met with my Japanese publisher, Seishisha, and had media interviews in Tokyo, where the 4HWW is now #1 in several of the largest chains.
- ► I took a complete 10-day media fast and felt like I'd had a two-year vacation from computers.
- ► I attended the Tokyo International Film Festival and hung out with one of my heroes, the producer of the *Planet Earth* television series.

Once you realize that you can turn off the noise without the world ending, you're liberated in a way that few people ever know.

Just remember: If you don't have attention, you don't have time. Did I have time to check e-mail and voicemail? Sure. It might take 10 minutes. Did I have the attention to risk fishing for crises in those 10 minutes? Not at all.

As tempting as it is to "just check e-mail for one minute," I didn't do it. I know from experience that any problem found in the inbox will linger in the brain for hours or days after you shut down the computer, rendering "free time" useless with preoccupation. It's the worst of states, where you experience neither relaxation nor productivity. Be focused on work or focused on something else, never in-between.

Time without attention is worthless, so value attention over time.

Here are a few questions that can help you pop on the productivity blinders and put things in perspective. Even when you're not traveling the world, develop the habit of letting small bad things happen. If you don't, you'll never find time for the life-changing big things, whether important tasks or true peak experiences. If you do force the time but puncture it with distractions, you won't have the attention to appreciate it.

- ► What is the one goal, if completed, that could change everything?
- ► What is the most urgent thing right now that you feel you "must"

OR SHOULD DO?

- ► Can you let the urgent “fail”—even for a day—to get to the next milestone for your potential life-changing tasks?
- ► What’s been on your to-do list the longest? Start it first thing in the morning and don’t allow interruptions or lunch until you finish.

Will “bad” things happen? Small problems will crop up, yes. A few people will complain and quickly get over it. BUT, the bigger picture items you complete will let you see these for what they are—minutiae and repairable hiccups.

Make this trade a habit. Let the small bad things happen and make the big good things happen. —
OCTOBER 25, 2007

Things I’ve Loved and Learned in 2008

2008 was one of the most exciting years of my life. I did more dealmaking and met more people than in the last five years combined. This produced many surprise insights about business and human nature, especially as I uncovered dozens of my own false assumptions.

Here are some of the things I learned and loved in 2008.

Favorite reads of 2008: *Zorba the Greek* and *Seneca: Letters from a Stoic*. These are two of the most readable books of practical philosophies I’ve ever had the fortune to encounter. If you have to choose one, get *Zorba*, but *Lucius Seneca* will take you further. Both are fast reads of 2–3 evenings.

Don’t accept large or costly favors from strangers. This karmic debt will come back to haunt you. If you can’t pass it up, immediately return to karmic neutrality with a gift of your choosing. Repay it before they set the terms for you. Exceptions: über-successful mentors who are making introductions and not laboring on your behalf.

You don’t have to recoup losses the same way you lose them. I own a home in San Jose but moved almost 12 months ago. It’s been empty since, and I’m paying a large mortgage each month. The best part? I don’t care. But this wasn’t always the case. For many months, I felt demoralized as others pressured me to rent it, emphasizing how I was just flushing money away otherwise. Then I realized: You don’t have to make money back the same way you lose it. If you lose \$1,000 at the blackjack table, should you try and recoup it there? Of course not. I don’t want to deal with renters, even with a property management company. The solution: Leave the house alone, use it on occasion, and just create incoming revenue elsewhere that would cover the cost of the mortgage through consulting, publishing, etc.

One of the most universal causes of self-doubt and depression: trying to impress people you don’t like. Stressing to impress is fine, but do it for the right people—those you want to emulate.

Slow meals = me. From Daniel Gilbert of Harvard to Martin Seligman of Princeton, the happiness (self-reported well-being) researchers seem to agree on one thing: Mealtime with friends and loved ones is a direct predictor of well-being. Have at least one 2-to-3-hour dinner and/or drinks per week—yes, 2–3 hours—with those who make you smile and feel good. I find the afterglow effect to be greatest and longest with groups of five or more. Two times that are conducive to this: Thursday dinners or after-dinner drinks and Sunday brunches.

Adversity doesn't build character; it reveals it.

Related: Money doesn't change you; it reveals who you are when you no longer have to be nice.

It doesn't matter how many people don't get it. What matters is how many people do. If you have a strong informed opinion, don't keep it to yourself. Try to help people and make the world a better place. If you strive to do anything remotely interesting, just expect a small percentage of the population to always find a way to take it personally. F*ck 'em. There are no statues erected to critics.

Related: You're never as bad as they say you are. My agent used to send me every blog or media hit for *The 4-Hour Workweek*. Eight weeks after publication, I asked him to only forward me positive mentions in major media or factual inaccuracies I needed to respond to. An important correlate: You're never as good as they say you are, either. It's not helpful to get a big head or get depressed. The former makes you careless and the latter makes you lethargic. I wanted to have untainted optimism but remain hungry. Speaking of hungry ...

Eat a high-protein breakfast within 30 minutes of waking and go for a 10-to-20-minute walk outside afterward, ideally bouncing a handball or tennis ball. This one habit is better than a handful of Prozac in the morning. (Suggested reading: The 3-Minute Slow-Carb Breakfast, How to "Peel" Hardboiled Eggs Without Peeling on www.fourhourblog.com.) **I dislike losing money about 50x more than I like making it.** Why 50X? Logging time as an experiment, I concluded that I often spend at least 50 x more time to prevent a hypothetical unit of \$100 from being lost vs. earned. The hysterical part is that, even after becoming aware of this bias, it's hard to prevent the latter response. Therefore, I manipulate the environmental causes of poor responses instead of depending on error-prone self-discipline.

I should not invest in public stocks where I cannot influence outcomes. Once realizing that almost no one can predict risk tolerance and response to losses, I moved all of my investments into fixed-income and cashlike instruments in July 2008 for this reason, setting aside 10% of pretax income for angel investments where I can contribute significant UI/design, PR, and corporate partnership help. (Suggested reading: Rethinking Investing—Part 1, Rethinking Investing—Part 2 on www.fourhourblog.com.)

A good question to revisit whenever overwhelmed: Are you having a breakdown or a breakthrough?

Rehearse poverty regularly—restrict even moderate expenses for 1–2 weeks and give away 20%+ of minimally used clothing—so you can think big and take "risks" without fear (Seneca).

A mindset of scarcity (which breeds jealousy and unethical behavior) is due to a disdain for those things easily obtained (Seneca).

A small cup of black Kenyan AA coffee with cinnamon on top, no milk or sweeteners.

It's usually better to keep old resolutions than to make new ones.

to bring in a wonderful 2009, I'd like to quote an e-mail I received from a friend of more than a decade:

While many are wringing their hands, I recall the 1970s when we were suffering from an oil shock causing long lines at gas stations, rationing, and 55 MPH speed limits on federal highways, a recession, very little venture capital (\$50 million per year into VC firms), and what President Jimmy Carter (wearing a sweater while addressing the nation on TV because he had turned down the heat in the White House) called a "malaise." It was during those times that two kids without any real college education, Bill Gates and Steve Jobs, started companies that did pretty well. Opportunities abound in bad times as well as good times. In fact, the opportunities are often greater when the conventional wisdom is that everything is going into the toilet.

Well... we're nearing the end of another great year, and despite what we read about the outlook for 2009, we can look forward to a New Year filled with opportunities as well as stimulating challenges.

Happy New Year, everyone.

How to Travel the World with 10 Pounds or Less

Hauling a five-piece Samsonite set around the planet is hell on earth. I watched a friend do this up and down dozens of subway and hotel staircases in Europe for three weeks, and—while I laughed a lot, especially when he resorted to just dragging or throwing his bags down stairs—I'd like to save you the breakdown. Trip enjoyment is inversely proportionate to the amount of crap (read: distractions) you bring with you.

Practice in 30-plus countries has taught me that minimalist packing can be an art.

I returned from Costa Rica last Wednesday and have since landed in Maui, where I'll stay for one week. **What did I pack and why?** (See the companion video at www.fourhourblog.com.⁸⁶)

I practice what I'll label the **BIT method of travel: Buy It There.**

If you pack for every possible contingency—better bring the hiking books in case we go hiking, better bring an umbrella in case it rains, better bring dress shoes and slacks in case we go to a nice restaurant, etc.—carrying a mule-worthy load is inevitable. I've learned to instead allocate \$50–200 per trip to a "settling fund," which I use to buy needed items once they're 100% needed. This includes cumbersome and hassle items like umbrellas and bottles of sunscreen that love to explode. Also, never buy if you can borrow. If you're going on a bird-watching trip in Costa Rica, you don't need to bring binoculars—someone else will have them.

Here's the Maui list.

- ► 1 featherweight Marmot Ion jacket (3 oz.!)
- ► 1 breathable Coolibar long-sleeve shirt to prevent sunburn. This saved me in Panama.

- ▶ 1 pair of polyester pants. Polyester is light, wrinkle-resistant, and dries quickly. Disco dancers and flashpackers dig it.
- ▶ 1 Kensington laptop lock, also used to secure all bags to stationary objects
- ▶ 1 single Under Armour sock, used to store sunglasses
- ▶ 2 nylon tanktops
- ▶ 1 large MSR quick-dry microfiber towel, absorbs up to seven times its weight in water
- ▶ 1 Ziploc bag containing toothbrush, travel toothpaste, and disposable razor
- ▶ 1 Fly Clear biometric travel card (www.flyclear.com), ⁸⁷which cuts down my airport wait time about 95%
- ▶ 2 pairs of ExOfficio lightweight underwear. Their tagline is “17 countries. 6 weeks. And one pair of underwear.” I think I’ll opt for two, considering they weigh about as much as a handful of Kleenex. One other nice side effect of their weight: They’re much more comfortable than normal cotton underwear.
- ▶ 2 pairs of shorts/swimsuits
- ▶ 2 books: *Lonely Planet Hawaii* and *The Entrepreneurial Imperative* . (The latter comes highly recommended. Check it out.)
- ▶ 1 sleeping mask and earplugs

- ► 1 pair of Reef sandals. Best to get a pair with removable straps that go around the heel.
- ► 1 Canon PowerShot SD300 digital camera with extra 2GB SD memory card. God, I love this camera more than words can describe. It is the best designed piece of electronics I have ever owned. I now use it not only for all of my photos and videos, but also as a replacement for my scanner. I'm considering testing the newer and cheaper SD1000.
- ► 1 coffee-harvesting hat to prevent my pale skin from burning off
- ► 1 Kiva keychain expandable duffel bag
- ► 1 Chapstick, 1 Mag-Lite Solitaire flashlight, and 1 roll of athletic tape. The last is a lifesaver. It's as useful as duct tape for repairing objects but gentle enough to use on injuries, which I am fond of inflicting on myself.
- ► 1 Lewis and Clark flex lock (for luggage, lockers, zippers, or whatever I need to lock down/shut together). Standard mini-padlocks are often too cumbersome to thread through holes on lockers, etc.
- ► 1 Radio Shack kitchen timer, which I've been using to wake up for about four years. The problem with using a cell phone alarm to wake up is simple: The phone often needs to be on, and even if you use vibrate, people can call and wake you up before you want to wake up. The second benefit to using a kitchen timer is that you know exactly how much sleep you are—or aren't—getting, and you can experiment with things like caffeine power naps of different durations ... but that's another post;)

The Choice-Minimal Lifestyle: 6 Formulas for More Output and Less Overwhelm

I was stressed out... over dog cartoons.

It was 9:47 P.M. at Barnes and Noble on a recent Saturday night, and I had 13 minutes to find a suitable exchange for *The New Yorker Dog Cartoons*, \$22 of expensive paper. Bestsellers? Staff recommends? New arrivals or classics? I'd already been there 30 minutes.

Beginning to feel overwhelmed with a ridiculous errand I'd expected to take five minutes, I stumbled across the psychology section. One tome jumped out at me as all too appropriate—*The Paradox of Choice: Why More Is Less*. It wasn't the first time I'd seen or read Barry Schwartz's 2004 classic, but it seemed like a good time to revisit the principles, among them, that:

- ► The more options you consider, the more buyer's regret you'll have.
- ► The more options you encounter, the less fulfilling your ultimate outcome will be.

This raises a difficult question: Is it better to have the best outcome but be less satisfied, or have an acceptable outcome and be satisfied?

For example, would you rather deliberate for months and get the 1 of 20 houses that's the best investment but second-guess yourself until you sell it five years later, or would you rather get a house that is 80% of the investment potential of the former (still to be sold at a profit) but never second-guess it?

Tough call.

Schwartz also recommends making nonreturnable purchases. I decided to keep the stupid pooch cartoons. Why? Because it's not just about being satisfied, it's about being practical.

Income is renewable, but some other resources—like attention—are not. I've talked before about attention as a currency and how it determines the value of time.

For example: Is your weekend really free if you find a crisis in the inbox Saturday morning that you can't address until Monday morning?

Even if the inbox scan lasts 30 seconds, the preoccupation and forward projection for the subsequent 48 hours effectively deletes that experience from your life. You had time but you didn't have attention, so the time had no practical value.

The choice-minimal lifestyle becomes an attractive tool when we consider two truths.

1. **Considering options costs attention that then can't be spent on action or present-state awareness.**

2. Attention is necessary for not only productivity but appreciation.

Therefore:

Too many choices = less or no productivity

Too many choices = less or no appreciation

Too many choices = sense of overwhelm

What to do? There are six basic rules or formulas that can be used:

1. Set rules for yourself so you can automate as much decision making as possible [see the rules I use to outsource my e-mail to Canada, included at the end of this section, as an example of this].

2. Don't provoke deliberation before you can take action.

One simple example: Don't scan the inbox on Friday evening or over the weekend if you might encounter work problems that can't be addressed until Monday.

3. Don't postpone decisions just to avoid uncomfortable conversations.

If an acquaintance asks you if you want to come to their house for dinner next week, and you know you won't, don't say, "I'm not sure. I'll let you know next week." Instead, use something soft but conclusive like, "Next week? I'm pretty sure I have another commitment on Thursday, but thank you for the invite. Just so I don't leave you hanging, let's assume I can't make it, but can I let you know if that changes?" Decision made. Move on.

4. Learn to make nonfatal or reversible decisions as quickly as possible.

Set time limits (I won't consider options for more than 20 minutes), option limits (I'll consider no more than three options), or finance thresholds (Example: If it costs less than \$100 [or the potential damage is less than \$100], I'll let a virtual assistant make the judgment call).

I wrote most of this post after landing at the monster that is ATL airport in Atlanta. I could have considered half a dozen types of ground transportation in 15 minutes and saved 30–40%, but I grabbed a taxi instead. To use illustrative numbers: I didn't want to sacrifice 10 attention units of my remaining 50 of 100 total potential units, since those 10 units couldn't then be spent on this article. I had about eight hours before bedtime due to time zone differences—plenty of time—but scarce usable attention after an all-nighter of fun and the cross-country flight. **Fast decisions preserve usable attention for what matters.**

5. Don't strive for variation—and thus increase option consideration—when it's not needed. Routine enables innovation where it's most valuable.

In working with athletes, for example, it's clear that those who maintain the lowest bodyfat percentage eat the same foods over and over with little variation. I've eaten the same "slow-carb" breakfast and lunch for nearly two years,⁸⁸ putting variation only into meals that I focus on for enjoyment: dinner and all meals on Saturdays. This same routine-variation distinction can be found in exercise vs. recreation. For fat loss and muscle gain (even as much as 34 pounds in four weeks), I've followed the same time—minimal exercise protocol with occasional experiments since 1996. For recreation, however, where the focus is enjoyment and not efficacy, I tend to try something new each weekend, whether climbing at Mission Cliffs in San Francisco or mountain biking from tasting to tasting in Napa.

DON'T CONFUSE what should be results-driven with routine (e.g., exercise) with something enjoyment-driven that benefits from variation (e.g., recreation).

6. Regret is past-tense decision making. Eliminate complaining to minimize regret.

Condition yourself to notice complaints and stop making them with a simple program like the “21-day no-complaint experiment” made famous by Will Bowen, where you wear a single bracelet and move it from one wrist to the other each time you complain. The goal is 21 days without complaining and you reset to 0 each time you slip up. This increased awareness helps prevent useless past-tense deliberation and negative emotions that improve nothing but deplete your attention.

...

DECISION-MAKING ISN'T to be avoided—that's not the problem. Look at a good CEO or top corporate performer and you'll see a high volume of decisions.

It's deliberation—the time we vacillate over and consider each decision—that's the attention consumer. Total deliberation time, not the number of decisions, determines your attention bank account balance (or debt).

Let's assume you pay 10% over time by following the above rules but cut your average “decision cycle” time by an average of 40% (10 minutes reduced to 6 minutes, for example). Not only will you have much more time and attention to spend on revenue-generating activities, but you'll get greater enjoyment from what you have and experience. Consider that 10% additional cost as an investment and part of your “ideal lifestyle tax,” but not as a loss.

Embrace the choice-minimal lifestyle. It's a subtle and under-exploited philosophical tool that produces dramatic increases in both output and satisfaction, all with less overwhelm.

Make testing a few of the principles the first of many fast and reversible decisions. —*FEBRUARY 6, 2008*

The Not-to-Do List: 9 Habits to Stop Now

“**N**ot-to-do” lists are often more effective than to-do lists for upgrading performance.

The reason is simple: What you don't do determines what you can do.

Here are nine stressful and common habits that entrepreneurs and office workers should strive to eliminate. The bullets are followed by more detailed descriptions. Focus on one or two at a time, just as you would with high-priority to-do items.

1. Do not answer calls from unrecognized phone numbers.

Feel free to surprise others, but don't be surprised. It just results in unwanted interruption or poor negotiating positions. Let it go to voicemail, and consider using a service like GrandCentral (you can listen to people leaving voicemail or receive them as text messages) or Phonetag.com (receive voicemails as e-mail).

2. Do not e-mail more than once in the morning or once during the night.

The former scrambles your priorities and plans for the day, and the latter just gives you insomnia. E-mail can wait until 10 A.M., after you've completed at least one of your critical to-do items.

3. Do not agree to meetings or calls with no clear agenda or end time.

If the desired outcome is defined clearly with a stated objective and agenda listing topics/questions to cover, no meeting or call should last more than 30 minutes. Request them in advance so you "can best prepare and make good use of the time together."

4. Do not let people ramble.

Forget "How's it going?" when someone calls you. Stick with "What's up?" or "I'm in the middle of getting something out, but what's going on?" A big part of GTD (Getting Things Done) is GTP—Getting To the Point.

5. Do not check e-mail constantly—"batch" and check at set times only.

I belabor this point enough. Get off the cocaine pellet dispenser and focus on execution of your top to-do's instead of responding to manufactured emergencies. Set up a strategic autoresponder and check twice or thrice daily.

6. Do not over-communicate with low-profit, high-maintenance customers.

There is no sure path to success, but the surest path to failure is trying to please everyone. Do an 80/20 analysis of your customer base in two ways—which 20% are producing 80%+ of my profit, and which 20% are consuming 80%+ of my time? Then put the loudest and least productive on autopilot by citing a change in company policies. Send them an e-mail with new rules as bullet points: number of permissible phone calls, e-mail response time, minimum orders, etc. Offer to point them to another provider if they aren't able to adopt the new policies.

7. Do not work more to fix overwhelmingness—prioritize.

If you don't prioritize, everything seems urgent and important. If you define the single most important task for each day, almost nothing seems urgent or important. Oftentimes, it's just a matter of letting little bad things happen (return a phone call late and apologize, pay a small late fee, lose an unreasonable customer, etc.) to get the big important things done. The answer to overwhelmingness is not spinning more plates—or doing more—it's defining the few things that can really fundamentally change your business and life.

8. Do not carry a cell phone or Crackberry 24/7.

Take at least one day off of digital leashes per week. Turn them off or, better still, leave them in the garage or in the car. I do this on at least Saturday, and I recommend you leave the phone at home if you go out for dinner. So what if you return a phone call an hour later or the next morning? As one reader put it to a miffed co-worker who worked 24/7 and expected the same: *"I'm not the president of the U.S. No one should need me at 8 P.M. at night. OK, you didn't get a hold of me. But what bad happened?"* The answer? Nothing.

~~Work is not all of life. Your co-workers shouldn't be your only friends. Schedule life and defend it just as you would an important business meeting. Never tell yourself "I'll just get it done this weekend." Review Parkinson's Law and force yourself to cram within tight hours so your per-hour productivity doesn't fall through the floor. Focus, get the critical few done, and get out. E-mailing all weekend is no way to spend the little time you have on this planet.~~

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It's hip to focus on getting things done, but it's only possible once we remove the constant static and distraction. If you have trouble deciding what to do, just focus on not doing. Different means, same end. —AUGUST 16, 2007

The Margin Manifesto: 11 Tenets for Reaching (or Doubling) Profitability in 3 Months

Profitability often requires better rules and speed, not more time. The financial goal of a start-up should be simple: profit in the least time with the least effort. Not more customers, not more revenue, not more offices or more employees. More profit.

Based on my interviews with high-performing (using profit-per-employee metrics) CEOs in more than a dozen countries, here are the 11 basic tenets of the "Margin Manifesto" ... a return-to-basics call that gives permission to do the uncommon to achieve the uncommon: consistent profitability, or doubling of it, in three months or less.

I review the following principles whenever facing operational overwhelmingness or declining/stagnating profits. Hope you find them useful.

1. Niche Is the New Big—The Lavish Dwarf Entertainment Rule

Several years ago, an investment banker was jailed for trade violations. He was caught partly due to his lavish parties on yachts, often featuring hired dwarves. The owner of the dwarf rental company, Danny Black, was quoted in the *Wall Street Journal* as saying "Some people are just into lavish dwarf entertainment." Niche is the new big. But here's the secret: It's possible to niche market and mass sell. iPod commercials don't feature dancing 50-year-olds, they feature hip and fit 20- and 30-somethings, but everyone and his grandmother wants to feel youthful and hip, so they strap on Nanos and call themselves Apple converts. Who you portray in your marketing isn't necessarily the only demographic who buys your product—it's often the demographic that most people want to identify with or belong to. The target isn't the market. No one aspires to be the bland average, so don't water down messaging to appeal to everyone—it will end up appealing to no one.

2. Revisit Drucker—What Gets Measured Gets Managed

Measure compulsively, for as Peter Drucker stated, What gets measured gets managed. Useful metrics to track, besides the usual operational stats, include CPO ("Cost-Per-Order," which includes advertising, fulfillment and expected returns, charge-backs, and bad debt), ad allowable (the maximum you can spend on an advertisement and expect to break even), MER (media efficiency ratio), and projected lifetime value (LV) given return rates and reorder percent. Consider applying direct response advertising metrics to your business.

3. Pricing Before Product—Plan Distribution First

Is your pricing scalable? Many companies will sell direct-to-consumer by necessity in early stages, only to realize that their margins can't accommodate resellers and distributors when they come knocking. If you have a 40% profit margin and a distributor needs a 70% discount to sell into wholesale accounts, you're forever limited to direct-to-consumer ... unless you increase your pricing and margins. It's best to do this beforehand if possible—otherwise, you'll need to launch new or “premium” products—so plan distribution before setting pricing. Test assumptions and find hidden costs by interviewing those who have done it: Will you need to pay for co-op advertising, offer rebates for bulk purchases, or pay for shelf space or featured placement? I know one former CEO of a national brand who had to sell his company to one of the world's largest soft drink manufacturers before he could access front-of-store shelving in top retailers. Test your assumptions and do your homework before setting pricing.

4. Less Is More—Limiting Distribution to Increase Profit

Is more distribution automatically better? No. Uncontrolled distribution leads to all manner of headache and profit-bleeding, most often related to rogue discounters. Reseller A lowers pricing to compete with online discounter B, and the price cutting continues until neither is making sufficient profit on the product and both stop reordering. This requires you to launch a new product, as price erosion is almost always irreversible. Avoid this scenario and consider partnering with one or two key distributors instead, using that exclusivity to negotiate better terms: less discounting, prepayment, preferred placement and marketing support, etc. From iPods to Rolex and Estée Lauder, sustainable high-profit brands usually begin with controlled distribution. Remember, more customers isn't the goal; more profit is.

5. Net-Zero—Create Demand vs. Offering Terms

Focus on creating end-user demand so you can dictate terms. Often one trade publication advertisement, bought at discount remnant rates, will be enough to provide this leverage. Outside of science and law, most “rules” are just common practice. Just because everyone in your industry offers terms doesn't mean you have to, and offering terms is the most consistent ingredient in start-up failure. Cite start-up economics and the ever-so-useful “company policy” as reasons for prepayment and apologize, but don't make exceptions. Net-30 becomes net-60, which becomes net-120. Time is the most expensive asset a start-up has, and chasing delinquent accounts will prevent you from generating more sales. If customers are asking for your product, resellers and distributors will need to buy it. It's that simple. Put funds and time into strategic marketing and PR to tip the scales in your favor.

6. Repetition Is Usually Redundant—Good Advertising Works the First Time

Use direct response advertising (call-to-action to a phone number or website) that is uniquely trackable—fully accountable advertising—instead of image advertising, unless others are pre-purchasing to offset the cost (e.g., “If you prepurchase 288 units, we'll feature your store/URL/phone exclusively in a full-page ad in...”). Don't listen to advertising salespeople who tell you that 3, 7, or 27 exposures are needed before someone will act on an advertisement. Well-designed and well-targeted advertising works the first time. If something works partially well (e.g., high response with low percentage conversion to sales, low response with high conversion, etc.), indicating that a strong ROI might be possible with small changes, tweak one controlled variable and microtest once more. Cancel anything that cannot be justified with a trackable ROI.

7. Limit Downside to Ensure Upside—Sacrifice Margin for Safety

Don't manufacture product in large quantities to increase margin unless your product and marketing are tested and ready for rollout without changes. If a limited number of prototypes cost \$10 per piece to manufacture and sell for \$11 each, that's fine for the initial testing period, and essential for limiting downside. Sacrifice margin temporarily for the testing phase, if need be, and avoid potentially fatal upfront overcommitments.

8. Negotiate Late—Make Others Negotiate Against Themselves

Never make a first offer when purchasing. Flinch after the first offer (“\$3,000!” followed by pure silence, which uncomfortable salespeople fill by dropping the price once), let people negotiate against themselves (“Is that really the best you can offer?” elicits at least one additional drop in price), then “bracket.” If they end up at \$2,000 and you want to pay \$1,500, offer \$1,250. They'll counter with approximately \$1,750, to which you respond: “I'll tell you what—let's just split the difference. I'll overnight FedEx you a check, and we can call it a day.” The end result? Exactly what you wanted: \$1,500.

9. Hyperactivity vs. Productivity—80/20 and Pareto's Law

Being busy is not the same as being productive. Forget about the start-up overwork ethic that people wear as a badge of honor—get analytical. The 80/20 principle, also known as Pareto's Law, dictates that 80% of your desired outcomes are the result of 20% of your activities or inputs. Once per week, stop putting out fires for an afternoon and run the numbers to ensure you're placing effort in high-yield areas: What 20% of customers/products/ regions are producing 80% of the profit? What are the factors that could account for this? Invest in duplicating your few strong areas instead of fixing all of your weaknesses.

10. The Customer Is Not Always Right—“Fire” High-Maintenance Customers

Not all customers are created equal. Apply the 80/20 principle to time consumption: What 20% of people are consuming 80% of your time? Put high-maintenance, low-profit customers on autopilot—process orders but don't pursue them or check up on them—and “fire” high-maintenance, high-profit customers by sending a memo detailing how a change in business model requires a few new policies: how often and how to communicate, standardized pricing and order process, etc. Indicate that, for those clients whose needs are incompatible with these new policies, you are happy to introduce other providers. “But what if my largest customer consumes all of my time?” Recognize that (1) without time, you cannot scale your company (and, oftentimes, life) beyond that customer, and (2) people, even good people, will unknowingly abuse your time to the extent that you let them. Set good rules for all involved to minimize back-and-forth and meaningless communication.

11. Deadlines Over Details—Test Reliability Before Capability

Skills are overrated. Perfect products delivered past deadline kill companies faster than decent products delivered on time. Test someone's ability to deliver on a specific and tight deadline before hiring them based on a dazzling portfolio. Products can be fixed as long as you have cash flow, and bugs are forgiven, but missing deadlines is often fatal. Calvin Coolidge once said that nothing is more common than unsuccessful men with talent; I would add that the second most common is smart people who think their IQ or resume justifies delivering late. —JUNE 24, 2008

The Holy Grail: How to Outsource the Inbox and Never Check E-

mail Again

What if you never had to check e-mail again? If you could hire someone else to spend countless hours in your inbox instead of you?

This isn't pure fantasy. For the last 12 months, I've experimented with removing myself from the inbox entirely by training other people to behave like me. Not to imitate me, but to think like me.

Here's the upshot: I get more than 1,000 e-mails a day from various accounts.⁸⁹ Rather than spending 6–8 hours per day checking e-mail, which I used to do, I can skip reading e-mail altogether for days or even weeks at a time ... all within 4–10 minutes a night.

Let me explain the basics, followed by tips and exact templates for outsourcing your own inbox.

1. I have multiple e-mail addresses for specific types of e-mail (blog readers vs. media vs. friends/family, etc.). tim@ ... is the default I give to new acquaintances, which goes to my assistant.
2. 99% of e-mail falls into predetermined categories of inquiries with set questions or responses (my "rules" document is at the bottom of this post—feel free to steal, adapt, and use). My assistant(s) checks and clears the inbox at 11 A.M. and 3 P.M. pst.
3. For the 1% of e-mail that might require my input for next actions, I have a once-daily phone call of 4–10 minutes at 4 P.M. pst with my assistant.
4. If I'm busy or traveling abroad, my assistant leaves the action items in numerical order on my voicemail, which I can respond to in a bullet-point e-mail. These days, I actually prefer the voice-mail option and find that it forces my assistant to be more prepared and more concise.

Each night (or early the next morning), I'll listen to my assistant's voicemail via Skype and simultaneously write out the next actions (1. Bob: Tell him that ... 2. Jose in Peru: Ask him for ... 3. Speaking in NC: Confirm ..., etc.) in a Skype chat or quick e-mail. How long does the new system take? 4–10 minutes instead of 6–8 hours of filtering and repetitive responses.

If you only have one e-mail account, I recommend using a desktop program like Outlook or Mail instead of a web-based program like Gmail for a simple reason: If you see new items in your inbox, you'll check them. Like they say in AA: If you don't want to slip, don't go where it's slippery. This is why I have a private personal account that I use for sending e-mail to my assistant and communicating with friends. It's almost always empty.

E-mail is the last thing people let go of. Fortune 500 CEOs, best-selling authors, celebrities—I know dozens of top performers who delegate everything but e-mail, which they latch onto as something only they can do. "No one can check my e-mail for me" is the unquestioned assumption, or "I answer every e-mail I receive" is the unquestioned bragging right that keeps them in front of a computer for 8–12 hours at a stretch. It's not fun, and it keeps them from higher-impact or more rewarding activities.

Get over yourself. I had to. Checking e-mail isn't some amazing skill that you alone possess.

In fact, checking e-mail is like everything else: a process.

How you evaluate and handle (delete vs. archive vs. forward vs. respond) e-mail is just a series of questions you ask yourself, whether consciously or subconsciously. I have a document called "Tim Ferriss Processing Rules," to which my assistants add rules when I send them a note via e-mail with "ADD TO RULES" in the subject. Over the course of a week or two with a virtual assistant (VA), you will end up with an externalized set of rules that reflect how your brain processes e-mail. It often shows you how haphazard your processing is. I've included my "rules" here to save you some time. A few tips:

1. Setting appointments and meetings takes a lot of time. Have your assistant set things up for you in Google Calendar. I input my own items via my Palm Z22 or iCal, then use Spanning Sync and Missing Sync for Palm OS to sync everything. On my überlight Sony VAIO, which I still use for travel, I use CompanionLink for Google Calendar. I suggest batching meetings or calls in one or two set days, with 15 minutes between appointments. Scattering them throughout the week at odd times just interrupts everything else. (Update 2009: The Palm Z22 has been discarded, and I now use a 13-inch MacBook and BusySync to synchronize iCal with Google Calendar.)

2. If you jump in your assistant's inbox and answer anything, BCC them so they are aware that you handled it.

3. Expect small problems. Life is full of compromises, and it's necessary to let small bad things happen if you want to get huge good things done. There is no escape. Prevent all problems and get nothing done, or accept an allowable level of small problems and focus on the big things.

Ready to jump in and test the holy grail? Here are the steps.

1. Determine exactly which accounts you will use and how you want them to respond to (or just categorize or purge) e-mail for you.

2. Find a virtual assistant.

3. Test for reliability before skill set. Have the top three candidates do something on tight deadline (24 hours) before hiring them and letting them in your inbox.

4. Use a probationary period of 2–4 weeks to test the waters and work out the problems. Again: There will be problems. It will take a good 3–8 weeks to get to real smooth sailing.

5. Design your ideal lifestyle and find something to do other than let your brain fester in the inbox. Fill the void.

...

TIM FERRISS PROCESSING RULES⁹⁰

[Note the Q&A format—some of the questions are my standard points for VAs, some have been added by my assistant, who put together this document.]

Passwords

Calendar http://calendar.google.com Login: XXXX PW: XXXX	www.SpamArrest.com Username: XXXX Password: XXXX
Google G-mail Account http://mail.google.com Username: XXXX PW: XXXX	www.Amazon.com Username: XXXX Password: XXXX
www.NoCostConference.com Username: XXXX Password: XXXX	www.PayPal.com Username: XXXX Password: XXXX

Reader-Only Resources

<http://fourhourworkweek.com/wms/members/members.php> >>

PASSWORD FOR READERS ONLY IS: XXXX

Team Requirements

[I often have exec-level assistants manage 4–5 other “sub VAs” who handle certain repetitive tasks, often at half the exec VA’s hourly rate. The exec VA takes on an office manager or, in some cases, COO-level function.]

- ► Download: www.alexa.com —Toolbar
- ► Learn Statistics, Rank for Business Prospect and Joint-Venture Opportunities
- ► Deadlines are extremely important. Be Aware of them, and Be Punctual!
- ► If Tim says “Call me back,” CALL HIM BACK, do not send an e-mail. This is an important point, as Tim does not always have e-mail access because he is traveling a lot.
- ► Even if it is late in the evening, he is up late, if he does not want to answer his phone, he will not. But PLEASE call him back when he asks you to. He much prefers a phone call to an e-mail.

- ► Purchase and read *The Elements of Style* regarding proper grammar and punctuation. We are dealing with high-profile clients on Tim's behalf and the proper writing techniques and message says a lot about his team.
- ► Become as familiar as you can with his book and his website as to answer questions accordingly.

Contact Information

Tim Ferriss

[mailing address]

Tim Cell (your use only): [private cell]

Number to give others: [GrandCentral number]

Skype: XXXXX

Billing Address (Private):

[billing address]

Purchases

ASK [head VA], for his AMEX NUMBER. SHE WILL ADVISE WHETHER PURCHASES CAN BE APPROVED.

Question and Answer (Preferences)

1. How do you feel about joint ventures?

I'm open to them, but my brand and respectability is #1. I will not do anything with anyone who comes off as deceptive or amateur. "Make millions while you sleep in our super-insane foreclosure program!" on the website disqualifies someone. I cannot be associated with anyone who might be seen as a liar or snake-oil salesman. Just ask yourself: If the CEO of a well-known company saw this, would he lose interest in speaking with me? If so, it won't work.

For those who pass that criteria, what have they done already? I'm not looking for first-timers, generally, unless they have an excellent track record and reputation elsewhere.

2. Do you focus solely on profit-generating tasks?

No. I also look for prestige (Harvard, government, etc.), wide exposure, as well as building networks with people who have world-class skills in some area.

3. How do you handle spam?

SpamArrest and Gmail. I have no problem with spam at this point.

4. What is your optimal response rate (i.e., respond to all e-mails no later than 48–72 hours after received)?

Same day. I'm bringing you on to respond quickly.

5. Do you respond to any e-mails?

Yes, but I'll want you to filter them first, respond to all you can, then mark the ones I should look

at with the book. I am in charge. [You cannot in this article how I am now using this to leave to-do's via voicemail.]

6. Do you put in any events in your calendar?
Yes, but I expect I will move more and more to having you do it.
7. Do we “manage” your items, or do you delegate? We are cool with both, but prefer to manage.:-)
I’ll try to give the list to you to take care of. I NEED confirmations that you received the task (“on it—will be done at X P.M.” is enough) and like status updates on larger projects with milestones.
8. Who is on your team?
Me, the publishing team, and some PR folk at this point. I might have you get involved with my other businesses later, but that’s it for now.
9. Who do we have to collaborate with on a regular basis?
See above. 90% me, then possibly my publicist(s), tech support and web staff, and my book agent. More will come, I’m sure, but that’s it for now.
10. Who calls the shots for you?
You can decide anything under \$100. Use your judgment and report the decisions.
11. Do you have “days” off (as in no business appts.)?
Let’s shoot for no appointments on Fridays, but let’s play it by ear. [Update: I now only have appointments on Mondays and Fridays.]
12. Who has been handling your appts. up until now?
Me. I haven’t had any in-person meetings for close to four years. Things have changed with the book:)
13. Explain to us your “optimal” work week (i.e., how long between phone calls, how many meetings per week, travel preferences, etc.)?

- ► I go to bed late, so try and avoid calls before 10 A.M. pst when possible.
- ► Try and “cluster” phone calls and meetings so that I can bang them out at the same time, as opposed to having one at 10 A.M. , another at 1 P.M. , and another at 4 P.M. . Have them all in a row with 15–20 minutes in between whenever possible. I’d like to do phone calls before 1 P.M. . pst when possible (so 10 A.M. -1 P.M.). Calls should be kept to 15–30 minutes, always with a defined end time. If someone asks to “jump on the phone” with me, send them something like: “To make the best use of everyone’s time, Tim likes to have a well-defined agenda with objectives for a call before jumping on the phone. Can you please send over some bullet points with what you’d like

to cover and decide on the call! Something like that.

14. Do you like us to schedule personal items in with your business calendar (i.e., order your mother flowers for Mother's Day, etc.)? Absolutely.
15. What are "all" the e-mail addresses we respond to for you? See earlier text.
16. Do you like us to respond as "you" or something like "client support for Timothy Ferriss."
The latter, probably something like "Executive Assistant to Tim Ferriss" below your name—I'm open to suggestions.
17. How many times a day do you want e-mail checked?
Twice should be fine to start. Let's aim for a minimum of at 11 A.M. and 3 P.M. in your time zone.
18. What are your working hours?
10 A.M.-6 P.M. pst, then often 11 p.m.-2 A.M. pst. [Before you cry, "What happened to the four-hour workweek?!" realize that "work hours" here could be replaced with "active and available-by-phone hours." I have lots of projects and do not preach idleness. I am VERY active. See the sixth comment on this post on www.fourhourblog.com for more elaboration or reread the "Filling the Void" chapter in this book.]
19. Do you like using IM? Not really, unless it's a scheduled discussion. Just leave yourself logged in, and I'll log in if I need something. [I tend to use Skype chat these days, as it's encrypted and I can avoid a separate IM program.]
20. Do you prefer a phone call or an e-mail to answer a quick question?
PHONE CALL, absolutely. DO NOT e-mail me for anything urgent. I really follow my own advice and don't check e-mail that often.
21. What is your favorite color?
Green like cedar leaves in July.
22. Call at the end of every day (if) there is something that Tim needs to respond to in his e-mail.
23. E-books: Tell them they can download the e-bookfromwww.powells.com.
24. Label all e-mails from "Expert Click" for Tim. No need to respond or forward.
25. All Linked-In e-mails can be archived or deleted as Tim receives notification of invites as soon as he logs into his Linked-In account.
26. For start-up inquiries in the health and wellness industry (or BrainQUICKEN start-up inquiries) please see the templates in
Gmail titled: Congratulations and General Business Questions—BrainQUICKEN Templates.
27. For language inquiries, please see the templates in Gmail titled: Reader Question on Language Resources—Language Templates.
28. When Tim types "dictate" in the e-mail response, this means that we can say to the recipient: As Tim is traveling at the moment and not able to personally respond to your e-mail, I mentioned your message while on the phone to him, and he asked me to dictate. This makes the process easier as we do not have to change the context of the person responding.
[This is to avoid having an assistant convert my first-person "Please tell him that I ..." to third-person "Tim says that he ..."—providing shorthand for "cut and paste" saves hours of assistant time.]
29. If someone e-mail blasts a bunch of people and I am one of them, usually safe to ignore or delete. Read them carefully, of course, but if it says for example "a few influential people I know" or something like that then if someone can't take the time to personalize for me, forget them. If Tim is

copied, of course, that's a different story.

30. Tim's address is XXXX. THIS E-MAIL IS NOT TO BE DISTRIBUTED OR GIVEN TO ANYONE. If you want to copy Tim on an e-mail, please use the BCC field, so that it remains private.
31. Mark anyone from Princeton for me to look at (TIM label). [Note: I've since had to modify this due to volume.]
32. If I decline someone and they persist, give them one more reply—"Tim appreciates the persistence, but he really can't..." etc.—and then archive future requests. Use your judgment, of course, but that's the general rule. Some people don't know when persistent turns into plain irritating.
33. Please also create a rule to respond with "scheduled" for all items I send to be put in the calendar (when they're put in the calendar). Missing calendar items can cause big problems, so this is a check and balance to confirm.
34. No need to follow up with someone after a call has taken place unless Tim instructs otherwise, or they request something from us.
35. Send all speaking requests to XXXX and ensure that he confirms receipt. (However, also see items 38 and 39).
36. Foreign language requests (i.e., purchasing rights, if the book is available in a particular language, etc.) send to [the appropriate person at my publisher].
37. XXXX's replacement at Random House is XXXX.
38. Inquire with Tim first before booking any speaking gigs on a specific date, as he may be traveling.
39. When booking appointments in the calendar, be sure to also ask which topics they would like to discuss, and put them in the calendar description for Tim so he can prepare. Also be sure to ask for a backup phone number in case they are not able to reach Tim. [I almost always have people call me unless I am abroad, as this is another safeguard against missing appointments.]
40. Put initials in the subject line of calendar events so we know who (which virtual assistant) put the item in the calendar.
41. Prepare inquiries for Tim before sending to him for his review, i.e., get their Alexa ranking, possible dates of the event, a link to past events they have held, their budget, other confirmed speakers, etc. Then send this info to Tim for his review.
42. Respond to PX Method inquiries with the following response:

Hi [name],

Thanks for your inquiry about the PX Method, however the PX Method page is designed as just a template others can look at as a reference for testing their own product ideas.

We are not sure if or when Tim will offer the PX Method for sale, but there are no plans at this time. We appreciate your inquiry nonetheless. Thanks!

[I get quite a few e-mails from readers who do not see the disclaimer on the PX Method mock-up page and thus attempt to order a product that isn't ready to ship.]
43. Download eFAX viewer to view Tim's faxes. His fax number is: XXXX.
44. Event or speaking inquiries can be responded to as such:

Thanks for your e-mail and for your invitation to Tim. In looking at the event online, I see that the event is April X and X, 20XX in Portland, Oregon [for example]. Before I present this to Tim, could you answer a few questions for me, so we can make a more informed decision?

◦ ► Would you like Tim to be at the entire event?

- ► How long would the keynote presentation be? Or would it be a Q&A panel?
- ► Do you cover travel and accommodation along with a speaker's fee?
- ► What is your budget for keynote presentations?
- ► Have any other speakers confirmed to present?

As soon as I hear back, I can speak with Tim about the possibilities of making this happen.
Thanks again!

Warmly,

[Name]

this e-mail is: ☐ blogable ☒ ask first ☐ private

[name]

Executive Assistant to Timothy Ferriss

Author: *The 4-Hour Workweek*

(<http://www.fourhourworkweek.com>)

(Random House/Crown Publishing)

Bio and Fun: <http://www.fourhourworkweek.com/blog>

—JANUARY 21, 2008

Proposal to Work Remotely on a Contract Basis

This is the actual remote-work proposal reader Autumn Brookmire used successfully to move to Argentina while retaining her job and cutting back to 5–10 hours per week of work.

AUTUMN BROOKMIRE

July 2008

Background

After working for the [company name] for more than two years, I have a great loyalty to the people and mission of this organization. I believe I have added a great deal of value to the organization in my position as marketing coordinator. With my creative problem solving and my cost effective solutions I have changed the way we produce and distribute our holiday cards and I've developed a contest to bring in more usable photos for our marketing and publications. I would like to propose continuing to perform the following tasks for [company name], but on a contract basis, remotely. I plan to live in Argentina for 6–12 months starting in September of 2008. My goals are to develop my fluency in the Spanish language and immerse myself in another culture and completely foreign environment so that I develop my skills in adaptation to new ways of thinking.

I am more than happy to discuss different ways to make this possible and I have some suggestions if [company name] would be willing to consider them. We can test this arrangement for a few months to see if it works for both of us, since that would make the most sense.

Role #1: Graphic Design and Print Advertising Coordinator

Responsibility:

Create timelines for print materials and coordinate with respective program teams.

Expectations:

- Print materials will be completed on time.

Responsibility:

Coordinate design projects with program directors and outside graphic artists/designers.

Expectations:

- Print materials designs are suitable for the audience, accurate, and appealing.
- Print materials are professional quality and produced within set timelines.

Responsibility:

Maintain relationships with print vendors to minimize cost relative to time and quality in producing program print materials.

Expectations:

- Print materials are printed within the established budget, unless budget overages are specifically approved by the Director of Marketing.

Contract Solution:

By using e-mail and web-based programs such as

*ConceptShare, I can continue to coordinate these design projects from a distance. I currently maintain relationships with print vendors and designers at a distance so physical presence is not necessary for this to continue. For meetings with program directors and the marketing team, I would use a free video and phone conferencing service called *Skype. We usually meet once or twice to discuss changes to their marketing materials and the rest of the process is continued through e-mail and ConceptShare.

Role #2: Special Marketing Project Manager

Responsibility:

Maintain a collection of updated, appropriate marketing images.

Expectations:

- Images needed for marketing materials and websites are anticipated and acquired.

Contract Solution:

I am still able to complete this task remotely by doing images searches on web databases such as *iStockphoto.com. If the experiment with the *Seminar Photo Contest fares well, I could also manage

and process via the web using iStock, e-mail, and Skype.

Responsibility:

Identify and implement new opportunities to leverage marketing materials.

Expectations:

- Ideas are researched for feasibility and effectiveness.
- Chosen projects are designed and sent out within the budget and timeline.

Contract Solution:

I would utilize e-mail and Skype to communicate any new ideas and opportunities to leverage marketing materials. I have recently proposed creating a one-page calendar of our program deadlines to distribute to our recent seminar alumni in a fall mailing. This way students will have an easy way to remember all of our deadlines for our programs and may potentially boost our number of applicants.

Role #3: Web-based Marketing Coordinator

Responsibility:

Contribute to online advertising efforts and track results.

Expectations:

- Online efforts are increasingly cost effective.
- Marketing Director is informed of web-based marketing results as requested.

Contract Solution:

I am familiar with our online advertising efforts and can continue to help with this process from a distance. I will be able to access Facebook Ads, Google Ads, Blog Ads and aid Keri in gathering and entering data. I have experience working with our Facebook and Google Ads and have created images for Blog Ads in the past. Launching new Ads will be easily managed abroad.

Responsibility:

Compile collection of updated, appropriate web photos.

Expectations:

- Attractive, updated photos will be available for program and marketing uses.

Contract Solution:

As stated above with the stock photo inventory, I am still able to complete this task remotely by conducting image searches on web databases such as iStockphoto.com. The Seminar Photo Contest will also be used as a tool to aid in this compilation of images while I am abroad.

In order to more effectively track the cost of production of our print materials, I think [company name] would find value in transitioning to a contract basis for this position. I have really enjoyed working at [company name] thus far and would like to continue working for this organization from a remote location. Thank you for your consideration of this proposal.

Explanation of Software and Programs Mentioned:

*ConceptShare—www.conceptshare.com, ConceptShare allows you to set up secure online workspaces for sharing designs, documents, and video and invite others to review, comment, and give contextual feedback anytime and anywhere without a meeting. [Company name] has used this site for a few months to test its usability and has also been tested on multiple computers in Argentina (thanks to my sister

testing it out for the time she was in Argentina).

**Skype—www.skype.com, Skype is a free software that allows you to talk for free via the Internet. You can also use Skype with regular phones to make calls internationally for a low rate of about .04 cents a minute. Skype also has video chatting capabilities and conference call capabilities for meetings. The setup requires downloading the Skype software (free) and buying a headset with microphone (\$10) and webcam (\$ ranges) for each computer. I have tested this software with my sister and it works well for her in Argentina and for me here.*

**iStockphoto—www.istockphoto.com, iStockphoto is an Internet royalty-free image and design stock photography website. This is one of the many sites I use to find photos for [company name]. We have already used a few photos from this site for our marketing materials.*

**Seminar Photo Contest—This contest was created by me and developed with Keri as an experiment to collect more relevant and usable photos for our marketing and publication efforts. Since we have found it to be a bit invasive to try and take the photos ourselves, we wanted to try a new approach to capture photos for our needs. All participants of our Summer Seminars 2008 are able to submit photos they have taken at their seminar with a chance to be rewarded with a \$5 Amazon Gift Certificate for each image we choose.*

86. This video explains how and why I pack the items in the list that follows. Links for all items are also included.

87. This company filed for Chapter 11 in June 2009.

88. For the exact breakfast, just search “slow-carb” on www.fourhourblog.com or both “slow-carb” and “Ferriss” on Google.

89. This has thankfully decreased to 2,000–3,000 per week as of this writing.

90. This post is, of course, available on the blog for those who would like to copy and paste the rules for their own use.

Living the 4-Hour Workweek

► CASE STUDIES, TIPS, AND HACKS

- ► Zen and the Art of Rock Star Living
- ► Art Lovers Wanted
- ► Photo Finish

- ► Virtual Law
- ► Taking Flight with Ornithreads
- ► Off-the-Job Training
- ► The 4-Hour Family and Global Education
- ► Doctor's Orders
- ► Financial Musing
- ► Who Says Kids Hold You Back?
- ► Working Remotely
- ► Killing Your BlackBerry
- ► *Star Wars* , Anyone?

ZEN AND THE ART OF ROCK STAR LIVING

Hi Tim,

Here's the story. I'm a musician based in Munich, Germany. I'm running my own label and it has been difficult to get it off the ground. While working on that, my creativity slowly decreased until I hit rock bottom (a couple of times).

While it is still difficult to survive in the music industry I find it not hard at all now to do what I want to do. And that's all I do. I do what I want to do. It includes being a father, making music, composing, taking care of business, traveling, learning languages (mostly Italian), riding my bike, etc.... It's all in the following paragraphs.

1. I read the book step by step for about two months from September/October 2008 (plus surfing your blog) and just made tabula rosa with my life. (Lots of brainvomiting on paper.)
2. I started outsourcing things that bothered me most (and therefore kept hanging out in my to-do list the longest). I outsourced:
 - ► research, most of which is music-industry related (research outsourced saves about 2–3 hours/day)

- ► website maintenance (social websites like Facebook, Myspace, etc). I'm planning on doing most of my marketing through these sites in 2009 and I'm on about 25+ sites as an artist.

My VA (getfriday.com, as recommended in your book) does all the updates and checks the sites once a week to gather e-mail messages, comments, etc., filters them and sends me a report once a week including all the details for me to respond to. (Saves about one to two hours/day.)

- ► photo retouching for my press pics is done by elance (saved five hours of work time and about \$500).
- ► management of my mailing list for gig dates, album updates, etc. (Saves about one hour for each mailing.)
- ► I started testing muses (learning languages with music to sell online). I'm still testing!
- ► I decided to open a publishing operation online for film companies to license music for film with just a mouse click, without having to negotiate deals for months. It will happen in 2009 (I start testing soon). People are generally surprised and amazed that a person who doesn't seem to be very corporate (I look like a retired punk rocker, haha) outsources parts of his life and lives like a millionaire (I guess we do although we're far from it!).

I realized that I could do it after I got the first positive feedback from my outsource VA. I got the results of my project posted on elance and a day later I got the results. I went, yeah baby, this is MINE! The biggest change is, that I now have my life under control. I take care of my little daughter (20 months) half the day (second half, my wife takes care of her), I take care of business, and I take time to do things I always wanted to do. Revenue-wise I'm pretty much the same I was before but I have a lot more spare time and a clear head (so I guess I've gotten a lot richer!).

I work whenever I want (no boss) about 24–30 hours/week (including office hours and music-studio hours) and what I do now is only what I really love to do. I'm still step-by-step optimizing efficiency to reduce office hours (currently about 10 hours/week). My dream is to dissolve my office altogether, go paperless, and basically only have my laptop as an office.

I eliminated all work that has gotten me down or was wearing me out (eliminated an extra workload of about 10 hours/week). I do not take on jobs (writing/producing music) unless I really love the project. I

eliminated all complaints and aches (saves my stomach).

I just started my blog juergenreiter.com, “zen and the art of rockstarliving,” where I want to share the changes I made to my life (mostly for musicians to see the light at the end of the tunnel).

And I recorded an album of my music and for the first time in my life did all the lyrics myself! It’s going to be out in spring on my label ORkAaN Music+Art Productions.

I’ll be on mini-retirement in New York this year for six weeks. I’ll be in Sicily to learn Italian for about two weeks in May. I’ll be back in Sicily to travel the island by bike for another 2–3 weeks in September. And am planning on going to either Mexico, Central America, or Australia in the winter.

I learned to shave with a straight razor within about 30 minutes, which I wanted to do for years. Shaving is a real exciting ritual now and a lot of fun! I will do a master course for coffee experts in April (I’m a coffee junky!) and become a “maestro del café.” I helped my wife quit her teaching job and fulfill her dream to run a cafe in Munich, Germany. It’s called Frau Viola and opened its doors in October 2008. It is running great! (www.frauviola.wordpress.com)

Can you measure all of that? I think it speaks for itself!

The general mindset of 4HWW has given me the calmness of being able to take time to play with my daughter and enjoying my “free time” without getting the fear of missing out on something or wasting my life. I’d say overall (with all the above-mentioned changes) my productivity increased at least 70% and doubt decreased by 80%.

For those just getting started:

1. start small think big.
2. identify what excites you vs. what bores you
3. eliminate and focus on what excites you
4. stick to what excites you no matter what people say. It’s your life, live it the way you know is right for you.
5. read ***4-Hour Workweek***, obviously! —**J. REITER**

ART LOVERS WANTED

I saw my father work himself to the bone for 20 years as a garbage-man when we immigrated from Mexico. As I looked at my life in April 2007 in a lonely hotel room after another endless week of travel for my employer far from my family and those I love, I realized that at 33 I was on the same path to work myself into the ground and give up on my lifelong dream of pursuing my love of music and theater.

In life there are no accidents and that night as I was checking an e-mail from an old friend he suggested the 4HWW. I devoured the book in a few hours and began immediately to apply the key principles. When I told people about the book and about what I intended to do everyone said I was crazy. I focused most of my efforts on Dream-lining, Elimination, and Liberation. As an employee I wanted to first achieve liberation with a remote work arrangement. Despite several failed attempts I persevered (great lesson in negotiating) and was granted the opportunity to work remotely. This changed everything. I went from 9+ hours of work a day with weekly work-related travel to four hours a week, one week of travel per month, and I managed to get a \$10,000 raise and deliver 2x the productivity in my job from the previous unproductive year.

As a result I now live with my once long-distance girlfriend in Seattle (my hometown). I spend my newly found time pursuing my passion for music (I sing in a choir and write my own folk-rock music), theater (I am performing in my first fully improvised 60-minute play this weekend), and fitness. I am training for my second marathon now.

Most of my friends cannot believe that I can actually spend most of my time pursuing my love for the

and can make a full time income on only four hours a week. The best part of this is that I have found mentally the meaning of freedom. Reality is truly negotiable and now my reality is that I can spend endless hours enjoying the company of my father, who waited twenty years till he retired to enjoy the freedom that I have found less than 24 months after reading *The 4-Hour Workweek*.

As an immigrant I want to spread the message that to succeed in America in the 21st century we must NOT work hard, instead we must follow the principles of the 4HWW and work smarter so that we can truly achieve the New American Dream: Freedom to enjoy the most precious resource we have in life ... our time on this earth.

—I. BARRON

PHOTO FINISH

Hey Tim,

I wanted to tell you that your book, *The 4-Hour Workweek*, has been a true inspiration and life-changing resource for me this year!

I bought your book in November. Before then, I didn't know what "workflow automation" was. I had a part-time employee, but her work was actually *creating* more work for me. I would work until sometimes 3 A.M., and get up at 7. I'd tell you I wanted to travel, but the truth is that it seemed impossible to me. I didn't have time or money.

I was listening to your audio book one day. I had been listening to each of the chapters, sometimes over and over again. I was jogging. I stopped in my tracks. I believe I was listening about a case study about someone who sold music files over the Internet.

I'm a photographer. Weddings mostly. I wondered how I could sell digital images over the Internet. Then I came up with a fantastic idea for a family photography company. I stopped right there, and reserved a website on my iPhone.

Two months later, I had a website, access to thousands of photographers across the country, and our first sale. Even better, I am now in the family photography business, and I never have to shoot myself. Even better +1, we are the first family photography business that doesn't sell prints. Only digital files. It worked! I have now adopted this for my wedding photography as well. Other photographers are so offended, but I am making WAY more \$, my costs are almost eliminated, and my time is free!

I know the above is vague, but it's not the point. The point is that now I work better, faster, I have two more employees, I turned off my e-mail notifications on my computer and my iPhone, despite all of what it's capable of, it doesn't even ring. E-mail has been disabled. I just check it every so often to see what calls I missed.

Today, my fiance loves me because I come home in time for dinner and I leave my laptop at work. It's a life I never thought I'd be able to live. In the meantime, systems are working in my place and this year looks to be a lot better, financially, than last.

Then I decided it was time to try my first mini-retirement. The goal: ski the Swiss Alps and spend five days in Switzerland and spend less than \$1,000 total. I got a roundtrip ticket for about 500 bucks. My ski pass for one day at Engelberg was \$80. Lodging was free, thanks to your suggestion www.couchsurfing.com, and I ate roasted chestnuts, brats, fish and chips and drank great beer all week long. I did it!

I am forever grateful, and am excited for more mini-retirements. Here's to living during the best years of my life.

P.S. I leave May 11 for a month-long work vacation to Italy (I have been hired to photograph two weddings in Siena). I plan on vacationing a LOT more than I will be working.

— MARK CAFIERO, *Photographer*

VIRTUAL LAW

I used to work at a large Silicon Valley law firm, but one day I woke up and decided that I wanted to travel for a year and learn a foreign language. Six weeks later I was living in Cali, Colombia—I'd never visited Cali before and hardly spoke a word of Spanish, but that's what made it exciting to me. Well, almost two years later, I still spend 95%+ of my time living and working from Cali, Colombia (I recently bought a gorgeous apartment here that I could never afford if I lived in California). I also have a full-time maid/cook (well, five hours per day, five days per week), which costs me less than US \$40 per week!

I started my own virtual law practice and then joined forces with my old boss. My U.S. number rings through to me wherever I am in the world (originally I'm from New Zealand so I travel back there a lot, too), and all my U.S. mail is delivered to Market Street, San Francisco, and scanned so I can view it online. If I need to mail letters, I have another service which prints the letter and sends it within the U.S. so there are no international shipping delays.

Definitely use www.earthclassmail.com for mail receipt/scanning. They have different packages but it's around \$20-\$30/month. You can also choose one or more P.O. boxes or physical addresses. My Market Street address is actually an earthclassmail address.

For printing small letters and mailing within the U.S. I use www.postalmethods.com. It's a little clunky at first but it's fine when you get used to it. It's very cheap since you only pay when you send (a four-page letter works out to just over \$1 including the postage).

Come visit me sometime. Colombia is nothing like what you hear about—I feel a lot safer walking around late at night here than a lot of places in San Francisco. But don't tell anyone, those of us living here want to keep it a secret!

—GERRY M.

TAKING FLIGHT WITH ORNITHREADS

Tim—

My mentor gave me your book this past July and it had a tremendous impact on my life, its arrival could not have had better timing. About the time I read it, I was a few weeks away from competing in my first Olympic distance triathlon. I had trained for five months, felt and looked strong, but even more important the discipline and working toward a physical goal resulted in a creativity I hadn't felt in years. I posted a competitive time in the event and felt so optimistic about my abilities that I signed up for a half ironman competition.

Riding that high and following the principles of your book, I thought of dozens of ideas for products/businesses and am on the verge of launching the first of those ideas. It is a line of apparel called OrniThreads which will provide modern, scientific designs of birds to Gen-X and Gen-Y birders.

The reasons for focusing on this demographic are twofold:

1. For my "day job," I work at [company name]. I have learned a lot about their audience/membership, e.g., like the fact that there are 70 million Americans who actively bird (a staggering statistic from the U.S. Fish & Wildlife svc). Birders are a passionate lot and their interest only seems to grow over time—it never dies! They also tend to skew from the middle to upper class and are educated.
2. I took an ornithology class this summer at Columbia University (where I am enrolled in a conservation biology program) and fell in love with the illustrations in my textbooks and wanted to surround myself with these images.

I am launching www.offthethead.com in the next week or so and the first of my three designs are being printed as we speak.

I have big aspirations for the company, but am just trying to get the first collection to customers and learn as much as I can. Your book has been incredibly helpful in outlining the necessary steps I need to take to succeed and hope that my idea has some legs (or wings) which translates into an automated income.

If you are in NYC anytime soon—promoting your book or otherwise—I would love to meet you. Sincerely, —**BRENDA TIMM**

OFF-THE-JOB TRAINING

I used concepts from the 4HWW to work remotely from August of '08 until January of '09. I went to Portugal, Europe, Spain, Sweden, and Norway surfing and snowboarding my brains out. Best part about it? I came home with three times as much money in the bank than I would have had if I continued the normal 9 to 5. I work for [world-famous design company] as a software developer, and was able to put the concepts to use and really change my life. I paired my iPhone + Fring (Fring is voice over IP on the iPhone, it allows you to use one device for everything, and have a local number abroad).

I spent four months prior to departure being sure to never be at my cube, but always be just around the corner. I made a point to ALWAYS be available on Instant Messenger, so when people would walk over to my cube and look for me in person they would see I was somewhere else, then hop online and ask, “Where are you?” My response was always similar, just down the hall in the cafeteria ... just down the block at the coffee shop, or at co-worker X’s desk. After two months of this a magical thing happened: People always looked to get me via Instant Messenger and stopped dropping by my desk altogether. That allowed me to be 6,000 miles away without anyone noticing.

Something else to consider... how **time zone** affects remote work environments. I noticed, while in Norway (nine hours away), that it was the perfect amount of time. I was, in a sense, living in the future. My day was almost over by the time my boss woke up ... this allowed me to explore Norway’s fjords, mountains, and undiscovered frigid surf spots in complete peace and without ever having to worry about getting a call from overseas. It was perfect ... If I wanted, I could explore all day, come home and have some dinner, then ichat with my boss for 20–30 minutes and check in. The few times he needed something urgently, he was able to give me work when he went to bed, and have it completed in the morning when he woke up. —**B. WILLIAMSON**

DOCTOR’S ORDERS

Hi Tim:

Here’s my story ...

My dream started about four years ago. I was in the process of taking my psychology licensing exam, and after speaking to a friend, decided that I would reward myself with a trip to South America. We were both exhausted from our 9-to-5 (and sometimes 6, 7, or 8 p.m.) hospital and clinic jobs.

I had traveled extensively throughout the United States and some parts of Europe, but I had never experienced South American culture.

My trip there was absolutely fantastic and really opened my eyes to other ways of living and culture. During my trip, I spent a lot of time speaking to expatriates about how they used their retirement funds and pensions to live the lives of kings there. One thing was evident: Most of the expatriates who attempted to “set up a business” to help fund their lifestyle had failed miserably. I hypothesized that there just wasn’t enough currency (pesos) in the marketplace to really sustain a “gringo”-oriented business.

After my trip, I told my friends that I needed to dedicate all my energies to developing a method of receiving income from U.S. citizens while living elsewhere. VOIP had recently been introduced to the marketplace and Internet service was improving in South America and other parts of the third world.

The business had to be based upon absolute mobility. I boiled the whole business down to two basic functions: reliable telephone via VOIP and high-speed Internet.

At the time I had a small research consultation practice where I was helping doctoral students on the phone and via e-mail to complete their dissertations, theses, and statistical analyses. I had a small website that was getting traffic but I was relying on others for web and marketing services. I subsequently learned more about search engine optimization and web marketing and eventually took control of all web marketing and promotion of my website, <http://www.ResearchConsultation.com>, allowing me to expand my business substantially.

During the next three years I conducted numerous “mobile tests” ... traveling to Costa Rica, the Dominican Republic, Venezuela, and Colombia in order to fine-tune my system of conducting business from abroad.

I finally left my job last November, the day before Thanksgiving, vowing to never return to the mundane 9-to-5 structure. My job had even recently instituted a “bio-metric fingerprint” identification system where you had to “punch in and out” at the beginning and end of your hospital shift with your fingerprint to ensure that you were working your eight hours. This was just another sign that I had to leave.

I now live in NYC and Colombia and travel to other parts of the world throughout the year: speaking to customers, managing my contractors (U.S. and Colombian) in order to acquire U.S. dollars while living for a fraction of the cost abroad. I’m also developing other websites and businesses (community forums) that will hopefully be more automated, requiring less day-to-day interaction and monitoring.

Well, that’s my story for now ... today South America, tomorrow anywhere I can get a high-speed connection (banda ancha)! My stress level has dropped significantly since leaving my old job and my quality of life has improved enormously.

My family and friends in NYC still think I’m out of my mind, and I continue to fully agree with them.... —**JEFF B.**

THE 4-HOUR FAMILY AND GLOBAL EDUCATION

Tim,

We moved to a totally digital nomadic life traveling the world as a family in 2006, so we discovered your book and ideas after we had begun and loved it! Our life has changed totally and is more fulfilling and much more simple. We are greener, leaner, healthier, happier, more connected.

Other people thought we were absolutely nuts when we decided to do this in 2004/5, but now many of those same people think we are smart and psychic.

Problems finding a good school fit (despite having many award-winning excellent ones at our disposal) was probably the most specific moment (John Taylor Gatto says it best on why schools do not educate) that helped us to change as well as wanting more time together and forecasting the house/economy crash coming.

I think more families will be taking mini-retirements and living slower, traveling digital nomadic lives. If you are away for months as a family, you need to be informed about all the wonderful educational opportunities which are actually richer than staying home (which few realize)!

There are a TON of fantastic resources like Classroom 2.0 and many innovative educators online. My daughter just turned eight and is having a blast with her online course with John Hopkins University/CTY and it is also a nice resource for friends. Today one can immerse deeply in one culture

and still maintain one's home culture. This is important information for families who still feel the outdated negatives on Third Culture Kids (TCK) based on studies from the fifties.

Maya Frost⁹¹ has excellent information about older kids and even a new paradigm when it comes to going to university. I think education is one of the things going through a total transition due to the Internet, and parents need this info to make important decisions.

We have had a fantastic experience in going to a local school in Spain that has allowed my child to immerse very deeply in her second language, culture, and literature. More info (in the book) on local schools is needed and how to experience it as a family for months at a time.

We have used local people like a wonderful flamenco teacher for our child and we have also used online sources like our piano teacher in Chicago who teaches our child in Spain via Skype.

E-libraries are very important (especially with a child who is a voracious reader). [Http://learninfreedom.org/languagebooks.html](http://learninfreedom.org/languagebooks.html) is an excellent resource on language education with great books on raising a bilingual child, even if you are a monolingual!

—*SOULTRAVELERS3, a family living abroad and loving it*

FINANCIAL MUSING

I graduated from Stanford University and started working in investment banking in July 2006, and, in a sick way, almost enjoyed it at first. Yes, it was a terrible lifestyle and all, but I was learning a lot and moving up very quickly. I have (had) a type-A personality, so it appealed to me on some level.

As the year progressed, though, I realized it wasn't sustainable and that I wanted out... but like so many other people, I failed to take action immediately.

In May 2007, I was driving home at 3 A.M. one night after having pulled 4–5 all-nighters previously, and crashed into a tree on the side of the road. If you've never crashed into an inanimate object while asleep at the wheel, just imagine waking up five feet from the ground while bungee jumping as the cord is about to snap to get an idea of what it feels like.

“At the ER”

That was the subject line of the e-mail I sent out the next day to my entire office. Luckily, everyone understood and told me to take a rare three-day weekend. Luckily I survived with no major injuries, but at that point I decided it was time for a change.

I met up with some friends for dinner a week or two later and relayed my story. One friend there (who recently quit her job to pursue professional acting—her dream—while selling information products online) told me about this book she recently read called *The 4-Hour Workweek*.

I thought it was a scam, of course, but I really hated my life and decided I needed to check it out at the very least. I read it in one sitting. And then I read it again, just to make sure I wasn't hallucinating. Before ever getting into finance, I had done some work online with graphics and web design and I had a technical background, so nothing in the book seemed outrageous to me—I just didn't realize how easy and accessible it all was. Also, I had lived in Japan for half a year in college and loved it—and long-term world travel had always been one of my goals.

I sat on the ideas in your book for a while, took a quick vacation to return to Japan in October 2007, and when I came back decided that I had to get started. My muse: sell an investment banking interview guide. It's a niche, high-demand subject and I knew I could make a better guide than anything else out there. One problem: I had to stay anonymous since I was still working, and advertising with Pay-Per-Click would be way too expensive given the high CPCs for related keywords.

In November 2007 I decided to start a blog, Mergers & Inquisitions (<http://www.mergersandinquisitions.com>), about the investment banking industry and how to break in, aimed at a mix of college students, MBAs, and working professionals. While I built my audience, I

never had the time to finish my muse—the interview guide. But I was getting tons of requests to do consulting from my readers, so I started with resume editing and expanded into mock interviews—yes, not very “muse-like” but I charged high rates and could make my old salary in a fraction of the time. I did this ALL while staying completely anonymous out of necessity—because I didn’t want to get fired without an alternative income stream. Amazingly, my services took off even though I couldn’t tell anyone who I was.

At the same time, I decided I would not get another job in finance, and would instead leave in June 2008. So I had a very short amount of time to make everything work. Almost every single one of my friends, roommates, and family doubted me and said it would never work. I decided they were all wrong and I would just do it anyway—worst-case scenario, I could always reduce my expenses and move to Thailand to teach English.

To boost my income, I completely revamped my site to sell more of my offerings, which took me from pocket change to full-time income from part-time consulting over July-August 2008. This allowed me to travel to Hawaii and Aruba to go snorkeling, surfing, and shark-cage-diving and visit friends in other parts of the U.S. all while making an investment banker’s income from part-time work.

As the recession and economy worsened, my business picked up because it was counter-cyclical—anything that helps people find jobs is in huge demand in a poor economy. I’ve since helped scores of laid-off bankers and other financiers find work elsewhere. However, I was also starting to work a lot more because I was effectively trading time for money ... so over the fall I started to work on my original product idea—my interview guide—and released it to great success later in 2008.

It has gone on to free up a ton of time, double my revenues, and put the majority of my income on autopilot. If I didn’t do any further work from this point onward, I could make 2–3x my previous monthly income simply by writing once or twice a week for my site (4–5 hours) and doing limited consulting on the side (10 hours). So you could say I’ve increased my income almost 3x while reducing my hours 6x-9x and making myself completely mobile.

I admit that often I do “work” more than this, but it’s all on related educational projects that I want to work on, not anything that I have to work on. And if I don’t feel like working one week, I can reduce my hours to the 5–15 hour range and spend my time on learning languages, sports, or traveling to exotic destinations.

This setup allowed me to take an amazing trip to China, Singapore, Thailand, and Korea in December-January and get in some ridiculous adventures. I’ll be moving to Asia in a few months and after that, traveling the world indefinitely while running my business from coffee shops.

Incidentally, I met up with a lot of customers in Asia who thought this was the coolest thing ever!

Your book has changed my life and infinitely improved my lifestyle, and I just wanted to thank you for everything.

—B. DECHESARE

WHO SAYS KIDS HOLD YOU BACK?

My first action was to think “what is the worst that can happen on a scale of 1–10” if I quit my well-paid, very secure government job? The power of this thought process is incredible.

I quit my job, sold my house, and went camping for three months with two kids under two and a half and a pregnant wife (mini-retirement). We (very slowly) drove the SE coast of Australia from Sydney to Adelaide.

With the complete clarity of mind that comes from being in a field with your family with no immediate worries, I put into action a plan that I had been tinkering with for 12 months. I bought a wireless Internet dongle and created an info product for electrical engineers, and wrote some software to

Managed this by (a) going on info diet, (b) working 9 p.m.-midnight in a campsite with no other distractions, (c) outsourcing everything that I would find difficult or time consuming (like the tricky programming stuff and the illustrations for my book).

After about four weeks I had an automated informational website that had replaced ½ of my full-time income—requiring > four hours per week to maintain.

The original plan was to arrive in Adelaide and get a J.O.B. But with my passive income, I decided to simply grow my new business and am currently very close to replacing 100% of my previous income. It feels f&#ing brilliant.

Now we plan to travel the world slowly until the kids are ready for primary school...

Who says kids hold you back?! —**FINN**

WORKING REMOTELY

One month and one year ago, I read 4HWW on the recommendation of my sister's boyfriend after I had been talking for months about changing my life drastically and moving to Argentina to learn Castellano. After reading the book I stopped talking about my dreams and immediately started setting short-term and long-term goals. I bought a notebook to track my monthly goals and tasks. I did lots of research on potential remote working situations and I started telling my close friends and family about my new plans. Everyone that I told thought it was just an idea and I wasn't actually going to go through with it. They thought it was a "some day I'd like to do this" idea and that I wasn't actually setting daily goals to get me there. They knew that I loved my job so why would I leave it for a life of uncertainty? I didn't think of it that way. I wasn't scared, I was excited at the prospect of a new way of life, a fresh start, and even though I loved my job I also had other things I wanted to accomplish in my life. At first I thought about teaching English to make a living down there, but deep down inside all I really wanted to do was continue working for my current company, just doing it remotely. The book gave me the confidence to think this was actually possible, when everyone around me thought it was impossible.

I decided to write up a proposal⁹² and present it to my boss even at the advice not to do it from everyone I knew. If my boss rejected my proposal, I had enough money saved up to live in Argentina for at least six months to get me by until I could figure out how I wanted to make money there. I was not giving up on my dream of living a freer, happier life with less work and more time for myself. All odds were against me but I took a calculated risk and had faith in myself. After I handed in my proposal, I was ready to expect the worst. Everyone around me was waiting with baited breath and words of encouragement after I got rejected. When I left the meeting with my boss I couldn't believe it. She accepted and was eager to talk to me about the details. She even had a smile on her face and told me how awesome my proposal was. No one else could believe it when I told them. After the shock wore off, I realized that I could actually do this, and a huge weight was lifted from my shoulders. The hardest part was over and now I could start thinking of more possibilities for my new life.

I set my goal to move to Argentina for September 2008. I arrived here on September 3 and have been here for about six months now. I live in the capital city of Jujuy, Argentina, a small province in the northwest of Argentina. I work about 5–10 hours a week and I find that I am much more focused now that I am out of the office and working alone. I have a private Spanish tutor that I meet with for two hours, five days a week. I have a handful of friends that I spend time with, practicing my Spanish. I go to the gym three times a week and go to yoga two times a week—something I didn't do in the States because I didn't have enough time. I eat healthier because I have more time to focus on what to eat. I have more time to dream up bigger things that I want to do with my new free time. I have dreams of owning a bar or cafe, so maybe a few years from now that will be my next endeavor.

My advice to 4HWW readers is to take from my experience. I rely heavily on the advice of my friends

and family, but sometimes you have to ignore the advice of your loved ones to really make something happen. If you believe the impossible can be made possible, it will happen. —**A.K. BROOKMIRE**

KILLING YOUR BLACKBERRY

I'm a 37-year-old Subway franchisee owning and operating 13 stores. Been doing this for seven years. Prior to reading 4HWW I was KING at W4W (translate: work for work's sake)! I'd never given myself "permission" to behave differently than I did as an employee in the past. 4HWW was absolutely liberating for me. I literally "caught myself" and began the process of curing my addiction to W4W. I used to always be "on" and I was never really "present" anywhere—too busy doing the "blackberry prayer" at the dinner table instead of spending quality time with those who were present. Holidays were just a remote office for battling the e-mail tsunami. 4HWW gave me a new paradigm and I began to look at my business as a "product," the (original) purpose of which was to provide me with a disproportionate amount of income vs. time invested personally by me—to what end? To ENJOY MYSELF and to have complete autonomy over my schedule and activities. So I got off my own back, told myself it was OK to pursue the original purpose and here's what I did:

Crunched my "always open" workweek into four days and 20 hours. I immediately began taking Mondays OFF, giving me a nice three-day weekend. (Fridays are in the "CROSSHAIRS" next!) Tuesday to Friday I work 11 A.M.-4 p.m. (20 hours per week). With the "unluxury" of time in this crunched workweek I was forced to appraise everything through the 80/20 filter and found that 50% of the 80% was pure crap and the other 50% of the 80% could be done by someone on my payroll. Great!

Everything I do now has to somehow either increase sales or decrease costs otherwise "it's someone else's job." You can't be "half-pregnant," so when I'm "on" I'm really on and when I'm "off" I'm off—good luck trying to contact me. I still carry portable e-mail but I've killed "auto-sync" (the bane of modern mankind in terms of interruption) now it's on a Tues-Fri, 11 A.M.-4 p.m. schedule. Outside of that window it waits.

My e-mail autoresponder eliminated 50% of my e-mail within two weeks as people sending me meaningless crap got fed up looking at my autoresponder and stopped including me—love it! I keep a short, compact "to-do" list and anything time-bound is in my calendar. These get my attention before any other "inbox" does because I've previously decided what's important for me to get done—the rest can wait.

I could go on, but all in all I think this is a message that the self-employed need to hear so badly. With no "boss" and no "clean edges" to work-life/home-life it's so easy to fall into a W4W grind and your business becomes a tractor beam that trails you inexorably down that path. 4HWW is the antidote!" — **ANDREW, self-employed in the UK**

STAR WARS , ANYONE?

I knew my quest for the 4-Hour Workweek was working when my daughter's kindergarten teacher asked her the question: "What kind of work does your father do?" As the teacher re-told the story back to me, it was my daughter's answer that really struck a chord. "Your daughter turned and looked up at me with the most serious look on her face and said, 'My dad just sits around and watches *Star Wars* all day.'"

It's funny how this one simple question, and not to mention my daughter's answer, would be the moment of true 4HWW self-awareness for me. You see the answer my daughter gave her teacher has a deeper meaning. I believe what she meant to say, if she could articulate it, was "My dad sort of does whatever he wants to do."

I read the 4HWW almost two years ago when I was on vacation at the beach with my family. I remember it well, because I kept reading parts of the book to my wife, bothering her to no end. I am a

developer and enterprise administrator for a large financial institution in Atlanta, Georgia. Part of my job is supporting the large complex document captures systems that I help build. Due to the importance of these systems I am expected to be reachable 24/7/365. That is good for job security, but can be bad for my family life. I have four beautiful children and I strive to be a true “hands-on” dad who is present in my family’s daily lives. So armed with your book and a fresh (ocean air) perspective, I set out to put many of the 4HWW principles into practice.

First, I worked on changing my e-mail habits. I took a hard look at my inbox and used several of the techniques outlined in the 4HWW to eliminate all the waste and noise. I formed new habits around batching my e-mail sessions and it didn’t take long to achieve a zero inbox using the “trusted trio” folder method. I also applied the less is more philosophy to composing my e-mails. I went to great lengths to ensure I am as clear and concise as possible. Only communicating exactly what is needed to the right audience and not to the world. By eliminating all the noise and fat from my e-mail diet it became much more clear what “actions” or “to-do’s” were important.

Meetings and conference calls were the next area of attack. I scrutinized each meeting invite and began declining requests left and right. Most of the time I would claim I had too much going on to attend. I started asking for the minutes of the meeting or for someone to IM me if they had a specific question I needed to answer. When I do attend a meeting it is almost always via a conference call. Due to conference room restrictions and geographic challenges in our company most of our meetings are done virtually anyway.

Less wasted time meant more time to focus on work and tasks that really mattered. I felt like I was doing less but getting more things done and with better results. The right people were starting to notice and the perception of my ability to get the job done had never been better. I was making my management look good, and when that happens they stop asking questions or micromanaging daily activities. I kept proving to them I can do it without interference. Now was the time to make the push for what I really wanted and that was to go virtual!

Going virtual was actually very easy. I had a solid foundation with my manager and others in the chain of command. Almost all of my daily work was already remote-ready. At home, I have a great dedicated office in our finished basement. It is situated well away from the rest of the house and is mostly free of distractions. I have my own bathroom with shower and I even have a mini-fridge and microwave. I dare say that my home office rivals the amenities of the top executives at my company. Most of all, I have a wife and family that totally understand and respect the rules I set for myself to continue this success.

At first, I worked one or two days a week from home, but it didn’t take long before I found myself working four out of five days a week from home. When the Southeast was hit by the gas shortage and the price of gas nationwide was cresting \$4 a gallon, the company made working from home even more accepted and official. I became an overnight model for others to follow. As people around me were in a panic as to how to get to work when no gas could be found, I was happily working away at home just business as usual.

At this point, things were working better than I ever expected. Using my 4HWW skills I now had more time to be that hands-on dad I wanted to be. I became a regular up at the elementary school. I eat lunch in the cafeteria with my girls, especially on fried chicken day! I participate in a program called D.E.A.R. which stands for Drop Everything and Read, where a few times a month I come in and read to each class. I drive my kids to school and I get to see them when they come home. For my entire family, I am present in their everyday lives, and can’t put a price on that. I felt like I had achieved my goal. That was that. So I thought...

Other things started to happen. Without conscientiously knowing it, people around me at the school or church had a weird respect for me. I say weird because people literally mistook me as a doctor or just some sort of self-made millionaire. I am not kidding. There is this one guy who still calls me “Doc.” I guess the reason for this is because most people still cling to the old stereotypes of what they think it is

to be there. I always seem to show up for the school functions or just special days at the school, usually in casual attire and never obsessing over time or my Blackberry. Now I have people nominating me for things like committee chair on the PTA, and just recently I was elected to the board of directors at our local swim/ tennis club. The cool thing is, I actually have the time to do those things and still be effective at work and at home. It goes without saying that new doors are open to me now. More than ever before.

With all of this going on around me I still come back to what my daughter said to her teacher. In truth, I am at a point where if I wanted to “sit around and watch *Star Wars* all day,” I certainly could. But, I find myself filling the extra time now doing things that really mean something. Being present in the everyday lives of my family, helping my community, or volunteering at my church. Now I have a plan to take it to the next level and write my own book. The project I am working on is called *The Virtual Employee Handbook*. It is a collection of tips and how-to’s on all the tools that are essential to the modern virtual employee, like me. We will see how that goes. One thing I do know is that I wouldn’t even dream of what I am doing now if it wasn’t for *The 4-Hour Workweek!* —**W. HIGGINS**

[91](#). Maya Frost, *The New Global Student* (Crown, 2009).

[92](#). A simple, actual proposal is provided.

– RESTRICTED READING

The Few That Matter

A hypocrite is a person who—but who isn’t?

—DON MARQUIS

I know, I know. I said not to read too much. Hence, the recommendations here are restricted to the best of the best this book’s interviewees and I have used and named when asked, “What is the one book that changed your life the most?”

None of them are required to do what we’ve talked about in this book. That said, consider them if you get stuck on a particular point. The page counts are listed, and if you practice the exercises in “How to Read 200% Faster in 10 Minutes” in [Chapter 6](#), you should be able to read at least 2.5 pages per minute (100 pages thus equals 40 minutes).

For additional categories, including practical philosophy, licensing, and language learning, be sure to visit our comprehensive companion site.

The Fundamental Four: Let Me Explain

The Fundamental Four are so named because they are the four books I recommended to aspiring lifestyle designers prior to writing *The 4-Hour Workweek*. Still well worth reading, here is the sequence I suggest:

***The Magic of Thinking Big* (192 pages)**

BY DAVID SCHWARTZ

This book was first recommended to me by Stephen Key, an ultrasuccessful inventor who has made millions licensing products to companies, including Disney, Nestlé, and Coca-Cola. It is the favorite book of many superperformers worldwide, ranging from legendary football coaches to famous CEOs, and has more than 100 5-star ratings on Amazon. The main message is don't overestimate others and underestimate yourself. I still read the first two chapters of this book whenever doubt creeps in.

***How to Make Millions with Your Ideas:
An Entrepreneur's Guide* (272 pages)**

BY DAN S. KENNEDY

This is a menu of options for converting ideas into millions. I read this when I was in high school and have read it five times since. It is like steroids for your entrepreneurship cortex. The case studies, from Domino's Pizza to casinos and mail-order products, are outstanding, even if outdated in a few instances.

***The E-Myth Revisited: Why Most Small Businesses Don't Work and What to Do About It* (288 pages)**

BY MICHAEL E. GERBER

Gerber is a masterful storyteller and his classic of automation discusses how to use a franchise mind-set to create scalable businesses that are based on rules and not outstanding employees. It is an excellent road map—told in parable—for becoming an owner instead of constant micromanager. If you're stuck in your own business, this book will get you unstuck in no time.

***Vagabonding: An Uncommon Guide to the Art of Long-Term World Travel* (224 pages)**

BY ROLF POTTS

Rolf is the man. This is the book that got me to stop making excuses and pack for an extended hiatus. It covers bits of everything but is particularly helpful for determining your destination, adjusting to life on the road, and re-assimilating back into ordinary life. It includes great little excerpts from famous vagabonds, philosophers, and explorers, as well as anecdotes from ordinary travelers. This is the first of two books (the other was *Walden*, below) that I took with me on my first 15-month mini-retirement.

Reducing Emotional and Material Baggage

***Walden* (384 pages)**

BY HENRY DAVID THOREAU

This is considered by many to be *the* masterpiece of reflective simple living. Thoreau lived on the edge of a small lake in rural Massachusetts for two years, building his own shelter and living alone, as an experiment in self-reliance and minimalism. It was both a huge success and a failure, which is what makes this book such a compelling read.

Less Is More: The Art of Voluntary Poverty—An Anthology of Ancient and Modern Voices in Praise of Simplicity (336 pages)

EDITED BY GOLDIAN VANDENBROECK

This is a collection of bite-sized philosophies on simple living. I read it to learn how to do the most with the least and eliminate artificial needs, not live like a monk—big difference. It incorporates actionable principles and short stories ranging from Socrates to Benjamin Franklin and the Bhagavad Gita to modern economists.

The Monk and the Riddle: The Education of a Silicon Valley Entrepreneur (192 pages)

BY RANDY KOMISAR

This great book was given to me by Professor Zschau as a graduation gift and introduced me to the phrase “deferred-life plan.” Randy, a virtual CEO and partner at the legendary Kleiner Perkins, has been described as a “combined professional mentor, minister without portfolio, in-your-face investor, trouble-shooter and door opener.” Let a true Silicon Valley wizard show you how he created his ideal life using razor-sharp thinking and Buddhist-like philosophies. I’ve met him—he’s the real deal.

The 80/20 Principle: The Secret to Success by Achieving More with Less (288 pages)

BY RICHARD KOCH

This book explores the “nonlinear” world, discusses the mathematical and historical support for the 80/20 Principle, and offers practical applications of the same.

Muse Creation and Related Skills

Harvard Business School Case Studies www.hbsp.harvard.edu (click on “school cases”)

One of the secrets behind Harvard Business School’s teaching success is the case method—using real-life case studies for discussion. These cases take you inside the marketing and operational plans of 24-Hour Fitness, Southwest Airlines, Timberland, and hundreds of other companies. Few people realize that you can purchase these case studies for less than \$10 apiece instead of spending more than \$100,000 to go to Harvard (not that the latter isn’t worth it). There is a case study for every situation, problem, and business model.

“This business has legs”: How I Used Infomercial Marketing to Create the \$100,000,000 Thighmaster Craze: An Entrepreneurial Adventure Story (206 pages)

BY PETER BIELER

This is the story of how a naïve (in the best sense of the word) Peter Bieler started from scratch—no product, no experience, no cash—and created a \$100-million merchandising empire in less than two years. It is a mind-expanding and often hysterical case study that uses real numbers to discuss the fine points of everything from dealing with celebrities to marketing, production, legal, and retail. Peter can now finance the media purchases for your product: www.mediafunding.com.

Secrets of Power Negotiating: Inside Secrets from a Master Negotiator (256 pages)

BY ROGER DAWSON

This is the one negotiating book that really opened my eyes and gave me practical tools I could use

immediately. I used the audio adaptation. If you're hungry for more, William Ury's *Selling Fast* and G. Richard Shell's *Bargaining for Advantage: Negotiation Strategies for Reasonable People* are outstanding. These are the only negotiating books you'll ever need.

***Response Magazine* (www.responsemagazine.com)**

This magazine is dedicated to the multibillion-dollar direct response (DR) industry, with a focus on television, radio, and Internet marketing. How-to articles (increasing sales per call, lowering media costs, improving fulfillment, etc.) are interspersed with case studies of successful campaigns (George Foreman Grill, *Girls Gone Wild*, etc.). The best outsourcers in the business also advertise in this magazine. This is an excellent resource at an excellent price—free.

***Jordan Whitney Greensheet* (www.jwgreensheet.com)**

This is an insider secret of the DR world. Jordan Whitney's weekly and monthly reports dissect the most successful product campaigns, including offers, pricing, guarantees, and ad frequencies (indicative of spending and, thus, profitability). The publication also maintains an up-to-date tape library from which infomercials and spot commercials can be purchased for competitive research. Highly recommended.

***Small Giants: Companies That Choose to Be Great Instead of Big* (256 pages)**

BY BO BURLINGHAM

Longtime *Inc.* magazine editor-at-large Bo Burlingham crafts a beautiful collage and analysis of companies that focus on being the best instead of growing like cancer into huge corporations. Companies include Clif Bar Inc., Anchor Stream Microbrewery, rock star Ani DiFranco's Righteous Babe Records, and a dozen more from different industries. Bigger is not better, and this book proves it.

Negotiating World Travel and Preparing for Escape

***Six Months Off: How to Plan, Negotiate, and Take the Break You Need Without Burning Bridges or Going Broke* (252 pages)**

BY HOPE DLUGOZIMA , JAMES SCOTT , AND DAVID SHARP

This was the first book to make me step back and say, "Holy sh*t. I can actually do this!" It steamrolls over most fear factors related to long-term travel and offers a step-by-step guide to taking time off to travel or pursue other goals without giving up your career. Full of case studies and useful checklists.

***Verge Magazine* (<http://vergemagazine.com>)**

This magazine, formerly known as *Transitions Abroad*, is the central hub of alternative travel and offers dozens of incredible options for the non-tourist. Both the print and online versions are great starting points for brainstorming how you will spend your time overseas. How about excavating in Jordan or eco-volunteering in the Caribbean? It's all here.

From the website: "Each issue takes you around the world with people who are doing something different and making a difference doing it. This is the magazine resource for those wanting to volunteer, work, study, or adventure overseas."

► BONUS MATERIAL

This book is not just what you hold in your hands. There was much more I wanted to include but couldn't due to space constraints. Use passwords hidden in this book to access some of the best I have to offer. Here are just a few examples that took me years to assemble:

How to Get \$250,000 of Advertising for \$10,000

(includes real scripts)

How to Learn Any Language in 3 Months

Muse Math: Predicting the Revenue of Any Product

(includes case studies)

Licensing: From Tae Bo to Teddy Ruxpin

Real Licensing Agreement with Real Dollars

(this alone is worth \$5,000)

Online Round-the-World (RTW) Trip Planner

For this and much more reader-only content, visit our companion site and free how-to message boards at www.fourhourblog.com. How would you like a free trip around the world? Join us and see how simple it is.

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auditors with the precision of a Swiss watch.

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Last but not least, this book is dedicated to my parents, Donald and Frances Ferriss, who have guided me, encouraged me, loved me, and consoled me through it all. I love you more than words can express.

► About the Author

TIMOTHY FERRISS, nominated as one of *Fast Company's* "Most Innovative Business People of 2001," is an angel investor and author of the #1 *New York Times*, *Wall Street Journal*, and *BusinessWeek* bestseller *The 4-Hour Workweek*, which has been sold into 35 languages.

He has been featured by more than 100 media outlets, including the *New York Times*, *The Economist*, *TIME*, *Forbes*, *Fortune*, CNN, and CBS. He speaks six languages, runs a multinational firm from wireless locations worldwide, and has been a popular guest lecturer at Princeton University since 2003, where he presents entrepreneurship as a tool for ideal lifestyle design and world change.

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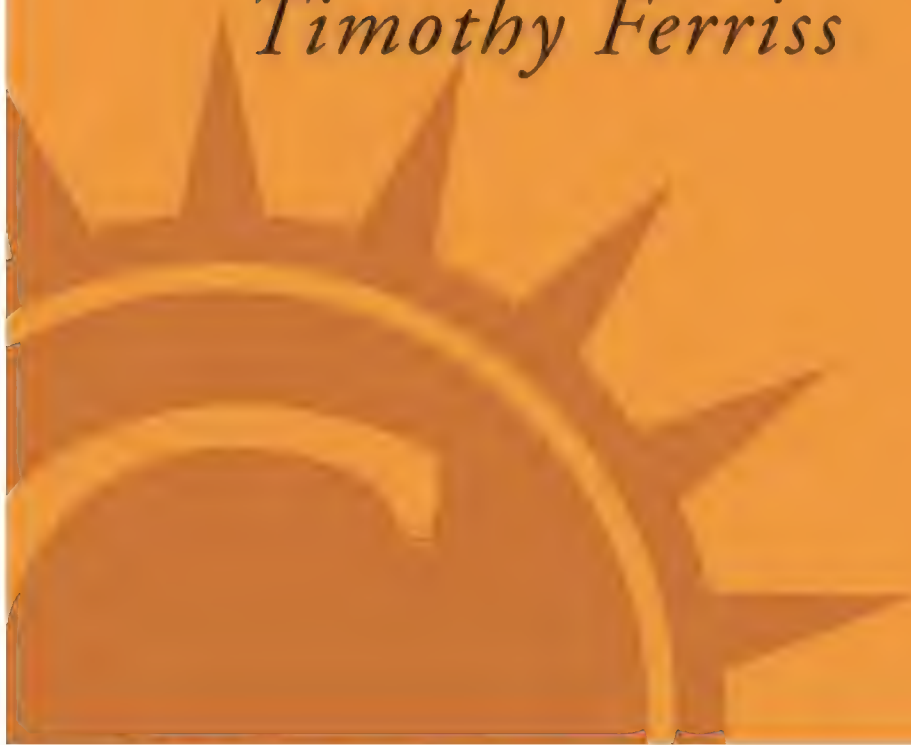
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THE 4-HOUR WORKWEEK

► Escape 9–5, Live anywhere,
and Join the New Rich

Expanded and Updated

Timothy Ferriss



Winter 2014

Crime Victims' Rights During Criminal Investigations? Applying the Crime Victims' Rights Act Before Criminal Charges Are Filed

Paul G. Cassell

Nathanael J. Mitchell

Bradley J. Edwards

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CRIME VICTIMS' RIGHTS DURING CRIMINAL INVESTIGATIONS?

APPLYING THE CRIME VICTIMS' RIGHTS ACT BEFORE CRIMINAL CHARGES ARE FILED

PAUL G. CASSELL*

NATHANAEL J. MITCHELL&**

BRADLEY J. EDWARDS***

This Article addresses whether crime victims should have rights during criminal investigations, using the Crime Victims' Rights Act (CVRA) as the focal point for our discussion. This is a critical issue, as many criminal cases may never proceed to formal charging. If crime victims have no rights during criminal investigations, then many crime victims will never have any rights at all.

The issue of whether crime victims have rights in the criminal justice process recently came to a head when the Justice Department released a memorandum contending that the CVRA does not extend crime victims any rights until prosecutors choose to file formal criminal charges. This led the CVRA's Senate cosponsor, then-Senator Jon Kyl, to fire off an angry letter to the Justice Department attacking its position. In our Article, we side with the Act's cosponsor. We believe that, properly understood, the CVRA does extend crime victims' rights during criminal investigations.

Our Article proceeds in four parts. First, it highlights the importance of applying the Act before the formal filing of charges by illustrating how dozens of victims in a notorious federal sex abuse case were deprived of the

* Ronald N. Boyce Presidential Professor of Criminal Law, S.J. Quinney College of Law at the University of Utah.

** Associate, Snow, Christensen & Martineau (Salt Lake City, Utah).

*** Partner, Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman (Fort Lauderdale, Fla.). The authors thank Douglas Beloof, Patricia Cassell, Meg Garvin, Jay Howell, James Marsh, and Stephen Twist for their assistance with this Article.

ability to participate meaningfully in the criminal process when federal prosecutors narrowly interpreted their responsibilities under the Act. Second, the Article reviews the purpose, text, structure, and history of the CVRA, concluding that they all support the conclusion that crime victims have rights during criminal investigations. Third, our Article critiques the Department's memorandum, demonstrating that the Department's analysis is unpersuasive. Fourth and finally, the Article provides a specific approach for determining when rights should attach—specifically when federal law enforcement agencies have identified a crime with sufficient precision to send a “target” letter to a criminal defendant. We also observe that federal and state prosecutors have already accorded rights to victims before formally filing charges, which further undermines the Department's overly narrow construction of the Act.

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INTRODUCTION

In recent years, federal and state enactments have given crime victims extensive rights to participate in criminal cases. Many of these rights apply only after the filing of criminal charges, such as the victim's right to be heard during court proceedings. A crime victim's right to deliver an impact statement at sentencing, for instance, can only be exercised after a prosecutor has filed charges against a defendant and obtained a conviction. Other rights, however, can apply even before the formal filing of charges. As one example, the Crime Victims' Rights Act (CVRA)¹ extends to federal crime victims the right to "confer" with prosecutors. But can victims exercise this right before charges have been filed?

This question has tremendous practical importance. In many cases, prosecutors negotiate pleas well before any charges are ever drafted. If crime victims' rights enactments do not extend rights to victims until the formal filing of charges, then crime victims can be effectively excluded from the plea bargaining process. Yet the exclusion of victims in early stages of a criminal case affects more than just the content of a plea deal. Crime victims will also lose other important rights in the process if the formal filing of charges is the necessary trigger for those rights. If, for example, prosecutors work out a nonprosecution agreement with an offender, they need not notify his victims of what they are doing or of the fact that potential charges will never be filed.

The issue of pre-charging rights has most prominently surfaced in connection with federal cases. In 2010, the Department of Justice's Office of Legal Counsel (OLC) weighed in on the issue and released a legal opinion arguing that victims of federal crimes have no CVRA rights during a federal criminal investigation.² The Justice Department took the position that rights under the CVRA do not apply until prosecutors formally initiate criminal proceedings by filing a complaint, information, or indictment. The Department claims to find support for that limiting interpretation of the statute in its plain language and legislative history.

Shortly after the Department released its opinion, one of the CVRA's congressional sponsors, then-Senator Jon Kyl, sent a letter to Attorney General Eric Holder strenuously objecting to the Department's conclusions. Senator Kyl directly stated his view that "[w]hen Congress enacted the

¹ Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act, Pub. L. No. 108-405, 118 Stat. 2260, 2261-65 (2004) (codified as amended at 18 U.S.C. § 3771 (2012) and 42 U.S.C. § 10603(d)-(e) (2006)).

² The Availability of Crime Victims' Rights Under the Crime Victims' Rights Act of 2004, 35 Op. O.L.C. 1 (Dec. 17, 2010) [hereinafter OLC CVRA Rights Memo], *available at* <http://goo.gl/fHmCL4>.

CVRA, it intended to protect crime victims throughout the criminal justice process—from the investigative phases to the final conclusion of a case.”³ Senator Kyl contested the Department’s analysis of the statute and, in particular, its use of statements from him during Congress’s consideration of the CVRA.

This Article sides with the CVRA’s cosponsor and concludes that crime victims’ CVRA rights attach before formal charging. Both the CVRA’s plain language and its legislative history lead inexorably to this conclusion, as every court that has considered this issue has concluded. This Article also contends that, as a matter of sound public policy, crime victims should have rights before the formal filing of criminal charges.

This Article proceeds in four parts. Part I frames the issues under discussion by defending the importance of extending rights to crime victims during criminal investigations. Part I also provides background on victims’ rights and gives a concrete illustration of a case in which the question of pre-charging rights for crime victims has arisen—specifically, the Jeffrey Epstein sex abuse case before a federal court in Florida. In that case, girls victimized by Epstein have argued that they should have been consulted about a federal nonprosecution agreement; Department attorneys have responded that because prosecutors never filed charges, government officials had no formal obligations to inform the girls.

Part II reviews the CVRA’s purpose, text, structure, and legislative history. This review establishes that the CVRA extends rights to crime victims before formal charges are filed.

Part III critiques OLC’s position that the CVRA extends rights to victims only after prosecutors have lodged charges in court. The Department’s proffered arguments do not withstand close scrutiny, particularly in light of the fact that the CVRA covers federal agencies involved in the “detection” and “investigation” of crime,⁴ and specifically authorizes crime victims to file CVRA motions in situations where “no prosecution is underway.”⁵

Part IV then proposes a specific approach for determining when crime victims’ CVRA rights attach. This Part explains that the rights should attach when federal law enforcement or prosecuting agencies have identified a federal crime and a particular victim with sufficient precision that they would send a “target” letter to a criminal defendant in similar circumstances. If prosecutors have sufficient information to provide notice

³ Letter from Jon Kyl, U.S. Sen., to Eric H. Holder, Jr., Att’y Gen. (June 6, 2011), *reprinted in* 157 CONG. REC. S3608 (daily ed. June 8, 2011) (statement of Sen. Jon Kyl).

⁴ 18 U.S.C. § 3771(c)(1).

⁵ *Id.* § 3771(d)(3).

to a potential criminal of his rights, they can do the same for his victims. This Part also notes that the Department of Justice and state prosecutors already successfully provide rights to victims before charging. This successful experience strongly suggests that providing rights to victims early in the criminal justice process will not be unduly burdensome.

I. THE ISSUE OF RIGHTS FOR CRIME VICTIMS DURING CRIMINAL INVESTIGATIONS

To consider the question of whether victims should have rights during criminal investigations, some understanding of the underlying purposes of victims' rights enactments will be useful. These enactments are typically designed to make victims participants in all phases of the criminal justice process.⁶ Congress drafted the CVRA, for example, broadly to make crime victims participants in criminal cases. The Jeffrey Epstein sex abuse case demonstrates the importance of victim participation even before charges are filed.

A. A BRIEF HISTORY OF CRIME VICTIMS' RIGHTS

The crime victims' rights movement has sought to make crime victims important participants in the criminal justice process. The movement began in the wake of the Warren Court revolution, which extended new rights to criminal defendants.⁷ With the courts paying increasing attention to criminal defendants, crime victims' advocates began to argue that the victims themselves had been overlooked.⁸ The movement gained great visibility in the early 1980s when President Ronald Reagan appointed the President's Task Force on Victims of Crime.⁹ The Task Force published a report concluding that "the criminal justice system has lost an essential balance. . . . The victims of crime have been transformed into a group oppressively burdened by a system designed to protect them. This oppression must be redressed."¹⁰

The Task Force chronicled how crime victims were treated in all stages of the criminal justice process, from the police investigation through

⁶ See DOUGLAS E. BELOOF, PAUL G. CASSELL & STEVEN J. TWIST, *VICTIMS IN CRIMINAL PROCEDURE* 3–39 (3d ed. 2010) (describing reforms from a historical perspective); see also, e.g., 18 U.S.C. § 3771(a) (2012).

⁷ See BELOOF, CASSELL & TWIST, *supra* note 6, at 3–39 (describing the history of victims' rights in American law and the early days of the modern movement).

⁸ See, e.g., William F. McDonald, *Towards a Bicentennial Revolution in Criminal Justice: The Return of the Victim*, 13 AM. CRIM. L. REV. 649, 651–55 (1976).

⁹ Exec. Order 12,360, 47 Fed. Reg. 17,975 (Apr. 27, 1982); see also PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME, FINAL REPORT, at ii (1982).

¹⁰ PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME, FINAL REPORT, *supra* note 9, at 114.

court proceedings, and ultimately to any parole or other release of the criminal. The Task Force then made a series of recommendations for all criminal justice agencies, including the police, prosecutors, and the courts.¹¹ The recommendations were designed to allow crime victims to receive information about, and to participate in, criminal cases.

In its most far-reaching recommendation, the Task Force proposed amending the U.S. Constitution to protect victims' rights.¹² The proposed amendment would have built on existing constitutional rights for criminal defendants by extending similar rights to crime victims.¹³

After the publication of the report, crime victims' advocates secured the passage of a series of state constitutional and legislative reforms. These measures guaranteed victims' rights in the criminal process, such as the right to be notified of court proceedings, to attend those proceedings, and to speak at appropriate points in the process, such as plea bargaining and sentencing. The measures were embodied in state statutes and, in more than thirty states, state constitutional "bills of rights" for crime victims.¹⁴ While many of the measures had narrow participatory rights,¹⁵ some of the amendments also contained more open-ended language, promising victims a right to fair treatment "throughout the criminal justice process."¹⁶

After successfully passing many state constitutional amendments, crime victims' rights advocates sought to achieve the Task Force's broadest recommendation: to secure protection for victims' rights in the U.S. Constitution. In 1996, victims' advocates proposed a Victims' Rights Amendment in a Rose Garden ceremony attended by President Bill Clinton.¹⁷ The proposed amendment contained a list of rights for crime victims, largely paralleling the rights contained in state victims' rights

¹¹ See *id.* at 56–82.

¹² *Id.* at 114.

¹³ *Id.* at 114–15.

¹⁴ For a map depicting the states with (and without) such amendments, see *State Victim Rights Amendments*, NAT'L VICTIMS' CONSTITUTIONAL AMENDMENT PASSAGE, <http://goo.gl/zn14YW> (last visited Nov. 26, 2013); for discussion, see *infra* Part IV.D (discussing legislative reforms in a number of states).

¹⁵ See, e.g., CAL. CONST. art. I, § 28; MICH. CONST. art. I, § 24; N.C. CONST. art. I, § 37. For a detailed discussion of how one state constitutional amendment is intended to operate, see generally Paul G. Cassell, *Balancing the Scales of Justice: The Case for and the Effects of Utah's Victims' Rights Amendment*, 1994 UTAH L. REV. 1373.

¹⁶ E.g., ARIZ. CONST. art. II, § 2.1(A)(1); MICH. CONST. art. I, § 24(1); TEX. CONST. art. I, § 30(a)(1); see CAL. CONST. art. I, § 28(b)(1) ("throughout the criminal or juvenile justice process").

¹⁷ John M. Broder, *Clinton Calls for Victims' Rights in Constitution*, L.A. TIMES, June 26, 1996, at A1. For detailed discussions of the legislative efforts, see Paul G. Cassell, *Recognizing Victims in the Federal Rules of Criminal Procedure: Proposed Amendments in Light of the Crime Victims' Rights Act*, 2005 BYU L. REV. 835, 847–50.

amendments.¹⁸ Congress considered the amendment several times, but it never obtained the requisite two-thirds support in both houses to secure the Amendment's approval.¹⁹ Critics quarreled not so much with the goals of the amendment but rather with the necessity of constitutionalizing such rights.²⁰

B. THE CRIME VICTIMS' RIGHTS ACT

Unable to obtain the necessary supermajority to pass a federal constitutional amendment, in April 2004, crime victims' rights advocates decided to focus on federal legislation protecting crime victims. In exchange for backing off from their efforts to pass a constitutional amendment, crime victims' advocates received near-universal congressional support for a "broad and encompassing" statutory victims' bill of rights.²¹ Victims' advocates sought to expand on the protections found in other previously-enacted victims' rights statutes, including, notably, the Victims' Rights and Restitution Act of 1990.²² That statute had also included a bill of rights for crime victims, yet because of limited enforcement mechanisms, crime victims had been unable to secure court protection of the rights listed in the statute.²³

The statute that Congress passed to solve these problems—the Crime Victims' Rights Act of 2004—gave victims "the right to participate in the

¹⁸ See Cassell, *supra* note 17, at 848–49. For the pros and cons of the amendment as originally introduced, compare Paul G. Cassell, *Barbarians at the Gates? A Reply to the Critics of the Victims' Rights Amendment*, 1999 UTAH L. REV. 479 [hereinafter Cassell, *Barbarians at the Gates?*], and Steven J. Twist, *The Crime Victims' Rights Amendment and Two Good and Perfect Things*, 1999 UTAH L. REV. 369, with Robert P. Mosteller, *The Unnecessary Victims' Rights Amendment*, 1999 UTAH L. REV. 443. For a more recent discussion of a newer version of the amendment, see Paul G. Cassell, *The Victims' Rights Amendment: A Sympathetic, Clause-by-Clause Analysis*, 5 PHOENIX L. REV. 301 (2012).

¹⁹ Hon. Jon Kyl et al., *On the Wings of Their Angels: The Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act*, 9 LEWIS & CLARK L. REV. 581, 588–91 (2005).

²⁰ *Proposed Constitutional Amendment to Protect Crime Victims*, S.J. Res. 1: Hearing Before the S. Comm. on the Judiciary, 108th Cong. 128–29 (2003) (statement of Sen. Patrick Leahy); see also Steven J. Twist & Daniel Seiden, *The Proposed Victims' Rights Amendment: A Brief Point/Counterpoint*, 5 PHOENIX L. REV. 341, 356, 378 (2012) (illustrating that the necessity dispute has endured to the present day).

²¹ 150 CONG. REC. 7295 (2004) (statement of Sen. Dianne Feinstein); see also Kyl et al., *supra* note 19, at 591–93.

²² Victims' Rights and Restitution Act of 1990, Pub. L. No. 101-647, 104 Stat. 4820 (codified as amended at 42 U.S.C. §§ 10601, 10606–07 (2006)).

²³ See, e.g., *United States v. McVeigh*, 106 F.3d 325, 328 (10th Cir. 1997) (per curiam) (refusing to enforce a victim's right to attend a trial); Cassell, *Barbarians at the Gates?*, *supra* note 18, at 515–22 (discussing *McVeigh*).

system.”²⁴ It extended broad rights to crime victims, including “[t]he right to be treated with fairness and with respect for the victim’s dignity and privacy”²⁵ and “[t]he reasonable right to confer with the attorney for the Government in the case.”²⁶ It also commanded that these rights must be afforded by the Justice Department “and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime.”²⁷ The CVRA also contained specific enforcement mechanisms. The Act provided that rights can be “assert[ed]” by “[t]he crime victim or the crime victim’s lawful representative, and the attorney for the Government . . .”²⁸ The courts were also required under the Act to “ensure that the crime victim is afforded the rights” given by the law.²⁹

Congress appeared to have at least two goals in mind in passing the CVRA. The first was simply to ensure that crime victims understood what was happening in the criminal justice process. This goal is apparent from the fact that the CVRA gives crime victims rights to notification about various court hearings, as well as more general rights to confer with prosecutors and to be treated with fairness.³⁰ The CVRA’s Senate sponsors explained:

In case after case we found victims, and their families, were ignored, cast aside, and treated as non-participants in a critical event in their lives. They were kept in the dark by prosecutors to[o] busy to care enough, by judges focused on [defendants’] rights, and by a court system that simply did not have a place for them.³¹

In passing the CVRA, Congress sought to change the system’s obliviousness to crime victims that often “left crime victims and their families victimized yet again.”³²

A second overarching purpose of the CVRA was to allow crime victims to play a role in the criminal justice process. Through the CVRA, Congress intended to make victims “independent participant[s]” in the criminal justice process.³³ The CVRA extends to crime victims a series of “rights” in the criminal justice process—rights that the victims have

²⁴ 150 CONG. REC. 7297; *see* 18 U.S.C. § 3771 (2012). For a description of victim participation, *see* BELOOF, CASSELL & TWIST, *supra* note 6, at 728–33.

²⁵ 18 U.S.C. § 3771(a)(8).

²⁶ *Id.* § 3771(a)(5).

²⁷ *Id.* § 3771(c)(1).

²⁸ *Id.* § 3771(d)(1).

²⁹ *Id.* § 3771(b)(1).

³⁰ *See id.* § 3771(a).

³¹ 150 CONG. REC. 7296 (2004) (statement of Sen. Dianne Feinstein).

³² *Id.*

³³ *Id.* at 7302 (statement of Sen. Jon Kyl).

independent standing to assert.³⁴ Congress viewed these provisions as establishing a victim's right "to participate in the process where the information that [victims] and their families can provide may be material and relevant"³⁵

Congress appears to have had both intrinsic and instrumental reasons for wanting crime victim participation. Congress clearly thought that such participation was valuable in its own right. Senator Kyl embodied this belief and explained his decision to become involved in the crime victims' rights movement because of his discovery that victims:

were suffering through the trauma of the victimization and then being thrown into a system which they did not understand, which nobody was helping them with, and which literally prevented them from participation in any meaningful way. I came to realize there were literally millions of people out there being denied these basic rights³⁶

But Congress also thought crime victim participation in the criminal justice system could be instrumentally useful. For example, in protecting a victim's right to be heard by those determining a defendant's sentence, a victim might be able to provide important information that could alter that sentence. As a result, the sentence might reflect a fuller appreciation of the danger posed by a defendant, and the judge might take appropriate steps to prevent others from being victimized.³⁷

Congress also intended to ensure that crime victims were not revictimized in the criminal justice process—that is, that they would not suffer what scholars have called "secondary harm" in the process.³⁸ The concern is that victims suffer when they are excluded from the criminal justice process. Congress sought to end that suffering by making victims meaningful participants in criminal cases.³⁹

C. AN ILLUSTRATION OF THE PRE-CHARGING ISSUE: THE JEFFREY EPSTEIN CASE

Given the potentially expansive scope of victims' rights under both state provisions and the CVRA, a critical question arises about how to apply them: Do the rights come into existence only after prosecutors formally file

³⁴ Compare 18 U.S.C. § 3771(d), with Susan Bandes, *Victim Standing*, 1999 UTAH L. REV. 331, 344–45 (illustrating the debate surrounding victim standing prior to adoption of the CVRA).

³⁵ 150 CONG. REC. 7296 (statement of Sen. Dianne Feinstein).

³⁶ *Id.* at 7298 (statement of Sen. Jon Kyl).

³⁷ *Id.*

³⁸ See, e.g., Douglas Evan Beloof, *The Third Model of Criminal Process: The Victim Participation Model*, 1999 UTAH L. REV. 289, 294–96; Richard A. Bierschbach, *Allocution and the Purposes of Victim Participation Under the CVRA*, 19 FED. SENT'G REP. 44, 46 (2006).

³⁹ 150 CONG. REC. 7298 (statement of Sen. Jon Kyl).

criminal charges? Or do they attach at some earlier point in the process? *Does v. United States*, a federal case in the U.S. District Court for the Southern District of Florida, usefully illustrates the issue.⁴⁰ In that case, the U.S. Attorney's Office for the Southern District of Florida developed considerable evidence that Jeffrey Epstein, a billionaire with extensive political and social connections,⁴¹ had sexually molested more than thirty young girls between 2001 and 2007 at his West Palm Beach mansion.⁴² The U.S. Attorney's Office entered into contentious plea negotiations with Epstein over how the case should be resolved. The prosecutors initially sought a resolution that would have required Epstein to plead guilty to at least a felony sex offense. After pressure from Epstein, for reasons that have never been clearly explained,⁴³ the U.S. Attorney's Office agreed to enter into a nonprosecution agreement. Under the agreement, the U.S. Attorney's Office agreed not to prosecute him and, in exchange, Epstein agreed to plead guilty to two state felonies for soliciting prostitution with a minor. After entering those guilty pleas, Epstein was sentenced to only eighteen months in state jail.⁴⁴ No federal charges were ever filed and

⁴⁰ *Does v. United States*, 817 F. Supp. 2d 1337 (S.D. Fla. 2011). In the interest of full disclosure, two of the authors of this Article (Cassell and Edwards) are co-counsel for the victims in this case. The statement of the facts in this Article draws heavily on the victims' allegations as they have detailed in their pending motion for summary judgment in the case. See Jane Doe #1 & Jane Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for a Hearing on Appropriate Remedies at 3–23, *Does*, 817 F. Supp. 2d 1337 (No. 9:08-cv-80736-KAM) [hereinafter Jane Doe Motion] (providing fifty-three proposed facts in the case). The U.S. Attorney's Office has generally disputed some of these allegations without offering specifics as to what happened. See, e.g., United States' Response to Jane Doe #1 & Jane Doe #2's Motion for Finding of Violations of the Crime Victim Rights Act and Request for a Hearing on Appropriate Remedies at 34–43, *Does*, 817 F. Supp. 2d 1337 (No. 9:08-cv-80736-KAM) [hereinafter United States' Response]. As of this writing, Epstein has declined to intervene in the case to dispute the allegations.

⁴¹ See, e.g., Paul Harris, *Prince Andrew's Link to Sex Offender Jeffrey Epstein Taints Royalty in US*, GUARDIAN (Mar. 12, 2011), <http://goo.gl/0I4vAE>; Landon Thomas Jr., *Jeffrey Epstein: International Moneyman of Mystery*, N.Y. MAG., <http://goo.gl/11Cayc> (last visited Nov. 26, 2013).

⁴² See Jane Doe Motion, *supra* note 40, at 3–4; Abby Goodnough, *Questions of Preferential Treatment Are Raised in Florida Sex Case*, N.Y. TIMES, Sept. 3, 2006, at A19.

⁴³ The U.S. Attorney responsible for the plea deal later revealed that after negotiations started, “[w]hat followed was a year-long assault on the prosecution and the prosecutors” by Epstein. Letter from R. Alexander Acosta, former U.S. Att’y, to Whom It May Concern (Mar. 20, 2011), reprinted in Conchita Sarnoff, *Behind Pedophile Jeffrey Epstein's Sweetheart Deal*, DAILY BEAST (Mar. 25, 2011, 3:17 AM), <http://goo.gl/kyveiF>. Acosta, however, claimed that the pressure did not influence the ultimate disposition of the case. *Id.*

⁴⁴ Landon Thomas Jr., *From Paradise to County Jail: A Billionaire Financial Adviser Will Serve 18 Months in Sex Case*, N.Y. TIMES, July 1, 2008, at C1.

Epstein spent much of the jail term on “work release” to his luxurious office.⁴⁵

The U.S. Attorney’s Office did not tell Epstein’s victims about the nonprosecution agreement until well after it had taken effect. To the contrary, even after the nonprosecution agreement had been signed, the Office continued to tell the victims that the case was still “under investigation” and that they should be “patien[t].”⁴⁶ When the victims learned of the agreement, two of them (Jane Doe Number One and Jane Doe Number Two) filed suit in federal court under the Crime Victims’ Rights Act, arguing that the prosecutors had violated their CVRA right to confer as well as their right to be treated fairly.⁴⁷ The victims contended that prosecutors should have conferred with them about the nonprosecution agreement before it became final.

In response, the U.S. Attorney’s Office argued primarily that it was under no obligation to extend the victims any rights under the CVRA. It was the Government’s blunt position that “CVRA rights do not attach in the absence of federal criminal charges filed by a federal prosecutor.”⁴⁸ In short, the Government argued it was not required to confer in any way with the victims, or even treat them fairly, because the CVRA was not yet in play. The issue is thus squarely framed: Is the Government correct in its assertion that it has no CVRA obligations in cases like the Epstein case where federal prosecutors never lodged federal charges against a suspect? In view of the CVRA’s prominence, resolution of this issue may shed important light on the nature of crime victims’ enactments and the breadth of the role that crime victims should have in the criminal justice process.

II. THE CVRA’S APPLICATION BEFORE FORMAL CHARGES ARE FILED

To analyze the issue of whether the CVRA extends rights to crime victims before prosecutors have formally filed charges, it is useful to look at the CVRA’s purposes, language, and judicial interpretations. This Part looks at each of these three issues in turn.

⁴⁵ See Michele Dargan, *Feds Say They Treated Epstein Victims Fairly*, PALM BEACH DAILY NEWS (Apr. 8, 2011, 7:23 PM), <http://goo.gl/rTGDeD>; Conchita Samoff, *Billionaire Pedophile Goes Free*, DAILY BEAST (July 20, 2010, 7:05 PM), <http://goo.gl/MSTi17>.

⁴⁶ See Jane Doe Motion, *supra* note 40, at 14, 16 (internal quotation marks and citations omitted).

⁴⁷ See Emergency Victim’s Petition for Enforcement of Crime Victim’s Rights Act, 18 U.S.C. Section 3771 at 2, *Does v. United States*, 817 F. Supp. 2d 1337 (S.D. Fla. 2011) (No. 9:08-cv-80736-KAM).

⁴⁸ United States’ Response, *supra* note 40, at 7.

A. THE CVRA'S PURPOSES

An analysis of the CVRA's application before prosecutors have filed charges must begin by assessing the CVRA's purposes because any interpretation of the CVRA that is divorced from the statute's purposes would run the risk of defeating the statute's aims. It is axiomatic that courts should "give faithful meaning to the language Congress adopted in the light of the evident legislative purpose in enacting the law in question."⁴⁹

As discussed above,⁵⁰ one important goal of the CVRA was to keep crime victims informed about any developments in the criminal justice process. But the need to be informed does not begin with the filing of a formal criminal charge. A crime victim needs to know what is happening before formal charging—during a criminal investigation, for example—just as much as she needs to know what is happening in court. Indeed, she may have a greater need to know, as she may be concerned that the criminal who harmed her is still on the loose, posing a danger to her.

Similarly, concerning the second purpose—facilitating victim participation⁵¹—without a right to pre-charging involvement, victims may be effectively shut out of the process entirely. The Epstein case provides a useful illustration of why the CVRA must be understood to extend rights to victims prior to indictment. The prosecutors handling the investigation reached an agreement with Epstein that barred federal prosecution of sex offenses committed against dozens of victims, including Jane Doe Number One and Jane Doe Number Two. If CVRA rights did not extend to the negotiations surrounding the agreement, then the victims *never* would have had any ability to participate in the resolution of the case.⁵²

A construction of the CVRA that extends rights to victims before charges are filed would be entirely consistent with the CVRA's participatory purpose. If victims have the ability to participate in a pre-charging plea bargaining process, for example, victims can help ensure that prosecutors do not overlook anything that should be covered in the plea deal. For example, victims might be able to obtain agreement to a "no contact" order or valuable restitution—points that the prosecutor might fail

⁴⁹ *Graham Cnty. Soil & Water Conservation Dist. v. United States ex rel. Wilson*, 130 S. Ct. 1396, 1409 (2010) (quoting *United States v. Bornstein*, 423 U.S. 303, 310 (1976)) (internal quotation marks omitted).

⁵⁰ See *supra* notes 24–27.

⁵¹ See *supra* notes 28–29.

⁵² Even the Justice Department seems to recognize this point. As a matter of policy, the Department extends to victims the right to confer with prosecutors in situations where plea discussions occur before charges have been brought. U.S. DEP'T OF JUSTICE, OFFICE FOR VICTIMS OF CRIME, ATTORNEY GENERAL GUIDELINES FOR VICTIM AND WITNESS ASSISTANCE 41–42 (2011 ed., rev. May 2012) [hereinafter ATTORNEY GENERAL GUIDELINES].

to consider in crafting a plea. Similarly, allowing victims to participate early in the process avoids retraumatizing victims. Again, as the Epstein case usefully illustrates, it may be extremely difficult for victims to discover after the fact that potential criminal charges against a criminal who has abused them have been secretly bargained away. Jane Doe Number One and Jane Doe Number Two, for example, were outraged when they discovered prosecutors had entered into an agreement blocking any prosecution of sex offenses Epstein committed against them—and all without telling them.⁵³

In short, the purposes animating the CVRA all suggest that the Act was meant to, and should, extend rights to crime victims before formal charges are filed.

B. THE CVRA'S PLAIN LANGUAGE

While the general purposes of the CVRA support a broad interpretation of the Act, it is important to examine whether those purposes have been expressed in the Act's language. Without a linkage to the Act's text, the general purpose might not provide a sound basis for interpretation.⁵⁴ But the CVRA's plain language makes clear that Congress intended for the law to provide at least some rights to crime victims throughout the criminal justice process, even before the filing of criminal charges.

According to its text, the CVRA provides eight specifically enumerated rights for crime victims and an additional right to be reasonably notified of these rights.⁵⁵ Some of these rights presuppose the formal filing of criminal charges. For instance, the CVRA extends to victims the "right to reasonable, accurate, and timely notice of any public court proceeding."⁵⁶ That particular right obviously does not apply before charges are filed, as no "court proceedings" exist before a defendant is charged.

But the CVRA also promises crime victims rights that are not specifically tied to court proceedings. Perhaps most expansively, the CVRA guarantees victims the "right to be treated with fairness and with

⁵³ Without disclosing confidential attorney–client communications, this fact is readily apparent from victims' filings in the Epstein case. *See, e.g.*, Jane Doe Motion, *supra* note 40, at 17 (stating that the victims relied on the U.S. Attorney's Office representatives "to their detriment[,] that if they knew the true facts, 'they would have taken steps to object' to the plea agreement, and that they believed criminal prosecution to be 'extremely important'").

⁵⁴ *See* ANTONIN SCALIA & BRYAN A. GARNER, *READING LAW: THE INTERPRETATION OF LEGAL TEXTS* 56 (2012).

⁵⁵ 18 U.S.C. § 3771(a) (2012) (enumerating eight rights); *id.* § 3771(c)(1) (requiring government officers use "their best efforts" to notify victims of their rights).

⁵⁶ *Id.* § 3771(a)(2).

respect for the victim's dignity and privacy,"⁵⁷ a broad right that does not appear to be directly linked to a filed court case. Similarly, the CVRA promises victims the "reasonable right to confer with the attorney for the Government *in the case*."⁵⁸ In this section, the CVRA's drafters appear to have eschewed a reference to court proceedings, using a broader term instead. Of course, a "case" can refer both to a judicial case before a court and an investigative case pursued by a law enforcement officer. It is common usage to say such things as, "The police officer investigated and solved the case." Dictionary definitions of the word "case" support this varied interpretation.⁵⁹

If there remained any doubts about whether the CVRA applies during the investigative part of the criminal justice process, two other provisions in the CVRA resolve them. The CVRA specifically directs that "[o]fficers and employees of the Department of Justice and other departments and agencies of the United States engaged in the *detection, investigation, or prosecution of crime* shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in [the CVRA]."⁶⁰ Of course, there would be no reason to direct that agencies involved in the "detection" and "investigation" of crime have CVRA obligations if the Act did not extend to pre-charging situations. Congress thus directly envisioned the victims' rights law to apply during the "detection" and "investigation" phases of criminal cases.

Similarly, the CVRA's venue provision instructs that crime victims who seek to assert rights in pre-charging situations should proceed in the court where the crime was committed: "The rights described in subsection (a) [of the CVRA] shall be asserted in the district court in which a defendant is being prosecuted for the crime or, *if no prosecution is underway*, in the district court in the district in which the crime occurred."⁶¹ Here again, it is hard to see why this provision would be necessary unless the CVRA applies before the formal filing of charges.

For all these reasons, the CVRA's plain language indicates that the victims have protected rights under the Act even before charges are filed.

⁵⁷ *Id.* § 3771(a)(8).

⁵⁸ *Id.* § 3771(a)(5) (emphasis added).

⁵⁹ See, e.g., BLACK'S LAW DICTIONARY 243–44 (9th ed. 2009) (defining, among the definitions of "case," a "test case" as "[a] criminal investigation" as in "the Manson case"); WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE UNABRIDGED 345 (1993) (defining "case" as "a circumstance or situation (as a crime) requiring investigation or action by the police or other agency").

⁶⁰ 18 U.S.C. § 3771(c)(1) (emphasis added).

⁶¹ *Id.* § 3771(d)(3) (emphasis added).

C. COURTS RECOGNIZE THAT CRIME VICTIMS HAVE CVRA RIGHTS BEFORE CHARGING

Because crime victims lack a right to appointed counsel, many victims have difficulty litigating the scope of their rights.⁶² But in a few cases, victims have been able to secure counsel to argue that they have rights in the criminal justice process during the investigation of federal crimes. When those cases have reached the issue of whether the CVRA applies before charges have been filed, courts have uniformly agreed with the victims' position.

Perhaps the leading case to date to assess this question is the Fifth Circuit's decision in *In re Dean*.⁶³ There, a wealthy corporate criminal defendant reached a generous plea deal with the Government—a deal that the Government filed for approval with the district court without conferring with the victims. Citing procedural rights under the CVRA, the victims requested that the trial court reject the plea agreement.⁶⁴ The District Court for the Southern District of Texas specifically concluded that victims' CVRA rights could apply during the investigation of the crime: "There are clearly rights under the CVRA that apply before any prosecution is underway."⁶⁵ The district court concluded, however, that the Government had not violated the CVRA because it had secured judicial permission to dispense with notification to victims.⁶⁶

The victims sought appellate review in the Fifth Circuit.⁶⁷ There, the court concurred with the district court that CVRA rights apply before trial. Unlike the district court, however, it held that the Government had violated the victims' rights:

The district court acknowledged that "[t]here are clearly rights under the CVRA that apply before any prosecution is underway." Logically, this includes the CVRA's establishment of victims' "reasonable right to confer with the attorney for the Government." At least in the posture of this case (and we do not speculate on the

⁶² John W. Gillis & Douglas E. Beloof, *The Next Step for a Maturing Victim Rights Movement: Enforcing Crime Victim Rights in the Courts*, 33 McGEORGE L. REV. 689, 693 (2002).

⁶³ 527 F.3d 391 (5th Cir. 2008). Other aspects of the case are discussed in Paul G. Cassell & Steven Joffe, *The Crime Victims' Expanding Role in a System of Public Prosecution: A Response to the Critics of the Crime Victims' Rights Act*, 105 NW. U. L. REV. COLLOQUY 164, 172–76 (2011).

⁶⁴ *In re Dean*, 527 F.3d at 392.

⁶⁵ *United States v. BP Prods. N. Am. Inc.*, No. H-07-434, 2008 WL 501321, at *11 (S.D. Tex. Feb. 21, 2008).

⁶⁶ *Id.* at *1, *19.

⁶⁷ For discussion of the difficulties crime victims face to obtain appellate review of their claims, see generally Paul G. Cassell, *Protecting Crime Victims in Federal Appellate Courts: The Need to Broadly Construe the Crime Victims' Rights Act's Mandamus Provision*, 87 DENV. U. L. REV. 599 (2010).

applicability to other situations), the government should have fashioned a reasonable way to inform the victims of the likelihood of criminal charges and to ascertain the victims' views on the possible details of a plea bargain.⁶⁸

The Fifth Circuit then remanded the matter to the district court to determine the appropriate remedy for the violation of the victims' rights.⁶⁹

The Fifth Circuit's decision in *Dean* has been cited favorably in four recent district court decisions, which provides further support for the conclusion that the CVRA applies before charges have been filed. In *United States v. Rubin*,⁷⁰ victims of a federal securities fraud argued that they had CVRA rights even before prosecutors filed a superseding indictment covering the specific crimes affecting the victims. Citing *Dean*, the District Court for the Eastern District of New York agreed that the rights were expansive and could apply before charges were filed but were subject to the outer limit that the Government has at least "contemplated" charges.⁷¹

Similarly, in *United States v. Oakum*,⁷² the District Court for the Eastern District of Virginia considered a claim that CVRA rights did not apply until after a defendant had been convicted. In rejecting that argument, the court agreed with the *Dean* court that victims acquire rights even before a prosecution begins.⁷³

The District Court for the Northern District of Indiana held to the same effect in *In re Petersen*.⁷⁴ There, the court held that a victim's right to be treated with fairness and with respect for [his or her] dignity and privacy "may apply before any prosecution is underway and isn't necessarily tied to a 'court proceeding' or 'case.'"⁷⁵ The court, however, found that the "conclusory allegations" in the victims' petition did not "create a plausible claim for relief under the CVRA."⁷⁶

⁶⁸ *In re Dean*, 527 F.3d at 394 (internal citations omitted).

⁶⁹ *Id.* at 396. On remand, the district court held additional hearings in which the victims participated, satisfying their CVRA rights. See *United States v. BP Prods. N. Am. Inc.*, 610 F. Supp. 2d 655, 660 (S.D. Tex. 2009).

⁷⁰ 558 F. Supp. 2d 411 (E.D.N.Y. 2008).

⁷¹ *Id.* at 419 (internal citation omitted). *Rubin*'s suggestion about limitations that apply to pre-indictment assertions of rights is discussed at notes 184–187 and 193 *infra* and accompanying text.

⁷² No. 3:08cr132, 2009 WL 790042 (E.D. Va. Mar. 24, 2009).

⁷³ *Id.* at *2.

⁷⁴ No. 2:10-CV-298 RM, 2010 WL 5108692 (N.D. Ind. Dec. 8, 2010).

⁷⁵ *Id.* at *2 (citing *In re Dean*, 527 F.3d 391, 394 (5th Cir. 2008); *United States v. BP Prods. N. Am. Inc.*, H-07-434, 2008 WL 501321 (S.D. Tex. Feb. 21, 2008)).

⁷⁶ *Id.* *Petersen* also held that one specific CVRA right—the right to confer—only applies after charges have been filed. *Id.* But the authorities *Petersen* cites for that proposition prove no such thing. Confusingly, *Petersen* cited the Fifth Circuit's ruling in

Perhaps the most extensive discussion of this issue has come from the Epstein case discussed earlier.⁷⁷ Overruling the Government's argument that the CVRA only applies after the formal filing of charges, *Does v. United States* held that "the statutory language clearly contemplates pre-charge proceedings."⁷⁸ The court in *Does* explained that "[c]ourt proceedings involving the crime are not limited to post-complaint or post-indictment proceedings, but can also include initial appearances and bond hearings, both of which can take place before a formal charge."⁷⁹ The court also noted that the CVRA's "requirement that officials engaged in 'detection [or] investigation' [of crimes] afford victims the rights enumerated in subsection (a) surely contemplates pre-charge application of the CVRA."⁸⁰ Finally, the court in *Does* noted that "[i]f the CVRA's rights may be enforced before a prosecution is underway, then, to avoid a strained reading of the statute, those rights must attach before a complaint or indictment formally charges the defendant with the crime."⁸¹

In sum, the relevant case law unanimously agrees that the CVRA extends rights to crime victims before charges have been filed.

III. THE JUSTICE DEPARTMENT'S UNPERSUASIVE POSITION

Despite the CVRA's broad remedial purposes, its expansive language referring to investigations, and the unanimous case law extending rights to victims prior to defendants being charged, the OLC released a memorandum in 2011 concluding that CVRA rights attach only "from the time that criminal proceedings are initiated (by complaint, information, or indictment)."⁸² OLC's analysis is unpersuasive. Although OLC's opinion

Dean for support; but (as just explained above) *Dean* held exactly the opposite. Similarly, *Petersen* cites other cases involving the right to confer after charges have been filed. *Id.* But none of these cases actually presented the issue of the CVRA's application to pre-indictment situations, since charges had already been filed in each of these cases. *See, e.g., In re Stewart*, 552 F.3d 1285, 1289 (11th Cir. 2008).

⁷⁷ *Does v. United States*, 817 F. Supp. 2d 1337 (S.D. Fla. 2011).

⁷⁸ *Id.* at 1341.

⁷⁹ *Id.*

⁸⁰ *Id.* at 1342.

⁸¹ *Id.* Recently, the district court in the *Does* case also rejected Government efforts to dismiss the action. The district court found that, if the victims could prove the factual allegations they have made, then they would be entitled to relief, including potentially the relief of invalidating the nonprosecution agreement that Epstein obtained from the Government. *Does v. United States*, No. 9:08-cv-80736-KAM, 2013 WL 3089046, at *3 (S.D. Fla. June 19, 2013).

⁸² OLC CVRA Rights Memo, *supra* note 2, at 1. Although the opinion is dated December 17, 2010, it was publicly released on May 20, 2011. *See* Letter from Jon Kyl, *supra* note 3.

invokes the CVRA's definition of crime "victim," its legislative intent, and its structure, a closer reading of each demonstrates little support for the notion that crime victims must await the formal filing of charges before accruing CVRA rights.

A. OLC'S MISREADING OF THE CVRA'S DEFINITION OF "VICTIM"

OLC's lead argument is that the CVRA's definition of "victim" presupposes that criminal charges have been formally filed.⁸³ The CVRA defines a "victim" who is protected as "a person directly and proximately harmed as a result of the commission of a Federal *offense*."⁸⁴ Focusing on the word "offense," OLC concedes that it does not "conclusively resolve" the question of when rights attach. Nevertheless, OLC claims that the word "naturally suggests that a person's status as a 'crime victim' can only be determined after there has been a formal decision to charge a defendant with a particular Federal offense."⁸⁵ OLC goes on to elaborate:

Under this reading, the earliest that a "crime victim" under the Act could be identified would be upon the filing of a criminal complaint—that is, at the earliest point at which there is a sworn written statement of probable cause to believe that a particular defendant committed an identified Federal offense and hence the first point at which it is possible with any certainty to identify a "crime victim" directly and proximately harmed by the commission of that offense.⁸⁶

OLC is disingenuous in asserting that the "first point" at which a person has been harmed by a federal crime arises only after a criminal complaint has been filed. The Department routinely makes such determinations at earlier points in criminal cases, such as when it sends a "target letter" to a defense attorney during a grand jury investigation.⁸⁷ Indeed, OLC remarkably ignores the fact that the Department is directly *required* to identify victims of a crime before the filing of a criminal complaint, both by statute and through internal policy directives.

The Victims' Rights and Restitution Act of 1990 (VRRRA)⁸⁸ requires the Department to identify victims before the filing of a criminal complaint.

⁸³ OLC CVRA Rights Memo, *supra* note 2, at 6.

⁸⁴ 18 U.S.C. § 3771(e) (2012) (emphasis added).

⁸⁵ OLC CVRA Rights Memo, *supra* note 2, at 5.

⁸⁶ *Id.*

⁸⁷ A target letter explains the procedural process underlying an indictment and places the defendant on notice of the general nature of the government's criminal investigation. *See* U.S. DEP'T OF JUSTICE, TITLE 9: U.S. ATTORNEYS' CRIMINAL RESOURCE MANUAL § 160, [hereinafter CRIMINAL RESOURCE MANUAL] *available at* <http://goo.gl/YHLDke> (providing an example target letter); *infra* Part III.A (developing this point further).

⁸⁸ Pub. L. No. 101-647, 104 Stat. 4820 (codified as amended at 42 U.S.C. §§ 10601, 10606–07 (2006)).

Passed in 1990, the VRRRA provided crime victims with a set of procedural rights similar to those found in the CVRA, along with rights to notification about victim services.⁸⁹ In 2004, the CVRA repealed and replaced the section of the VRRRA listing procedural rights, while leaving other parts of the VRRRA intact.⁹⁰ Under the remaining parts of the VRRRA, the Justice Department must inform victims of federal crimes of services that are available to them, including “emergency medical and social services,” counseling, and support.⁹¹ The Department is further obligated to keep victims fully informed about “the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation.”⁹² These rights to notice about “emergency medical and social services”⁹³ as well as to the “status of the investigation of the crime”⁹⁴ obviously require the Department to identify victims of federal crimes before formal charges have been filed. Indeed, the VRRRA makes this point clear by directing the Department to not only notify the victim about the status of the investigation but also about the later “filing of charges against a suspected offender.”⁹⁵ The VRRRA then extends victims’ rights to information through the rest of the criminal justice process by requiring the Department to provide notice to victims of such things as the imposed sentence and the defendant’s release.⁹⁶

The VRRRA not only requires the Department to identify victims during the investigation of a crime, it also defines those victims in a very similar fashion to the CVRA. The VRRRA defines “victim” as a “person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime.”⁹⁷ Thus, the Department is already routinely identifying persons who have been “harmed” by federal crimes shortly after the commission of those crimes and well before formal charging.

The Attorney General has also promulgated internal guidelines requiring Justice Department components to identify victims rapidly after a crime. The *Attorney General Guidelines for Victim and Witness Assistance* provide that “Department responsibilities to crime victims begin as soon as possible after the detection of a crime at which they may be undertaken

⁸⁹ See *supra* notes 22–23 and accompanying text.

⁹⁰ Justice for All Act of 2004, Pub. L. No. 108–405, § 102(a), 118 Stat. 2260, 2261 (2004) (codified at 18 U.S.C. § 3771(a) (2012)).

⁹¹ See 42 U.S.C. § 10607(c).

⁹² *Id.* § 10607(c)(3)(A).

⁹³ *Id.* § 10607(c)(1)(A).

⁹⁴ *Id.* § 10607(c)(3)(A).

⁹⁵ *Id.* § 10607(c)(3)(C).

⁹⁶ *Id.* § 10607(c)(3)(G).

⁹⁷ *Id.* § 10607(c)(2).

without interfering in the investigation. Generally, this point in time is defined by the opening of a criminal investigation.”⁹⁸

Given the way the two statutes work, it would make no sense to artificially confine the CVRA’s reach until after the filing of a criminal complaint. Before then, victims will have often received information from the Department about the status of the investigation. They might wish to confer with prosecutors about how the case is proceeding, and the CVRA extends to them a right to confer.⁹⁹ Similarly, while the Department is notifying victims about the services they may receive and the status of an investigation, it is important that the victims be treated fairly. The CVRA extends the right to be treated fairly.¹⁰⁰ Indeed, it would be absurd to think that Congress wanted to permit the Justice Department to treat crime victims unfairly until criminal charges have been filed.

Instead of recognizing Congress’s intent, OLC’s 2011 memorandum simply cites to a series of cases in which courts concluded that a victim of uncharged conduct should not be afforded statutory protections.¹⁰¹ Yet none of these cases—*United States v. Turner*,¹⁰² *Searcy v. Paletz*,¹⁰³ or *Searcy v. Skinner*¹⁰⁴—provide strong support for OLC’s position. *Turner* is a particularly poor fit. Although OLC’s memorandum characterizes *Turner* as excluding victims of uncharged conduct,¹⁰⁵ the magistrate judge adopted an inclusive reading of the statute precisely because of his reservations about the CVRA’s legislative history and plain language. The judge suggested that “any person who self-identifies as [a victim]” could be presumed to qualify for protection under the CVRA as a preliminary matter.¹⁰⁶ In fact, the line quoted by the Department is lifted out of context. The full sentence reads: “While the offense charged against a defendant can

⁹⁸ ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 7 (internal citations omitted); *see also* 42 U.S.C. § 10607(b).

⁹⁹ 18 U.S.C. § 3771(a)(5) (2012) (preserving “[t]he reasonable right to confer with the attorney for the Government in the case”).

¹⁰⁰ *Id.* § 3771(a)(8) (preserving “[t]he right to be treated with fairness and with respect for the victim’s dignity and privacy”).

¹⁰¹ OLC CVRA Rights Memo, *supra* note 2, at 6 n.6.

¹⁰² 367 F. Supp. 2d 319 (E.D.N.Y. 2005).

¹⁰³ No. 6:07-1389-GRA-WMC, 2007 WL 1875802 (D.S.C. June 27, 2007).

¹⁰⁴ No. 6:06-1418-GRA-WMC, 2006 WL 1677177 (D.S.C. June 16, 2006).

¹⁰⁵ OLC CVRA Rights Memo, *supra* note 2, at 6 n.6.

¹⁰⁶ *Turner*, 367 F. Supp. 2d at 327 (“Instead, I have taken and will continue to follow an inclusive approach: absent an affirmative reason to think otherwise, I will presume that any person whom the government asserts was harmed by conduct attributed to a defendant, as well as any person who self-identifies as such, enjoys all of the procedural and substantive rights set forth in § 3771.”).

serve as a basis for identifying a 'crime victim' as defined in the CVRA, the class of victims with statutory rights may well be broader."¹⁰⁷

Paletz and *Skinner* similarly provide scant support for the Department's position. In *Skinner*, a prison inmate attempted to bring a pro se civil suit against another inmate for allegedly attacking him during incarceration.¹⁰⁸ In dismissing the suit in an unpublished decision, the district court recognized that the Government had expressly declined to bring charges against the other inmate and concluded that the CVRA did not create a "mechanism to bring an action against Defendant directly."¹⁰⁹ In *Paletz*, that same inmate brought a similar pro se claim against another inmate, the Federal Bureau of Prisons, the FBI, and the U.S. Attorney General.¹¹⁰ In a parallel, unpublished decision, the district court dismissed the suit, noting that the CVRA is designed to give victims certain rights "within the prosecutorial process against a criminal defendant."¹¹¹

Because *Skinner* and *Paletz* involve (apparently frivolous) civil suits, they say nothing about the CVRA's reach in criminal cases, and any language to that effect would be pure dicta. Moreover, the courts' terse analysis in both cases does not contain any substantive discussion of whether CVRA rights apply in criminal cases before the filing of charges. Instead, the courts simply cited to language from a Second Circuit decision that stated that the CVRA does not give victims any rights against defendants until those defendants have been convicted¹¹²—a holding clearly limited to restitution, as many other CVRA rights clearly apply before conviction.¹¹³ Reviewing these two cases in an extended, published opinion, the U.S. District Court for the Southern District of Texas noted that reading these two decisions as standing for the proposition that charges must be filed for CVRA rights to attach "appears inconsistent with the CVRA recognition of certain subsection (a) rights that apply during investigation, before any charging instrument is filed."¹¹⁴ As a result, OLC

¹⁰⁷ *Id.* at 326.

¹⁰⁸ *Skinner*, 2006 WL 1677177, at *1–2.

¹⁰⁹ *Id.* at *2.

¹¹⁰ *Searcy v. Paletz*, No. 6:07-1389-GRA-WMC, 2007 WL 1875802, at *1–2 (D.S.C. June 27, 2007).

¹¹¹ *Id.* at *2.

¹¹² *Id.* ("However, 'the CVRA does not grant victims any rights against individuals who have not been convicted of a crime.'" (quoting *In re W.R. Huff Asset Mgmt. Co.*, 409 F.3d 555, 564 (2d Cir. 2005))).

¹¹³ Of course, a defendant cannot be ordered to pay restitution as part of his sentence until he has been found guilty. See 18 U.S.C. § 3664 (2012) (describing sentencing procedures for ordering restitution).

¹¹⁴ *United States v. BP Prods. N. Am. Inc.*, No. H-07-434, 2008 WL 501321, at *12 n.7 (S.D. Tex. Feb. 21, 2008).

vastly overstates its position when it asserts that “most courts . . . have declined to extend enforceable rights under the CVRA to alleged victims of conduct that did not lead to criminal proceedings.”¹¹⁵ All the courts that have actually reached the issue have concluded exactly the opposite.¹¹⁶

B. OLC’S DISTORTION OF THE CVRA’S STRUCTURE AND LEGISLATIVE HISTORY

The next section of OLC’s memorandum maintains that the CVRA’s structure and legislative history lead to the conclusion that the CVRA is “best understood” as extending rights after charges have been filed. Here again, OLC’s analysis is truncated at best and misleading at worst.

OLC begins this part of its analysis by observing that some of the rights in the CVRA are limited to court proceedings. OLC notes, for example, that the CVRA gives victims the “right to reasonable, accurate, and timely notice of any public *court proceeding* . . . involving the crime.”¹¹⁷ But the fact that some of the rights listed in the CVRA apply to court proceedings hardly means that all of the rights are to be so restricted. The federal criminal justice process includes stages that are pre-charging, post-charging, and post-conviction. It would hardly be surprising to find that a statute that Congress intended to be “broad and encompassing”¹¹⁸ covered events occurring after the filing of charges.

Indeed, OLC appears to recognize that at least three of the rights listed in the CVRA could easily apply before charges are filed: (1) the “right to be reasonably protected from the accused”; (2) the “reasonable right to confer with the attorney for the Government in the case”; and (3) the “right to be treated with fairness and with respect for the victim’s dignity and privacy.”¹¹⁹ None of these rights explicitly refer to court “proceedings” or other events (such as parole hearings) that necessarily occur after the filing of formal charges.¹²⁰

¹¹⁵ OLC CVRA Rights Memo, *supra* note 2, at 5–6. Notably, the Department does not embrace the language from *Huff* found within the *Skinner* and *Paletz* decisions because presumably such an approach would be contrary to many of the rights found in the CVRA.

¹¹⁶ See *infra* Part I.C.

¹¹⁷ OLC CVRA Rights Memo, *supra* note 2, at 6 (emphasis added) (quoting 18 U.S.C. § 3771(a)(2)).

¹¹⁸ 150 CONG. REC. 7295 (2004) (statement of Sen. Dianne Feinstein).

¹¹⁹ OLC CVRA Rights Memo, *supra* note 2, at 7–8, 10 (quoting 18 U.S.C. § 3771(a)(1), (5), (8)).

¹²⁰ OLC appears to have overlooked another right that could well apply before charges are filed: the right to be notified of one’s rights under the CVRA. See 18 U.S.C. § 3771(c)(1) (requiring prosecutors to “make their best efforts to see that crime victims are notified of, and accorded, the rights described in [the CVRA]”); *United States v. Rubin*, 558 F. Supp. 2d 411, 428 (E.D.N.Y. 2008) (discussing potential application of the right to

For purposes of this Article, it is appropriate to focus on the last two of these three rights: the right to confer and the right to fair treatment. The first of these three rights—the right to be reasonably protected—is already clearly extended by another statute to crime victims before the filing of charges. While OLC does not acknowledge this fact, the VRRRA extends the first right to crime victims, directing that a “responsible official shall arrange for a victim to receive reasonable protection from a *suspected* offender and persons acting in concert with or at the behest of the *suspected* offender.”¹²¹ Because a “suspected” offender obviously exists before the filing of criminal charges, the VRRRA envisions the right to protection being provided as soon as is practical after a victim suffers from the commission of a crime. Additionally, the sections of the *Attorney General Guidelines for Victim and Witness Assistance* addressing the VRRRA direct that Justice Department components must provide reasonable protection even before the filing of criminal charges.¹²² So, under the VRRRA, the Justice Department should already be providing reasonable protection for a victim before an offender is indicted, regardless of how the CVRA is interpreted.¹²³

The VRRRA, however, does not contain a right to confer and a right to fair treatment and respect for the victim’s dignity. Therefore, if victims are going to receive these statutory rights before trial, these rights must be found in the CVRA. With regard to the CVRA provision that victims have the “reasonable right to confer with the attorney for the Government in the case,”¹²⁴ OLC contends that “[t]he phrase ‘in the case’ implies the pendency of a judicial proceeding.”¹²⁵ To bolster its conclusion, OLC then cites *Black’s Law Dictionary*, which includes among its several definitions of the word “case” the definition “a civil or criminal proceeding.”¹²⁶ But OLC does not acknowledge that *Black’s Law Dictionary* also defines and exemplifies a “case” more broadly as a “criminal investigation <the

notification of rights before charges are filed). For purposes of this Article, it is not necessary to explore this right in detail. If other CVRA rights apply before charges are filed, *a fortiori* this right does as well. If a victim has a right, presumably the victim should be notified of the existence of that right.

¹²¹ 42 U.S.C. § 10607(c)(2) (2006) (emphasis added).

¹²² See ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 7–8, 26–28.

¹²³ Exactly what “reasonable protection” means, however, remains uncertain. See generally Mary Margaret Giannini, *Redeeming an Empty Promise: Procedural Justice, the Crime Victims’ Rights Act, and the Victim’s Right to Be Reasonably Protected from the Accused*, 78 TENN. L. REV. 47 (2010) (suggesting the right has not been adequately defined and proposing ways to do so).

¹²⁴ 18 U.S.C. § 3771(a)(5).

¹²⁵ OLC CVRA Rights Memo, *supra* note 2, at 8.

¹²⁶ *Id.* (citing BLACK’S LAW DICTIONARY, *supra* note 59, at 243).

Manson case>.”¹²⁷ Thus, *Black’s Law Dictionary* does not help resolve the dispute as to which of the two meanings should be used, as there are clearly differing meanings. While OLC’s reading may be a permissible one, so is a pro-victim reading.

OLC also turns to the CVRA’s legislative history to bolster its conclusion. But, here again, its analysis is misleading. OLC relies on a passage from Senate floor colloquy between Senators Jon Kyl and Dianne Feinstein regarding the CVRA’s scope. In OLC’s recounting of the legislative history, the floor statements “emphasize that the right to confer relates to the conduct of criminal proceedings after the filing of charges.”¹²⁸ For instance, OLC quotes Senator Kyl stating that “[u]nder this provision, victims are able to confer with the Government’s attorney about proceedings *after charging*.”¹²⁹

This is a truncated and deceptive description of the legislative history, so much so that Senator Kyl sent an angry letter to Attorney General Eric Holder complaining about the distortion. On June 6, 2011, the Senator wrote to “express [his] surprise that [OLC is] so clearly quoting [his] remarks out of context.”¹³⁰ Senator Kyl then went on to observe that the colloquy began by noting that the right to confer “*is intended to be expansive*.”¹³¹ The Senator further discussed various “examples” of when the right to confer applied, including “any critical stage or disposition of the case. *The right, however, is not limited to these examples*.”¹³² It was against that backdrop that Senator Kyl gave the example of conferring about proceedings “after charging.”

In his letter to Attorney General Holder, Senator Kyl also noted that he had:

made clear that crime victims had rights under the CVRA even before an indictment is filed. For example, . . . I made clear that crime victims had a right to consult about both ‘the case’ and ‘case proceedings’—i.e., both about how the case was being handled before being filed in court and then later how the case was being handled in court ‘proceedings.’¹³³

Senator Kyl further commented that he had discussed the CVRA’s potential application in grand jury proceedings, an application that required the Act

¹²⁷ BLACK’S LAW DICTIONARY, *supra* note 59, at 244.

¹²⁸ OLC CVRA Rights Memo, *supra* note 2, at 9.

¹²⁹ *Id.* (emphasis added) (quoting 150 CONG. REC. 7302 (2004) (statement of Sen. Jon Kyl) (internal quotation marks and citation omitted)).

¹³⁰ Letter from Jon Kyl, *supra* note 3.

¹³¹ *Id.* (quoting 150 CONG. REC. S4260, S4268 (daily ed. Apr. 22, 2004) (statement of Sen. Dianne Feinstein)).

¹³² *Id.*

¹³³ *Id.*

to extend rights before indictment.¹³⁴ Thus, if anything, the legislative history does not support OLC's conclusion—it contradicts it.¹³⁵

OLC should have had no doubt as to the intent of Senator Kyl and his cosponsors at the time of the Act's passage. Shortly after shepherding the CVRA through the Congress, Senator Kyl cowrote a law review article about the Act.¹³⁶ In that article, he directly indicated that the CVRA applies before charges are filed. Senator Kyl and his coauthors wrote:

While most of the rights guaranteed by the CVRA apply in the context of legal proceedings following arrest and charging, other important rights are triggered by the harm inflicted by the crime itself. For example, the right to be treated with fairness, the right to be reasonably protected from the accused (who may qualify as the accused before his arrest), and the right to be treated with respect for the victim's dignity and privacy each may arise without regard to the existence of legal proceedings.¹³⁷

Remarkably, OLC cited Senator Kyl's law review article (in a footnote), but then concluded without explanation that the CVRA cosponsor's views were for some reason different than Congress's.¹³⁸

OLC also appears to acknowledge that its interpretation of the CVRA could well contradict what it describes as prosecutorial "good practice."¹³⁹ OLC noted that some Justice Department components (for example, the Environmental and Natural Resources Division) had advocated that the right to confer should apply during pre-charging plea discussions.¹⁴⁰ OLC then acknowledged that limiting the right to confer until after formal charging could "reduce the impact of a victim's participation in subsequent court proceedings."¹⁴¹ OLC attempted to dodge this problem by explaining: "The question before us, though, is not whether it would be advisable as a matter of good practice . . . for Government attorneys to confer with victims pre-charge when appropriate" ¹⁴² OLC then explained that even under its narrow interpretation of the statute, "the CVRA would still ensure that

¹³⁴ *Id.*

¹³⁵ Attorney General Holder never sent a response to Senator Kyl's letter. But Assistant Attorney General Ronald Weich sent a belated response. Letter from Ronald Weich, Assistant Att'y Gen., to Jon Kyl, U.S. Sen. (Nov. 3, 2011) (on file with authors). That response did not address Senator Kyl's concern that his remarks were being quoted out of context.

¹³⁶ See generally Kyl et al., *supra* note 19.

¹³⁷ *Id.* at 594.

¹³⁸ OLC CVRA Rights Memo, *supra* note 2, at 8 n.7.

¹³⁹ *Id.* at 10.

¹⁴⁰ *Id.* at 9 (citations omitted) (discussing an interdepartmental memorandum addressing this question).

¹⁴¹ *Id.* at 10.

¹⁴² *Id.*

the victim has an opportunity to be heard by the court, and by the Government, before the court accepts the plea.”¹⁴³

But OLC failed to recognize that its interpretation of the CVRA rendered the right to be heard a nullity in many important cases—including, notably, the Epstein case.¹⁴⁴ Where prosecutors and defense attorneys work out a nonprosecution agreement that agreement will never be presented to a court for review. Thus, in cases where the need for victim participation may be the greatest—that is, in cases where the Government is considering never filing any charges—OLC’s interpretation would bar victims from having any rights at all.

Even in situations where a prosecutor works out a plea agreement, OLC’s interpretation is problematic. As OLC recognizes, prosecutors and defense counsel commonly work out pre-indictment plea agreements (particularly in white-collar cases), under which a defendant will plead guilty to certain charges.¹⁴⁵ Then, the parties jointly present to the district court a criminal “information” (that is, a recitation of the charges drafted by the prosecutor but never presented to the grand jury¹⁴⁶) and a plea agreement, asking the court to file the criminal information and simultaneously accept the guilty plea. As the OLC memorandum acknowledges, a crime victim would have the right to object to the plea agreement, because the CVRA gives crime victims the “right to be reasonably heard” at any public proceedings involving a plea.¹⁴⁷ But under OLC’s interpretation of the CVRA, a crime victim has no right to notice of court hearings until the charges are filed. Thus, if the information and plea are filed simultaneously, as is often the case, two scenarios are possible. A victim could have no prior right to notice of the proceeding at which the plea was being accepted, or alternatively (if the act of filing the information in the course of accepting a plea triggers a notification right), the district court would be required to stop in the middle of proceedings and ensure that notification was belatedly provided. Of course, these difficulties are all avoided if the right to confer is properly construed as attaching before charges are filed, such as during plea negotiations between prosecutors and defense attorneys.

¹⁴³ *Id.*

¹⁴⁴ The OLC opinion was publicly released on May 20, 2011. Perhaps not coincidentally, this release date was shortly before the Government filed its response in the Epstein case.

¹⁴⁵ See OLC CVRA Rights Memo, *supra* note 2, at 9 (acknowledging the potential effect of the CVRA on plea negotiations).

¹⁴⁶ See FED. R. CRIM. P. 7(b).

¹⁴⁷ 18 U.S.C. § 3771(a)(4) (2012); OLC CVRA Rights Memo, *supra* note 2, at 6–7.

More importantly, extending the right in this fashion will not be unduly burdensome for federal prosecutors. After the OLC memorandum was made public, the Department amended the *Attorney General Guidelines for Victim and Witness Assistance* to require prosecutors to make reasonable efforts toward a goal of providing victims with a meaningful opportunity to offer their views before plea agreements are formally reached.¹⁴⁸ “In circumstances where plea negotiations occur before a case has been brought, Department policy is that this should include reasonable consultation prior to the filing of a charging instrument with the court.”¹⁴⁹ Thus, Department policy already extends pre-charging rights to victims. The CVRA should be understood as having the same scope.

OLC also notes that the CVRA right “to be treated with fairness and with respect for the victim’s dignity and privacy” is a right that could apply before charges are filed.¹⁵⁰ Indeed, OLC is forced to concede (as district courts have recognized) that the “right to be treated with fairness and with respect for the victim’s dignity and privacy may apply with great force during an investigation, before any charging instrument has been filed.”¹⁵¹

OLC nonetheless maintains that the right to fairness only applies after charges have been filed. OLC relies on the canon of statutory construction *noscitur a sociis*, meaning that words are known by their companions,¹⁵² for its interpretation of the CVRA. OLC argues that because the other seven enumerated rights are limited to post-charging situations, the eighth right should be as well. Of course, this argument assumes that OLC’s construction of the other seven rights is correct—a point very much in dispute.¹⁵³ If, for example, the right to confer applies before charges are filed, then presumably *noscitur a sociis* would cut the other way—the right to fairness should likewise be construed as applying before charges are filed.

Moreover, OLC omits from its discussion of the fairness provision any assessment of the CVRA’s purposes. In construing a statute, a court must consider the “purpose and context” of the statute.¹⁵⁴ In describing the fairness provision, Senator Kyl emphasized that it conferred a “broad”

¹⁴⁸ ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 41–42.

¹⁴⁹ *Id.* at 41.

¹⁵⁰ OLC CVRA Rights Memo, *supra* note 2, at 10 (quoting 18 U.S.C. § 3771(a)(8)).

¹⁵¹ *Id.* (quoting *United States v. BP Products North America Inc.*, No. H-07-434, 2008 WL 501321, at *11 (S.D. Tex. Feb. 21, 2008) (internal quotation marks omitted)).

¹⁵² *Id.* at 11.

¹⁵³ See *supra* Part III.A.

¹⁵⁴ *Kasten v. Saint-Gobain Performance Plastics Corp.*, 131 S. Ct. 1325, 1331 (2011).

right.¹⁵⁵ The reason for adopting such a broad right was that “[t]oo often victims of crime experience a secondary victimization at the hands of the criminal justice system. This provision is intended to direct Government agencies and employees, whether they are in the executive or judiciary branch, to treat victims of crime with the respect they deserve.”¹⁵⁶ OLC’s failure to consider the purposes underlying the CVRA is a glaring oversight.

OLC never attempts to explain why the CVRA’s drafters would want victims to have a right to fair treatment once criminal charges were filed but possess no such right before the filing of criminal charges. Clearly, many victims can and do suffer secondary victimization during criminal investigations, such as when sexual assault victims are treated inappropriately by law enforcement agents.¹⁵⁷ It would contradict the purpose of preventing victim mistreatment in the criminal justice system to artificially limit the right to fairness to the point at which charges are filed. The right to fairness logically applies at all stages of the criminal justice process.

C. OLC’S INEFFECTIVE RESPONSE TO THE CVRA’S COVERAGE AND VENUE PROVISIONS

At the end of its memorandum, OLC finally discusses what it identifies as the two strongest arguments for construing the CVRA as applying before charging: the coverage provision and the venue provision. OLC acknowledges, as it must, that the CVRA’s coverage extends to any federal employee engaged in “the *detection, investigation* or prosecution of crime.”¹⁵⁸ Such employees “shall make their best efforts to see that crime victims are notified of, and accorded, the rights” afforded by the statute.¹⁵⁹ Notably, this duty applies to individuals not just in the Justice Department (where all federal prosecutors are located) but other agencies as well, such

¹⁵⁵ 150 CONG. REC. 7303 (2004) (statement of Sen. Jon Kyl).

¹⁵⁶ *Id.*

¹⁵⁷ See SUSAN ESTRICH, REAL RAPE 50–51 (1987) (describing how a rape victim’s sexual history may be used against her in court proceedings); Beloof, *supra* note 38, at 309–10 (collecting examples of victims’ issues that arise during the investigative process); see also PRESIDENT’S TASK FORCE ON VICTIMS OF CRIME, FINAL REPORT, *supra* note 10, at 57–62 (making recommendations for how police should treat victims during the criminal justice process).

¹⁵⁸ OLC CVRA Rights Memo, *supra* note 2, at 15 (quoting 18 U.S.C. § 3771(c)(1) (2012)) (internal quotation marks omitted).

¹⁵⁹ 18 U.S.C. § 3771(c)(1).

as environmental crimes investigators in the Environmental Protection Agency (EPA).¹⁶⁰

This coverage provision would seem to answer any lingering question about whether the CVRA applies before charging. In directing that federal employees engaged in the “detection” and “investigation” of crime must respect victims’ rights, Congress wanted broad rights extending beyond just the prosecution of a case. As the district court concluded in the Epstein case, this provision “surely contemplates pre-charge application of the CVRA.”¹⁶¹

OLC gamely maintains, however, that Congress was simply trying to provide that federal law enforcement agents should provide rights to victims when a criminal case moves to its prosecution phase. OLC noted the uncontroversial point that law enforcement agents “often develop a relationship of trust with crime victims during the investigation that continues as they assist crime victims in negotiating active criminal proceedings.”¹⁶² OLC then asserted:

Given this continuing active role that agents typically play during criminal prosecutions, we find the fact that the CVRA assigns responsibility to them, together with the attorney for the Government, to . . . accord them their rights under the CVRA to be entirely consistent with our conclusion that those rights arise only once the Government has initiated criminal proceedings.¹⁶³

But OLC’s contorted position never explains why Congress found it necessary to break out three separate phases of the criminal justice process: the “detection,” “investigation,” and “prosecution” of crime. If the congressional intent was simply to cover, for example, FBI agents or EPA agents during the post-charging phase of a case, it could have simply omitted those words from the CVRA. An FBI agent, for example, would be engaged in the “prosecution” of the case when assisting the victim after the formal filing of charges. On OLC’s reading of the statute, the words “detection” and “investigation” become meaningless, contrary to the well-known canon of construction *verba cum effectu sunt accipienda*, which means that, if possible, every word and every provision is to be given effect.¹⁶⁴

OLC also suggests that the “most significant” argument supporting pre-charging application of rights is the venue provision, which allows

¹⁶⁰ See Kyl et al., *supra* note 136, at 615 (“Notice should be given to the fact that it applies not just to the Department of Justice, but to all ‘departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime.’” (citation omitted)).

¹⁶¹ Does v. United States, 817 F. Supp. 2d 1337, 1342 (S.D. Fla. 2011).

¹⁶² OLC CVRA Rights Memo, *supra* note 2, at 15.

¹⁶³ *Id.*

¹⁶⁴ See, e.g., Reiter v. Sonotone Corp., 442 U.S. 330, 339 (1979).

crime victims to assert CVRA rights “in the district court in which a defendant is being prosecuted for the crime or, *if no prosecution is underway*, in the district court in the district in which the crime occurred.”¹⁶⁵ The Department contends that this language refers quite narrowly to the “period of time between the filing of a complaint and the initiation of formal charges.”¹⁶⁶ In support of its position, the Department cites a Fourth Circuit case interpreting the Sixth Amendment right to counsel, which held that a “prosecution” for purposes of that Amendment does not begin when a criminal complaint is filed.¹⁶⁷ In OLC’s view, the venue provision’s direction that victims should assert rights when “no prosecution is underway” applies only to the limited time between when the Government files a complaint against a defendant and some later point when the “prosecution” actually begins. OLC notes that the filing of a complaint triggers an initial appearance, where crime victims can have important interests at stake, such as the right to be heard about a defendant’s release on bail. OLC believes it is only to such post-complaint, yet pre-indictment, proceedings (i.e., the initial appearance) that the venue provision’s “no-prosecution-underway” language covers.

As a preliminary matter, OLC’s interpretation of the word “prosecution” in the Department’s narrow construction of the venue provision is a twisted one, at odds with the way that term is conventionally used. The filing of a complaint is typically viewed as the start of a criminal prosecution. For example, the leading criminal procedure hornbook states that “[w]ith the filing of the complaint, the arrestee officially becomes a ‘defendant’ in a criminal prosecution.”¹⁶⁸

Moreover, having specifically rejected the filing of the criminal complaint as the starting point for a “prosecution” within the CVRA’s venue provision, OLC refuses to consider the implications of its alternative starting point: the formal filing of an indictment. OLC states that “a prosecution of a felony must commence with the return of an indictment by a grand jury,” citing the *Federal Rules of Criminal Procedure*.¹⁶⁹ Yet OLC does not pause to recognize that, while felonies proceed by way of indictment, misdemeanors can proceed not only by indictment but also by complaint.¹⁷⁰ The CVRA draws no distinction between misdemeanor and

¹⁶⁵ OLC CVRA Rights Memo, *supra* note 2, at 14 (quoting 18 U.S.C. § 3771(d)(3) (2012)).

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* (citing *United States v. Alvarado*, 440 F.3d 191, 200 (4th Cir. 2006)).

¹⁶⁸ WAYNE R. LAFAVE ET AL., *CRIMINAL PROCEDURE* § 1.2(g), at 11 (5th ed. 2009) (emphasis added).

¹⁶⁹ OLC CVRA Rights Memo, *supra* note 2, at 14 (citing FED. R. CRIM. P. 7(a)(1)).

¹⁷⁰ FED. R. CRIM. P. 58(b)(1) (“The trial of a misdemeanor may proceed on an indictment, information, *or complaint*.” (emphasis added)).

felony offenses, broadly extending its protections to victims of any federal offense.¹⁷¹ Thus, under OLC's interpretation that the filing of a complaint does not trigger the CVRA, many victims who are entitled to CVRA protections—i.e., victims of misdemeanor offenses prosecuted by way of complaint—will never have proper venue to assert those rights because, according to OLC's strained argument, no prosecution ever started in their cases.

Even limiting the focus to felony cases, OLC misleadingly describes the Sixth Amendment case law. It is not immediately clear why one would look to the right to counsel to determine the breadth of the term "prosecution" in the Sixth Amendment. The right to counsel is not the only right found in that Amendment. The Amendment also extends, for example, a right to a speedy trial in all criminal "prosecutions."¹⁷² The case law on the speedy trial right makes clear that the right "may attach before an indictment and as early as the time of arrest and holding to answer a criminal charge."¹⁷³

In any event, the right to counsel cases are quite clear in providing that a Sixth Amendment "prosecution" can (and often does) begin well before an indictment.¹⁷⁴ The Supreme Court has directly held that the Sixth Amendment's right to counsel attaches "at or after the time that judicial proceedings have been initiated against [a person]—whether by way of formal charge, preliminary hearing, indictment, information, or arraignment."¹⁷⁵ Thus, under this controlling precedent, some earlier point in time before indictment is the triggering point of a Sixth Amendment "prosecution."

The cases that OLC cites are not to the contrary. It is true that some federal appeals courts have stated that the mere filing of a criminal complaint does not trigger a Sixth Amendment right to counsel.¹⁷⁶ But there is a split of authority on this question, as OLC acknowledges in a footnote.¹⁷⁷ More importantly for purposes of this Article, the cases holding

¹⁷¹ See 18 U.S.C. § 3771(e) (2012).

¹⁷² U.S. CONST. amend. VI.

¹⁷³ *United States v. Gouveia*, 467 U.S. 180, 190 (1984) (quoting *United States v. MacDonald*, 456 U.S. 1, 6–7 (1982)) (internal quotation marks omitted).

¹⁷⁴ See, e.g., *Texas v. Cobb*, 532 U.S. 162, 172–73 (2001).

¹⁷⁵ *Brewer v. Williams*, 430 U.S. 387, 398 (1977) (quoting *Kirby v. Illinois*, 406 U.S. 682, 689 (1972)).

¹⁷⁶ See, e.g., *United States v. Alvarado*, 440 F.3d 191, 196 (4th Cir. 2006).

¹⁷⁷ OLC CVRA Rights Memo, *supra* note 2, at 14 n.15 (citing *Hanrahan v. United States*, 348 F.2d 363, 366 n.6 (D.C. Cir. 1965)); see WAYNE R. LAFAYE ET AL., CRIMINAL PROCEDURE § 6.4(e), at 670 (3d ed. 2007) ("There is an apparent split of authority on the question of whether the filing of a complaint is alone enough to give rise to a Sixth Amendment right to counsel, though the difference probably is explainable by the fact that

that the mere filing of a complaint does not start a Sixth Amendment prosecution also make clear that a later court hearing would start such a prosecution. For instance, in the Fourth Circuit case cited by OLC, *United States v. Alvarado*, the court reasons that “the main reason a law enforcement officer files [] a complaint is to establish probable cause for an arrest warrant. The criminal process is still in the investigative stage, and the adverse positions of government and defendant have yet to solidify.”¹⁷⁸ Relying on that reasoning, the Fourth Circuit refused to find that the right to counsel had attached merely because a police officer had filed a complaint to get an arrest warrant. But the Fourth Circuit distinguished that situation from “the initiation of adversary judicial proceedings against the defendant.”¹⁷⁹ An initial appearance would be such an adversary proceeding—i.e., it would be a “prosecution” under the Sixth Amendment. In light of this, OLC’s position that the CVRA’s venue provision’s “no-prosecution-underway” reference covers proceedings, such as an initial appearance, does not work.

The only sensible way to construe the CVRA’s venue provision is to read it as conveniently dividing criminal cases into two phases: a prosecution phase and an earlier investigative phase when “no prosecution is under way.”¹⁸⁰ Senator Kyl, for instance, has noted that if there are any doubts about how to construe the CVRA, this venue provision “sweeps them away.”¹⁸¹ Once again, the language that Congress used leads inexorably to the conclusion that the CVRA extends rights to victims before the filing of criminal charges.

IV. WHEN PRE-CHARGING RIGHTS ATTACH UNDER THE CVRA

The zeal with which OLC argues against applying CVRA rights before charging raises the question of why it protests so much. Although OLC never articulated this concern, perhaps OLC worried that pre-charging rights would be difficult to administer. Such concerns should evaporate with a workable construction of when pre-charging rights attach. In this Part, we propose such a construction, suggesting that CVRA rights should attach when substantial evidence exists that a specific person has been directly and proximately harmed as the result of a federal crime. This approach appears to already be the method that the Department is taking, as

this document is used for multiple purposes.”); *see also* *Felder v. McCotter*, 765 F.2d 1245, 1248 (5th Cir. 1985) (citing Texas law).

¹⁷⁸ *Alvarado*, 440 F.3d at 200 (citations omitted) (internal quotation marks omitted).

¹⁷⁹ *Id.* (quoting *United States v. Gouveia*, 467 U.S. 180, 187 (1984)).

¹⁸⁰ 18 U.S.C. § 3771(d)(3) (2012).

¹⁸¹ Kyl et al., *supra* note 19, at 594.

it has extended many rights to victims before the formal filing of criminal charges as a matter of internal policy.¹⁸² This approach appears to be workable, as a number of states extend rights to victims during the investigative process.¹⁸³

A. A TEST FOR DETERMINING WHEN RIGHTS ATTACH

As explained in the earlier Parts of this Article, the CVRA clearly envisions that crime victims would have rights in the criminal justice process before the return of indictments or the filing of criminal complaints. The question then as to how much earlier in the process crime victims have rights naturally arises. Does the CVRA apply one second after a federal crime has been committed? Or does it apply at some later point during an investigation?

This issue was nicely framed by the U.S. District Court for the Eastern District of New York in a securities fraud case. In the first indictment underlying the case, the charged crime did not include various victims. A later superseding indictment broadened the charges to include those missing individuals. When they brought a suit under the CVRA, the court noted that “[q]uite understandably, movants perceive their victimization as having begun long before the government got around to filing the superseding indictment.”¹⁸⁴ The court, however, explained that there must be “logical limits” to crime victims’ rights before the filing of charges.¹⁸⁵ The court noted:

For example, the realm of cases in which the CVRA might apply despite no prosecution being ‘underway,’ cannot be read to include the victims of uncharged crimes that the government has not even contemplated. It is impossible to expect the government, much less a court, to notify crime victims of their rights if the government has not verified to at least an elementary degree that a crime has actually taken place, given that a corresponding investigation is at a nascent or theoretical stage.¹⁸⁶

The logical limits that the CVRA envisions could come from how the Justice Department interacts with criminals during the investigation of a crime. Crime victims’ rights advocates are fond of saying that victims “only want to be treated like criminals”—that is, they simply want to have the same kinds of rights as criminals receive, such as the right to be notified

¹⁸² See, e.g., ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 41–42 (discussing the right to confer regarding plea bargains).

¹⁸³ See *infra* Part III.D.

¹⁸⁴ *United States v. Rubin*, 558 F. Supp. 2d 411, 419 (E.D.N.Y. 2008).

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

of court hearings and to attend those hearings.¹⁸⁷ So it is instructive to notice that the Justice Department policy is to extend certain rights to suspected criminals during certain points in the investigative process. That policy might provide guidance on when crime victims' rights would attach.

Of particular interest here is the Department's policy for grand jury subpoenas issued to a "target" of a criminal investigation. When such a target is subpoenaed to testify before a grand jury, the Department of Justice will advise that target of his rights, such as the right to refuse to answer any question that might be incriminating.¹⁸⁸ The Department of Justice defines a "target" of a criminal investigation as "a person as to whom the prosecutor or the grand jury has substantial evidence linking him or her to the commission of a crime and who, in the judgment of the prosecutor, is a putative defendant."¹⁸⁹

If the Department's investigation has coalesced sufficiently so that it can provide notice of rights to putative defendants, it should likewise be in a position to provide notice of rights to that defendant's victims. Combining the Department's definition of "target" with the CVRA's coverage and definition-of-victim provisions produces a formulation whereby CVRA rights attach in (at least) the following circumstances:

CVRA rights attach when an officer or employee of the Department of Justice or any other department or agency of the United States engaged in the detection, investigation, or prosecution of crime has substantial evidence that an identifiable person has been directly and proximately harmed as a result of the commission of a federal offense or an offense in the District of Columbia, and in the judgment of the officer or employee, that person is a putative victim of that offense.

This formulation borrows from the CVRA's coverage provision¹⁹⁰ to define the relevant universe of substantial evidence as that in the possession of the Justice Department or other federal agencies. For instance, if state law enforcement officers are investigating a bank robbery, the fact that the robbery might also be prosecuted federally¹⁹¹ does not make the teller at the bank a federal "victim" of the crime until evidence regarding the crime comes into the possession of a federal agency. The formulation also tracks the CVRA's definition of "victim" in limiting the universe of potential

¹⁸⁷ See, e.g., Cassell, *supra* note 15, at 1376–85 (describing the rationale underpinning state victims' rights statutes).

¹⁸⁸ CRIMINAL RESOURCE MANUAL, *supra* note 87, § 9-11.151.

¹⁸⁹ *Id.*

¹⁹⁰ 18 U.S.C. § 3771(e) (2012).

¹⁹¹ *Id.* § 2113.

victims to those who have been “directly and proximately harmed.”¹⁹² Finally, the formulation requires some federal officer or employee to evaluate the evidence and reach the conclusion that a federal offense has been committed that harmed the person in question. This determination responds to the observation by the District Court for the Eastern District of New York that the CVRA “cannot be read to include the victims of uncharged crimes that the government has not even contemplated.”¹⁹³ At the same time, such a formulation obviously does not require the filing of formal criminal charges, or even the preparation of formal criminal charges. Instead, all that is required is for the Department to recognize that a person is a putative victim of a federal offense, just as all that is required for the mailing of a target letter to a subpoenaed suspected criminal, is recognition that he is a putative defendant in a federal case.

B. APPLYING THE TEST TO THE EPSTEIN CASE

To illustrate how the test would operate, it is useful to examine the facts of the Epstein case. Applying the proposed test to that case produces straightforward answers, which suggests that the test would be workable in practice.

From 2001 to 2007, Jeffrey Epstein sexually abused more than thirty minor girls in his mansion, including Jane Doe Number One and Jane Doe Number Two.¹⁹⁴ Initially, of course, his acts of abuse were secret, unknown to law enforcement. During that period of time, the victims would not have had rights under the CVRA.

In 2006, Epstein’s acts of abuse came to the attention of the Palm Beach Police Department, which began investigating the case.¹⁹⁵ At this point, once again, the victims would not have had rights under the proposed CVRA test. The CVRA extends rights in the federal criminal justice process. A state investigation does not trigger the CVRA (although it may trigger certain state law protections, as discussed below).¹⁹⁶

At some point in 2006, the Palm Beach Police Department asked the FBI to investigate Epstein on federal sex offenses, such as using a means of

¹⁹² See *id.* § 3771(e).

¹⁹³ *United States v. Rubin*, 558 F. Supp. 2d 411, 419 (E.D.N.Y. 2008).

¹⁹⁴ As above, see *supra* notes 34–41 and accompanying text, this part of the Article draws on the factual allegations made by the victims in this case—allegations that Epstein has not intervened to dispute. See Jane Doe Motion, *supra* note 40, at 3–23.

¹⁹⁵ See Probable Cause Affidavit, Palm Beach Police Department: Police Case No. 05-368(1) (May 1, 2006), available at <http://goo.gl/fAPFw5>; see also Statement of Undisputed Facts, *Epstein v. Rothstein*, No. 50 2009 CA 040800XXXXMBAG (Fla. Cir. Ct. Sept. 22, 2010), available at <http://goo.gl/DzMbe8>.

¹⁹⁶ See *supra* notes 178–95 and accompanying text as well as *infra* Part IV.D.

interstate communication in connection with sex offenses and traveling in interstate commerce for the purpose of engaging in illicit sexual conduct with minors.¹⁹⁷ The local police provided the FBI with information, which the FBI then investigated. Following an investigation, the FBI determined that the allegations of abuse against Epstein were credible, and it presented the case to the U.S. Attorney's Office for the Southern District of Florida. In 2007, the Office contacted counsel for Jeffrey Epstein and began negotiating a resolution of the case against him.¹⁹⁸

Under our proposed test, the victims would not have had CVRA rights the first moment that the FBI became aware of Epstein's possible commission of sex offenses. But after the FBI developed substantial evidence of those sex offenses, identified victims of those offenses, and presented the case to the appropriate U.S. Attorney's Office for prosecution, CVRA rights would have attached. Accordingly, the FBI would have been required to notify the identified victims of their rights under the CVRA (as well as under the VRRRA). From that point forward in the case, the victims would have had CVRA rights, such as the right to fair treatment and the right to confer with prosecutors. In this case, the victims would have had the right to confer with prosecutors about the nonprosecution agreement that they ultimately reached with Epstein.¹⁹⁹

C. CURRENT DEPARTMENT POLICY ON PRE-CHARGING RIGHTS

One objection that might be made to the formulation offered above is that it might unduly burden federal law enforcement officers and prosecutors, who would need to make judgment calls about when an investigation has coalesced to the point where "victims" are in existence, "substantial evidence" has been collected, and notice of rights has to be provided. Any such objection would be ill-founded, though, as it does not appear that implementing such an approach would be difficult.²⁰⁰ Presumably the Justice Department has already been providing such rights in at least Texas, Louisiana, and Mississippi to comply with the Fifth

¹⁹⁷ See 18 U.S.C. §§ 2422(b), 2423(b), (c) (2012).

¹⁹⁸ A more substantial summary of the case is available in case filings. See Jane Doe Motion, *supra* note 40.

¹⁹⁹ See *supra* Part II.

²⁰⁰ This Article does not discuss mass victim cases in which notice needs to be provided to hundreds of victims. But in such situations, the CVRA already provides for "reasonable" alternative procedures. 18 U.S.C. § 3771(d)(2) (2012). The Department of Justice, for example, has used websites to provide notice in terrorism cases to large numbers of victims. See, e.g., United States v. Ingrassia, No. CR-04-0455ADSJO, 2005 WL 2875220, at *4 (E.D.N.Y. Sept. 7, 2005); *Criminal Division's Victim Notification Program*, U.S. DEP'T OF JUSTICE, <http://goo.gl/6H6IEk> (last visited Dec. 4, 2013).

Circuit's 2008 ruling in *In Re Dean*, which held that the CVRA extends rights to victims before defendants are charged.²⁰¹ We have not seen any reports that providing the rights has been difficult.

Perhaps the reason for the lack of any reported difficulty is that the Department's current policy on crime victims' rights already requires notices to victims during investigations. The Justice Department has promulgated the *Attorney General Guidelines for Victim and Witness Assistance*, the latest edition of which is from May 2012. The *Guidelines* discuss crime victims' rights under both the CVRA and the earlier VRRRA. Because of the OLC memorandum discussed above, the *Guidelines* limit CVRA rights until after the time "when criminal proceedings are initiated by complaint, information, or indictment."²⁰² The Department, however, provides hortatory guidance that Justice Department employees shall make "best efforts" to notify crime victims about their CVRA rights "as early in the criminal justice process as is feasible and appropriate."²⁰³

Of greater interest, however, is the Department's mandatory policy regarding notification regarding crime victim services under the VRRRA. The *Guidelines* explain how "Department responsibilities to crime victims begin as soon as possible after the detection of a crime at which they may be undertaken without interfering in the investigation."²⁰⁴ The *Guidelines* then direct the appropriate "responsible official" to provide crime victims with "information about services available to them."²⁰⁵ This information must be provided at "the earliest opportunity after detection of a crime at which it may be done without interfering with an investigation."²⁰⁶

The Department appears to have little difficulty implementing this requirement. Evidence of this fact comes from the Justice Department itself, which responded to the letter from Senator Kyl discussed earlier questioning why the Department was not applying the CVRA before charges were filed.²⁰⁷ In its response, the Department noted that OLC had issued an opinion that the CVRA did not extend rights before the formal filing of charges.²⁰⁸ "Even so," the Department explained, "the new AG Guidelines go further and provide that Department prosecutors should make

²⁰¹ 527 F.3d 391 (5th Cir. 2008).

²⁰² ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 8.

²⁰³ *Id.* at 35.

²⁰⁴ *Id.* at 26 (citing 42 U.S.C. § 10607(b) (2006)).

²⁰⁵ *Id.* at 29 (citing 42 U.S.C. § 10607(b)(2)). Elsewhere, the *Guidelines* define the official who is responsible as the appropriate federal law enforcement officer during the investigation of the crime or the U.S. Attorney once charges have been filed. *Id.* at 25–26.

²⁰⁶ *Id.* at 29.

²⁰⁷ See *supra* notes 130–33 and accompanying text.

²⁰⁸ Letter from Ronald Weich, *supra* note 135, at 2.

reasonable efforts to notify identified victims of, and consider victims' views about, prospective plea negotiations, even prior to the filing of a charging instrument with the court."²⁰⁹

The Department also noted that it provided extensive pre-charging notifications to victims under the VRRRA:

Pursuant to the Victims' Rights and Restitution Act of 1990 (VRRRA), the Department identifies victims and provides to them service referrals, reasonable protection, notice concerning the status of the investigation, and information about the criminal justice process prior to the filing of any charges. The Department's investigative agencies provide such services to thousands of victims every year, whether or not the investigation results in a federal prosecution.²¹⁰

Quantifying the scope of this undertaking with regard to one federal investigative agency, the Department explained:

[T]he [FBI] alone reports that it provided more than 190,000 services to victims during the past fiscal year [FY 2011], including case status updates, assistance with compensation applications and referrals, and counseling referrals. From sexual assaults in Indian Country to child pornography and human trafficking to mass violence and overseas terrorism, FBI victim specialists provide much-needed immediate and ongoing support and information to victims. The FBI addresses victim safety issues when needed, providing on-scene response and crisis intervention services in thousands of investigations. With regard to sexual assault victims, FBI personnel arrange for and often accompany victims to forensic sexual assault medical examinations and provide assistance with HIV/STD testing.²¹¹

In view of the Department's existing notifications and provision of services before charges are filed under the VRRRA, it is hard to conceive how any viable claim could be made that it would be difficult to provide similar rights under the CVRA. The four rights that would be potentially in play before charging would be the right to reasonable protection, the right to fair treatment, and the right to confer with prosecutors, along with the predicate right to notice of these rights.²¹² The VRRRA already requires the Department to provide reasonable protection, so this would not be an expanded obligation.²¹³ Similarly, the *Guidelines* already require prosecutors to confer with victims about plea agreements (the most common situation where victims want to confer), so it is hard to imagine how extending this right would create any undue burden.²¹⁴ Additionally, the right to "fair treatment" could only be a problem if the Department

²⁰⁹ *Id.*

²¹⁰ *Id.* at 2–3.

²¹¹ *Id.* at 3.

²¹² 18 U.S.C. § 3771(a)(1), (5), (8), (c)(1) (2012).

²¹³ See 42 U.S.C. § 10607(c)(2) (2006).

²¹⁴ See ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 41–42.

wanted to treat victims unfairly. Given its repeated and professed commitment to crime victims, here too this obligation should not be burdensome. And finally, with regard to providing notice of CVRA rights to victims, the fact that the Department currently provides notice of VRRRA rights indicates that it should not be difficult to provide notice of CVRA rights as well.

Indeed, it is possible that the Department's notification letters under the VRRRA already include this information. Interestingly, in the Epstein case, the FBI notified Jane Doe Number One and Jane Doe Number Two that they had rights in the criminal justice process. As early as June 7, 2007—more than three months before it concluded a nonprosecution agreement with Epstein—the U.S. Attorney's Office sent a notice to Jane Doe Number One stating "your case is under investigation."²¹⁵ The notice also informed Jane Doe Number One that "as a victim and/or witness of a federal offense, you have a number of rights."²¹⁶ Among the rights that the U.S. Attorney's Office told Jane Doe that she possessed was "[t]he reasonable right to confer with the attorney for the United States in the case."²¹⁷ Of course, she would not have had those rights if she was not covered by the CVRA. The FBI therefore apparently assumed that the CVRA already applied in the Epstein case. It was only later, when the matter went into litigation, that the Department of Justice reversed course. This change in course underscores the problems arising out of the OLC memorandum and the Department's current interpretation of the CVRA.

D. STATE LAW EXTENSION OF PRE-CHARGING RIGHTS

The focus of this Article so far has been crime victims' rights in the federal system. But in concluding, it is instructive to note how a number of states offer parallel rights for crime victims, including the right to confer with prosecutors. In fact, several states have extended such rights prior to formally filing of charges against defendants—without reported difficulty, so far as we are aware. This confirms our inference that extending CVRA rights to crime victims before the formal filing of criminal charges is both feasible and desirable.

A general overview of state laws illustrates the broad protections afforded to victims in state criminal justice systems. Nearly two-thirds of states have adopted constitutional provisions to protect victims throughout

²¹⁵ Letter from A. Marie Villafañia, Assistant U.S. Att'y, to Jane Doe #1 (June 7, 2007), *reprinted in* Jane Doe Motion, *supra* note 40, at ex. C.

²¹⁶ *Id.*

²¹⁷ *Id.*

the criminal justice process.²¹⁸ Moreover, every state has adopted a statute that either enforces its constitutional amendment or creates independent statutory rights for crime victims.²¹⁹ As a result, state legislatures and state employees have attempted to give victims a voice in the criminal justice process across the country.

Notably, while the strength of these rights varies from state to state,²²⁰ nearly forty states require the prosecuting attorney to notify or confer with the victim regarding plea negotiations.²²¹ Several jurisdictions involve the victim in the charging decision.²²² In some states, law enforcement and prosecutors must involve the victim at any “critical”²²³ or “crucial”²²⁴ stage of the criminal proceeding; and in a minority of jurisdictions, the judge must ascertain whether the prosecutor has afforded the victim statutory protections prior to accepting a plea agreement.²²⁵

The general contours of state provisions suggest that several state governments have recognized the value in informing victims of their rights and involving them in the criminal process prior to the formal filing of charges.²²⁶ Indeed, a brief look at the statutory protections illustrates the extent to which states have attempted to afford protections to victims long before the formal filing of charges.

²¹⁸ See *Victims' Rights Laws by State*, NAT'L CRIME VICTIM L. INST. (Oct. 17, 2013), <http://goo.gl/pdDx1w> (listing and linking to state laws and constitutional amendments).

²¹⁹ See LAFAYE ET AL., *supra* note 168, § 21.3(f), at 1041–42.

²²⁰ See generally DEAN G. KILPATRICK ET AL., NAT'L INST. OF JUSTICE, U.S. DEP'T OF JUSTICE, *THE RIGHTS OF CRIME VICTIMS—DOES LEGAL PROTECTION MAKE A DIFFERENCE?* (1998), available at <http://goo.gl/EzH61S>.

²²¹ See Peggy M. Tobolowsky, *Victim Participation in the Criminal Justice Process: Fifteen Years After the President's Task Force on Victims of Crime*, 25 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 21, 64 & n.168 (1999) (citing to victims' rights statutes in Connecticut, Illinois, and Michigan, among others). Unfortunately, as some commentators have noted, the notice and conferral provisions in some states are ambiguous, and the absence of case law precludes a definitive understanding of the reach of the right in some jurisdictions. See LAFAYE ET AL., *supra* note 168, § 21.3(f), at 1041–42; see also, e.g., KAN. STAT. ANN. § 74-7333(a)(5) (2002) (“The views and concerns of victims should be ascertained and the appropriate assistance provided throughout the criminal process.”). In some jurisdictions, the ambiguous use of an illustrative list could be read as suggesting that a particular right, such as conferral, hinges on formal charges. See, e.g., KY. REV. STAT. ANN. § 421.500(6) (LexisNexis Supp. 2012) (requiring consultation on “disposition of the case including dismissal, release of defendant pending judicial proceedings, any conditions of release, a negotiated plea, and entry into a pretrial diversion program,” but failing to define “disposition” or “case”).

²²² See Tobolowsky, *supra* note 221, at 59–60.

²²³ E.g., LA. REV. STAT. ANN. §§ 46:1842(2), 46:1844(K) (2010).

²²⁴ E.g., FLA. CONST. art. I, § 16(b) (refraining from identifying the term).

²²⁵ See LAFAYE ET AL., *supra* note 168, § 21.3(f), at 1041.

²²⁶ See *Victims' Rights Laws by State*, *supra* note 218.

For example, Arizona has adopted a constitutional amendment and statutes that expansively protect victims. Under Arizona law, the definition of victim hinges on whether a criminal offense has been committed, and the term “criminal offense” is defined as “conduct that gives a peace officer *or* prosecutor probable cause to believe” a crime has occurred.²²⁷ In short, a victim’s status does not hinge on the formal filing of charges but rather on the criminal conduct itself.²²⁸ Arizona law enforcement personnel must give information to victims describing their rights as soon as possible, even if formal charges have not yet been filed, and a victim may request that the prosecutor discuss the disposition of the case, including “a decision not to proceed with a criminal prosecution, dismissal, plea, or sentence negotiations and pretrial diversion programs.”²²⁹ A victim may even pursue some rights if counts are dismissed.²³⁰ Arizona courts have also permitted victims to invoke their rights in the context of civil forfeiture proceedings.²³¹

Hawaii’s victims’ rights statute illustrates how a state has defined the term “case” more expansively than the limited definition advocated by the Department in order to facilitate victim participation. By statute in Hawaii, victims must, upon request, be informed of “major developments” in any felony case.²³² Along a similar vein, the prosecuting attorney must consult or advise the victim about any plea negotiations.²³³ Interestingly, however, the Hawaii legislature defined “major developments” as “arrest or release of the suspect by the police, case deferral by the police, referral to the prosecutor by the police, rejection of the case by the prosecutor, preliminary hearing date, grand jury date, trial and sentencing dates, and the disposition of the case.”²³⁴ The usage of the term “case” and the plain language of the provisions demonstrate that victims in the State of Hawaii are entitled to a notification right and a possible consultation right long before formal charges are filed.

²²⁷ ARIZ. REV. STAT. ANN. § 13-4401(6) (2010) (emphasis added); *see State ex rel. Thomas v. Klein*, 150 P.3d 778, 780–81 (Ariz. Ct. App. 2007) (noting the original version defined a criminal offense as a violation of a statute).

²²⁸ Under Arizona law, the “rights and duties that are established by this chapter arise on the arrest *or* formal charging of the person or persons who are alleged to be responsible for a criminal offence against a victim.” ARIZ. REV. STAT. ANN. § 13-4402(A) (2010) (emphasis added).

²²⁹ ARIZ. REV. STAT. ANN. § 13-4419(A) (2010).

²³⁰ *See* ARIZ. REV. STAT. ANN. § 13-4402.01(A).

²³¹ It appears, however, that the criminal proceeding may have been parallel to the civil forfeiture proceeding. *See State v. Lee*, 245 P.3d 919, 923–24 (Ariz. Ct. App. 2011).

²³² HAW. REV. STAT. ANN. § 801D-4(a)(1) (LexisNexis 2007).

²³³ *See id.*

²³⁴ *Id.* § 801D-2.

Other states also expressly extend rights before the filing of charges. Colorado guarantees rights at “all critical stages of the criminal justice process[,]” which includes both the filing of charges and the decision to not file charges.²³⁵ In Missouri, victims have the right:

on charged cases or submitted cases where no charge decision has yet been made, to be informed by the prosecuting attorney of the status of the case and of the availability [of different forms of compensation and assistance] and of any final decision by the prosecuting attorney not to file charges.²³⁶

In New Jersey, officials typically send a letter informing the victim “that the case has been referred to the prosecutors’ office and explains and offers the services available from the country office of victim-witness advocacy.”²³⁷ Subsequent letters to the victim ensure that the victim has notice of a series of decisions long before indictment,²³⁸ and the office actively solicits information in order to “help the prosecutor’s office decide whether or not to prosecute a case.”²³⁹ Along a similar vein, the Massachusetts legislature included a provision that makes it clear that nothing should prevent a prosecutor from providing victim services to persons injured by the commission of a crime, even though a complaint or indictment has not yet been issued.²⁴⁰

In addition to extending rights before the filing of charges, several states require consultation before the prosecutor reaches a plea agreement with the defendant. For example, Idaho’s statute provides that a victim must be given an opportunity “to communicate with the prosecution in criminal or juvenile offenses, and be advised of any proposed plea agreement by the prosecuting attorney prior to entering into a plea agreement in criminal or juvenile offenses involving crimes of violence, sex

²³⁵ COLO. CONST. art. II, § 16a; COLO. REV. STAT. § 24-4.1-302(1) (2013). *But see* COLO. REV. STAT. § 24-4.1-302.5(1)(f) (2012) (limiting conferral right, in particular, to later stages of a criminal proceeding). Despite these limitations on the conferral right, victims retain the ability to be heard at any hearing involving a plea. *See id.* § 24-4.1-302.5.

²³⁶ MO. ANN. STAT. § 595.209(10) (West 2011).

²³⁷ OFFICE OF VICTIM-WITNESS ADVOCACY, N.J. DEP’T OF LAW & PUB. SAFETY, A CRIME VICTIM’S GUIDE TO THE CRIMINAL JUSTICE SYSTEM 4 (2d ed. 1997); *see also* N.J. CONST. art. I, § 22. *Compare* 18 U.S.C. § 3771 (2012), *with* N.J. STAT. ANN. § 52:4B-36 (West 2009). In addition to the rights similar to the federal legislation, New Jersey law provides for the right “[t]o be advised of case progress and final disposition and to confer with the prosecutor’s representative so that the victim may be kept adequately informed” *Id.* § 52:4B-36(k).

²³⁸ *See* OFFICE OF VICTIM-WITNESS ADVOCACY, *supra* note 237, at 4 (including pre-grand jury remand, administrative dismissal, grand jury remand, grand jury dismissal, and indictment returned).

²³⁹ *Id.* at 26 (describing victim involvement at grand jury and arraignment stages of the proceeding).

²⁴⁰ *See* MASS. ANN. LAWS ch. 258B, § 2 (LexisNexis 2004).

crimes or crimes against children.”²⁴¹ In Indiana, the plain language of its statute leaves open the possibility of a conferral right before formal charges to the extent that the statute includes two separate time frames: “after a crime . . . has been charged” or “before any disposition of a criminal case involving the victim.”²⁴²

To be sure, not all states have afforded victims a voice throughout the entirety of the criminal justice process.²⁴³ In some states, the statutes are ambiguous.²⁴⁴ In a handful of states, there is clear language limiting rights until after the filing of charges. For example, Louisiana constrains the conferral right to criminal matters “in which formal charges have been filed by the district attorney’s office.”²⁴⁵ Yet, unlike the federal CVRA, this statute specifically excludes pre-charging situations. And, in any event, despite Louisiana’s limitation on a particular right within the statute, the legislature in this state still often saw fit to provide the victim with notification rights, even in the absence of the formal filing of charges.²⁴⁶

Very few state courts have ever considered the precise issue of whether conferral rights may attach prior to the formal filing of charges. This is likely caused by the fact that, unlike the federal statute, many state statutes fail to provide the victim with a procedural mechanism for challenging the conduct of prosecutors or law enforcement agencies.²⁴⁷ However, in rare cases, state courts have implicitly recognized that a meaningful interpretation of victims’ rights should include some rights prior to filing.

For example, a Connecticut court concluded that a company injured by the delinquent act of a minor was entitled to information about the case

²⁴¹ IDAHO CODE ANN. § 19-5306(1)(f) (2004). As in the case of most of the state statutes, the Idaho statute is not without ambiguity. A different provision within the statute makes the notification right contingent “[u]pon the filing of a criminal complaint or juvenile petition . . .” *Id.* § 19-5306(2).

²⁴² IND. CODE ANN. § 35-40-5-3(b) (West 2012); *id.* § 35-40-1-1 (failing to define “case”).

²⁴³ *See, e.g.*, MD. CONST. art. 47(b) (“In a case originating by indictment or information filed in a circuit court, a victim of crime shall have the right to be informed . . .”).

²⁴⁴ In Delaware, for example, the statute contains an additional limitation in the conferral provision that is noticeably absent from the duty imposed on law enforcement to provide information about the victim’s rights to that victim. *Compare* DEL. CODE ANN. tit. 11, § 9405 (2007), *and* DEL. CODE ANN. tit. 11, § 9411 (2007) (imposing additional requirements after the Attorney General commences the prosecution), *with* DEL. CODE ANN. tit. 11, § 9410 (2007). Query whether the limitations imposed in one section should be inferred in the other under the doctrine of *expressio unius est exclusio alterius*.

²⁴⁵ LA. REV. STAT. ANN. § 1844(D)(1) (2010).

²⁴⁶ *See id.* § 1844.

²⁴⁷ *See generally* Douglas E. Beloof, *The Third Wave of Crime Victims’ Rights: Standing, Remedy, and Review*, 2005 BYU L. REV. 255, 300–23 (discussing problems with remedies in victims’ rights statutes).

contained in a police file in a civil proceeding, even though it appears that there was little indication that criminal charges had been filed.²⁴⁸ Similarly, the South Carolina Supreme Court, while limiting the ability of the victim to challenge the conduct of a prosecutor, concluded that the same rights under the state constitution must attach prior to the formal filing of an indictment.²⁴⁹ Other courts have even permitted a victim to recover compensation or reparations for unindicted or acquitted conduct.²⁵⁰

In other words, while few state judiciaries have addressed the precise timing of state crime victims' rights, those that have addressed the question have typically found that the rights do extend to pre-charging situations.

Despite the relative dearth of state court cases, it is worth noting that most state statutes unequivocally provide for notification rights early in the criminal process.²⁵¹ For example, the Illinois statute imposes a limited duty on law enforcement agencies to keep victims informed of the status of an investigation until the accused is apprehended or the agency discontinues the investigation.²⁵² Similarly, law enforcement agencies in Iowa must keep the victim apprised of the investigation "until the alleged assailant is apprehended or the investigation is closed."²⁵³ Michigan's statute requires law enforcement to provide information within a mere twenty-four hours of contact between the agency and the victim.²⁵⁴

In sum, while state law on crime victims' rights before charging is not fully developed, what law exists tends to support the position that crime victims deserve rights before the formal filing of charges. This law fits the long-standing trend in states toward expanding protections for crime

²⁴⁸ See *In re James B., Jr.*, 714 A.2d 735 (Conn. Super. Ct. 1998).

²⁴⁹ See *Ex parte Littlefield*, 540 S.E.2d 81, 85 (S.C. 2000).

²⁵⁰ See Kimberly J. Winbush, Annotation, *Persons or Entities Entitled to Restitution as "Victim" Under State Criminal Restitution Statute*, 92 A.L.R. 5TH 35, 35 (2001) (recounting cases in which unnamed victims were entitled to restitution).

²⁵¹ See, e.g., MINN. STAT. ANN. § 611A.0315(a) (West 2009) (requiring a prosecutor to "make every reasonable effort to notify a victim of domestic assault . . . or harassment that the prosecutor has decided to decline prosecution of the case" but providing the right to participate in proceedings to circumstances in which the offender has been charged).

²⁵² See 725 ILL. COMP. STAT. ANN. 120/4.5 (2008).

²⁵³ IOWA CODE ANN. § 915.13(1)(f) (West 2003).

²⁵⁴ See MICH. COMP. LAWS ANN. § 780.753 (West 2007). Michigan's conferral right is particularly ambiguous, because the notification requirement imposed upon the prosecuting attorney contains a time limitation (after arraignment), but the legislature did not include an express time limitation on the conferral right. See MICH. COMP. LAWS ANN. § 780.756(3) (West 2007) (requiring the victim have the opportunity to consult prior to "any negotiation that may result in a dismissal, plea or sentence bargain, or pretrial diversion"); see also MISS. CODE ANN. § 99-43-7(1) (2007) (imposing a requirement on law enforcement officials to notify a victim within seventy-two hours).

victims.²⁵⁵ The decision by state legislators to extend notification or conferral rights to crime victims demonstrates an express recognition that crime victims' meaningful participation in the criminal justice process may involve granting those victims rights before indictment.

CONCLUSION

Crime victims have important rights at stake in the criminal justice process, even before prosecutors formally file criminal charges. It is hardly surprising, therefore, to find that a federal law that Congress in fact designed to create "broad and encompassing" rights for victims protects victims during a criminal investigation. As this Article has explained, interpreting the CVRA to cover crime victims during the pre-charging phase of a case is consistent with the statute's purposes, text, legislative history, and interpretive case law. And state criminal justice systems also appear to be moving in that direction.

The Justice Department's contrary interpretation seems unlikely to prevail when challenged. The CVRA signals a paradigm shift in the way that crime victims are to be treated, at least within the federal criminal justice system. Before enactment of the law, federal investigators and prosecutors might have been able to keep victims at arm's length, refusing to confer with them about the case and otherwise ignoring or even mistreating them during the process. But those days are over. The CVRA promises victims that they now have the right to confer with prosecutors and the right to be treated fairly while their cases are investigated. It is time for the Department of Justice to recognize and embrace that new reality.

²⁵⁵ See Jeffrey A. Parness et al., *Monetary Recoveries for State Crime Victims*, 58 CLEV. ST. L. REV. 819, 850 (2010); Tobolowsky, *supra* note 221, at 59 (describing a "significant expansion of victim rights to be consulted by the prosecutor and heard by the court").

EXHIBIT 1

To

**JANE DOE NO. 1 AND JANE DOE NO. 2'S RESPONSE IN OPPOSITION TO
MOTION FOR LEAVE TO FILE SUPPLEMENT TO REPLY IN SUPPORT OF
MOTION FOR LIMITED INTERVENTION BY ALAN M. DERSHOWITZ**

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 9:08-80736-Civ-Marra/Johnson

JANE DOE #1 and JANE DOE #2

v.

UNITED STATES

**JANE DOE NO. 1 AND JANE DOE NO. 2’S RESPONSE TO SUPPLEMENT IN
SUPPORT OF MOTION FOR LIMITED INTERVENTION BY ALAN M. DERSHOWITZ**

COME NOW Jane Doe No. 1 and Jane Doe No. 2 (the “current victims”), by and through undersigned counsel, to file this response to the Supplement to Reply in Support of Motion for Limited Intervention by Alan Dershowitz (DE 317-1). Dershowitz claims that an affidavit submitted by Jane Doe No. 3 in support of an unrelated pleading proves that she is “lying with respect to her claims against [him].” DE 317-1 at 1. The affidavit proves nothing of the sort. Indeed, if recent pleadings show anything, it is that Dershowitz continues to hide the truth about his activities.

Before turning to the specifics of what Dershowitz argues in his supplement, it is even more important to consider what he *fails* to argue. In neither his original reply (DE 306) nor his recent supplement (DE 317-1) has Dershowitz provided specific evidence to contest Jane Doe No. 3’s allegations that he sexually molested her. This omission is revealing, because Dershowitz has repeatedly claimed in the media that he has irrefutable proof that her allegations are false. For example, on January 7, 2015, on the Fox Business (Lou Dobbs) program, Dershowitz stated: “I did the investigation in a day and was able to prove through *all kinds of*

records that I couldn't have been in these places. The woman is a serial liar. If [Cassell and Edwards] had done that investigation, they would have come to the same conclusion.”¹ Similarly, on January 8, 2015, on the Greta van Susteren show on FOX, Dershowitz claimed: “Now I can prove through *documentary evidence* that I was never at the times and places she [Jane Doe No. 3] alleges she had sex with me.”² Yet despite having publicly claimed to have “all kinds of records” and “documentary evidence” that “prove” Jane Doe No. 3 is lying, Dershowitz has yet to produce a single document to this Court. Dershowitz’s intransigence is not limited to this case, as he has also refused to comply with discovery requests in a parallel defamation action in state court. His refusal has led to a pending motion to compel. *See* Plaintiff’s Motion to Compel Production of Documents, *Edwards v. Dershowitz*, No. CACE 15-000072 (Feb. 23, 2015) (attached as Exhibit 1) (“despite having had 45 days to gather materials that allegedly provide ‘absolute proof’ than he has never even met Jane Doe No. 3 – and despite having told numerous media sources that he had already collected such information – Dershowitz has provided none of these documents . . .”).³ The Court should draw the obvious inference that Dershowitz, despite making broad claims to the media, has no such evidence to produce – because Jane Doe No. 3’s allegations are true.

¹ <http://video.foxbusiness.com/v/3976630676001/alan-dershowitz-the-woman-is-a-serial-liar/?-sp=show-clips>.

² <http://radio.foxnews.com/2015/01/08/greta-alan-dershowitz-this-time-its-personal/>.

³ Jane Doe No. 3 explained in her earlier response that the Court should not allow Dershowitz to intervene here because he can protect his (alleged) reputational interests in the pending defamation action. DE 291 at 11-12). The Court may be interested to learn that Dershowitz has recently filed a counterclaim against Edwards and Cassell for defaming him in that action – suggesting he can litigate his reputational interests there, and thus has no need to do so here.

In his most recent supplemental filing with this court (DE 317-1), Dershowitz twists the facts and jumps to conclusions in service of his crusade against Jane Doe No. 3. For example, Dershowitz notes that Jane Doe No. 3 told attorney Edwards before April 2011 that Dershowitz had abused her, but then says “she and Edwards sat on this highly charged accusation for three years and eight months before first using it in their [sic] pleading filed on December 30, 2014. This constitutes laches that prejudiced . . . Dershowitz” DE 317-1 at 2. Dershowitz ignores the key fact that in April 2011, attorney Edwards did not represent Jane Doe No. 3. Accordingly, he could not “sit” on her claims against Dershowitz because he was not empowered, at that time, to pursue them.⁴

With regard to the claim of laches, Dershowitz argues that he has been prejudiced because if the allegations had been filed earlier, “he would have been in a far better position to secure travel and other records needed to disprove these charges.” DE 317-1 at 2. But, as noted above, Dershowitz has already told worldwide news media that he has already collected all of the records and can provide irrefutable, documentary proof that Jane Doe No. 3 is lying. For example, Dershowitz has told the *Boston Globe* that “he will use his travel and credit card records, which he said he has fastidiously saved, to refute the allegations against him.”⁵

⁴ Nor did Jane Doe No. 3 sit on any claims against Dershowitz, notably claims relating to the CVRA case. In 2011, Jane Doe No. 3 lacked legal counsel regarding the CVRA claim. It was not until her recent return from Australia to the United States that she understood the claims involved in the CVRA action and obtained legal counsel to pursue them. See DE 310-1 at 8, ¶ 57.

⁵ “Dershowitz ‘thrilled’ to be sued for defamation,” *Boston Globe* (Jan. 7, 2015), available at, <http://www.bostonglobe.com/metro/2015/01/06/sued-for-defamation-dershowitz-thrilled-chance-question-lawyers-sex-crime-accuser/21QibSrwnC343eKMadWNeL/story.html>.

Dershowitz can't have it both ways – simultaneously claiming he has the records and that he is harmed in collecting them – and the Court should not credit his conflicting positions.

CONCLUSION

The Court should deny Dershowitz's motion to intervene.

DATED: March 24, 2015

Respectfully Submitted,

/s/ Bradley J. Edwards
Bradley J. Edwards
FARMER, JAFFE, WEISSING,
EDWARDS, FISTOS & LEHRMAN, P.L.
425 North Andrews Avenue, Suite 2
Fort Lauderdale, Florida 33301
Telephone (954) 524-2820
Facsimile (954) 524-2822
E-mail: brad@pathtojustice.com

And

Paul G. Cassell
Pro Hac Vice
S.J. Quinney College of Law at the
University of Utah^{*}
332 S. 1400 E.
Salt Lake City, UT 84112
Telephone: 801-585-5202
Facsimile: 801-585-6833
E-Mail: cassellp@law.utah.edu

Attorneys for Jane Does No. 1, 2, 3 and 4

^{*} This daytime business address is provided for identification and correspondence purposes only and is not intended to imply institutional endorsement by the University of Utah

CERTIFICATE OF SERVICE

I certify that the foregoing document was served on March 24, 2015, on the following using the Court's CM/ECF system:

Dexter Lee
A. Marie Villafaña
500 S. Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Fax: (561) 820-8777
E-mail: Dexter.Lee@usdoj.gov
E-mail: ann.marie.c.villafana@usdoj.gov

Attorneys for the Government

Thomas Scott, Fla. Bar No. 149100
COLE, SCOTT & KISSANE, P.A.
Dadeland Centre II
9150 South Dadeland Boulevard, Suite 1400
Miami, Florida 33156
(305) 350-5300
Fax: (305) 373-2294
E-mail: thomas.scott@csklegal.com

Attorneys for Alan Dershowitz

/s/ Bradley J. Edwards

EXHIBIT 1

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT, IN
AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: CACE 15-000072

BRADLEY J. EDWARDS and PAUL G.
CASSELL,

Plaintiff(s),

vs.

ALAN M. DERSHOWITZ,

Defendant(s).

_____ /

PLAINTIFFS' MOTION TO COMPEL PRODUCTION OF DOCUMENTS

Plaintiffs, Bradley J. Edwards and Paul G. Cassell, by through their undersigned attorneys, move to compel production of documents relevant to this action that defendant Alan M. Dershowitz has refused to produce.

Dershowitz has told numerous media sources that he has collected documents that provide "absolute proof" that he has not sexually abused a minor woman known as "Jane Doe No. 3." And yet despite having received a valid discovery request for these and other related documents more than 45 days ago, Dershowitz has refused to produce these documents to Edwards and Cassell. Indeed, he has refused to produce *any* documents to them. Accordingly, the Court should direct Dershowitz to produce these materials forthwith, as well as order him to pay reasonable costs and attorneys' fees necessitated by his refusal to make any appropriate document production.

FACTUAL BACKGROUND

On December 30, 2014, Jane Doe No. 3 filed a motion (and later a corrected motion) seeking to join a case in the U.S. District Court for the Southern District of Florida, *Jane Doe Nos. 1 and 2 v. United States*, No. 9:08-cv-80736. She was represented by two attorneys who specialize in (among other things) representing crime victims, Bradley J. Edwards and Paul G. Cassell. The case involved an attempt to rescind a non-prosecution agreement (NPA) barring the prosecution of Jeffrey Epstein and his criminal associates on grounds that the victims' rights under the Crime Victims Rights Act (CVRA) had been violated.

In her corrected motion, Docket Entry (DE) 280, Jane Doe No. 3 briefly proffered the circumstances that would qualify her as a "victim" eligible to assert rights under the CVRA. *See* 18 U.S.C. 3771(e) (defining a CVRA "victim"). Jane Doe No. 3 briefly explained that when she was a minor, Jeffrey Epstein had trafficked her to Prince Andrew and Alan Dershowitz (among others) for sexual purposes. The motion also provided specific reasons why Jane Doe No. 3's participation was relevant to the case, including the pending discovery issues regarding Prince Andrew and Dershowitz. *See* DE 280 at 9-10 (explaining several reasons participation of new victims was relevant to existing issues).

After the motion was filed, Dershowitz made numerous media statements about the filing – and defamatory statements about Edwards and Cassell. For example, on CNN on January 5, 2015, Dershowitz stated that Edwards and Cassell are "prepared to lie, cheat, and steal. These are unethical lawyers."

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<http://www.cnn.com/videos/world/2015/01/05/wrn-uk-sex-abuse-allegations-alan-dershowitz-intv.cnn>

In the course of defaming Edwards and Cassell, Dershowitz also made numerous representations that he had collected documents proving that he had never even met Jane Doe No. 3, much less sexually abused her. For example, on the same CNN program on January 5, Dershowitz stated: “No, never met her [Jane Doe No. 3], I didn’t know what she looked like until I saw her photograph. . . . I have a superb memory. I have a memory of not having met her. *I did not meet her. And believe me, I remember everybody I’ve ever had sex with. . . . I can prove it by flight records. I can prove it by my travel records.*” *Id.* (emphasis added). Dershowitz went on to say that disproving Jane Doe No. 3’s allegations was a simple task requiring about one hour of work: “If they [Edwards and Cassell] had just done an hours’ worth of work, they would have seen she is lying through her teeth.” *Id.*

That same day, on NBC’s *Today Show*, Dershowitz repeated his claim that it was a simple matter to collect documents disproving allegations made by Jane Doe No. 3:

Her lawyers Paul Cassell, a former Federal judge and Brad Edwards, deliberately and willfully filed this pleading which they knew I had no opportunity to respond to in court, without doing any investigation, *if they had simply investigated the manifests of the airplanes, if they had checked my travel records*, if they had asked me and I could have given the names of these people who are witnesses, *they would know the stories, totally, completely false.*

<https://www.youtube.com/watch?v=ZXePKTws0f0>

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Two days later, Dershowitz told Lou Dobbs on Fox Business, that he had already completed his investigation and had “all kinds of records” proving that Jane Doe No. 3 was a liar:

They [Edwards and Cassell] did it for crass financial and political reasons. More to the point is [what] they didn't do... *I did the investigation in a day and was able to prove through all kinds of records that I couldn't have been in these places.* The woman is a serial liar. If they had done that investigation, they would have come to the same conclusion.

[http://video.foxbusiness.com/v/3976630676001/alan-dershowitz-the-woman-is-a-serial-liar/?sp=show-clips.](http://video.foxbusiness.com/v/3976630676001/alan-dershowitz-the-woman-is-a-serial-liar/?sp=show-clips) -

In response to the CVRA motion that Edwards and Cassell had made for Jane Doe No. 3, on January 5, 2015, Dershowitz filed a motion to intervene in the case to respond, along with an affidavit claiming that he had not sexually abused Jane Doe No. 3. In that affidavit, Dershowitz stated that “[i]f [Edwards and Cassell] had done any reasonable investigation of their client's false allegations, they would have found *absolute proof* that I did not [sexually abuse her] . . . even the most minimal of investigation would have proven conclusively that I could not have had sex with their client on Mr Epstein's island, in New Mexico or on the airplanes; and that I did not have sex with her in his New York or Palm Beach homes.” DE 282-1 at ¶ 8.

On January 6, 2015, plaintiffs Edwards and Cassell filed their complaint in this action, alleging a massive public assault on their character by defendant Dershowitz. On January 9, 2015, Edwards and Cassell filed their Initial Request for Production to Defendant Alan M. Dershowitz. They requested production of documents along the lines that Dershowitz suggested he had already collected. For example, Request for Production (RFP) No. 9 sought “[copies of

Edwards, Bradley vs. Dershowitz

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any and all 'absolute proof' as described in paragraph 8 of the sworn declaration of Alan M. Dershowitz."

On February 11, 2015, counsel for Edwards and Cassell sent an email to counsel for Dershowitz, noting that discovery production was past due and inquiring as to whether a motion to compel would be necessary. That same day, a paralegal for Cole, Scott & Kissane confirmed that appropriate production would be made by the end of the week. Shortly after, an attorney for Dershowitz disavowed that commitment, and indicated that Dershowitz would make his productions by February 23, 2015.

On February 23, 2015 – 45 days after the discovery requests had been served – Dershowitz responded. With regard to the request for production of documents, Dershowitz produced no documents whatsoever. Instead, he made a vague commitment to produce unspecified documents at some unspecified time in the future. Illustrative of Dershowitz's failure to make any substantive production is the following request for production and Dershowitz's answer:

9. Copies of any and all "absolute proof" as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE: Defendant objects to this Document Request to the extent that Plaintiffs seek to alter or shift any burdens of proof as a matter of law in this action. Subject to and without waiving the foregoing specific objections and General Objections, *Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.*

Dershowitz made the same evasive response – "Defendant responds that he will produce" unspecified "non-privileged documents" – to multiple discovery requests. *See* Dershowitz

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Response to Requests for Production 1, 2, 3, 4, 5, 6, 9, 10, 13, 14, 15, 16, 19, 20, 21, 22, and 23.

To permit the Court to review the extent of Dershowitz's evasions, a copy of his responses is attached to this pleading as Exhibit A.

In short, despite having had 45 days to gather materials that allegedly provide "absolute proof" that he has never even met Jane Doe No. 3 – and despite having told numerous media sources that he had already collected such information – Dershowitz has produced none of these documents to Edwards and Cassell. He has also made blanket assertions of a variety of privileges, but has produced no privilege logs.

CONCLUSION

Accordingly, Edwards and Cassell request:

1. That Dershowitz be directed to produce all materials covered by the discovery requests forthwith;
2. That Dershowitz be held to have waived any and all otherwise applicable privileges as a consequence of his failure to timely file a privilege log; and
3. That Dershowitz be ordered to pay reasonable costs and attorneys' fees associated with the need to file this motion to compel.

CERTIFICATE OF GOOD FAITH EFFORT TO RESOLVE

Plaintiffs have attempted in good faith to resolve the discovery issues presented in this motion (and others) as evidenced by the letter attached as Exhibit B. The Defendant has failed to respond as of the time of the filing of this motion.

Edwards, Bradley vs. Dershowitz
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I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via E-Serve to all Counsel on the attached list, this 2nd day of March, 2015.



Jack Scarola
 Florida Bar No.: 169440
 Attorney E-Mail(s): jsx@searcylaw.com and
 mep@searcylaw.com
 Primary E-Mail: _scarolteam@searcylaw.com
 Searcy Denney Scarola Barnhart & Shipley, P.A.
 2139 Palm Beach Lakes Boulevard
 West Palm Beach, Florida 33409
 Phone: (561) 686-6300
 Fax: (561) 383-9451
 Attorneys for Plaintiffs

Edwards, Bradley vs. Dershowitz
Case No.: CACE 15-000072
Plaintiffs' Motion to Compel Production of Documents

COUNSEL LIST

Thomas Emerson Scott, Jr., Esquire
Thomas.scott@csklegal.com;
Steven.safra@csklegal.com
Cole Scott & Kissane P.A.
9150 S Dadeland Boulevard, Suite 1400
Miami, FL 33156
Phone: (305)-350-5329
Fax: (305)-373-2294
Attorneys for Defendant

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: CACE 15-000072

EDWARDS, *et al.*,

Plaintiffs / Counterclaim Defendants,

v.

DERSHOWITZ,

Defendant / Counterclaim Plaintiff.

**DEFENDANT / COUNTERCLAIM PLAINTIFF ALAN M. DERSHOWITZ'S
OBJECTIONS AND RESPONSES TO PLAINTIFFS'
INITIAL REQUESTS FOR PRODUCTION**

Defendant/Counterclaim Plaintiff Alan M. Dershowitz ("Defendant") submits the following objections and responses to the Plaintiffs' Initial Request for Production ("Document Requests") propounded by Plaintiffs/Counterclaim Defendants Bradley J. Edwards and Paul G. Cassell ("Plaintiffs").

PRELIMINARY STATEMENT

These responses and objections reflect the current state of Defendant's knowledge regarding the matters discussed herein. Defendant has not completed his discovery or trial preparation in this matter. Accordingly, Defendant reserves the right to revise, correct, clarify, supplement, or amend his objections and responses to reflect information hereafter discovered or acquired. These responses and objections are provided without prejudice to the rights of Defendant to use or rely upon subsequently discovered information or documents at any time, including at trial. The fact that a Document Request has been complied with in part shall not be construed as a waiver of all or any part of any objection that Defendant might or could make to

any Document Request propounded by Plaintiffs. Defendant further reserves the right to object to the admission in evidence of any and all information made available in response to the Document Requests on any ground, including, but not limited to, the ground that it is irrelevant and immaterial to the issues in this action.

GENERAL OBJECTIONS

1. The General Objections and statements in this section apply to each of Defendant's responses to the Document Requests set forth below and are not necessarily repeated in response to each individual Document Request.

2. By responding to the Document Requests, Defendant does not concede that any information requested is relevant to this action or admissible at trial. Defendant expressly reserves the right to object to further discovery on the subject matter of any of these Document Requests.

3. Defendant's responses set forth below include only documents located or obtained up to the date of service of the responses. Additional responsive, non-privileged documents may be ascertained or identified subsequently, and Defendant reserves the right to rely on such documents throughout this litigation and at trial.

4. Defendant objects to each Document Request to the extent that it calls for documents protected by the attorney-client privilege, the work-product doctrine, or any other applicable privilege or protection. By responding to any Document Request, Defendant does not waive any applicable privilege as to that Document Request or as to any other present or future discovery request.

5. Defendant generally objects to the Document Requests as unduly burdensome and oppressive to the extent that they ask Defendant to provide information that is beyond

Defendant's possession, custody, or control; is publicly available; is already in Plaintiffs' possession, care, custody, or control; or is generally available to Plaintiffs.

6. Defendant generally objects to the Document Requests to the extent that the information sought is not identified with sufficient particularity.

7. Defendant objects to the definition of "Documents" to the extent that it seeks the production of things beyond the scope of Rule 1.280 of the Florida Rules of Civil Procedure. Defendant further objects to the definition of "Documents" to the extent that it seeks "electronic data as well as application metadata and system metadata" and "inventories and rosters of your information technology (IT) systems – e.g., hardware, software and data, including but not limited to network drawings, lists of computing devices (servicers, PCs, laptops, PDAs, cell phones, with data storage and/or transmission features), programs, data maps and security tools and protocols" as overly broad and unduly burdensome.

RESPONSES TO REQUESTS

1. Copies of any and all documents reflecting or relating to any and all occasions on which you have been physically present on Little Saint James Island including but not limited to your visit to Little Saint James Island, as described in paragraph 3 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control relating to the sole occasion on which Defendant was physically present on Little Saint James Island.

2. Copies of any and all documents evidencing the presence of your wife and daughter on Little Saint James Island, as described in paragraph 3 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

3. Copies of any and all documents reflecting or relating to any and all occasions on which you have been physically present at Jeffrey Epstein's Ranch in New Mexico including but not limited to your visit to Jeffrey Epstein's Ranch in New Mexico, as described in paragraph 4 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control relating to the sole occasion on which Defendant was physically present at Jeffrey Epstein's Ranch in New Mexico.

4. Copies of any and all documents evidencing the presence of your wife and daughter at Jeffrey Epstein's Ranch in New Mexico, as described in paragraph 4 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

5. Copies of any and all documents evidencing the presence of your wife and daughter on Jeffrey Epstein's private plane, as described in paragraph 5 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

6. Copies of any and all documents evidencing the presence of your nephew on Jeffrey Epstein's private plane, as described in paragraph 5 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

7. Copies of any and all documents evidencing the presence of "members of Mr. Epstein's legal team", as described in paragraph 5 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Defendant objects to this Document Request as overly broad because Jane Doe #3 alleges in the filing titled "Jane Doe #3 and Jane Doe #4's Motion Pursuant to Rule 21 For Joinder In Action" (Doc. No. 279) (the "Joinder Motion") in the civil action captioned *Jane Doe #1, et al. v. United States*, Case No. 08-80736 (S.D. Fla.) (the "Federal Action") that she was "kept as [Jeffrey Epstein's] sex slave from about 1999 through 2002." Jane Doe #3 further alleges in the Joinder Motion that she "escape[d]" from Mr. Epstein and moved to Australia in 2002. Paragraph 5 of the sworn Declaration of Alan M. Dershowitz refers to plane travel by members of Mr. Epstein's legal team after 2002 and therefore Defendant further objects because this Document Request does not seek documents relevant to this action or documents reasonably calculated to lead to the discovery of admissible evidence.

8. Copies of any and all flight manifests reflecting your presence or the presence of any member of your family on any aircraft on which Jeffrey Epstein was also a passenger during the same flight.

RESPONSE:

Defendant responds that he has no responsive, non-privileged documents.

9. Copies of any and all "absolute proof" as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Defendant objects to this Document Request to the extent that Plaintiffs seek to alter or shift any burdens of proof as a matter of law in this action. Subject to and without waiving the foregoing specific objections and General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

10. Copies of any and all documents supporting the allegation that “Jane Doe #3 is a serial liar” as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

11. Copies of any and all documents tending to establish that President Clinton has never visited Jeffrey Epstein’s island, Little Saint James, as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Defendant objects to this Document Request because it misstates paragraph 8 of the sworn Declaration of Alan M. Dershowitz, which expressly states that “*on information and belief*, I have been advised that *Secret Service records* would confirm that President Clinton has never set foot on that island.” (Emphasis added). Subject to and without waiving the foregoing specific objections and the General Objections, Defendant responds that he has no responsive, non-privileged documents.

12. Copies of any and all documents evidencing that Jane Doe #3 “has also told lies about many world leaders” as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Defendant objects to this Document Request because it misstates paragraph 8 of the sworn Declaration of Alan M. Dershowitz, which expressly states that “*on information and belief*, [Jane Doe #3] has also told lies about many world leaders.” (Emphasis added). Defendant further objects to this Document Request because it seeks documents already in Plaintiffs’ possession and/or that are publicly available. Subject to and without waiving the foregoing specific objections and the General Objections, Defendant responds by reference to statements by Jane Doe #3 reflected in the media, which are equally available to Plaintiffs.

13. Copies of any and all documents evidencing that “the State Attorney in Palm Beach County dropped a case that she sought to bring based on an assessment by the investigating detective regarding the ‘victim’s lack of credibility’” including a copy of the letter reflecting this decision as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Defendant objects to this Document Request because it misstates paragraph 8 of the sworn Declaration of Alan M. Dershowitz, which expressly states that “*on information and belief*, the State Attorney in Palm Beach County dropped a case that she sought to bring based on an assessment by the investigating detective regarding the ‘victim’s lack of credibility.’ *A copy of the letter reflecting this decision was forwarded to central records.*” (Emphasis added). Subject to and without waiving the foregoing specific objections and the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

14. Copies of any and all documents evidencing that the attorneys for the Jane Does acted “in bad faith in an effort to have the media report it” as described in paragraph 9 of the sworn Declaration of Alan M. Dershowitz.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

15. Copies of any and all documents reflecting that Jane Doe #3 has charged President Bill Clinton with having sex with her on Jeffrey Epstein’s Little Saint James Island.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

16. Copies of any and all documents reflecting that Jane Doe #3 has alleged that President Bill Clinton had sex or engaged in any inappropriate contact with her on the Island owned by Jeffrey Epstein.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

17. Copies of all pages of Passports held by you at any time during the past 12 years.

RESPONSE:

Defendant objects to this Document Request as seeking sensitive personal information and documents that are not relevant to the subject matter of the pending action.

18. Copies of any and all documents reflecting that Jane Doe #3 has ever willfully engaged in prostitution.

RESPONSE:

Defendant objects to this Document Request as vague because Defendant is not in a position to determine the willful nature of Jane Doe #3's prostitution. Defendant further objects to this Document Request because Jane Doe #3 has repeatedly and publicly asserted that she gave her body for sexual activity for hire after the age of 18 and agreed to secure other persons for the purpose of prostitution or for any other lewd or indecent act and therefore the Document Request is unduly burdensome.

19. Copies of any and all documents reflecting that Jane Doe #3 is either a liar or has perjured herself in any way.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

20. Copies of any and all documents tending to support your assertion that Bradley J. Edwards:

- a. has a reputation of being sleazy;
- b. has acted in a sleazy manner;
- c. has engaged in unethical conduct;
- d. has knowingly relied upon false statements in any legal document filed by him;
- e. has engaged in any form of unethical conduct;
- f. has engaged in any form of conduct tending to demonstrate a lack of fitness to engage in the practice of law;
- g. has engaged in any form of conduct warranting the loss of his license to practice law or the imposition of any professional disciplinary action against him;
- h. has acted in a corrupt manner;

- i. failed to conduct any investigation of the allegations of Jane Doe #3 relating to you before referring to those allegations in a legal filing.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

21. Copies of any and all documents tending to support your assertion that Paul G. Cassell:
- a. has a reputation of being sleazy;
 - b. has acted in a sleazy manner;
 - c. has engaged in unethical conduct;
 - d. has knowingly relied upon false statements in any legal document filed by him;
 - e. has engaged in any form of unethical conduct;
 - f. has engaged in any form of conduct tending to demonstrate a lack of fitness to engage in the practice of law;
 - g. has engaged in any form of conduct warranting the loss of his license to practice law or the imposition of any professional disciplinary action against him;
 - h. has acted in a corrupt manner;
 - i. failed to conduct any investigation of the allegations of Jane Doe #3 relating to you before referring to those allegations in a legal filing.

RESPONSE:

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

22. Copies of any and all records for the period 1998-2007 reflecting or relating to travel by you and/or any member of your family on any aircraft, boat, helicopter, or other means of transport owned, controlled, or under the direction of Jeffrey Epstein and/or any business entity with which Jeffrey Epstein was affiliated at the time of travel.

RESPONSE:

Defendant objects to this Document Request as overly broad because Jane Doe #3 alleges in the Joinder Motion that she was “kept as [Jeffrey Epstein’s] sex slave from about 1999 through 2002.” Jane Doe #3 further alleges that she “escape[d]” from Mr. Epstein and moved to Australia in 2002. Therefore Defendant objects to this Document Request to the extent that it purports to seek documents relating to any time before 1999 or after 2002. Defendant further objects to this Document Request as overly broad and premature because Jane Doe #3 has not specified the dates on which she alleges Defendant engaged in misconduct on Mr. Epstein’s plane, which are the sole relevant allegations by Jane Doe #3 or her counsel concerning travel on Mr. Epstein’s plane that Defendant refutes and asserts are false. Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control relating to any occasions that may be specifically identified by Jane Doe #3 on which she contends that Defendant travelled on Jeffrey Epstein’s plane between 1999 and 2002.

23. Copies of any and all records, including emails and text messages, between you and Jeffrey Epstein between December 29, 2014 and today, regarding allegations made by Jane Doe #3 of sexual misconduct by either of you.

RESPONSE:

Defendant objects to this Document Request to the extent that it seeks documents regarding allegations made by Jane Doe #3 of sexual misconduct by Jeffrey Epstein because such documents are not relevant to the subject matter of this action and would be attorney-client privileged communications in any event. Subject to and without waiving the foregoing specific

objections and the General Objections, Defendant responds that he will produce any responsive, non-privileged documents currently in his possession, custody or control.

Respectfully submitted,

Of Counsel:

Ashley E. Eiler
aeiler@wileyrein.com
WILEY REIN LLP
1776 K Street, NW
Washington, DC 20006
Phone: (202) 719-7000
Fax: (202) 719-7049

Kenneth A. Sweder
ksweder@sweder-ross.com
SWEDER & ROSS, LLP
131 Oliver Street
Boston, MA 02110
Phone: (617) 646-4466
Fax: (617) 646-4470

/s/ Thomas E. Scott
Thomas E. Scott, Esq.
Florida Bar No. 149100
Thomas.scott@csklegal.com
Steven R. Safra, Esq.
Florida Bar No. 057028
Steven.safra@csklegal.com
COLE, SCOTT & KISSANE, P.A.
Dadeland Centre II, 14th Floor
9150 South Dadeland Boulevard
Miami, Florida 33156
Phone: (305) 350-5300
Fax: (305) 373-2294

Richard A. Simpson (pro hac vice)
rsimpson@wileyrein.com
Mary E. Borja (pro hac vice)
mborja@wileyrein.com
WILEY REIN LLP
1776 K Street, NW
Washington, DC 20006
Phone: (202) 719-7000
Fax: (202) 719-7049

Counsel for Alan M. Dershowitz

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and accurate copy of the foregoing was served via E-Serve this 23rd day of February, 2015 to: Jack Scarola, Esquire, Searcy Denny et al., jsx@searcylaw.com and mep@searcylaw.com, counsel for Plaintiffs/Counterclaim Defendants.

COLE, SCOTT & KISSANE, P.A.
Attorneys for Alan M. Dershowitz
Dadeland Centre II, 14th Floor
9150 South Dadeland Boulevard
Miami, Florida 33156
Phone: (305) 350-5300
Fax: (305) 373-2294

By: /s/ Thomas E. Scott
Thomas E. Scott, Esq.
Florida Bar No. 149100
Thomas.scott@csklegal.com
Steven R. Safra, Esq.
Florida Bar No. 057028
Steven.safra@csklegal.com

■ WEST PALM BEACH OFFICE:

2139 PALM BEACH LAKES BLVD.
WEST PALM BEACH, FLORIDA 33409

P.O. BOX 3626
WEST PALM BEACH, FLORIDA 33402

(561) 686-6300
1-800-780-8607
1-800-220-7006 Spanish

SEARCY
DENNEY
SCAROLA
BARNHART
& SHIPLEY P.A.

*Attorneys
at Law*

□ TALLAHASSEE OFFICE:

THE TOWLE HOUSE
517 NORTH CALHOUN STREET
TALLAHASSEE, FL 32301-1231

(850) 224-7600
1-888-549-7011

VIA EMAIL

thomas.scott@csklegal.com

February 25, 2015

Thomas Emerson Scott, Jr., Esquire
Cole Scott & Kissane P.A.
9150 S Dadeland Boulevard, Suite 1400
Miami, FL 33156

Re: Edwards and Cassell vs. Dershowitz
Our File No.: 20150013

Dear Tom:

I write in the hope of amicably resolving a number of issues that arise in connection with the discovery responses you have provided in the referenced matter.

*Responding "Subject to and Without Waiving" Objections
and Claims of Privilege*

It is a common and improper tactic to state "general objections" (or even specific ones) and then to respond to every request "subject to" those objections or claims of privilege. We cannot accept such responses. When this occurs, even if responsive information is forthcoming, we have no guarantee that you have not unilaterally withheld information subject to the stated objections or claims of privilege; in other words, it shields the very existence of responsive matters from discovery without any ability to assess the merits of the objection or claim of privilege as applied to the ostensibly protected matters. A federal court described the problem:

This Court has on several occasions "disapproved [of] the practice of asserting a general objection 'to the extent' it may apply to particular requests for discovery." This Court has characterized these types of objections as "worthless for anything beyond delay of the discovery." Such objections are considered mere "hypothetical or contingent possibilities," where the objecting party makes "no meaningful effort to show the application of any such theoretical objection' to any request for discovery."

EXHIBIT B

ATTORNEYS AT LAW:

ROSALYN SIA BAKER-BARNES

*F. GREGORY BARNHART
T. HARDEE BASS, III
LAURIE J. BRIGGS
*BRIAN R. DENNEY
BRENDA S. FULMER
*MARIANO GARCIA
JAMES W. GUSTAFSON, JR.
MARIA R. P. HATFIELD
ADAM S. HECHT
JACK P. HILL
KELLY HYMAN
DAVID K. KELLEY, JR.
CAMERON M. KENNEDY
WILLIAM B. KING⁷
DARRYL L. LEWIS¹
*WILLIAM A. NORTON
PATRICK E. QUINLAN³
EDWARD V. RICCI
*JOHN SCAROLA
MATTHEW K. SCHWENCKE
*CHRISTIAN D. SEARCY
*JOHN A. SHIPLEY III
CHRISTOPHER K. SPEED⁸⁹
BRIAN P. SULLIVAN²⁴⁶
KAREN E. TERRY
DONALD J. WARD III⁹
*C. CALVIN WARRINER III

OF COUNSEL

*EARL L. DENNEY, JR.⁵

SHAREHOLDERS

*BOARD CERTIFIED

ALSO ADMITTED

¹ KENTUCKY
² MAINE
³ MARYLAND
⁴ MASSACHUSETTS
⁵ MISSISSIPPI
⁶ NEW HAMPSHIRE
⁷ NEW JERSEY
⁸ VIRGINIA
⁹ WASHINGTON DC

PARALEGALS:

VIVIAN AYAN-TEJEDA
RANDY M. DUFRESNE
DAVID W. GILMORE
JOHN C. HOPKINS
DEBORAH M. KNAPP
VINCENT L. LEONARD, JR.
JAMES PETER LOVE
ROBERT W. PITCHER
PABLO PERHACS
KATHLEEN SIMON
STEVE M. SMITH
BONNIE S. STARK
WALTER A. STEIN

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Thus, this Court has deemed such "ostensible" objections waived or [has] declined to consider them as objections.

Sonnino v. Univ. of Kan. Hosp. Auth., 221 F.R.D. 661, 666-67 (D. Kan. 2004) (citations omitted).

Of course, where claims of privilege are involved, the response must include a privilege log enabling us (and the court, if necessary) to assess the applicability of the privilege claimed. See Fla. R. Civ. P. 1.280(b)(5). Under Florida law, "the burden is upon the party asserting a privilege to establish the existence of each element of the privilege in question." *Fla. Sheriff's Self-Ins. Fund v. Escambia County*, 585 So.2d 461, 463 (Fla. 1st DCA 1991).

General or blanket objections are inappropriate in and of themselves: "A 'blanket' objection to interrogatories consisting of many, separate questions is insufficient. Objections in such a case should be addressed 'to a particular interrogatory or class of interrogatories, not to the interrogatories in general.'" *Twadell v. Twadell*, 199 So. 2d 501 (Fla. 4th DCA 1967) (quoting *Carson v. City of Ft. Lauderdale*, 173 So.2d 743 (Fla. 2d DCA 1965)).

The same principles apply to the general objections you have raised to our production requests.

Boilerplate Objections

A boilerplate objection such as "overbroad, burdensome, and not reasonably calculated to lead to the discovery of admissible evidence," baldly asserted, is "patently without merit." Such "stonewalling tactics" constitute discovery abuse. *First Healthcare Corp. v. Hamilton*, 740 So.2d 1189, 1193 (Fla. 4th DCA 1999); see also *First City Devs. Of Fla., Inc. v. Hallmark of Holly Condo. Ass'n*, 545 So.2d 502, 503 (Fla. 4th DCA 1985) (noting that conclusory objections such as "burdensome" and "not reasonably calculated ..." are "words of the art [that] have little meaning without substantive support, ..").

Every burdensome objection you have raised is required to be supported by an affidavit detailing the extent of the burden claimed to preclude a substantive response.



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Asserting Privilege for Non-Existent Documents

It is inappropriate to assert a claim of privilege or immunity for non-existent materials. *Greenleaf v. Amerada Hess Corp.*, 626 So.2d 263, 264 n.1 (Fla. 4th DCA 1993). We must assume that the privilege is asserted for a reason, i.e., that responsive and ostensibly privileged information in fact exists, else the privilege would not have been asserted. It follows that a privilege log must accompany all such responses.

Claiming Undue Burden for Non-Existent Materials

Likewise, objecting on basis of burdensomeness and later conceding an opponent's right to materials or later claiming materials do not exist constitute abusive discovery practices. *First Healthcare Corp. v. Hamilton*, 740 So.2d 1189, 1194 (Fla. 4th DCA 1999).

Custody, Possession & Control

Fla. R. Civ. P. reaches all documents (broadly defined and specifically including electronic data) in your client's "custody, possession, or control." Custody and possession are self-explanatory. "Control" is broader; it "means the legal right to obtain, even from nonparties. The concept of 'control' generally has been held to mean the legal right to obtain the requested documents. Parties thus can be requested to produce documents in the hands of their attorney, insurer, subsidiary, or another person outside the jurisdiction of the court." Lawrence M. Watson, Jr. & Michael S. Orfinger, *Fla. Civil Practice Before Trial* § 16.60 (1993 ed.) (citing 8 Wright & Miller, *Fed. Practice & Procedure* §16-10 (1998 ed.)). A recent federal court case construing Fed. R. Civ. P. 41 (on which Fla. R. Civ. P. 1.350 is patterned), explained:

The term "control" comprehends not only possession but also the right, authority, or ability to obtain the documents. Accordingly, Rule 34(a) allows a party seeking discovery to require production of documents beyond the actual possession of the opposing party if such party has retained "any right or ability to influence the person in whose possession the documents lie." [A] party is deemed to have control over documents held on its behalf by its attorneys. A party is also deemed to have control over financial records of the party that are in the possession of the party's accountant.

MGP Ingredients, Inc. v. Mars, Inc., 2007 WL 3353401 (D. Kan. 2007) (citation omitted); see also *In Re Ski Train Fire of November 11, 2000 Kaprun Austria*, 2006



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WL 1328259, at *5 (S.D.N.Y. 2006) ("Courts have long construed the term 'control' as meaning more than simple 'possession.' 'Control has been construed broadly by the courts as the legal right, authority, or practical ability to obtain the materials sought upon demand.'"). *See also Frantz v. Golebiewski*, 407 So.2d 283, 285 n.4 (Fla. 3 DCA 1981) ("Interpretations of the federal rule are persuasive in considering its Florida equivalent.").

While your responses purport to recognize the obligation to produce documents subject to Mr. Dershowitz's "control", there are qualifications in the responses that would appear to contradict that recognition. Your objection to the production of metadata has no legal foundation.

Word Play and Gamesmanship

You will note that we do not include page after page of definitions. I believe that any lawyer reasonably fluent in English can carry out his or her duty to construe interrogatories and requests for production in the broad and liberal manner intended by the rules. Florida courts frown on parsing and gamesmanship. *See, e.g. First Healthcare Corp. v. Hamilton*, 740 So.2d 1189, 1194 (Fla. 4th DCA 1999) (chastising counsel who did not turn over "event" reports because plaintiff requested "incident" reports as engaged in "little more than a semantic shell game.").

Repeated assertions that statements were made by Mr. Dershowitz "upon information and belief" is an example of prohibited "word play." That qualification has no bearing on the Defendant's discovery obligations.

"Will Produce"

The Rules of Civil Procedure require production and not just a commitment of production at some unspecified future date. If the documents you intend to produce are available for inspection and copying now as they are required to be, we are prepared to pick them up immediately. If they are not immediately available, when will they be?

Timeframe Objections

Your repeated attempts to restrict discovery to a narrow timeframe, fail to account for the fact that this is a defamation action arising out of broad defamatory statements made by Mr. Dershowitz impugning the honesty and integrity of the Plaintiffs without any limitations as to a specific time or circumstance. Mr. Dershowitz has also made broad public denials of misconduct unrestricted to any specific timeframe. We are entitled to



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test the accuracy of those statements and to explore the full extent of the personal relationship he has had with Jeffrey Epstein.

Evasive Answers

The response to Interrogatory #2 is a typical example of an evasive response. Rather than address the substance of the questions posed, the Defendant engages in a four page diatribe about the alleged impropriety of naming him in a CVRA filing on behalf of Jane Doe #3. If that is the only improper conduct in which the Defendant contends Bradley Edwards has engaged, then the Defendant is obliged to say so.

Interrogatory #3 asks for the specific content of statements and the names of every witness to the making of the statements. We get a vague reference to “such comments” and references to the inability to “recall all of the people.” Not a single witness’ name is disclosed. If the Defendant is unable to identify a single person he is obliged to unequivocally say so.

Refusing to Provide Substantive Responses Until Jane Doe #3 is Deposed

This objection has absolutely no legal basis and fails to recognize that this is a defamation action against Dershowitz and not Mr. Dershowitz’s defamation action against Jane Doe #3. This action is absolutely not dependent on the accuracy of the statements made by Jane Doe #3, although the Plaintiffs were and are confident of the accuracy of those statements.

Objecting Because You Think We Already Know the Answers

See for example the Response to Interrogatory #13. There is no legal basis for refusing to provide information because the Defendant believes the Plaintiff already knows the answer or has alternative sources to ascertain some or all of the information requested. An admission from an opposing party carries legal significance that other evidence does not have. We are entitled to Dershowitz’s sworn responses regardless of what flight logs purport to show.

Incomplete Answers

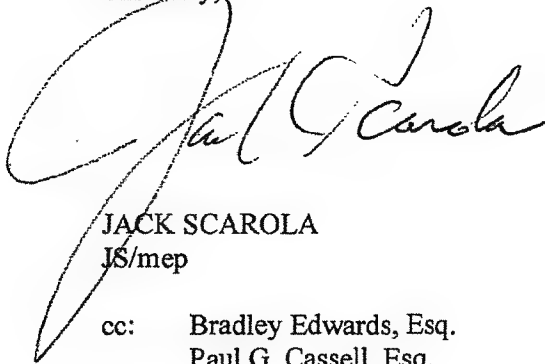
See, for example, Interrogatory #15. A question that asks for names, addresses, and telephone numbers, is not properly responded to if all we get is, “Thomas and Joanne Ashe, as well as Defendant’s wife and daughter.”



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and we will file an appropriate motion to compel. I would like to focus on substantive disagreements, obtain quick and fair rulings on them, and move on.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jack Scarola". The signature is written in dark ink and is positioned above the typed name and email address.

JACK SCAROLA
JS/mep

cc: Bradley Edwards, Esq.
Paul G. Cassell, Esq.



United States District Court
Southern District of Florida

Virginia L. Giuffre,
Plaintiff,

Case No.: 9:16-mc-81608-DMM
Underlying Case No.: 15-cv-07433-RWS
(Southern District of New York) (Sweet, J.)

v.
Jeffrey Epstein,

Defendant.

**PLAINTIFF'S SEALED DECLARATION IN SUPPORT OF PLAINTIFF'S REPLY IN
SUPPORT OF PLAINTIFF'S MOTION TO COMPEL THE PRODUCTION OF
DOCUMENTS AND TESTIMONY FROM JEFFREY EPSTEIN**

I, Sigrid McCawley, declare that the below is true and correct to the best of my
knowledge as follows:

1. I am a Partner with the law firm of Boies, Schiller & Flexner LLP and duly
licensed to practice in Florida and before this Court pursuant to this Court's Order granting my
Application to Appear Pro Hac Vice.
2. I respectfully submit this Declaration in Support of Plaintiff's Sealed Reply
Motion to Compel the Production of Documents and Testimony from Jeffrey Epstein.
3. Attached hereto as Sealed Exhibit 1 is a true and correct copy of [REDACTED]'s
Phone Records (GIUFFRE006258-GIUFFRE006260).
4. Attached hereto as Sealed Exhibit 2 is a true and correct copy of Jeffrey Epstein's
Contact List.
5. Attached hereto as Sealed Exhibit 3 is a true and correct copy of Message Pads
Excerpts.
6. Attached here to as Sealed Exhibit 4 is a true and correct copy of Ghislaine

Maxwell Phone List.

7. Attached hereto as Sealed Exhibit 5 is a true and correct copy of Excerpts from June 28, 2016 Deposition of Tony Figuerora.

8. Attached hereto as Sealed Exhibit 6 is a true and correct copy of Excerpts from May 18, 2016 Deposition of [REDACTED].

9. Attached hereto as Sealed Exhibit 7 is a true and correct copy of Jeffrey Epstein's DDA Statement History.

10. Attached hereto as Sealed Exhibit 8 is a true and correct copy of a Household Banking Account (GIUFFRE007840).

11. Attached hereto as Sealed Exhibit 9 is a true and correct copy of Nude Photographs.

12. Attached hereto as Sealed Exhibit 10 is a true and correct copy of Excerpts from June 20, 2016 Deposition of [REDACTED]

13. Attached hereto Sealed Exhibit 11 is a true and correct copy Excerpts from March 17, 2010 Deposition of Jeffrey Epstein.



I declare under penalty of perjury that the foregoing is true and correct.




Sigrid McCawley, Esq.


Dated: October 21, 2016.

Respectfully Submitted,
BOIES, SCHILLER & FLEXNER LLP

By: 
Sigrid S. McCawley(Pro Hac Vice)
Meredith Schultz (Pro Hac Vice)
Boies Schiller & Flexner LLP
401 E. Las Olas Blvd., Suite 1200
Ft. Lauderdale, FL 33301


David Boies
Boies Schiller & Flexner LLP
333 Main Street
Armonk, NY 10504

Bradley J. Edwards (Pro Hac Vice)
FARMER, JAFFE, WEISSING,
EDWARDS, FISTOS & LEHRMAN, P.L.
425 North Andrews Avenue, Suite 2
Fort Lauderdale, Florida 33301


Paul G. Cassell (Pro Hac Vice)
S.J. Quinney College of Law
University of Utah
383 University St.
Salt Lake City, UT 84112


¹ This daytime business address is provided for identification and correspondence purposes only and is not intended to imply institutional endorsement by the University of Utah for this private representation.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of October, 2016, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system. I also certify that the foregoing document is being served to all parties of record via transmission of the Electronic Court Filing System generated by CM/ECF.

Laura A. Menninger, Esq.
Jeffrey Pagliuca, Esq.
HADDON, MORGAN & FOREMAN, P.C.
150 East 10th Avenue
Denver, Colorado 80203




Sigrid S. McCawley

EXHIBIT 1

CALLS

OS-368
ATTACHMENT
1229-05

DATE	NUMBER	REGISTERED TO :	TIME	OUT/IN
9/3/2005	561-714-0546	[REDACTED]	10:37A	OUT
9/3/2005	561-714-0547	[REDACTED]	10:40A	OUT
9/3/2005	561-776-5679	T A. Rofano	11:37A	IN
9/3/2005	561-855-2779	Jeffrey Epstein	1:53P	IN
9/3/2005	561-662-3098		1:55P	OUT
9/3/2005	561-389-6874		1:57P	OUT
9/4/2005	561-655-7626	Jeffrey Epstein	10:42A	OUT
9/6/2005	561-499-1718	S. Rosen	8:08A	OUT
9/10/2005	[REDACTED]	[REDACTED]	4:43P	OUT
9/10/2005	561-655-7626	Jeffrey Epstein	7:53P	OUT
9/11/2005	561-655-7626	Jeffrey Epstein	8:03A	IN
9/14/2005	561-317-5844		8:25A	OUT
9/14/2005	561-317-5844		5:98P	OUT
9/14/2005	561-317-5844		7:27P	OUT
9/14/2005	561-317-5844		7:35P	IN
9/15/2005	[REDACTED]	[REDACTED]	10:17A	OUT
9/18/2005	561-818-8361		9:57A	OUT
9/18/2005	561-714-0546	[REDACTED]	9:58A	OUT
9/18/2005	[REDACTED]	[REDACTED]	9:59A	OUT
9/18/2005	[REDACTED]	[REDACTED]	10:00A	OUT
9/18/2005	[REDACTED]	[REDACTED]	10:03A	OUT
9/18/2005	561-662-3098		10:05A	OUT
9/18/2005	561-655-7626	Jeffrey Epstein	10:20A	OUT
9/18/2005	561-302-1844		10:44A	OUT
9/18/2005	561-389-6874		1:10P	OUT
9/18/2005	561-389-6874		4:10P	IN
9/18/2005	561-389-6874		4:10P	OUT
9/18/2005	561-302-1844		4:15P	IN
9/18/2005	[REDACTED]	[REDACTED]	5:17P	OUT
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9/20/2005	561-317-5844		7:22P	IN
9/21/2005	561-818-8361		1:46P	IN



GIUFFRE006258
CONFIDENTIAL

OS-368

9/21/2005 561-655-7626	Jeffrey Epstein	1:47P	IN
9/21/2005 561-655-7626	Jeffrey Epstein	1:48P	IN
9/28/2005 561-844-4112	ADVENTURE TIMES	11:29A	IN
9/29/2005 561-818-8361		9:07A	OUT
9/29/2005 [REDACTED]	[REDACTED]	12:41P	OUT
9/29/2005 [REDACTED]	[REDACTED]	12:43P	OUT
9/29/2005 [REDACTED]	[REDACTED]	12:46P	IN
9/29/2005 [REDACTED]	[REDACTED]	12:47P	OUT
9/30/2005 561-655-7626	Jeffrey Epstein	9:13A	IN
9/30/2005 561-655-7626	Jeffrey Epstein	10:29A	IN
9/30/2005 561-655-7626	Jeffrey Epstein	10:34A	IN
9/30/2005 [REDACTED]	[REDACTED]	7:06P	IN
10/1/2005 [REDACTED]	[REDACTED]	9:33A	OUT
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10/2/2005 561-776-8748		10:31A	IN
10/2/2005 561-655-7626	Jeffrey Epstein	10:34A	OUT
10/2/2005 561-856-2617		11:40A	OUT
10/2/2005 [REDACTED]	[REDACTED]	11:41A	OUT
10/2/2005 [REDACTED]	[REDACTED]	11:42A	OUT
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10/2/2005 [REDACTED]	[REDACTED]	4:32P	IN
10/2/2005 [REDACTED]	[REDACTED]	4:33P	OUT
10/2/2005 [REDACTED]	[REDACTED]	6:51P	OUT
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10/3/2005 561-389-6874		9:10A	OUT
10/3/2005 561-302-1844		9:11A	IN
10/3/2005 561-655-7629	Jeffrey Epstein	9:14A	IN
10/3/2005 [REDACTED]	[REDACTED]	9:37A	OUT
10/3/2005 561-655-0985		9:38A	IN
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10/3/2005 [REDACTED]	[REDACTED]	9:53A	IN
10/3/2005 [REDACTED]	[REDACTED]	9:55A	OUT
10/3/2005 561-655-7629	Jeffrey Epstein	9:57A	OUT
10/3/2005 [REDACTED]	[REDACTED]	11:21A	IN
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10/4/2005 [REDACTED]	[REDACTED]	9:36A	OUT

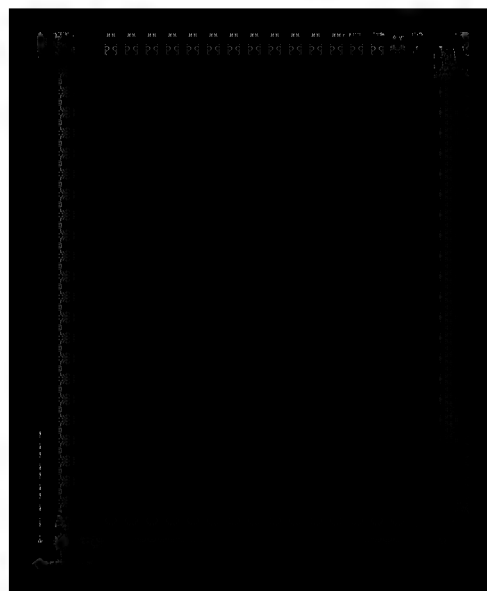
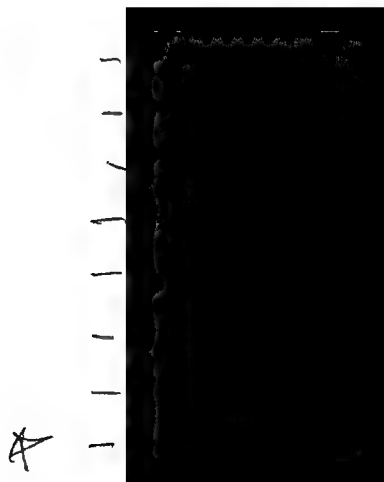
10/4/2005 561-655-7626	Jeffrey Epstein	9:48A	OUT
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10/4/2005 [REDACTED]	[REDACTED]	10:58A	OUT
10/4/2005 561-655-7626	Jeffrey Epstein	11:08A	IN
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10/4/2005 561-655-0995	Jeffrey Epstein	11:16A	OUT
10/4/2005 [REDACTED]	[REDACTED]	4:30P	OUT
10/4/2005 [REDACTED]	[REDACTED]	8:35P	OUT

EXHIBIT 2

- CONFIDENTIAL -

Visitors Messzgo (P.B)





11-3

- CONFIDENTIAL -

Important e-mail / addresses

* Jeffrey E. Epstein: jeffrey@mindspring.com (P.B.)
joeproject@yahoo.com (N.Y.)
zorrovanch@aol.com (N.Y.)
epstein@wanadoo.fr (Paris)

* * * Ghislaine Maxwell: gmex1@mindspring.com (NY)

- In House -
- Tim Newcombe (Citrix Systems Programmer)

[REDACTED] Cell.
H.

(2) 755-7050 - Charley Palmer (Chef - Durels Restaurant) NYC

(2) 274-0323 - Joe Peggio (Chef - Aspen, CO)

(Important Witness) - Christophe (French Driver) P.B.
→ (Jet Aviation)

[REDACTED]

→ Secret Service Personnel escorting
Mr. Barak, Ehud Former P.M. of Israel on
J. Epstein planes.-

* * * → Jean-Luc Brunel "Scout" for young females
Kerlin Models

[REDACTED]

- David Copperfield (Magician)

[REDACTED]

- Eve Andersson (Former model & mother of naked pic
(Dubin))

[REDACTED]

- David Cook Palm Beach (2004-2005) Witness,
interacted and chat daily w/ underage girls.-

P.B., 2004-2005

Abby
07944 574 202

Abouseiman, Joanna
0803 338 787
Email: joannechevalier@hotmail.co.uk

Adam, Nick
19 Rue De Lille
75007 Paris 75007(w)
00 33 1 338 5065 (w)
00 33 1 338 5065 (w)
00 33 507 341 960 (p)

Agag Alejandro
00 44 771 730 6038
Email: agag@asinvestments.com

Agnew, Marie Claire & John
51 Eaton Square
London SW1W 0NY
0207 235 7881 (h)
0207 621 0011 (w)

Alai Azzedine
00 331 4272 1919

Albermarle, Rufus & Sally
511 6th Ave
New York, NY 10011
1 212 465 9867 (w)
Email: rufusa@mac.com
Email: sallya@mac.com
1 817 257 6119 (p) (Sally)
212 271 3481 (w) (this first)

Aldridge Saffron
47 Ladbroke Rd
London W11 3PD
0207 527 1006
001 212 879-7653
Email: saffra@aol.com
0207-221-3627

Alexander Pam
01 415 644 3055(w)
01 415 515 9768(p)
Email: palexander@alexanderrogil

Algranti Giacomo
Flat 4 83 Dike St
London W1
0207 433 6171
0207 433 6171
0208 959 0027 (h)
0208 746 1181 (w)
0207 746 1152 (i)
0207 433 6171 (p)
0207 433 6171 (p)

Allan Paul
001 206 355 5777
Email: paul@vulcan.com

Allan, Nick & Sarah
B5 Banyan Villas
9 Stanley Village Road
Hong Kong
00-652-815-0762

Althorp, Charlie
Althorp
0207-229 1573 (h)

0207-637 8655 (w)

Alun-Jones, Carella

34 Eaton Place
London SW1E 6BN (h)
0207 733 1500 (h)
0372 56153 (c)

Alun-Jones, Jeremy & Deborah

Old Park
Flenbourne
West Sussex PO18 8AP
01243 552 1021 (w)
01243 552 1021 (h)
Email: da@old-park.co.uk
(Hm) 21 St James Square
London SW1Y 4JP
0207 121 1212 (Dp)
0207 836 4337 (w)

**Alvarez, Senor
Vincente**

00 34 276 8697 (h)
00 34 475 8930 (w)
00 34 1 553 8466 (f)

Amon, Mr Philippe

Domaine de Bougy
1170, Aubonne
Switzerland
00 41 21 821 5555 (w)
00 41 21 821 2222 (h)
Email:
philippe.amon@sicpa.com
(Hm) 25 Eaton Square (2nd
Flat B)
London SW1
41 21 821 2200 (h)
00 41 792 0915 (p)
00 41 792 0915 (w)
00 41 21 821 2200 (h)
41 21 627 5925 (w)

0207-235-7769/9169 (2nd home
phone & fax)

**Amon, Roberta &
Maurice**

4 East 72 Street
New York NY 10021
001 212 319 9017 (h)
001 212 319 2020 (w)

Anastos, Lisa

200 E 72nd
New York
NY 10021
001 212 446 4761 (w)
001 212 737 1722 (h)
001 212 923 4533 (p)
001 212 446 4900 (Ht)

Anderson, Lulu

0207-937 7730
0976 287 202

Appleby, Robert & Alex

16 Grafton Square
London SW4
0207-498 3400 (h)
RA@Asia.debi.com
Email: alex@rockgacko.com
John Ross
3 Concorde Rise
Park Fulham
HK
00 852 9104 2951 (Ap)
00 852 9104 2951 (h)
00 852 2817 4281 (h)
00 852 2816 4567 (Rw)
00 852 2147 2813 (w)
00 852 9104 2815 (Rp)

Arango, Maite

Esplaner #10 (home)

BC
Madrid, Spain 28014
Email: mads@comcast.es
011 34 91 590 6710 (w)
011 34 91 420 3776 (h)
00 34 63 913 6063 (p)

Arellano, Victor

15 Cadogan Square
London, England SW1X 0HT
0207 245 6064
0207 245 6065 (h)
001 212 907 7785 (w)
001 212 772 3880 (h)

Arion Joaquin Fernandez de

Cordoba
Castillo de Malpica
Replicas de Lago
P. de la Reina, Toledo,
(11M) Hispania 6
28002
Madrid
Spain
00 34 25 877113 (h)
00 34 1 141 1375 (h)
00 34 1 262 4331 (w)

Arion, Fernando

20 & 712 E palm Street
New York, NY 10021
001 212 898 1428 (w)
001 212 742 1029 (h)

Armstrong, Arthur & Cathy

001 212 737 7290 (h)

Aron, Herve & Marine

32 East 67th Street
New York, NY 10021
001 212 535 8623 (h)
001 212 988 5248 (m)

Ash, Lorinda

765 Park Ave
488
001 212 535 8835 (h)
001 212 734 0100 (w)

Ashley & Allegra Hicks

32 Walpole St.
London
SW3 4QS,
07873 134277 (p)
0207 7303130 (p)

Ashley, Nick & Ari

57 Leebury Rd
London
W11 2AA
0207 244 1221 (w)
0207 637 1064 (h)
0207 937 1088 (h)
0207 736 9700 (w)
0207 4271 1221 (w)
0139 12461

Assaf, Charlotte & Vittorio

21 East 66th St (h)
New York
NY 10021
001 212 688 3820 (h)
001 212 683 3040 (h)
Email: l.assaf@aol.com
001 917 3314656 (p)
646 431 3052 (emergency con-
tact)

Astaire, Mr Simon

60 Cathcart Road
London SW10
001 212 353 1285 (h)
0207 351 7973 (h)
001 212 235 5757

Astor Viscount William

0207-412 0703(w)

Atkin Helene

509 and a half cornelicut St
SF 94110
001 650 851 2669
001 650 851 2669
001 650 9876 (w)
001 650 224 2198 (p)
650 851 2869 (h) Home

Atkin, Mike & Ami

825 Washington Street #5A
Hoboken NJ 07030 USA

001 201 659 3299 (h)
001 201 831 2152 (w)

Aznar Jose

S&S Capital
740 West 57th Street
New York, NY
001 646 831 1929
Email: jose@siscapital.com

Baddeley Jean

Enca Las Colinas
Lisa de Correos
29100 COIN
Malaga, Spain
Email: queenbee@mercury.nes
34 952 17 28 14 (h)
0034 952 17 28 65
0034 952 17 28 65
0385 770 677 (p)

Bahrke Peter

0207-973 9250
00 45 707 66655
Email: pb@darkwright.co.uk

Baker Danny

001 917 647 9649

Bakhitar, Shariar

Church Palm Cottage
Coats Cirencester Gloss

0285 770087 (f)
0285 770146 (h)

Balazs, Andre

The Mercer
112, Greene Street #5A (h)
New York, NY 10012
212 226 1525 (h)
212 226 6224 (w)
Email: hotelasbi@aol.com
(Hm)33 Nostrend Parkway
Staten Island, NY 11665
212 226 3537 Home
213 656 1010
646 286 4170 (p)
646 221 7221 (p)
631 749 0494 (h)
631 749 0512 (h)
212 226 5656 x 201 (w)

Baldwin Alec

001 212 789 7875(h)
001 516 205 2532(c)

Balliol College, Oxford

Oxford, England OX1 3EU
0865 277803

Bamford George/alice

Daylesford House
Moreton-in-Marsh
Gloucestershire
GL66 0TH
01608 889777
Email: alice@scbpartners.com

+44 7831 136 210 Alice (p)
001 917 873 6156 George (p)
+44 7836 747548 George UK cell

Bamford Sir Anthony and Lady C

018895 90312 (res)
01608 68977 (res)

Bande, Doug

Office of William J. Clinton
16 West 125th St
New York, NY 10027
202 320 4109 p
212 348 8882
Email: wjc@imcingular.com
(Hm)200 West 60th
New York
NY 10023

212 348 6751 David Slade
202 409 8002 Mike Lee (w)
202 409 8165 Mike Lee (h)
911 626 8165 Mike Lee (h)
877 741 2905 Mike Lee (h)
Mike Lee email
mlee@ussc.ilcas.gov
676 875 24 101 Saira Latham
846 227 4930 Denise Diorio
212 348 0452 Joe Cashion asst.
director sch

202 348 5546 Uma
202 348 5493 Mark Galaspie
202 348 8331 Jim Morrison
212 348 9245 fax
212 348 4963 Hanna Richert
212 348 1719 Laura (Clinton's

scheduler)
941 349 6467 doug bands h
917 887 8468 Jim Ken-
ney (press)
514 861 9380 no.42 do not use

Bannister, Cilve

HSC International Bank plc
8 Canada Square
London, E74 5HQ UK
011442079916162 (w)
44 207 991 4320 (w)
44 77 1840 228 portabla
1840 228 home
011442079916162
011442079916162 Cilve Direct at
work

Banon, Javier

IFB International Finance Bank
55 East 59th Street
New York, NY 10022
001 212 388 9300 (p)
001 212 388 9300 (p)
001 212 388 9300 (w)
001 212 687 2818
001 646 734 7618 (p)

Barham, Nicholas & Gretal

95 Eaton Terrace
Bellevue
London SW1W 8TY;
0207 823 6760(h)
0207 389 5010 (w)
nbarham@earlinglongroup.co

(Hm)103-87/97 Yarranabbe Gar-
dens
Darling Point
Sydney, Australia
07836 566480 Portabla
01734 713398 Country
001 917 826 5946 (p)
0207 730 3859 (h)
012 932 6 3859 (h-Australia)
001 614 0209 7007 (other porta-
ble)
020 7389 5019 w-direct line
020 7389 5015 (Asst. Helen
Andrews)
020 7389 5011 (w)

Barnes, Peter

001 213 621 2332 (w)

Barnett, Craig

993 Park Lane
001 212 727 0012
001 517 754-7456 (p)

Bastone, Hillary

0207 259 6070

Batstone Hillary

8 Holborn Place
London SW1V 8NL
001 212 727 0012
(Hm)24 11 Street
London SW1V 8NL
0171 381 2554(h)

0836-594-908(p).

Batstone, Tim Natasha

01492 580274(h)
01492 876533(h)
0492 860584(h)
0492 76593 (w)

Baumer, Lorenzo

00 33 1 428 8933
00 33 1 428 8944(f)
Email: www.lorenzbaumer.com

Beaumont, Lord & Lady

40 Elms Road
105 Gosport
0207 498 9604

Beckwith, Tamara

001 323 864 4005

Belzberg, Lisa

7 E. 67th Street
New York, NY 10021
001 212 647 7777(mw)
001 212 517 5009(h)
001 212 517 5009(h)
30 West 26th Street
2nd Floor
New York, NY 10010
001 914 234 3087 (h)
012 498 7742 (h)
646 638 0565 (w)

212 249 6801 (Asst Erin Eagen)

Benson, Steven

001 212 745 7352 (w)
001 212 832 0051 (h)

Bentlinck, Baron

Moyna Park
Birdbrook near Halstead
Essex, England CO94BP
01 440 730396(o)
01 440 734 4863(p)
Email: bentlinck@msn.com
00 468 864 224 (p)
01440 730073 (h)

Berggruen, Nicolas

Alpha Investment Management
110 East 58th Street (w)
33rd Floor
New York, NY 10022
001 212 421 0169 (f)
Email: nicolasb@alphamgmt.com

Yvon Pierre Hotel (h)
Suite 3104
NYC 10021

001 212 538 9000 (h)
001 786 553 7277 (p)
001 786 553 7277 (w)
646 624 0111 (Emergency Contact)

Berkman, Bill

The Associated Group
650 Madison Avenue
25th Floor
New York, NY 10022
212 301 2800 (p)
212 301 2811 (f)
10012 Mercer St (home)
001 917 520 8910
001 212 625 0066(h)

Bernard, Tara

07 770 523 148(p)

Birchall, Martyn

44 E. 12th Street
New York, NY 10003
212 253 0439 (h)
212 253 0439 (h)
212 253 0438 Office Fax

Birley, Robin

25 Temple Square
London SW2 2AE
0207 591 1940 (h)
07730 396 656 (p)
Email: rbirley@birleys.co.uk
Birleys Limited (w)
217 Marsh Wall
London, E14 9J
0207 513 8885 (w)
00 34 52 78 6271 (Mar)
020 7538 1347 (w)

Bismarck, Debbie & Bola Von

1 Gerald Road, 9EH
London, W14 8JH
0207 808 4800 (h)
0207 808 4801(h)
Email: bismarck@netcomuk.co.uk
0207 730 6224
07 77 05 23 026 (p)

Bismark Vanessa Von

43 West 13th St.
Apt. PHF
New York
001 917 497 4970
001 212 741 0141(w)
(Hm)112 West 27th (w)
Suite 401
New York
001 212 645 6331 (h)
001 212 529 3400
001 212 517 5697
001 212 741 0630 (w)

Bisson, Jean Marc

001 212 989 4228 (h)
001 917 699 4523 (p)
001 917 983 0642 Beeper

Bjorlin, Jean Paul

Juillard School
60 Lincoln Center Plaza
Box 800
NY, NY 10023

917 822 9168

Black, Conrad & Barbara

Freelance International

112 Fifth Avenue

New York, NY 10019

0207 591 1711

1 416 441 2748 (h)

Email: black@poststamp.net (Co

(Hm) London home)

14 Collesmore Gardens

London W8 5PR

1 305 955 0400 (w)

1 416 216 0401 (w)

0208 341 3893

0207 536 6219 (w) London

1 416 441 0551 (w) Toronto

0207 451 0551 (w) Toronto

1 212 596 5666 (Almanger

1 212 452 1301 (h)

1 917 754 3721 (h)

1 212 588 4853 Penny (Barbara's

Assist)

1 416 363 2454 (w) Toronto

44207460868 (h)

561 833 7139 PB

44 207 937 2688 London (h)

212 452 1306 NY (h)

212 452 1306 NY (h)

Blacker (Blogs & Jill), Mr

& M

Oak Hanger

Reeds Lane

Liss Haris

01730 852114

Boardman Serena

001 212 628 7542(h)

001 471 1329(w)

Boden, Johnite & Sophie

1 Dawson Place

London W2 3PD

0207 221 6013 (w)

Blaine David

917 523 4557(p)

917 771 7577 (colin hiss asst.)

Blair Tony

Executive Key

0207-321 0905,

Bloomberg Mike

499 Park Avenue

13th Floor

New York, NY 10022

001 212 772 1081 (h)

Email:

mbloomberg@bloomberg.net

(Hm) 1 East 73th St

001 917 319 2000 ext 2005 (w)

001 917 692 4249

001 212 772 1081(h)

Boardman Samantha

001 212 737 4058

011 561 689 7899

0208-964 2662(h)

Bodini Daniel

American Properties

400 Park Avenue

New York, New York

001 212 826 9700 (w)

712 935 0713 (h)

800 Fifth Avenue

New York, NY 10021

Boisgein, Edward de

60 Starnoga News East

0207 584 1456 (h)

0207-867 4056 (w)

Boisguilbert, Pierre de

00 33 1 45 63 03 62

00 33 1 47 71 08 54

00 33 1 4026 1529 fax

Bond Anabelle

0776 6012181

Email: ab@annabellebond.com

Bonomi, Andrea & Giola

Via della Spiga 26

Milano, 20121

02 454 71579

0417 95428093(Gp)

Email: gbonomi@aol.com

Bookis Nicholas

001 212 265 6930(h)

Booth Mark & Lauren

NetJets

60 Soane Avenue

London W8 5PR

0207 591 1711

0207 323 9847(h)

Email: mbooth@netjets.com

(Hm) 13 Collingham Gardens

London W8 5PR

0207 590 5117 (w)

07711 110123 (p)

020 7373 1350 (h)

07711 795782 (Car)

020 7590 5112 (w-direct)

Maria Bevan (asst)

Boothe, Christina A.

0207 -774 9857 (w)

Email: christina.boothe@gs.com

Borgese Paulo

00 33 06 320 3804(h)

00 33 07 47 10234

00 39 6 6880 46 51 (p)

00 39 348 410 9589

Borrico, Michael

President

Certified Contracting Inc.

123 West 15th St. (HW)

NY, NY 10011

001 212 397 1945(w)

001 212 397 4454 (h)
Email: mgdort@sol.com
001 646 041 6511 Call

0207-589 8919

Bossom, Hon Bruce and Penelope
34 Princesdele Road
London W11 4NJ,
0386 88533 (h)
0386 88533 (h)
0207-727 5127 (h)

Boucherie Sylvianne
80 Ave Du Maine
Paris 75014
00 33 1 4321 6090(h)
0033 1 4321 0786(h)
Email: sylvibou@club-internet.fr
33 607 559712 (p)

Bourke, Rick
Fort Hills Lane
Greenwich, Connellout, 06831
001 203 853 7515(h)
001 203 661 3743(h)
001 914 646 4000
001 203 629 0157

Bowles, Hamish
14952
001 212 286 6077
001 212 678 8608(h)
001 212 286 6037 (w)
00 33 1 4544 1488 (h)
0033 1441178 3137 (w)

Bram, Ben
212 902 8520

Brand Tony
Plan Sud
212 431 8590
212 431 8724 (h)
Email: tony@plansudny.com

Brandolini d'Adda
Residence Le Pavillon
19 Avenue Montaigne
Paris 75008
060 751 7333 Georgina
01 44 4343 35
01 4 952 0916 fax

Brandolini Nuno & Muriel
167 E 80th (h)
NY NY 10021
001 212 288 6930 (h)
212 288 6946 (h)
Email: murielbrand@sol.com
108 Newtown Road
Hampton Bays
917 655 6193 (p)
212 229 4920 (w)
212 288 6946 (w)

Brandt, Peter
001 561 798 0460 (h)

001 581 795 4128 (f)
Branson, Richard
80 Oxford Avenue
New York, NY 10019
08675 3163 (h)
0207-229 1282 (h)
0207-286 1213 (w)

Briatore, Flavio
Engest Manoz
Engest
Hanley on Thame
44 1608 678 000 (w)
44 1608 678 804 (f)
Email: flavio.briatore@uk.renault
Renault F.Ltd. (w)
Chipping Norton
Oxfordshire, OX7 4EE U.K.
+44 7785 307 306 (p)
+44 1491 639 610 (h)
+44 1491 639 615 888 Rosella
(Flavio's sister)
+44 1491 639 012 (ht)
+44 1608 672 410 Direct
00871 3332 71 610 Boat/Plane
+44 7785 307 308 Emer

Broadhurst, Julia
Speedo
4 Apple Lane
Newport, SA
00 27 21 534 1431 (w)
Email: julia@cygnel.co.za

Brogie, Louis Albert de
14 rue de la Francquille
Paris 75018 France
84 rue de Bancel
Paris, 75018

Bronfman, Jr., Edgar
Lexa Partners, LLC
390 Park Avenue
New York, NY 10022
212 433 1212 (w)
212 422 1213 (w)

Brooks, Christopher & Amanda
191 Chrystie Street
Apartment 5R
New York, NY
10002
001 917 42870 (h)
001 917 353 3224 (aw)
Email: B@brooksandamanda.com
001 917 498 9772 (ap)
347 865 1847 (cp)

Brooks, Miranda
34 King Street
New York 10014
001 212 255 0395
001 917 378 3718
Email: mirandabrooks@omninet.com
001 212 460 2082 (w)
212 982 2860 Emergency Contact
- Brother

Brown, Chris & Alison
1 East 62nd Street
New York, N.Y. 10021
001 212 772-8435
0207-259 6441
Email: cbrown62@aol.com
001 212 582 5400 (h)
001 212 582 5400 (w)
001 212 580 5558 (aw)

Bruce, James & Lucinda
1st Peter's Square
London W1A 3AB
0208-741 0276 (h)
0207-382 8617 (w)

Brunel, Jean-Luc
Kerim Models
99 Boulevard Haussmann (h)
75008, Paris, France
9 Avenue Hoche (w)
Paris, France 75008
1 212 256 4000 (w)
1 212 256 4000 (h)
Email: JeanLuc@kerimmodels.com
(Hm)(h) 721 Fifth Avenue 49
(w) 6 W. 14th Street 3rd floor
New York, NY
001 212 4265 1835 (h)
001 331 4563 0823 (w)
0 212 750 3849 (h)
0 212 306 0956 2000 (p)
+33 1 43 46 50 815 (w/f)
011 331 4656 3018 (h)
1 516 537 3018 (h)
1305 672 8300 Karine (h)
+3314563 8949 (Pamela w)

cboulet@easynet.fr Pamela
646 285 7007 (p)
011 336 1472 7262 Michael
646 638 3722 x222 Eve (Jean
Luc's P/A)
046 826 1738 Eve's fax #
011 3511 6135 0000 (p) Brazil

Bryer, Tania
Har 2 W. 51st St
New York, NY 10019
0207-584 4410

Buck Joan Juliet
001 505 983 8683

Buffet, Jimmy & Jane
540 South Ocean Drive
Palm Beach, Florida 33480
001 407 655 3668

Bull, Bartle
Jones, Hirsch, Connors & Bull
439 E. 51st Street
New York, NY 10022
212 593 1980 (h)
212 593 1980 (w)
Email: bull@hchcb.com
845 373 8586 (h)

Bullough, Hamish and Emma
Ashpocking Hse67 Abingdon Vill
Ashpocking

Suffolk IPS BLG
01473 890130(h)
01473 890131(h)
207 986 0260 (w)
7831 191770 (p)
7774 128696 (ar)

Burckle, Ron
9130 West Sunset Blvd. (w)
LA, CA 90069
310 985 6998p
310 991 0338 (w)
310 271 0038 (h)

Burney, Mr Jules
58 Bradbourne St
London SW6 3TE
0207 252 4001 (h)
0207 252 4001 (w)
001 917 869 9090
0207-352 4001 (w)

Burtill, Martin
001 212 941 1105

Bushnell, Candice
001 212 986 3697 (h)
001 212 986 3697 (h)
001 212 757 8100
001 212 472 7400

Busson, Arkl

125 East 64 Street
New York NY 10021 USA
001 212 690 6100
001 212 338 9664
001 212 472 8719 (h)
001 212 751 4510 (h)
00 33 1 4727 2021 (w)

Butler, Charlie

12 Pelham Crescent
London NW10 7NR UK
0207 589 7250 (h)
0207 589 7250 (h)
0207 495 4839 (w)
01 786 472 006 (h) Scotland
07 809 918 718 mobile

Button Terri

175 International
London SW16 7LJ
0795 842 0063 (h)
0207 351 7638 (h)
Email: terri_button@hotmail.com
Ann: 19 Sympson Close (parents)
Oxfordshire
OX14 5PR
01865 437505 (sister)
01235 529226 Parents
0207 795 5697 (w)
0207 351 7638 (h)

Byng, Robert

Belgravia Court
33 Ebury Street
London SW1

0207-730 4665 (h)
0207-836 2002 (w)

Cadenet de Alain

30 Queens Place News
London SW7
0207-373 3602(h)
0207- 584 5511(w)

Calacanis, Jason

601 W 28th Street (h)
212 475 8000 (h)
917 587 6209
212 627 9607 (h)

Caledon, Nicky

Caledon Castle
Caledon
Nr Armagh Co Tyrone
Northern Ireland,
0041 282 232
0041 282 777 (Verbier)
0861 586123 (h)
0207-828 2178 (f)
0861 588 232 Ireland
0207- 351 4544 (h)
3 Pely Place London SW3 5DJ

Calvo-Platero, Mario/Arladne

251 West 19th St
New York NY 10011
212 620 9081 (h)
212 683 8997 (h)
Email: 1291610@aol.com
001 212 755 7700 (MW)

001 212 920 9081 (h)
001 212 755 7766 (AW)
001 631 283 1966 hampton
001 212 847 7699 car
001 212 352 8937 (m)
001 615 352 8937 (mp)
001 917 854 2088 (p)
001 917 856 9980 (p)

Cambell Roddy

0207-221 4264(h)
0170 666089
0207-292 5699 Office

Cambell, Alistar

10 Downing St
London SW1 33
0207 930 4433 #10 Downing
Street

Camerana, Giancarlo

09 41 1 201 5930 (w)
00 41 1 910 3735 (h)

Cammy

917 859 5005

Campbell, Naomi

126-127 Pier House
31 Cheyne Walk
London
SW3 0XX
0207-376 7308(h)

001 310 625 5500(p)
Email: 4284063@sktel.com
(h)mpo NC Connect
601 West 26th Street
New York NY 10001
001 212 693 0039 (h)
07785 363 359 cell
310 276 6780/8 home
347 922 1456 (p)
212 320 3636 NC Connect (w)
00 54 11 9668 635 (p) Brazil
001 212 489 0039 (h)
212 320 3640 Asst. Arrel
212 320 3725 (w) NC Connect

Campo del Brooke & Emilio

33 Hyde Park Gate
London SW7 5DN
0207-584 7886(h)

Candole, Andrew de

Flat 1
6 Lowndes St
London SW1
017 823 3737 (w)
0487 777666
0207-736 9669
0631 121988

Candy, Nicholas A C

Candy and Candy Ltd
50 Roper Street
London EC1A 3JW ONR
Email: nick@candyandcandy.com
(p) 44 (0) 20 7824 7526
(p) 44 (0) 7770 888 130

(f) 44 (0) 20 7624 7521

Caprice

0797 476 7885 (p)
0207-834 3840 (f)
001 310 344 8904 (p)

Carello Sara Massimo

0207-684 6919

Carey, William & Carina

57 Basing Road
London, SW6 4BZ,
0207-731 1826 (h)

Carlborn Camila

167 W 4th St
New York, NY 10014
001 212 5422 8445
001 617 535 1033

Carmine

00 39 0823906750
00 39 3853323678

Carrera, Barbara

001 213 476 6885 (h)
001 213 476 9887 (fax)

Caruth, Sophie

0795 0096823
14B Belle Vue Road
Widgworth Common
SW19 6JF
0208-672 8276

Carvalho, Michel & Charlene

35 Egerston Crescent
London, SW3
0207-730 1679 (h)

Casagrande, Guido

5 Via Borgonuovo
Milano, Italy 20121
00 39 2 878944 (w)
00 39 3053341 (c)
00 39 2 878734 (fax)
00 39 335284407 (p)
001 516 537 5487

Case Simon

00 62 21392 9856
00 62 811 803089

Case, George & Pauline

34 Talbot Rd,
London, W1G
0207-229 1022

Castaneda Debbie

335 634 9863

Cator, Alby and Victoria

55 Melbury Road
Flat 1
London, W14 8AD
0207- 602-8377 (h)
01603 721030
Email: 0385 336319

Cecil Mark & Mini

PO Box 49428
Nairobi, Kenya
00 801 75478
00 801 75478

Cecil Mark & Mini

The Lawn Hse
Hatfield Park
Hatfield
01707 251395

Cecil Stephenson, Aurelia

Hugditch Cottage
Hainsbury
Windsor, UK
SNR 2HL
0207-351 2227(w)
0207-884 2007(h)
Email: cc@celestina_london.co.uk
0468 992900

01672 521 237

Cecil, Dr. Mark

7 Alexander Square
SW3 2AY, UK
207 225 0031 (h)
207 225 0081(h)
Email: mark.cecil@sigpartners.co
72455166 (p)
764 488 8886 (Nostique)

Cerina, Fabrizio

Credit des Alpes
Via Vessia 5G
68010 Lusa
001 917 496 0606(p)
01144 7600 88883(p)
Email: fc@creditalpes.com
00 39 06 262 262 (h) Milan
00 39 02 591 3803 (w)
001 212 311 6353 (h)
00 41 91 923 7185 (w) Lugano
00 41 91 923 1436 (w)
00 41 22 731 8001 (w) Geneva
00 41 22 731 8077 (w)
+39 358 29864 (p)
+39 358 29864 (p)
917 486 0606 (p) (Giancarlo
Cammarata, PA)

Carutti Gian Carlo

Via Adam 66
15033 Casale Monferrato
00 39 142 45943 (w)
00 39 142 459439 (w)

Chatwal Vikram
Hemeshire Hotel & Resorts
595 Eleventh Ave.
New York, NY 10036
1 212 478 3880 (w)
1 212 320 3200 (f)
(f-m) Central Park West #32F
10023
1 917 442 7425 (p)

**Chenevix-Trench, John
& Lucy**
4 Albert Place
London, W8 5PD
0207 376 1195
0385 778862
00 33 53 90 3937 (c)
00 33 425 7672 (w)
0207 376 1183 (f)

Cicogna Gianluca
1020 5th Avenue
14th floor
New York, NY 10028
001 212 515 5500 (f)
0207 275 0350 (f)
Email: ggc@zanett.com
001 212 388 0224 (h)
001 917 554 8110 (p)

Cicogna, Geoconda
15 Queens Gate Gdns
London, SW7
0207 599 1863/581 451 (h)

00 34 52 855247 (marb)
00 34 52 855010 (little house)

Cicogna, Gianfranco
70a Fulham Road
London, SW3
Email: g.cicogna@ursustel.net
0207 584 3880 (f)
0207 584 3880 (f)
00 27 11 804 1906 (f)
00 27 1976 1224 (fax)
00 27 363891
00 27 363891
00 27 353 23 0000 (p)
00 27 353 23 1191 (S. Africa-h)

Cicogna, Marina
00 39 6 6789234 (Rome)
00 39 6 9026023 (Rome)
00 41 82 34584 (S t M)

**Cicognani, Pietro
& Alejandra**
125E 74th St
New York, NY 10021
001 212 628 7661 (h)
001 212 628 7661 (h)
001 212 245 4860 (w)
001 212 245 4860 (w)
001 212 245 4860 (w)
001 212 245 4860 (w)
001 212 245 4860 (w)

Clerach, Linska
The Studio
1c Clareville Grove
London
SW7 3AU.

0207 373 3131
0488 275 050 (p)

Cipriani Guiseppi
212 499 0599 (w)
917 353 3445 (p)

**Cisneros, Gustavo and
Patty**
950 5th Avenue
New York, New York 10021
001 212 717 5880 (h)

Claverino, Amadeo
00 39 2 600 3666 (h)
00 39 2 593 05 00 7 (w)

Claverino, Isabel
00 3902 7231 8479
011 39 0272 3181 (w)
(Hm) 00 39 335 820 0541

Cleese John Alice Fay
asc.gary
0207 222 6344 (h)
0207 222 2472 (w)

**Clompson, Graham &
Emma**
30 Sloane Court West
London SW3,

0207-730 2851 (h)
0207-982 2085 (w)

Clive, Lucy
45 Elgin Crescent
London
W11 2JU
0207 221 7677 (h)
07851 214 282 (p)
Email: clive@clive.co.uk

0208-453 1345 work
001-908-234-7554 New Jersey
0207-235-1186 Uncle
001 516 353 1926 (p)

Coben, Larry
Sunrise Capital Partners
101 W 12th Street Apt 35
New York, NY 10013 USA
001 212 366 6866
212 592 3005 fax
Email: lcben@chilz.com
(Hm) 885 Third Ave, 15th floor
New York, NY 10017-4024
001 212 675 3385 (h)
001 212 592 3015 (w) dual (w)
212 497 4259 direct dual (w)

Cochrane, Ms Mandy
2 Poplar Grove
New York, NY
0404 624 632
0207-603 6807 (h)

Cohen Dalt
76 Elm Park Mansions

Park Walk
London SW10
0207 995 8984(w)
0207 349 0310(h)
07 850 736 286 cell
0207 573 0055 (w)

Cohen Peter
400 South Point Drive
Apt. 2402
Miami Beach
Fla 33133
001 305 531 5370(h)
001 305 772 3885(p)
Email: peter@netbox.com
305 688 9938

Coleman, Jo
001 212 280 7210 (w)
001 212 466 884(h)
(Hm) 165 E. 63rd St.
12A
New York
NY 10021

Coleridge, Nicholas & Georgia
38 Pricedale Road
London, W11 4NN
01144 207 221 4293(h)
Email:
020 7499 0052 Nick (w)
020 7499 0052 Nick (w)
020 7221 4293 (h)

Colle Jeffrey
001 212 388 8555(w)
001 212 388 4410(h)
001 412 988 4410(h)
001 516 535 5908(h)
001 516 324 8500 (w)
001 516 443 8500(p)

Collins Phil & Orianne
41 22 994 40 14 (w)
41 22 994 40 14 (h)
Email: orianne@ltdrea
41 79 414 94 05(p)

Conrad, Henrietta
4a Pentridge Mews
London SW11 4EW
0207 271 6370 (h)
07831 372264 (h)
0207 192 3833 fax
0207 712 8300 (w)
72435101

Constantine, Susannah
Sten Ber
40 Brymer Rd
London, SW11 4EW
0207 278 3212(w)
0207 20 8862(h)
Email: SConstantine@breathtell.ne
(Hm) Susannah@ready2.com(w)
0797 181 5895(p)
00 33 9054 3552 (Fra)

Cooke, Clive
721 Fish Avenue #63H
New York, NY 10022
001 212 421 5085 (h)
001 212 668 9668 (w)
SW, NY 10038 W: 199 Water
St. 001 212 668 9668
516 283 1839 Southampton:
07 715 172 772

Cordle, Ms Rachel
54A Radcliffe Square
London W1A 1BSL
0207 733 3943 (h)
0207 581 7034 (w)

Cordle, Rupert & Camilla
33 Albert Bridge rd
London W1A 1BSL
0207 738 8997
0836 323616 (Op)
Email: rupert.cordle@ukonline.co
(Hm) 34 Albert Bridge Road (w)
0207 498 5645(w)
07831 584 053 (Rp)
207 498 5689 (Assl. Alise)

Cordova Hohenlohe, Fernando de
Bridges 46
28002 Madrid
120 1/2 East 65th St.

New York, NY 10021
001 212 772 1029
00 34 11 75 75 Spain
001 212 926 7428 (w)
001 212 421 1430 (h)

Cotterell, Harry
Byford Court
Byford, Herefordshire
HR4 4JY
0981-22227 (h)

Courcel Martine De
00 33 6 07 58 96 99

Cowdray, Marina
The Viscountess Cowd
Cowdray House
Cowdray Park, Midhurst
West Sussex
GU29 0JAY
01730 812122 (l)
Email: house@cowdray.demon.co.uk

Cowle, Colin
11 E. 68th Street
New York, NY 10021
001 212 366 9007
001 212 366 9012(p)
Email: cawcowle@aol.com
001 212 366 9012 (p)
001 212 366 9012 (p)
001 212 366 9012 (p)

Crabbe, Sophie
223 Canmer Court
Whitehead Grove, London
SW3 3HD
01144207-581 8920(h)
07768 208 209 cell

Cudro, Alastair
00 3315 389 4762 (h)
00 3314 252 7234 (w)
00 3314 252 7234 (w)

Curry, R. Boykin
400 Park Avenue
New York, NY 10022
212 293 4001 (w)
212 293 4045 (w)
1-Hm 106 Central Park South
Apt 2/A
New York, NY 10019
001 917 572 4659 (p)

Cutter, Amanda
191 Chrysler Street
Apartment 5B
New York, NY
10002
012 914 2970 (h)
012 914 9772 (ap)
Email: B.Boyd@cc@aol.com
347 865 1647 (cp)

d'abo, Henri & Tatiana
West Writling Park

West Writling
0223 208 1116
0207-352 7165

d'abo, Mrs Jennifer
13 Willon Crescent
London, SW1X 8RN,
0207-581 8920 (h)
0225 290328 (c)

D'Alessie, Carman
001 212 245 9914

d'Arenberg, Prince Pi-
erre
725 est 72nd
003 3609 1864 20(p)
012 752 8888 (NY)
1008 Route de la Balaz
Switzerland
0207-225 0404(w)
0207-351 5428 (f)
00 33 498 4 8018 (h)
00 33 213 34 80 16 (f)
001 212 345 9406 (via)
01152 315 35 10157 Mexico (w)

d'Uzas Jacques de
crussol
00 33 66 221895 (w)
00 33 42 868688 (h)

Dabbaugh, Amr A.
011 966 2669 7220(w)
011 966 2669 6184(f)
Email: amrdabbaugh@aol.com
01144 778 533 3365 (p)

Dahl, Sophie
01 212 925 6484(h)
01 646 244 7739(p)

Darrin, Drake
1 West 81st Street
New York
10024
001 212 590 0555 (h)
001 212 644-6001 (w)
001 212 273 0643 (p)

Dartmouth William
16 Westbourne Terrace
London W2 3UW
0207-723 8728
0207-224 8446 (f)
Email: william@dartmouth.

Davies Jeff
001 213 280 6666(p)
Email: megdalen@mac.com
818 9954 7353 Robert Maron (ent
magr)

Davies, David & Linda
85 Eaton Place
London, SW1
0207-730 1317 (h)
0207-730 2331 (f)

Davis Michael
001 310 503 2233(p)
001 212 9882386(h)
Email: midav@earthlink.com

Day, Nick and Heather
P&D Development Company
P.O. Box 34
2 Hummuth Street
Kenya Flat #3
001 254 569933 day
00 254 569933 day
00 254 5374811 nit
00 254 744008 (fax)
0207-352 2553 (h)

de Andrade, Marcelo
Rua Euclides Figueiredo 76
Jardim Botânico, RJ Brazil
22261-070
001 212 717 7109 (w)
Email: macedo@igol.net
Chilavert Center 164
Cobertura
20030-020
001 917 695 8496 (p)
00 55 21 253 2318 (w)
00 55 21 253 2318 (w)
00 55 21 352 78356 (h)
00 55 21 6986 5233 (p)
001 917 695 8496 (p)
00 33 1 5359 9799 (w)
00 33 1 1544 4713 (p)

55 21 2524 5682 (w/)

de Baecque, Patrick
33 8 11 87 9260
Email: pdebaecque@lefigaro.fr

de Cabrol, Milly
150 East 72nd Street
New York, NY 10021
001 212 988 4912
001 316 725 7226
(Hm)001 917 533 5580 Jaf p

De Cadenet, Alan
0207-564 5511
001 213 654 0384

de Clermont-Tonnerre, Hermine
Princes
19 Rue de Saules
Paris 75018
0033 1 4550 80 11(h)
00 33 1 4550 3091 p
0771 886 0653

De Georgiou, Anouska
28 Porten Road
London, W14 0LQ
07736 3674(p)
0207 602 7713 mom's friend

De Soto, Fernando
Ninez De Balboa 81
Madrid Spain 28006
00 341-519-9395

Dejieu, Jean & Paulette
40300 Emma Malson Tartas
France
00 33 58 991623 (h)
00 33 1 4233 0319

Del Bono, Luca
Quintessentially
15-19 Great Titchfield Street
London, United Kingdom W1W
8022
0207 908 7270 (w)
0207 908 7455 (w)

Email: foelbono@quintessentially.com
001 212 337 7740
1 212 837 7740
0164 632 5889
0796 629 0008 (p)

Dell, Adam
001 917 414 2876 (p)
001 212 216 3931 (w)

Deluca Dina & Fouard Chartuani
1001 Fifth Avenue
New York, NY 10028

011 917 592 6424(dp)
(Hm)28 E 63rd St.
New York
NY 10021
001 212 895 8824 (o)
001 212 538 0751 (h)
001 212 538 0751 (v)
001 516 367 3643 (c)
001 212 687 3503 (w)

Derby Earl /Cntess Cass & Ted

1 Netherland Grove
Leeds, SW10 9TQ
0207-352 5959 (t)
0207-352 2455 (t)
Email: derby@knowsley.com
(Hm)Knowsley
Merseyside L34 4AF UK
0151 489 6147 (h)Merseyside
0151 483 1988 (h)Merseyside
0700 00DERBY Personal
07785 901 624 C- portable
0207 409 5600 (w-direct)
0207 409 5710 (w-direct)
0151 483 1988 (w)

Derby, Ros & Jonathan
559 Regent Avenue
Pacific Heights, CA 90272
001 310 330 3041 (h)
001 310 330 3041 (h)
001 310 230 3051 (h)
001 310 280 7855(w)

Di Vita, Charlotte
917 539 0769 (p)

Dickenson, Debbie
240 E. 75 St
NY NY 10021
001 212 734 3455

Dickinson, Janice
001 310-441-0048 (w)
001 310-441-0068 (f)
001 212-445-6713 Chris Royer

Dieirich Marc Antoine and Cath
51 Ave Montigne
Paris 75008
00 331 4256 9672

Dietrich, Paul & Laura
President
Meridian Emerging Markets, Ltd
1141 Cusitis St. (h&w)
Alexandria
22309

001 703 660 9080 (h)
001 703 768 9780(w)
Email: ldy@worldnet.att.net(L)
001 703 768 9780 (h&w)
001 703 827 7090 (Lp)
001 703 827 7090 (Lp)

Dimbelby Johnathan
0207-221 4545
0207-752 1088

Email: 0171-243 1643(f)

Diniz, Pedro

Pro Sports
Rue Anant, 255-1, Andar
San Paulo, Brazil
01143 614 14 84
01133 614 14 84
55 11 3077 5151
01155 11 9981 7005 Brazil
01155 11 388 607666 (Paula)
55 11 3079 9936 (w)

Dixon, Alexandra

17 Seaton Close
Lynden Gate
Pulney Heath
London SW15 3TJ UK
+44 20 8785 7938 (h)
01144 784 788 9336(p)
Email:
alexandra@dixon81073.frae
(Hm)Kismet
Traviesa 7
Los Miradores
Km 8.5, Malaga Spain
808 897 7559 office in Hawaii
+34 952 82 5331 Spain h
+44 20 8788 3975 Parents

Djerassi, Dale

001 650 747 0608
001 415 695 0636(p)

Dolbey, Alex & Suzla

Short Hood

Hasterton
St Albans
Herts SG13 8JQ UK
01473 738 130 (h)
01473 735 180 (w)
Email: stolbey@msn.com /
dolbey@

France,
07776 305 335 (p)
0207 725 5018 (w)
0207 307 8888 (Alex-direct w)
0207 307 8888 (Alex-main w)
0207 307 8880 (A-wf)
07960 71 88 69 (Answering svc)

Donne, Alegra

415 Fulham Road
London SW6
0207 381 1598 (h)
0207 498 2355 (w)

Dori

1 917 476 7742

Dorrit

0207-235 5957

**Doss, David & Christy
Prunier**

315 Riverside Drive
New York, NY 10024

Douglas, Diandra

123 East 69th Street
New York, NY 10021
01 212 246 6411
01 917 362 8442
Email: diandra_m@yahoo.com
diandra_m@yahoo.com
Santa Barbara, CA 93108
917 351 4955 other cell
846 361 1127 (w)
212 585 1127 (h)
212 585 1126 (h)
505 969 9090 (CA home phone)

Dr Eli Wiesel

001 212 371 7029

Drax, Jeremy

326 Fulham Road
SW6
0207-352 2090 (h)
0207-978 2318 (w)

Dreesmann, Bernard

5 Pier House
Cheyne Walk
London SW3
0207 351 0449 (h)
0207 351 0449 (w)
0372-272911 (c)

Driver, Minnie

001 323 656 8199(w)
Email: minned@earthlink.net

Dubbi, Anthony V.

6 East 79th st
NYC, NY
10021
212 734 6060
Email: tony@avdub.com

Dubbens, Peter

0207 376 8755 (h)

Dubin, Glen

Dubin & Swires
1010 Fifth Ave - Apt 11D(h)
NY, NY 10028
9 West 57th Street, 27th floor
New York, New York 10019
212 287 4856 (h)
212 287 4856 (w)
Email: glenn@hcmny.com
(Hm)9 Turkey Hill Road
North Salem, NY 10560
212-288-4844 (h)
212-289-5548 (h)
212-289-5548 (w)
212-287-4917 direct
914-669-4651 North Salem
914-669-4157(i)

Dubin, Louis & Tiffany

The Athena Group
001 212 327 0883(h)
Email:

Louis.dubin@lth.aethenagrou
(un) 29 E. 64th St.
NY 10021

001 212 459 2502 (w/f)
001 212 327 0883 (h)
001 212 586 0853 (w)
001 212 506 0075 (w)

Dublin, Peter
0207 376 8755

Duchess of York

Sunninghill Park (h)
Ascot, Berkshire SL5 7TH
01147768 151215 (p)
01144768 151215 (p)
011344 845688
Email: duchy@duffy.co.uk
1st and 2nd floor (w) West
London W19 7DZ UK
0207 743 3377 John O'Sullivan
212 938 4800 NYO - John
O'Sullivan
01144020-79786110 Kate
Vaccaro
917 202 6260 Janine-assistant as
of 1-10-03
+44 1144 8731 87 (h)
+44 1144 8756 86 (h)
+44 207 307 1753 direct
+44 207 307 1751 (w/f)
212 419 7493 Jenean f

212 419 7493 Jenean f

Ducrey-Giordano, Francesco

Str Antica Di San Vito 36
Torino Italy
00 39 11 8505432 (h)
00 39 11 8221015 (w)

Duesing, Paul

Lecture & Lifestyle Ventures
2800 Fairmount
Beverly House
Beverly Hills CA 90212
0214 720 0212
214 720 1691 cell
214 720 0082 (w/f)

Duke of York

Buckingham Palace
London
SW1 1AA
011 44 7789 830630
0207 024 5955 (w/d)
Email: aace@duffy.co.uk
Ascot, Berkshire SL5 7TH
0207 350 1920 Lence (h) x
01344-873 070 Sunning Hill
0194 3973 666 Sunninghill (f)
01485 540 502 Wood Farm,
Sand. x
0207 830 2134 (Palace ex direc)
076 963 0830 (p) dem x
0207 024 5888 Sophie x
0207 830 2007 (w) x

07930-382 959 Sophie (p) x
0207 589 8626 Sophie (h) x
0033 772 615 Baimoral x
0033 702 4215 Equerry - Robert
Olney

**Dunbar Johnson
Miranda & Steph**

27A Leamington Rd Villas
London W11 1H
0207 423 1804 (h)
0207 473 3806 (w)

Dunne, Griffin

145 6th Avenue
New York, NY 10013
001 212 343 8830 (w)
001 212 343 8830 (h)
001 212 603 4337 (synth)

**Dunne, Philip &
Dominica**

3 Stene Street
London
0208-743 4985 (h)

Duong, Anh

3637 W 10th
01 212 627 0955 (h)
01 917 213 7515 (p)

Durso Luigi

Ines de la Fressange

18 rue Montaliver
75008 Paris
00 33 1 42952237 (h)
00 33 3 42952237 (c)

Duthie, John & Charlotte

34 Queens Gate Terrace
London SW7
0207-589 7993 (h)

Dzhabrailou, Umar

00 7 095 233 7000 (p)
00 7 095 745 5228 (w)
Email: umar@umar.ru
00709 5920 5000 (p)

Ecclestone, Bernie

28 Chelsea Square
London, SW3 6LX UK
44 207 584 66 66 (w)
44 207 589 03 11 (f)
Kings Princes Gate
London, SW7 1QJ UK

Eckon, Paul

0378 77 8683 (p)
00 27 82 9901111

Edsel, Lucinda

53 The Chase
London SW2
0207 622 8736 (h)

Edwards, Andrew & Tracy
9 Eaton News South
London, SW1W 9HP
0207-235 4121 (h)

Eitan, Johnathan
7 Hill Road CT 06830
Greenwich, CT
001 203 496 7711 (w)
001 203 496 6251 (p)
Email: eitanj@stanwood.com
1 203 249 8645 cell

Elas, Brian
001 305 796 3831 (p)
001 305 789 9242 (w)
Email: 001 305 538 0010 home

Elasch, Johan & Amanda
31 Chester Square
London, SW1W 9HT UK
+44 207 730 6459 (h)
+44 207 529 4369 (f)
Email: peralbeg@aol.com
Email: jperalbeg@audley-street.com
WIP 15A
+44 77 67 87 2059 Amanda (p)
917 330 6039
001 347 672 7268 (p)
00 43 66 4381 4724 Johan (p)

Elingworth, Charlie & Amanda
The Basement
80 Oxford Gardens
London W10
0208-968 6719
0208-968 6719 (h)
0208-968 6719 (car)
0208-968 3762 (w)

Elizabeth
0033 660 596 267

Ellenbogen Eric
22 Gramercy Park
NY NY 10003
001 212 659 1970 (w)
001 212 353 1275 (h)

Ellingworth, Mr & Mrs
The Old House
Laughton Lyttonworth Leics
0208-994 3162 (w)
0208-994 3126 (h)
0747 670754 (c)

Elliot, Ben
80 Piccadilly
5th Floor
New York, NY 10004
001 212 837 7740 (w)
001 917 320 6405 (w)
Email: ben@quintessentially.com

Elingworth, Charlie & Amanda
The Basement
80 Oxford Gardens
London W10
0208-968 6719
0208-968 6719 (h)
0208-968 6719 (car)
0208-968 3762 (w)

Elliot, Gail & Joe Coffey
72 Reade Street #5
New York, NY 10007
001 612 571 5153 (h)
001 612 571 5153 (p)
01 212 571 6178 fax

Ellison, Mandy & Ralph
218 Mediterranean Road
Palm Beach, FL 33460
561 858 1546
561 858 1574 (f)
561 881-9083 (h)
561 883 4791 Voice Mail
561 881-3746 (h)

Estlin, Jean-Marc
7 Rue des Saints-Peres
75006 Paris
00 33 1 5372 0332 (w)
00 33 1 5372 0332 (f)
00 55 11 952 2466 Home
00 33 1 4020 0763
001 21 2 769 8760 (frnd h)
001 21 2 769 8760 (w)
00 55 11 9535 3591 Brazil p

Espirito Santo, Manuel and Ros
00 35 113974740 (w)
00 35 936 446877 (p)
0207-730 7768 (h)

Erba Noona
1411 Kensington Road #1
London, United Kingdom W1W
0207 908 7270 (w)
0207 908 6960 (w)
001 817 553 6164 (p)

Estrada Juffali, Christina
50 Park Road
London
SW17 5DH
0207-823 8822 (h)
07766 678776 (p)
Email: christinaestrada@hotmail.com
Christina Juffali
Jeddah 2141
Saudi Arabia
00 9662 6600005 Home and
fax Saudi Arabia
07766 678 776 (p)

Elwes, Anabel
41A Jermiston Street
London, SW10
0207-829 5955

Epstein, Ed
430 East 66th St.
New York, NY 10028
001 212 249 4003

Evans Chris
0207-653 2801
0441 077441

Evehart Angie
001 310 560 5150(h)
Email: ake722@aol.com

Faber David
0207-598 4300

**Faber Sally & Brook
Johnson**
Charlton Down Estate,
Grove Road, Charlton
Down, London SE7
01688 880 0111(h)
07770 988 908(p)
Email: sallyfaber@hotmail.com
01688 880022 (ht)
0798 611 4004 (car)

**Falbalin, Charlotte
& Hannah Fraser**
109 Elsiey Road
London SW11
0207-223 1801 (h)

Fairfax, The Hon Rupert
The Coach House

Logner Hall
Shrewton Shrewsbury
Salisbury, Wilt
441 922 714009
Email: superfairfax@thorowgood.
01922 711676 (w)
07801248146 (port)
01743 709353 (h)
0468 857769(p)

Fairweather Natasha
Moscow
00 795 2436722(h)
00 795 2436762(h)

**Fairweather, Ms
Catherine**
162 Lancaster rd
London W17
0199 438500(h) (w)5560
0207-782 8247(h)
0207-792 8247

**Fairweather, Ambassa-
dor & Lady
Rupert & Maria**
Flat 4,
18 Wetherby Gdns
London SW5 QJP
0207-244 9602(h)

**Fakhre, Armado & Jas-
mine**
19 The Bolltons

Falletans, Olivier de
18a Alexandra Ave
London, SW11
0207-622 9550 (h)
0207-489 2017 (h)

Fanjul, Pepe
561 655 6303 (w)
561 655 1814 (w)
212 472 6896(h)

**Falkner, Terence &
Cornelia**
0207-580 0381 (h)
0207-337 1932 (w)

Feeley, Fiona
19 Chesler Row
London
SW1X 8JF
U.K.
0207-352 7033(w)
Email: (NY) HEPICAAU@aol.com
(Hm) Ashe House
Hendon
0207-771 411
07778 000 170 (p)
0774 130 526

Fallah, Mrs
4 Bolney Gate
Ennismore Gardens
London SW17
0207-584 7307 (h)
0207-594 8639 (w)
0207-371 6817

**Fallah, Ms Christina
& Jon Robe**
41 Fitzjames Ave
London
W14 ORR
0207-571 449(h)
0207-571 449(h)
Email: 0850 398979

Fekkal, Frederic
Frederic Fekkal Beauty Center
15 East 57th Street
NY, NY 10022
(blwn 5th & Madison)

Flick Mook
Park House
7-11 Onslow Sq
London SW7 3NJ
0171-225 3147(w)
0171-581 1186(h)

Foman, Bobby & Jeanette
212-828-1561 (h)
212-888-6100 (w)
0207-235 9972 Home

Forbes Zandy
001 212 353 9755
001 212 829 4053 (w)
001 817 846 7817 (p)

Forbes, Chris (Kip) Astrid
Vice Chairman
Forbes Magazine
95 Old Dutch Road (h)
Fair Hills
NJ
07931-2895
212 820 2240
212 283 1509
(h) 160 Fifth Avenue
New York
NY
10012
908 234 1058 (h)
719 379 3253
719 379 3008

Forbes, Steve & Sabine
Southdown
Burnt Mills Road
Bedminster, N.J. 07921

Ford, Katie
Ford Models
142 Greene St. #5 (h)
New York, NY 10012
212 219 6500 (w)
212 212 26 1555(h)
E-mail: katieford@ordmanagement.com
(h) 333 Nestrand Parkway
Shelter Island, NY 11965
351 4029 8866 Work - Paris
212 212 3709 Katie - Parents
212 212 2612 Katie direct
683 749 0494 Home
212 219-6190 Shelter Island
212 219-6190 Downtown Office
646 541 2800 (p)
212 212 2612 Home
212 228 8224 Andre's private
fax
212 228 8224 KATIE'S FAX
631 749 0512 (h)
212 219 6119 (w)

Ford, Tom & Richard Buckle
Greci
011 44 207 895 3000
Email: ftenner@aol.com

Forman John
001 212 930 8545 (w)

001 212 664 1734 (H)
001 917 359 3280 (P)
Forman Johnathan
001 212 930 8545
00 1212 664 1734
(H) 001 917 359 3280

Formby, Nicola
4353 Fulham Road
London SW10 9TX
07831 127575 (P)
Email:
formby@ueblonde.demon.co
0207 352 3600 (N) 0207 352 0504 (A)

Forte, Rocco & Aliai
10 Lowndes Place
London, SW1
0207-235 6585 (h)

Fox Andrew
00 81 3 822 0735(h)
00 61 3 208075
00 61 3 208 030 00 613 869
00 613 668 8398 fax

Fox, William & Lucinda
110 Chesnut Grove
London SW1
0208-675 5625 (h)

Fraiser, Violet
001 917 414 0922
E-mail: violet@verizon.net
212 242 5607(h)

Francesco de la Garda, Mr
Cameli & 10 spa
Via Roma 81A Italy
Tel: 02 581 1044 (h)
02 581 1044 (h)
00 39 10 55081 (w)
00 39 10 550830 (w)

Francey, Kathy
001 917 497 4510 (p)
001 212 734 0747 (r)

Frayssie, Isabel
14 rue des Filles du Calvaire Paris 6003
00 33 1 4277 9106 (h)

Freud Mathew
0207-291 6400
010 613 7581
0207-351 2826 (w)

Carina
22 Carlyle Square
London SW3 6EY
0207-351 3035 (h)
0207-241 0317 (h)

07970 727 272
0207-792 2976
Email: manella@brazenhusky.com

29 Stinhope Gdns
London SW7
0207-373 6435(ho)

001 917 705 7230

Milana
771 Donaueschlingin
Hofserberg Germany
00 49 771 86508 (h)
00 49 771 86423 (w)

Alexandra V.
001 212 396 4393(h)

NINA
via Delle Mantellante 26
Rome, Italy
00 39 3384671195(p)
00 39 0658331144(h)
Email: 00 39 056460907
(tv)

13 Ives Street
London SW3
0207-584 5577 (h)
00 345 661 30 30 (w)

Via Gregoriana,
Roma, 00187
06 678 1781

001 212 371 4136

Box 45593
Gigiri Road
Nairobi
Kenya,
00 25 4 252

55 11 9970 1020 (p)

Avenida El Rosario 450
San Isidro, Lima 27 Peru
+511 442 8734 (h)
+511 264 4278 (hf)
Email: lganoza@terra.com.pe
(Hm) Pizarro 428 (h&w)

+5117352000 (p)	
0012126252331	{friend in NY}
0012129419341	{when in NY}
+5144245402101 (w)	

Los Jeronimos Apt 4-22
Calle de Miroto 9
28014 Madrid Spain
00 34 1420 0211 (h)
00 34 1420 2560 (h)
00 34 1396 5613 (w)
& Villa las Libres
Camino Real
Marbella Spain
00 34 52 774594 (h)

001 212 691 9660

0777 5787777(p)
0207-235 2729(h)

Gaspar, Nacho
43 Camino del Sur
La Moraleja
Madrid Spain 28409
00 34 1 6500325 {h}
00 34 1 5645030 {w}

Percy Lodge
15 Christ Church Rd
London SW14 7AB
0208-878 0111(h)
0208-392 9171(f)
0208-878 0111
0207-499 9080(w)

001 917 566 0551
Email: tim@schohauseny.com

28 HALLARD ST
LONDON SW3
0207-376 8497(h)
0207-409 2324(w)
0101 212 734 790

German-Ribon Catrlona
0779 965 1673

Email: cribon@prf.co.uk

Gertler, Eric

11 E 28th Street
15th floor
New York, NY 10010
212 653 8224 (w)
917 797 5459 (p)
Email: gertler@privista.com
212 653 8221 (t)

Getty, Mark

0207-446 0560 (w)
0207-495 8865 (w)
0207-521-8581 (t)

Getty, Pia and Chris

20 East 78th Street
New York, NY 10021
001 212 267 9529 (h)
001 212 267 9529 (t)
Email: pia@ask.com
001 817 821 6788

Gibbs, Emma

Garden Road
6th floor
London SW10 9AU UK
0207-351-3772 (h)
+44 7710 815 355 (p)
Email: emmagibbsuk@hotmail.com
0207-352 3040 Work

Gibson, Caroline

43 Camberwell
London SE5
0207-833 6944 (h)
0207-937 6044 (w)

Gillilan, Andrew

Box 85014
Beardale
Garden 2010, South Africa
0207-730 3412 (p)
0207-730 3412 (w)

Gillford, Lord & Lady

12 Ashcombe Street
London W1
0207-384 2128 (h)
0207-243 1245 (w)

Gillmour, Andrew & Emma

001 212 533 0656 (h)

Ginsberg Gary

001 212 852 7016 (w)
001 917 879 7445 (p)
Email: gginsberg@newscoorp.com

Gitlis, Howard

MacAndrews
35 East 62nd Street
New York, NY 10021

212-572-5080
212-572-8400
207-835-8780 Palm Beach

Giussani Luca

011 305 673 9811 (p)
011 305 667 7731 (h)
Email: lgiussani@diplomat.net

Glanville Mary

56a Radnor Walk
London SW3
0207-352 3436 (h)

Glass, Charlie

07 727 7636 (h)
07 979 857 810 (p)

Glentworth, Edmund & Emily

0207-735 2832 (

Goess, Pilar

00 43 1 595 1775
00 43 1 595 1775
00 33 1 453 3098

Goldberg Ellen

305 946 3643 (w)

Goldsmith, Isabel

1382 Arden Dr.
Hills, CA 90210
11 Teddenter Road
London, England SW10 9LS
4471 373 7867
4471 373 7867 Home
818 253 1068 Home
818 253 1068 Home
52 5 540 7657 Mexico City
52 5 540 7658/9 Mexico City -
Office Fax
52 3 337 0161 (h)
0939 283 1071 London - Car
52 5 540 7657
52 5 540 7657
52 5 540 7657
(0468) 90 8514 Mobile

Golinkin, Sandy

220 E 72nd Apt. 17C
NY, NY 10021
001 212 775 8949
001 212 286 7866 (w)
Email: Golinkin@condenas
Sandy, Golinkin@condenas
917 270 4002 (p)

Gomez, Thomas

220 E. 63th Street
Penthouse B
001 212 826 2766

Gomme, William & Emma

27 Ladbroke Square
London W11
0207-221 0899 (h)

Gordon, Jacobo
Cajamans
Paseo de la Victoria, 128.
Entrepiano
28002 Madrid
34 917 453 540 (c)
34 914 111 988 (h)

Gore, Juliet
49 Smith Street
London SW3
0207-352 1317 (h)
0207-361 4178 (w)

Gottlieb, Steve
001 212 713 0572 (h)
001 212 679 6416 (w)

Goulardis Dimitri
0207-221 2532 (h)
0207-425 3800 (w)
0468 615060

Grabau, Lorenzo
0207-370 6454 (h)
0207-867 2925 (h)
00 39 6 320 1435 (Rome)

Graff, Francois

Managing Director
721 Madison Ave.
NY

002 12 355 9292 (w)
0207-361 6871 (h)
(Hm) 001 917 710 2922 (pp)
001 212 892 6362 (pw)
001 212 861 6492 (ph)
212 861 6953 MC (w)

Granby, David
51 Seymour Walk
London SW10
01476 810799 (h)
0207-392 4074 (h)
01476 812014 (h)
01476 812045 (ph)
01629 612014

Grange, Jacques
9 rue de Beaulieu
93011 Paris France
00 33 1 47034455 (h)

Grant Jamie
001 212 861 6571 (h)

Greece Princess Olga
001 212 628 1237

Greece, MC & Pavlos

h/m Prince Pavlos
001 212 452 1542 (h)
001 860 868 1537 (w)
001 212 861 6370 (w)
(Hm) 001 917 710 2922 (pp)
001 212 892 6362 (pw)
001 212 861 6492 (ph)
212 861 6953 MC (w)

Green, Deborah
0207-235 8305
00 41 30 45 671
001 213 858 8626 (h)

Green, Jeremy
4 Avenue Fontainebleau (h)
Fresnay, 8001
Capetown, South Africa
27 83 323 7007 (p)
07 947 131910
(Hm) 121 1000000000 (w)
(Hm) 121 1000000000 (w)
Prestwich Street
Green Point, 8005
Cape Town, South Africa
27 21 414 6130 (h)
27 21 425 6383 (h)
27 21 425 6383 Jeanine

Green, Judy
555 Park Ave
New York NY 10021
001 212 486-1077

Gregg Georgie & Kathleen

36 Kensington Park Gdns
0207-499 9080 (w)
0207-221 5758 (h)
0207-351 1413
077 47 695 850 cell

Grenfell, Natasha
19 Cheyne Place
Royal Hospital Road
London SW3
0207-351 1413 (h)

Griffen, Ted
001 646 486 6573

Griscorn, Nina
asst. Kelly
640 Park Avenue
New York, NY 10021
001 212 744 0442
001 31 283 8583
Email: ngriscorn@aol.com
001 212 879 9893 (h)
212-744-1805 Home fax

Gross, Pamela & Jimmy Finkelstein
655 Park Avenue
New York, NY 10021
212 737 4292 (h)
631 283 1144 (h)
Email: pgross@aol.com (pamela)
(Jim) 505 First Neck Lane

Southampton, NY 11968
 212 717 7743 (h)
 631 267 5557 (h)
 912 830 0255 (w)
 917 613 5275 Pamela p
 917 825 0259 James p
 212 689 1470 James w
 212 688 8600 Pamela w
 212 689 4018 (w)

Grossman Lloyd
 0207-736 7376

Gubelmann, Marjorie
 40 East 62nd St
 New York
 10021
 212 758 0508
 917 282 2112

Guccioli Tony
 001 212 941 8303 (w)
 001 212 226 8751 (h)

Gudefin, Christian
 Deutsche Bank
 01 212 250 8468 (p)
 01 212 722 3747 (p)
 Email: christian.gudefin@db.co
 0207 557 2637 (h)
 0207 551 3558 (h)
 0207 551 3553 (w)

Guedroitz, Solina & Nicolas
 Solina & Nicolas best friends
 24 P. Mico Road
 London SW1W 5LJ
 011 44 207 730 1441
 011 44 207 730 1441

Guerini Maraldi, Alessandro
 11 Elm Park Rd.
 London SW2
 0207-980 9057 (w)
 0207 795 1060 (h)
 0776 823 1728 (p)

Guerrand-Hermes, Valesca
 mathias
 1 West 67th
 #614
 New York
 NY 10035
 1 212 579 7572
 1 917 400 1144 (p)

Guest, Cornelia
 001 917 861 0425 (p)
 001 316 997 2576

Guggenheim, Barbara & Bert Fie
 Barbara Guggenheim
 8328 Marmont Lane

Los Angeles, CA 90069 (h)
 69 East 82nd Street
 New York, NY 10028
 212-772-3888
 212-772-3888
 323-850-4767 Home Fax
 212-355-5888 NY Home Fax
 310-275-2133 (w)
 001 33 1 6495 0939
 001 33 1 6495 0487
 319 205 7539 Kurt NY home
 310 801 9521 Barb (p)
 310 456 8824 beach house

Hahn, Dr & Mrs
 PO Box 383
 8010 Rondono Sardinia
 8 Rottenhof 3180 Wolfsburg
 Germ

Hall, Pippa
 0804 25302

Halpern Jen
 38 Ringmarthe Street SW8
 (Hm) Halpern Associates
 250A Kings Road
 London SW3 5UE
 0207 351 2888
 0207 351 2888 (h)
 0207 351 3814 (w)
 0777 419 7871 (p)

Guissani, Luca
 001 305 673 9811 (h)
 011 305 467 7737

Gumborg, Ira
 001 412 244 4007

Guttfreund Susan & John
 212 517 3455
 212 956 1283 John work
 508 229 1776
 508 325 5480 Sec Diana

Hahn, Dr & Mrs
 PO Box 383
 8010 Rondono Sardinia
 8 Rottenhof 3180 Wolfsburg
 Germ

Hall, Pippa
 0804 25302

Halpern Jen
 38 Ringmarthe Street SW8
 (Hm) Halpern Associates
 250A Kings Road
 London SW3 5UE
 0207 351 2888
 0207 351 2888 (h)
 0207 351 3814 (w)
 0777 419 7871 (p)

Hambro, Clementine
 001 917 405 6490
 0207-823 4115

Hamilton, George
 21 Eaton Mews South SW1

Hanson, Brook
65 Eaton Square
London SW1W
0207-235 8179 (h)
0207-245 1245 (w)

Hanson, Lord & Lady
Kimber Cottage
Chislebury
Nr Newbury, Berks
0635 248835 (h)
001 919 320 9980 (PSP)
001 212 355 2088 (NY)

Hammond, Dana
117 East 72nd Street
New York, NY 10021
001 212 263 0403 (f)
001 212 288 5047
001 561 588 7632

Handler, Sharon
530 Park Avenue
Apt 6H
New York, NY 10021
001 212 688 7476 (w)
001 212 758 9129 (h)
212 230 1445 (nt)
917 230 1445 (p)
212 509 1500 in July try John
press 8 408
914 684 6165 weekends

Hanover Ernst & Chantal
Hansamer
London SW6
0207-773 1422(h)

Hapsburg, Marie
31 Fenshaw Road
London SW10
0207-352 1987 (h)

Harvey Victoria
07 798 555999

Harvie-Watt, Isabelle
0207-602 6944 (ph)
00 39 2 801481 (w)

Haslam, Nick
0207-730 0608(w)
0207-584 0978(h)
Email: n.h.design@btinternet.com
0 410 169700 call

Hatko, Craig & Jane
Victor Capital Group
1 West 72nd St
NY 10123 7042(h)
001 512 801 7024(h)
Email: Chatko@aol.com
001 212 213 1623 car
001 516 3593 Direct Line
212 434 1600 cell

Hauteville, Marc de
00 33 1 4224 4365 (h)

Hay, Henry & Patricia
24 E 84st
NY NY 10028
001 212 482 485(h)
001 212 482 353(h)
Email: 001 603 5194 (pp)

Hayworth Reggie
Bradwell Grove
Burford
Oxon
01993 822734

Hazell-Iveagh, Clare
Elvinstown Farms Limited
Newry
Newry
01 842 860 787(h)
01 886 566 357 (aunt)
0206 594 200 (mump)
07933 382731 victoria
01447923227 586 (p)
0207- 881 957 (UK W)
01842 890 223 (w)

Hearn Barry & Susan
Matchroom
10 Western Road
Chesham Essex
01447 782200
01708 724250
01277-217-116 home

Hefner III, Bob

001 405 843 4773 (h)
001 405 948 9998 (p)
001 305 842 4927 (Aspen)
001 405 848 9800 (OklaH)

Heiden Lisa

30 East 81st #118
NY 10028
001 307 0028
001 307 4061 3436(par)
(Hm) 8492 413571 Jan
Miami Beach
001 305 538 1795(h)
001 917 518 5210
917 518 5507 sister Leslie (p)
0776 6044218 (p)

Heinaken, Mr Fredie

Domaine de Grange
Cap d'Antibes
France
0033 93 614101 (h)

Helen and Tim Shifter

784 Park Ave
NY NY 10021

Helvin, Marie

0207-834 5321 (h)

Herbert Jason

0207-282 9600
07974 604233

001 846 872 9593
001 846 813 8100

Hermes, Olga & Olaf

165 West 66th Street
New York, NY 10023
001 212 874 2527 (h)

Herrero, Juan & Helen

Francisco Morenol
Madrid, 28001
0034 1 276 6157 (h)

Hersov, Robert & Kim

15 Thulice Sq
London SW7
0207-594 0764(h)
0207-594 0764(w)
0374 830690 (p)
011442076907552 Robert's w

Heselaine, Mr & Mrs

Therford House
Therford
Nr Basingstoke, Oxon
0295 711765 (h)

Heselaine, Mr & Mrs

30 Charles Street
London W1
0295 712 012
0295 712 013

Heselaine, Ms Annabel

Husband: Peter Butler
4 Palace Gardens Terrace
London England W6 4RP
0207-725 9907 (p)
0207-725 9907 (h)
01295 712774(c)

Heselaine, Rupert

001 212 532 9200(w)
001 212 744 3613(h)
0207-221 6201 (h)
071-351 5776

Hicks India

David Filmwood
Hibiscus Hill
P.O. Box 225
Herbours Island
Bermuda
007-580 8555
007-580 8555
001 713 739 0750 (w)
001 713 956 5613(h)
001 242 333 2060(h)
0208-878 0111

Hill, Anthony

105 Oxford Gardens
London W10
0208-960 1992 (h)
0207-283 8577 (w)
0208-960 1992 (h)
0208-960 1992 (h)
0208-960 1992 (h)

Himmelstein, Howard

212-620-0949

Hirsch, Jeff

1300 Park Ave
New York, NY 10021
212 741 2990
212 741 2990
212 741 2990
201 493 7647 Scott (p)
201 493 7647 Scott (w)

Hisson, Robert & Andrea

66 Herbert Crescent
Knightsbridge, London
0207- 584 8070(h)
01428 656744
Email: rchiss@bt.com
01428 656744
0207-580 8555
001 713 739 0750 (w)
001 713 956 5613(h)
001 713 965 5613
07836 360 460 (p)

Hoffman, Dustin

001 212 207 8127(w)

Hoffman, Hetty

0207-373 4203 (h)
& Brocas Elliott Ltd
Nr Basingstoke, Hants
0256 63279 (c)
0207-373 4203 (h)

& Brocas, Ellison
 0256 83279 (C) Hails
 0207-569 1435

Hoffman, Jessica
 185 Fiddlers Hill Road,
 Edgewater, Maryland 21037
 001 410 788-8530

Holland-Martin, Ben
 Radnor Walk
 London SW3
 0207-351 3631 (h)

Holland, Mr & Mrs James
 45 Riddell Road
 London SW15 1PB
 0207-582 4466 (h)
 07802 757520 (p)
 Email: jholland.com/james@holla
 15m Donhead Lodge
 Nc. Stead St. Andrew
 Dorset, SP9 9TA
 0207 438 9081 (w)
 07802 757520 (car)
 0207 960 6667 (other)
 0207 201 9258 (w/r)

Horne Adam & Tierney
 14 Eaton Terrace
 London SW1 W8EZ

0207-730 4068 (h)
 07768 256 126 (p)
 Email: adam@caledonpartners.com
 14m3 Woodmoore Farmhouse (2
 home)
 Near Sherbourne and Clapton
 on
 the Hill, Bourton on the Water
 Oxfordshire, GL54 2LQ
 0207 38 2871 Ivana Basilani
 (assistant)
 0207 758 2876 (w)
 01491 820 403 2nd home
 0207 758 2871 (w)

Hovenian, Nina
 001 212 996 1687(h)

Hovnanian, Shaunt
 Hovnanian Group
 520 Newark River Road
 Red Bank, NJ 07701 (h)
 Site 12 Dag Hammarskjold Blvd
 Freehold, NJ 07728
 908-462-3200
 908-462-3299 Sally
 908-741-0078 (h) Vahin - the
 dad
 917-763-5444 MB
 212-996-1687 Nina

Howard J. Kaplan
 1717 N. Bayshore Drive
 Suite 2000
 Miami FL 33132
 (305) 659-3115

305 468 0677 (h)
 Email: hk@kaplangroup.com
 (h)(m)(home)
 20023 NE 19 Place
 North Miami Beach, FL 33179
 305 468 5954 (h)
 305 468 5954 (h)

Howeego Lucy
 (Johninson)
 0410 841608(p)
 0207-903 5310
 0207-242 3136

Hsu, Peter
 001 212 734 6007(h)

Hunt, Laura
 1E 82nd Apt 3C 10021
 001 212 644 9901(h)
 001 212 355 3822(w)
 Email: LBHunt@aol.com
 (Hm)3525 Turtile Creek Blvd. (h)
 Apt. 12B
 Delray 33219
 001 214 528 4404 TX (h)
 001 917 965 9442 NY (p)
 001 970 825 2300 Aspen
 214 876 6150 TX (p)

Hunter Gordon, Kit & Georgina
 31 Alexander Street
 London W2,

0207-229 7566 (h)

Hunter, Carlyn & Laurie
 9 Mallard St
 London, England SW3 6DT
 0207-584 4166 (h)
 001 307 733 7148

Huntsman, Jon & Mary Kaye
 364 Military Way
 San Francisco CA 94103
 001 801 564 0398 (w)

Hurd, Nick & Kim
 Hertley Court
 Three Mile Cross
 Woking, Surrey GU24 0HE
 0781 804 8484
 Email: nhurd@nhurd.hongchoice.co
 (h)(m)24 Chepslow Place
 (h)(m)24
 0209-595 3031 (w)
 0207-792 534(h)
 0593 841828 (hp)

Hurley, Liz
 Simian Films
 3 Cromwell Place
 London SW7 2JL
 0207-989 6822(w)

Hurst, Anne
212 744 3485
631 537 7688

Hurst, Robert J.
Vice President
Goldman, Sachs & Co.
85 Broad Street
New York, NY 10004
212 302 5282 (w)
212 304 2306 (AX)
Email: R.Hurst@gs@aol.com
(Hm) 950 Fifth Avenue
New York, NY 10021
Hampton's Phone

Hussain, Ayla
CEO
Sundari
370 West Broadway
Suite 400
New York, NY 10012
212 343 0600 (g)
212 343 1671 (f)
Email: ayla@sundari.com

Hussey Simon
27 Hollywood Rd
London SW10 9 HT
0207-352 2310(h)
0207-567 4726(w)

Hutley, Henry
29 Lansdowne Crescent
London, W11
0486 32345 (h)

0207-727 8782 (h)

Hutley, Lulu & Edward
33 Edna Street, London SW11
Slades Farm, Noncumb Rd,
Br
Weybridge, Surrey, SS24 0LS
0207-368 3735 (Lw)
0207-368 3735 (Lw)
0960 508955 (can)
0207-585 0208 (h)
0483 892000 (w)
0483 208693(h)
0207-493 4211 (h)

Hutley, Mr & Mrs
Wintershall
Nr Bramley
Clifford Surrey
0483 882167 (h)

Hutton, Lauren
212 254-6980
614-0787 boyfriend Luca

Hymes Ivan
(eddie's iv friend)
60 35 3 87234 1489

Inca
8 Gramercy Park South
Apt #3D
(around corner of 20th & Park)
New York, NY

212 475 2180
617 561 6744 (p)

Ind, Charlie
8 Upper Cheyne Row
London SW3 7LA (h)
0207-753 5353 (w)

Inzerillo, Gerard J.
211 Madison Avenue (h)
New York, NY 10016
001 212 78 1514

001 317 306 0895 (p)
Email: jerry.inzerillo@kerznerc
(Hm) Kerzner International New
York
730 Fifth Avenue
5th Floor
New York, NY 10019
001 212 792 2030 wildfire
212 658 5160 (w-direct)
212 658 5160 (w-direct)
215 859 5202 (Asst. Carole,
Justine)
917 922 4947 (p)

Ireland, George
K1 Top Albany Road
London, W1V 9RQ
0207-287 5114 (h)
0207-822 2498 (w)

Irvine, Eddie
0786 680 7693 (p)

011 305 776 9000(p)
Email: edirv1@cs.com
(Hm) 820 West Toledo
001 305 531 5370(h)
0193 9500000 (p)
01353 868298626 Alan Pilot
alanpilot@cs.com Alan Pilot
email

Isamel Abdullah
96 82 571 3203 (w)
96 85 535 6600 (p)

Isham, Chris
001 212 496 5842(w)

Jackson, Michael
Samuel Gen (Attorney)
240 Central Park South
New York, NY 10019
1 212 874 1117 (w)
1 212 374 0577 (w)
Email: samjgenlaw@netscape.com

Jacobson, Julian
0207-589 2237 (h)

Jagger Mick
212 245 9055
0206-877 3100(o)

Jagger, Hatti

15 Christ Church Road
London W14 7AB
0208-878 0111 (h)
Email: hattiejagger@hotmail.co.uk
Hm/B.C. Worldwide
80 Wood Lane
London W12 8JL
0208-302 9171 (ht)

Jake

011 34 669 467 504

Jameel, Mohammed

00 968 2 628 3931
001 214 740 8191
Email: MJ3200@aol.com

James, Susie

212 Piccadilly
London W1V 9LD
0207-229 4648 (w)
0208-660 9987 (h)
Email: susiejames@123send.net

Janklow, Linda

Lincoln Center Theatre
150 West 65th Street
New York, NY 10023
001 212 873-0761 f

Jarecki, Nancy & Andrew

hit the ground running films
200 West 57th St (w) Andrew
Room 1304
New York, NY 10019
212 861 3173 (w)
212 868 3059 (w)
Email: jarecki@me.com
(Hm)131 E 66th St
4D
NY NY 10021
39 06 69200457, 00 39 06
949211
212 717 3900 Andrew

Jarecki, Nick

Manhattan
565 Fifth Avenue
3rd floor
New York, NY 10017
01 212 984 1470 (w)
01 212 993 0434 (h)
Email: njarecki@aol.com
01 917 350 1554 cell

Jason (canada)

001 514 999 3737
001 514 979 6010 (p)

Javier

001 646 734 7618
Email: javier@meiles.com

Jeffries, Tim

74 Cornwalk Gardens
London SW7 7
6 East 68th Street
New York, NY
0207-937 4002 (h)
0207-493 3431 (w)
001 212 525 8831 (h)
0777 1767715

Johnson Richard & Nadine

32 Perry Street
New York, NY 10014
001 212 675 5555 (w)
001 518 266 5647 (c)
212 982 9939 work fax

Johnson, Lucy

2 Chester Street
London SW1X 7BB
0207-235 2088 (h)
0207-378 7070 (w)

Jones Ann & Mick

001 212 789 7424 (h)

Josephson, Barry & Jackie

(Barry w)
Hollywood, CA 90038
310 368 7497 (b-w)

310 959 0898 (b-f)

mailto:timj@montecarlo.com
Hm)1972 Palisades Beach Road
Santa Monica, CA 90403 (h)
918 560 9605 Main #
310 383 5969 (bp)
310 344 5740 (c)
310 344 5740 (c)
600 235 2168 (b-beeper)
310 383 5969 (bp)
310 567 7648 (w)
760 345 8142 Jackie's parents in country
Barry email
barryjosephson@palm.net
212 226 4030 (w) until Jan 2004

Karella, Kallopie

3 Michael Road
11th Fl East 72
New York, NY 10021
001 212 288 9438 (h)
001 212 303 5916 (w)
001 917 453 4503 (p)

Kastner, Ron

0207-235-2337
07830-5611-888
001917-539-5601, 001
212-977-345

Katz, Anton & Robin Plant

200 E. 66th st.
C2004
New York, NY 10021

212 754 0070 (h)
533 484 4258 (f)
Email: jon@keldanmgmt.com
917 400 2613 (robin p)
917 400 2613 (anton w)
212 284 2502 (anton w)

Katzenellenbogen, Mark
Capetown, South Africa
001 212 256 3801 w
001 2163 375 9808 p

Keeling, Sarah
0410-657-887

Kegan, Rory
17 Redcliffe Place
London SW10
0207 349 0414(h)
0956 512754
0207 780 3346 (h)
0207 780 3346 (h)

Keldan, Amanda
Keldan Jewelry
750 Third Avenue
6th floor
New York, NY 10017
212 922 2003 (w)
212 922 5537 (p)

Keldan, Jon
212 210 0066
917 626 5880

Email: jon@keldanmgmt.com

Keller George
001 760 324 0046
07712 421842
(Hm)0171-589 6929

**Kellett Frayssse, Caro-
line**
Jeanmarc Frayssse
56 Christchurch St
London SW3 4AR
0207 96 0323
0207 96 0323
Email: kellettfayssse@btinternet

**Kelmenson, Leo-Arthur
and Gay**
211, Jacobs, Kenyon & Eckh
401 West 23rd St
New York, NY 10011
10010-5201
212 727-5279(w)
212 986 7273

**Kennedy Cuomo, An-
drew & Kerry**
1344 Kirby Road
McLean, VA 22101
001 202 333 1880 (w)

Kennedy Jr, Ted
Box 447 Hyannis Port
Mass 02647 USA
001 508 775 7177 (h)
001 508 548 1400 (w) ext 2216

Kennedy, Bobby & Mary
326 S Bedford Road
Mount Kisco, NY 10549
914-241-2373(h)
914 422 4343 (w)
Email: mpostman@law.pace.edu
(Hm)Pace Environmental Litiga-
Clinic

**Khayat, Antoine, Jana &
George**
47 Perryman Street
London, SW6 3SN
0207-731 6170 (h)

Kidd Jemima
001 646 229 2502(p)
001 646 636 3178(h)

King, Abby
10 Smeaton Road
London, SW18 5JH
020 7842 9813(h)
07944 57 4202(p)
Email: abyrulesking@hotmail.co
uk
Middleham
Nr Bisleigh

Kennedy, Jo
73 Birelow St
Brighton, Mass 02135 USA
001 202 225 5111 (h)

**Kennedy, Senator Ed-
ward**
636 Chainbridge Road
Bedford, MA 01730
001 783-524 0733 Home

Kersner, Sol
Capetown, S.A.
011 27 21790 1109 (f)
011 27 2165 3000
809 363 3000/3916

**Khayat, Antoine, Jana &
George**
47 Perryman Street
London, SW6 3SN
0207-731 6170 (h)

Kidd Jemima
001 646 229 2502(p)
001 646 636 3178(h)

King, Abby
10 Smeaton Road
London, SW18 5JH
020 7842 9813(h)
07944 57 4202(p)
Email: abyrulesking@hotmail.co
uk
Middleham
Nr Bisleigh

Kirwin Taylor, Charlie & Helen
21 Redcliffe Square
London, SW1
0207-370 3889 (h)
0207-623 8000 (w)

Kirwin Taylor, Peter
001 212 898 0020

Kissinger, Dr. Henry A
350 Park Ave
435 East 57th Street
NY NY 10022 7919
001 212 759 7919
1 Suite 1021
1001 K Street NW
Washington, DC 20006
001 202 672 0300

Klee, Rupert & Charlotte de
29 Kensington Palace Gardens
London, W8
0207-724 1485 (h)
0860 360643

Klesch Johnathan
0385 372672
Email: johnathan@klesch.co.uk

Koch, David
001 212 632 1036 (h)
001 212 682-5755 (w)

Kohl Astrid
5 Rue Bonaparte
Paris 75006
00 33 1 4328 5757 (h)
00 33 1 4633 6128 (f)
Email: astrid.kohl@kohl.com
001 212 713 2623 (p)
00 49 171 3326239 (p)

Kolic Bobby
001 310 253 2202
001 310 253 4606 (p)
Email: BKolic@actvision.com

Kotze, Alex Von
27 Rosary Gardens
London, SW1
0207-491 4356 (w)

Kravetz, Anna
001 212 288 2815

Krooth Caryn
001 323 882 6328 (h)

Kudrow, Alistar
011 334 2527 234 (h)
011 334 2527 234 (h)

Lal Dalamal
7 York Gate
(h)
London, NW11 4QG
Email: laldalamal@aol.com
(Hm) Akron House
86A Allen Avenue
(w)
Lagos, Nigeria
(w)
0207 335 0305 (h)
2341 493 8178 (w)
2341 493 6291 (w)
2341 493 6293 (w)
2341 493 6310 (w)
234 802 307 7151 (w) direct line
234 261 7258 (w)
44 7710 056624 (UK pl)

Lambert, David
212 864 1535 (h)
613 748 3336 (p)
561 863 4140

Lambert, Edward
581 Park
115 East Putnam Avenue
Greenwich
Connecticut 06830
001 203 622 4293 (h)
001 212 885 5860 (h)
001 212 885 5860 Cath(h)
001 212 727 1336 Cath(w)

Lambos Duff & John
001 212 987 8185 (h)
001 212 987 8184 (h)
Email: lambos@lms.com
(Hm) 001 860 542 1616 (h)

Lang, Caroline
400 East 52nd Apt 9c
NY NY 10022
001 212 632 7189 (h)
001 212 632 6518 (w)
00 33 1 4277 7132 (h)

Lange Dieter
0207-872 1009 (w)
0207-872 1013 (f)
Email: diange@winner.com
00 39 55 409 799 (h)
00 39 55 409 811 (h)
001 39 55 495546 (enid h)

Lataunls, Demetra
41 East 60th Street
NY NY 10022
001 212 285 0600 (h)

Lambert, Christopher
001 213 597 4307 (h)
001 213 597 4307 (h)
00 33 1 4723 0184

cell 07 785 996600
asst. (h) 0208-673 5090(renata)

Larsen Janet
30 Pauline
London SW17 7DZ
0207-581 7073

Laurie, Jonathan
28 Chesham Place
London SW10 9ST
0207-235 6691 (h)
0207-708 4222 (w)

Laviada, Laura D.B. de
52, 55, 5540 7444
E-mail: laviada@btinternet.com
(h) 0207-555 5410
52 55 5540 7444(h)
00 525 261 2717
001 212 717 9055
001 308 432 6494(p)
41 785045812 euro cell

Lawford Christopher & Jean
150 Monument Street
Parsippany NJ 07054
310 905 8900
212 790 0519 portable
310 456 6633 CA office
310 206 9940 Portable
310 230 8533 home office

Lawton Paul
07846 584700
0207-577 1535 (w)

Lazar, Christophe & Marie
L'Orangerie
94590 Fresles
00 33 1 3470 0655(h)
00 33 1 61178 0384(p)
E-mail: christophe.lazar@aol.com
00 33 1 4522 8566 (h)
0207-351 5408 (h)
0207-351 5408 (w)
00 32 2 358 4033 (p)

Le Bon, Simon & Jasmine
397 Upper Richmond Road
London SW15 2SL
0208-878-5858 (h)

Le Fur, Jean-Yves
104 Rue de l'Université
78123 Paris
00 33 4705 4601
00 33 4705 4602
001 331 0752 6728

Le Marq, Willie
55 E. 78th St.
New York
10022 (h)
001 212 403 3507(w)

Lea, Piers
16 Talbot Road
London W11
0207-727 4677 (h)
0734-33260 (c)
0207-792 8480 (w)

Leads, Jeffrey
570 Park Ave 8A
NY NY 10021
001 212 835 2000(w)
001 212 754 8813(h)
001 212 835 2020 Fax
Leads@LeadsGroup.com

Lefcourt, Jerry
212 737 0400

Lester, Dominick
50 East 78th St
#12C
New York
NY 10021
001 212 824 2843 (w)
001 212 824 2843 (h)
001 317 721 6561 (p)

Levine, Philip
Baron Corp
305 E 73rd St
New York
10022 (h)
001 305 775 0655 (p)
E-mail: philip@baron-corp.com

(Hm)1425 North View Drive (w)
Miami Beach FL 33140
011305 672 2494 (h)
305 672 2499
001 305 491 0005 (wp)
001 305 450 3255 Dina's cell
305 491 1996 Roy-Driver
305 496 3141 Victoria (p)-House-keeper
305 338 5578 Sonia(p) House-keeper
305 613 7623 Jerry (p)
305 534 1186 Jerry home
305 673 9944 (w)

Limán, Doug
001 917 733 3165
001 212 809 3202
E-mail: dliman@hypnolic.com

Lindeman-Barnet, Sloan & Roger
001 212 754 2144(w)
001 561 750 4516
E-mail: slindem08@aol.com
(Hm)001 203 839 8821
001 561 655 8000
001 561 655 8094 George
917 453 5091 (p) Sloan
001 212 826 3773 Fax
001 646 206 2410 Roger's cell
001 631 287 2233 (Rcarrents)
001 617 995 9176 Roger (w)
001 814 762 463283 The Adela Boat
011 561 655 2926 (alone direct)

Lindemann, Adam & Elizabeth
 730 Park Avenue, apt 10A
 New York, NY 10021
 212 694 4543 (h)
 212 694 4543 (p)
 Email: ell@lindem.com
 001 212 980 8861 (w)
 001 917 734 8714

Lindemann, George(Sr.) & Freida
 60 Bloscom Way
 Palm Beach, FL 33480
 561 835 0553 (h)
 561 561 6555 3011

Lindsay, Alex & Jaclyn
 Studio 5
 Neckinger Mills
 162 Abbey Street
 London, SE1 2AN
 020 7252 0569 (h)
 020 7252 0594 (p)
 Email: alex@deepflight.co.uk
 0870 139 2516 (t)

Lindsey, Ludovic
 12 McGee Rd
 London, W9 1JH
 0207-221 5353 (h)

Lindsley, Blake
 6024 Bonsall Drive
 Malibu, CA 90265
 001 310 472 3820
 001 310 699 5180 (p)

Linley David
 0207-730 7300(w)

Liogos, Babis
 001 212 886 4850 (w)
 00 33 1 607 24200
 001 212 888 2000

Lister, Paul
 0207-431-1340 (w)
 0207-835-1098 (h)

Livanos, Arfette
 001 212 265 2303
 001 212 980 6850 (h)

Lo Cascio Robert
 CEO Wira
 182 Vth Ave, 2nd Fl
 New York, NY 10018
 212 608 4230
 212 608 4220 (f)
 Email: robert@liveperson.com

Loeb, Alex
 71 Herald
 NY, NY 10021
 001 212 752 9043
 001 212 627 9675 (h)

Lonsdale Richard
 Email: rh@lh.com

Lorenzoti, Eva Vivre
 125 East 72
 NY NY 10021
 001 212 739 6221(w)
 001 212 815 6420(h)
 917 385 8157 (p)

Lorimer, John & Lottie
 33 Chiddingfold Street
 London, SW6 3JQ
 020 7591 3135 (h)
 020 500 94678 (h)
 Email: lottielorimer@hotmail.com
 0207-376 3055 (w)
 0207-351 3557 (h)
 00 33 12 724068

Louthan Guy J.
 323 876 0345 (CA.)
 377 885 46314 (w)
 Email: highlandfilms@earthlink.n

Love, Courtney
 9536 Heather Rd
 Beverly Hills, California 90210
 310 666 1345 (p) Dana
 310 275 4205 (h) Dana
 001 310 595 1345 (p) Dana
 001 310 275 4205 (h) Dana

Lowell Ivana
 255 West 11th St
 NY NY 10012
 001 212 988 4829

Loyd Mark
 197 Knightsbridge 7th floor
 London SW1 1RB
 020 7361 3533 (w)
 07771 847193 (p)

Lucas, Colin
 01965 270 243

Mack, Carol & Earl
 The Mack Company
 170 West Passaic Street
 Roseland, NJ 07068
 201 346 5400
 201 388 0349 (f)
 (h-m) 860 United Nations Plaza
 Apt. 35B
 New York, NY 10017
 212 750-8003 private
 212 750-8007 (h)
 212 755 2518 NY Home

Macmillan, Dave & Bella
5 Stanley Crescent
London W11
0207 333 6070 (w)
0207 243 8837 (bp)
0207 581 8000 (n)

Magaziner, Ira C.
617 774 0110 (w)
617 774 0220 (wh)
Email: ira@sjscvisors.com

Maguire, Jennifer
140 W. 86th Street (h)
New York, New York 10023
001 212 486 2884 (h)
001 917 691 8646 (m)
001 917 691 8646 (m)
212 941 2015 (direct line)
212 941 3941 (Eisa Hurley)
212 941 3959 (wt)

Mahler, Giovanni
00 41 91 227 904 (Lugano)

Mahoney, Sean
666 Greenwich Street, #1004
NY NY 10014
001 212 902 3961 (h)
001 212 725 3771 (w)

Maller, Michael
28 Old Fulton St. #7H
Brooklyn Heights, NY 11201
001 212 334 0020
001 212 334 7916 (w)
Email: maller@guigemaller.com
(Hm) 443 Greenwich Street, Suite
3A
New York, NY 10013

Mallman Josh
001 212 252 4782

Malek, Harry & Didi
8 Enghismore Mews
London SW7 2JN
0207 584 1579 (m)
0207 584 9761 (w)

Malenga (Mandela)
Machel
00 959 980 000 (SA)
07 959 77 8607
Email: rias@yahoo.com

Malina, Marjorie
00 33 1 46053266 (h)

Malkin Shelly & Tony
107 Dublin Road
Greenwich, CT 06830
001 203 829 5772

*44 207 219 2632 (w)
01429 766 713 (country h)
011442072194525 work fax

Manfredini Alessandro
117 Valsion Street
London SW11 4PR England
0207 2460 6600 (w)
0385 3227 30

Mangope Eddie
Les Arcades Leopold Park
Monabat Ho 2867
P.O. Box 245
Bujumbura
00 27 1838 4044

Manners, Eddie
49 Ladbroke rd
London W11 121 (w)
021 7323 4260 (h)
edmanners@aol.com

Manners, Miss Lucy
19 Kersley St
London SW11 4PR
0207 527 770
0207 522 3030 (w)
0207 213 6860 (h)
0831 521 770 Alice

Mallingkrodt, Mr Philip
8 Graham Terrace
London SW1
0207 516 1844 (w)
0207 304 166 (h)
0207 516 3719 (t)

Manconi, John
48 Albermarle Street
0207 409 0466
0207 336 2917 (h)
0207 336 2917 (h) office fax
0207 352 3021 home fax
00 41 22 341 4680 Geneva office
00 41 22 341 4675 Geneva office
fax
01784 431 552 Wisteria Cottage

Mandelson, Peter
80 Archel Road
London W14 9GP UK
+44 2060 10754 (h)
07 977 001 119 934 (p)
Email: peter@mandelson.demon.co.uk
(Hm) The Right Honourable Peter
Mand
Member of Parliament
London W14 9GP UK
London SW1 A0AA
07 977 001 114 Rainado
(h)
07641 120 391 (h)
01144 207 219 2449 Peter's direct
0207 460 4195 home
+44 207 219 4607 (w)

Manners, Tersa
28 Brynmair Rd
London SW11 1L
0207 498 8715
0956 477 184

Manzano, Jose Luis & Alejandra
001 202 337 1133 (f)
001 305 258 0917 (h)
001 305 258 0319
00 54 61 208411
00 54 1150 0571 64

Mappin, John
30 Southgate
Hyde park cross
London W2
001 310 854 5478(h)
03706 71650

Margolls, Eric
Chairman, Laboratories
2 St. Clair Ave. West # (w)
Toronto, Canada M4V 1L5
416 960 0052(w)
416 809 0506 (p)
Email: emargolls@torlightcorrespondence.com
1100 St. Clair Ave W.
Toronto
Canada M4V 2Y8
416 963 0078 (h)
416 960 1769 (w)

416 960 4228 Grainne Jones (assistant)

Marks, Stephen & Alisa
23 The Boltons
London SW10 9S0 UK
+44 207 259 2266 (h)
+44 207 259 2211 (h)
Email: stephen@franchconnection.com
(Hm)341 Furber Lane
East Hampton, NY 11934
631 259 5584 hamptons
631 259 5954 hamptons fax
+44 207 393 7864 (w)
+44 207 393 7864 (w)

Marocco, Manlio & Pia
57 D. Carogian Sq
London W10 6TH
0207 812 1590 (h)
0207-349 8828 (w)
Email: pia@marocco.co.uk
0207 734 9828 (w)
01716 253 551 (p)
0207-349 8300 (h)
0207-349 8317 (w)

Marsh, Jeremy
Swiss Farm & Grilles Rd W14
Hyde Lane Well
Eccles W14
Newbury Berks
NY16 2EJ
01635 262960(h)
Email: jeremy.marsh@telstar.co.uk
(Hm) Fulham Village

Massimo Parisi
Belle Models
01138 395 360 895(p)
01138 074 5833 (h)
Email: parisi@bellemodels.com
0113 2 846 4386 Estonia (f)
011372 846 4387 Lithuania (f)
011370 866 9537 Lithuania (p)

Mattsson, Carolina
Vapadisaalan 9
42676 V. Frolunda
Göthenberg, Sweden
011 46 313 1594 (h)
011 46 313 1594 (p)
011 46 313 1594 (p) Father
011 47 760 100 (w) Mom-Dr. Syl-
via Mattsson

Mavroleon Catlin
0207 225 0350
07831 575541
001 347 742 5116

Mavroleon, Basil & Carolina
001 212 223 0990 (h)
001 212 310 8902 (w)
0207-233 9767 London

Mavroleon, Carlos
143 Beaulieu St.
London, SW10 0
0207-361 5696

Ap1 213
No 4 Farm Lane
SW16 1DG
01655 299 933 (h)
07785 317 999 (p)
07785 656 128 (car)
020 8392 6820 (direct)
0208 392 6842 (wr)
Ast. Ash Courage nasha.cour-
age@telstar.co.uk

Martler Astrid
330 East 52nd
New York, NY 10022
001 212 733 0003(h)
001 212 733 1111(w)
001 917 734 0404 (p)

Martins Peter
Director
NYC Briefet
212 870 5655

Marzotto, Matteo
Valentino
39 02 62492 600
39 02 62492 571 (f)

Mason, Christopher
330 East 59th St
New York, NY 10021
001 212 675 0869(h)
001 212 517 0632 (h)

MC & Allenor
Lime close
Drayton Abingdon
Oxfordshire
OX14 4UJ
0207 522 6414(h)
0207 522 6414(h)
Email: mcdesign@compuserve.com
(Hm)30 Priam Street
London E1 3PP
0207 622 8141
0831 861 663 mobile

Maxwell, Marcella
13 Penn Road
London, N7
0207-809 1877 (h)

Mayhew, Mr John
Home Farm Larkingdon
DL12 9BW
Teesside 50371
35 Lennox Gardens
Sunderland S11 1X 0DF
0207-581 1514 (h)
0207-378 0258 (w)
0207-836 5314 (w)

Mazandi, Yasir
47 Cheyne Walk
London W8 5PP
001 917 455 6633(p)
0207-351 7333(h)
001 212 751 0365(h)
001 212 751 0270(h)
001 212 751 0367
0207-351 1030(h)

Mazzotti, Mateo
00 39 335 1331 3333

McClancy, Cas
0207 730 2779 (h)
02831 400034
Email: cazyan@compuserve.com
001 917 293 7321

McAlpine Alistair & Romilly
c/o The porters
Grafton Palace Hotel
St James's
London W1 3BA
011 390 4152 6654(h)
00 35 41 9210040(h)
0207-723 9309(w)
0880 203310(car)

McDonald, John
001 212 966 2727 (w)

McFarland, Anthony
007 095 560 2653 (h)
007 095 560 2653 (w)

McKenzie, Raymond
Lazard Freres & Co
65 East 76th Street
New York, NY 10021

Merlison, Guy & Caroline
001 212 628 5661

Merivale-Austen, Bruce
35 Moore St.
Chelsea SW3
London SW3
0207-581 4026
0207-861 3978 (w)

Merlison, Guy & Caroline
001 212 628 5661

Merlison, Guy & Caroline
001 212 628 5661

Merlison, Guy & Caroline
001 212 628 5661

Merlison, Guy & Caroline
001 212 628 5661

Merlison, Guy & Caroline
001 212 628 5661

Merlison, Guy & Caroline
001 212 628 5661

Merlison, Guy & Caroline
001 212 628 5661

Merlison, Guy & Caroline
001 212 628 5661

Merlison, Guy & Caroline
001 212 628 5661

Monckton, Rosa
Asprey & Gerald Ltd
Cox's Mill (Home)
Bellingham, East Sussex TN21
0207 483 6767(w)
01 435 831 0756
Email: rosa@asprey.comnet.co.uk
011441435 831075 Private
41435 831075 Dominic's
41435 831075 33 portable
0207 335 8307 Asprey Fax
+44 7774 87 8135 (m)
44 7774 87 8135 (m)
44 1435 831075 Emerg

Money Kyrle, Mr Charlie & Kit
102 Albert Palace Mansionsma
London SW11 4DH
0207-350 2067(h)
0207-321 0177 (w)
0207-308 8964(w)

Montemayor, Cesar
001 212 769 9780 (h)
001 212 751 9600 (o)
011 331 45491611 Paris (h)
00 528 368 0068(w)
00 528 368 9242(h)

Monti Riccardo
00 39 335 71 64427

Moore Deborah
73 Eccleston Sq
Flat 1
London SW1
0207 484 9067(h)
0777 188 4330
001 310 456 4777 Jeffrey

Moore, Juliet & Chris
138 East 78th Street #78
New York, NY 10021
001 212 737 2244

Moore, Mr Geoffrey
22 Eaton Square
London SW1W 9DE
00 33 33 2705 (h)
001 301 456 4777 (h)
001 301 456 4777 (h)

Morris Stephen
Capita Advisory Inc
10 East 63rd St
New York
NY 10021
001 212 613 0347(w)
0212 566 6302
07801 163389
07765 007 007

Morris, Nick & Lucy
1 Akrle Gardens
London W8
0207-792 8734 (h)

Mortimer, Gigi & Averell
0207-584 8764 (w)
0207-838 9060 (w)

Mortimer, Gigi & Averell
President
Arden Asset Management, Inc.
2 East 87th St, 0071
New York, NY 10021
1 212 751 5232 (h)
1 212 751 5232 (w)
Email: amortimer@ardenasset.com
amortimer@ardenasset.com
(Hm)350 Park Ave, 29th Floor
New York, NY 10022
1 212 751 5232 (h)
1 212 751 5232 (w)

Morton, Peter
001 310 854 3366(w)
001 213 373 4095 (h)
001 213 278 1195 (w)

Morton, Robert
Producer Litterman 3
001 212 351 0584(w)
001 212 351 0584(h)
001 310 888 3280 (o)

Mruvka Alan
001 310 664 3271(w)
001 310 664 3271(h)
Email: amruvka@yahoo.com
(Hm)001 310 273 5227(h)

Munro, Donald
970 Chesnut Street #10
SF, Ca 94109 5401 (h)
001 415 557 2615 (w)
001 415 527 2615 (w)

Murdoch, Rupert
001 310 203-1229
001 212 852-7100

Murray Phillipson Kate
0207-371 2571
07973 176369

Murray Phillipson, Mr & Mrs
The Cottage
Basen
Nr Market Harborough Leics
0858 892333 (h)

Murray Threipland Terrious/Cla
01722 431152
01593 731202

Murray, Jean Pierre
00 12 13 350 0518 (h)
00 12 13 350 0518 (h)
00 33 84 97 0167 (St Trop)

Nadler Emanuel
001 212 758 5430

Nagel Adam
001 212 873 8522
0207-242 9638

Nagel William
0207-242 9636

Nardi, Dotti M Jacopo
0335 683 1385
Email: janard@ilnet
00 39 02 2364126 (h)
00 39 02 8360678 (w)

Nastasse Iffe & Alex
44 East 67th Street
Apt 9D
NY, NY 10021
001 212 472 2543
00 401 210 2232 (h)
00 401 230 0484 (f)

Negrete, Jeliza
903 Park Avenue
NYC
New York, NY
001 917 743 7753

Neil Andrew
55 Onslow Gdns
London SW7 3QF
0207-581 1655
Email: aineil@aol.com

Neil, Andrew
239 E 49th St #118
NY 10017
001 212 588 9080
001 212 556 8555 (w)

Newman, Hetty
3 Pelly Place
London, England
SW9 3BJ
0207-331-544

Newman, Mr & Mrs John
Compton Park
Compton Chamberlayne
Walsley, 0765 (h)
0207-830 3007 (w)
07270 294 (h)

Ng, Clive
652 Broadway
5th Floor
New York, NY 10012
212 588 0203
0207-235 5586 (p)
0207-258-5599 (w)

Exton Oakham Leice stershire
LE15 8BN
0780 86488 (h)

Noel, Vanessa
12 East 86th St #535
New York, NY 10028
212 906 0054
212 906 0058 (f)
001 212 517 5133 (h)
001 212 737 0115 (w)

Noha, Cecilia
001 212 683 4649

Noonan, Tim
001 212 446 3661

Nuttall, Harry
Crown
RNR International Ltd
15 Sloane Court West (h)
London, SW3
0207-823 4308
0207-380 6262 (w)
Email: h.nuttall@rnl.com
17m17 Queens's Gate Place
London
SW7 5BG
07768 004 328 (p)

Niarchos, Constantine
33 Grosvenor Square
London, SW1A 1AA
0207-828 8400 (w)
00 41 82344106/36 938 (St M)

Nickerson, William & Jayne
131b Portland Road
London, W11 1JL
0207-221 1605 (h)

Nishio, Yoshi
400 S McCadden Pl.
LA, CA 90020
0207-133841714 (h)
0207-133841717 (h)
0207-493 7086 (f)
0207-637429 (w)

Noel Alix
812 Park Ave
10021
001 203 861 0993 (h)
001 203 861 0505 (w)

Noel, Hon Thomas
24 Lennox Gardens
London SW1X 0DQ
0207-589 1641 (h)
The Grange Farm

O'Donnell, Mr Carletto

13 West Eaton Place
London, SW1
0207-735 0153 (h)
0207-735 0153 (w)
0650 735 0153
New York, NY
001 212 517 7507 (h)
001 809 326 6925 (h)

O'Neill, Louis

230 E. 15th Street
NY 10003
00 1 917 539 8889 (p)
00 1 212 473 7277 (h)
Email: lonell@stanfordalumni.or
(rm)001 212 335 9117 (w)

Oates, Simon

0207-724 1010 (w)

Oates, Tom

72a Sydney Street
London, W1
0207-243 0131 (h)
0207-280 2199 (w)

Olora, Yinka

0207 722 3252 (w)
07831 556 778 (p)
Email: yinkajolara@aol.com
0207 722 3252 work fax
0207 722 3252
234 1 289 0055 Nigeria (w)
234 1 289 0055 Nigeria (w)

234 1 775 2585 (p)
234 803 40 50 442 GSM

Olsen, Camille

917 859 8923
917 853 9535

Omar, Ralph

13 Cliveden Place
London, SW1 8LAA
0207-730 8077 (h)
0207-730 8077 (w)
16 Sloane Square
London, SW1
0207-730 4253 (h)
0207-730 4382 (w)

Ong BS & Chritina

Cambridge 2nd floor
Pemberton House
15 Wrights Lane
London
W85 5LL
0207-368 8688(w)

Ong Melissa

001 817 373 4028(p)

Oppenheim, Mr Laurie

17 Avenue Duquesne
Paris 75007
00 33 1 47 63 50 00
00 33 1 47 63 201 (h)
0207-223 8842 (h)

00 33 93 5252 (S Tropicz)
00 33 1 4551 6306 (h)

Oppenheim, Ms Marella

16 Belton Gardens
London, SW5 0AJ
0207-373 1213 (h)

Orchard (Vaughn-Ed-ward), Katie

Orchard End
Fulleton
Walsingham, England SP4 9QA
0207 905 1429 (Sw)
0772 028 6237 (Sp)
Email: vaughnedwards@ukgateway.
com
11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

London WC1V 6HG
0208 947 0027 Parents
0198 067 0311 (h) try this # first
0780 119 4139 (h)
0198 067 0800 (h)

Orlando, Fabrice

011730 7250
06 0338 2893

Osbourne Rachel

19 shile Hill Gons
London, W1
0208-994 8018(h)

Oswald, William & Arabella

Buckton Park
Leintwardine
Herefordshire, UK SY7 0JU
001 547 540 405
001 547 540 495(f)

Email: williamoswald@asysystems.c
om
Walsingham, England
6 St. James Court
9-11 St. Petersburg Place
London, W2 HJY England
01547 54001 (w)
01547 540490 (w direct line)
01547 54006 (w)
0207 229 0773 (2nd home
phone)

Otto, Beo & Edvige

00 331 4747 1398 (M)
00 331 4011 2525 (C)

Owen Edmunds, Tom & Kate

The Coach House
17, The Coach House
Nympton, Devon NPS 4HR
0207-322 3416 (w)
0207-259 2081 (h)
0207-727 9742

Oxenbergh Christina
marc Yaggi
 102 NY 98 83R
 001 917 202 9962
 Email: oxenbergh@earthlink.net

Paini, Nicole
 12 Stanhogg Mews South
 London SW7
 0207-316 7135 (h)
 0207-244 8348 (w)
 0207-322 3418 (w)

Palau, Marcia
 98 Cheneys Walk
 London SW10
 0207-331 4150
 0207-225 3478 (h)

Palmer Tomkinson Tara
 0207-244 8856(h)
 0468 893371(c)
 01256 389331(c)

Palumbo, Mr James
 Flat number 3
 78 Orchard Gardens
 London SW10
 0207-378 6528(w)
 0378 160176(p)
 0207-244 8953 (h)

Palumbo, Peter
 2 Astell Street
 London NW3
 0207-351 7571

Panah-Izadi, Nader & Brigitte
 241 Boulevard St Germain
 Paris
 5 This Boulton
 London SW10
 0207-244 8348 (h)
 00 33 1 4580 3511 (ph)

Pank Ms Victoria & Alby Carto
 22 T James Quay
 Chelsea SW10
 London SW10
 0207-352 8889
 0585 336319
 0207-581 0174 (w)
 0980 336333(h)
 071-736 6333(h)

Parker Jackie
 001 678 296 0042
 001 805 242 4272
 Email: jackie@jackieparkers.net

Parsons Carolina
 19 14 527 4505
 Email: carolinasparsons@aol.com

Paschen, Elise
 001 212 254 9628
 001 212 769 2711 (h)

Pashcow, Joel
 Atlantic Realty Trust
 747 Third Ave. - 10th Floor(w)
 NY 10017
 860 UN Plaza (h)
 #19A, NY 10017
 212 762 5000 (w)
 212 762 5000 (w)
 Email: joel@atlrealty.com
 (h) 27 St George Place (h)
 Palm Beach Gardens, FL 33418
 21 Fl Drive (h) 11024
 56 901 New York
 212 702 8556 (w)
 212 355 3080 (w)
 917 842 8811 emergency
 561 881 3075 Line 2 (h)
 561 881 3075 Line 2 (h)
 561 881 3075 Line 2 (h)
 212 308 4595 UN Plaza (h)
 212 750 2453 UN Plaza (h)
 216 466 4850 Great Neck (h)
 216 466 4850 Great Neck (h)
 216 466 4850 Great Neck (h)
 917 842 8811 (p)
 561 309 0537 (p)
 917 890 6159 (car)
 212 570 1016 Carter
 516 487 6465 Father's home

Pashcow, Stacey
 (married name Gardi)
 113 W 5th street,
 Astoria, NY 10023
 New York, NY 10023

212 501 7993 (h)
 212 456 5927 (w)
 917 921 8002 portable
 917 520-7294 car phone

Pastrana, Andres
 Ex President of Col
 Casa de Nariño
 Carrera #8A N7726
 Bogotá, Columbia South Amer-
 ica
 00 571 582 6900
 001 571 582 6900
 Email: A.Pastrana@aol.com
 (h) Castillo 85 Piso 6
 Madrid, Espana
 28001
 912 413 8915 (h)
 912 413 8915 (h)
 61 78 10051 (spain)

Patricof, Alan & Susan
 830 Park Avenue
 New York, NY 10021
 212 777 6211 (w)

Paulson, John
 001 212 982 9975 (h)
 001 212 350 5151 (w)

Pavoncelli, Cosima & Riccardo
 28 Thurlow Square
 London SW17
 0207-586-7677(h)

Pearson, Hon Charles
14 Markham Square
London SW3 4UY
0207-225 0096 (h)
00 41 26 75542 (V errier)
079 85 655

Pease, Simon & Clem
Underley Grange
Kirkby Laundale
Carnforth
LA6 2LE
0468-36242 (h)

Pedrin Lorenzo
Next Model agency
001 917 297 9980
00 33 53451300(w)
01 53 45 13 01 Office F
0663 00 8741

Pedrlini Tito
001 212 888 3355(w)
001 212 688 2472(h)
Email: 001 917 545 7277(p)

Pekeler, Marcus
0041 794 015 377

Peltz, Harlan
117 East 57th
New York, NY 10022
001 212 486 2826
001 212 622 7300
Email:
harlanp@youthstreet
001 516 283 5053
001 917 971 4012

Pennell, Mark
00 61 39 787 3592
00 01 04111 89293(p)
00 61 9670 1505(w)
00 61 3 690 3291(h)

Perelman, Ronald
Revision
35 East 62nd Street
New York, NY 10021
212-572-2500

Petangi, Helslus
0041 7922 0202

Peters, John
Peters Entertainment!
4000 Warner Blvd.
Bldg. # 15
Burbank, CA 91522
001 818-954-4960 (w)
001 818-954-4976
001 818 954 4983 (t)

Peterson, Holly
212 472 1142 (h)

Peterson, Riki
001 212 721 7217 (h)
001 212 644 4188 (w)
001 212 362 9867 (h)

Pham Linh-Dan + Andrew
111 West 57th suite 1105
NY NY 10019
001 646 456 0744
Email: linhdan@hotmail.com

Picasso, Olivier & Alice
35 rue Marbeuf
75008 Paris France
00 33 6 08 68 59 70
00 33 1 47 03 69 89 (w)
00 33 1 42 84 10 10 (h)
00 33 1 67 03 69 69 (w)

Picciotto Michael
0207-584 4726
00 41 22 7003715
0207---839 22 21(w)
0370 468461
00 41 22 9193203

Pickering, Jane & William (Nic)
20 Stence Road
London W12 8BV
0207-499 9080(w)
0208-749 9970(h)

Pignatelli, Frederico
468 W Broadway #6H
NY, NY 10012
001 917 860 3200 (p)
001 212 529 3000 (h)
001 310 888 1111 (h)
001 212 691 5959 (w)
001 212 206 7600
00 39 348 5611000 (p)

Pigozzi Jean
1 West 67th
NY NY 10023
001 212 721 3355(h)
001 212 721 3121(f)
001 331 4634-6555 Parts
001 331 4836 13370 Antibes
001 212 333 2895 Batimias or
333 2620
001 917 446 7368
001 917 414 5147
0499-613 370

Pittman, Bob & Veronique
President & CEO
AOL Networks
150 Columbus Avenue (h)
Apt. 17-C
New York

NY 10023
001 212 350 5944(h)
001 212 350 5945(h)
Email: patrice2@att.com or vchoa
(Hm) 75 Rockefeller Plaza
28th Floor
New York
001 917 2 484 6780 (w)
001 212 356 2688 (w)
Pittman @ AOL.com e mail
001 212 580 58 59 (Veronique h)
001 914 767 8233 (h)

Pittman, Sandy
001 805 693 1212 (w)
Email: sandhill@mindspring.com

Plepler, Richard
755 Park Ave(h) Americas
100 Ave(h) 1003(h)
Room 1006 1003(h)
001 212 773 2174(h)
001 212 512 1660(w)
001 917 833 5047(p)

Plouvier, Diane & Denis
46 Villa Chaplat
Le Vallois-Perrel
Paris, France 92300
00 33 1 4755 5075
00 33 1 4755 5075(h)
(Hm) (W) Porthault
6 Rue Collange
Levallois Perrel France
92300
00 33 1 4737 1400(w)
00 33 0860 165638 cell

011 336 61 575164 Denny's cell
331 4737 7320 FAX

Podolsky, Jeffrey
Vice President
150 East 72nd St
Sully 2C 10021
NY 10021
212 888 4116 (w)
917 533 5580 (p)

Polk, George
001 212 529 2424 (h)

Polli, Edoardo
Legler S.A.
Corso Manzoni, 1
Capitate S. Gervasio
24100 Crepi d'Adda (BG) Italia
02 8683 4579 (f)
00 39 335 237219 (p)

Polu Emmanuelle
00 331 4328 4082(p)
Email: epolu@groupp-etc.com
00 33 0615 381 670 (p)

Polu Isabelle
07601 881017(p)
0207 831 6317
Email: isepolu@microsoft.com

Polu, Clary
79 rue de Rennes
01 45 49 00 34
06 13 27 61 83
Email: clary@carimail.fr

Portin Ivanisevic
001 212 579 9323(w)
001 212 579 9523 (h)
001 917 593 4191

Porter, Piny
Fineworks Pictures
1170 Eventide Place
Beverly Hills, CA 90210
001 310 278 8130 (w)
001 310 435 8015 (p)
Email:
pinyporter@mindspring.com
310 278 8130 (h)

Porthault Emmanuele
00 33 607362020

Porthault, Mr & Mrs
77 bis rue Charles Lafitte
Neully 92222 3215 (h)
00 33 1 34856205 (c)

Porthault, Pascal
3 Place du General Catroux
75011 Paris
00 33 1 4738 6479 (h)

Porthault, Remi & Isabel
43 Avenue Charles de Gaulle
Neully 92222 3215 (h)
00 331 4737 1400 (w)

Poster, Maryl
Production
Miramax Films
375 Greenwich Street
#3 New York, NY 10013
001 212 641 3828 (w)
001 212 641 2099 (f)
001 212 641 8611 St.
#50 New York, NY 10028
New Assistant
001 212 439 8187 (h)

Potter, Muffie
01 917 691 2526(p)
01 212 737 3223(h)

Prestin, Electra
001 212 879 4214

Prevost, Catherine

GIUFFRE001622

Rachline, Nicholas 001 516 537 0123 0207-589 4453 00 33 1 4555 9399 44(0)77 5913913 uk cell	Raynes, Patty 001 212 988 1133 001 212 980 1689 (w) 001 561 798 2000 Florida	Robilant, Mr Edmondo di Maya 5 Woodcote Road Wotton, Surrey, PO18 1DY 0207-488 1800 (h) 0207-409 1540 (w) (Hm)0410 921192 (mp) 0370 471410 (ep) 0207-409 1540 (w) 0207-373 1543 (h)	Robinski Kasia/Pod 46 Sutherland Place London, W2 5BY UK 0207 792 5366 (h) 0207 792 5367 (h) Email: kasia.podgajski@podgajski.com	Robinson, Jo & Lisa Shields 001 631 537 3934 (h) 001 212 301 2505 (w) 001 267 832 0551 (h) 001 516 323 9503 (parants) 001 917 854 1224 (j)	Rocksavage David 0207-408 0418 (w)
Radziwill Carole 29 King St Apt 2F New York, New York 10014 0207 326 3388 (p) 0207 326 3388 (w) Email: carole@radziwill.com (Hm)001 917 9000 4415 (p) 001 212 463 8015	Reardan, Kate Albyn House 239 New King's Road London SW6 4XG 0207 370 8618 0207 370 8618 (h) 0207-489 9086 (w) 0207-489 2138 (w)	Ritblat, Nick Rebecca Willis 37 Queens Grove London NW9 6HN 0207-386 9707	Ritson Thomas Rupert 0770 3593252	Robert, Joseph & Jill 1850 Lyons Blvd Westbury, WA 98148 00 703 714 8021 (w) 00 703 714 8021 (w) 703 714-8103 w-fax	Roberts Deb 001 917 693 5794
Rankin, Mr Gavin 52 Bassett Road London W10 6UL 0209-968 6266 (h) 0207-965 0555 (w) 0207-433 5088 (w)	Reynal, Miquel Montevideo 1336 Buenos Aires Argentina 00 54 1 424918 (h) 00 54 1 4401805 (w)	Rivers, Joan Melissa Rivers 1 E 62nd St New York, NY 10011 1 212 826 4211 (w)	Robinson, Jo & Lisa Shields 001 631 537 3934 (h) 001 212 301 2505 (w) 001 267 832 0551 (h) 001 516 323 9503 (parants) 001 917 854 1224 (j)		
Rappaport Don 001 908 874 4300 (w) 845 373 8586 (h)	Reza, Ali 55 Freshy House Ruilan Gate London, United Kingdom SW7 1BG 0207-589-5897 (h) 0207-589-3800 (w) Email: ali@reza-stream.com 001 212 750 1260 (h) 001 203 790 6800	Ritson Thomas Rupert 0770 3593252	Robinski Kasia/Pod 46 Sutherland Place London, W2 5BY UK 0207 792 5366 (h) 0207 792 5367 (h) Email: kasia.podgajski@podgajski.com	Robinson, Jo & Lisa Shields 001 631 537 3934 (h) 001 212 301 2505 (w) 001 267 832 0551 (h) 001 516 323 9503 (parants) 001 917 854 1224 (j)	Rocksavage David 0207-408 0418 (w)

Roady, Bill
MTV Europe
24 Hanover House - Wood Hi St.
St. Johns, NW87DX
0207-478 6000 (w)
0207-383 4250 (w)

Rolfe, Gail
46-48 Gerfud Street
London, SW10
0207-351 1836 (h)
0207-838 6000 (w)

Ronson, Lisa
54 Grosvenor Street
London, W1X 0EU
0207-493 3577
0207-493 3524 (f)
212 412 2200 Lisa's work

Ronson, Mr & Mrs Gerald
Carrington Chase
54 Warrington Road
Hampstead, London, N2 0TY
0207-482-5000
0207-482-5070 (h)
0207-486 6309 (h)
0207-486 4477 (w)
0836 202207
00 87 11440333 (b cat)

Rose Wendy & Jo
001 212 633 9270 (h)

Rose, Charlie & Burder, Amanda
119 E. 71st. Street
New York, NY 10021
212-349-1635 (w)
212-249-4645 (h)

Rosen, Andrew
001 212 558 0814
001 212 496 6844
001 917 661 4035 (p)

Rosen, Denis & Sylvia
78 Jwyford Ave.
Orms Green, N7
London, W11 4LY
0207-226366 (h)
0207-267 6991 (h)

Rosenkrantz, Ms Claudia
11 Pottery Lane
London, W11 4LY
0207-361 1731 (h)
0207-361 1733 (w)

Rosenfeld Donald
11 East 68th St
NY NY 10021
001 212 635 6379

001 212 720 3200 Jo (w)

Rothchild, Jessica
07710 579799
0207-243 4525

Rothchild, Hannah
5 Clifton Villas
London
W92 PH UK
London, W9 035(h)
0207-293 9111(w)
0207-286 9784 (private fax)

Rothenburg, Rich
001 612 893 5309(w)
001 612 239 7424(p)
(hm)001 212 744 8341(h)
01 846 436 3283 cell

Rotherwick, Tania & Robin
Oro Software Ltd
21 Ansdell Street
London W8 5BN
0207-937 9999(h)
07867-865 6011 m-
Email: tania@omgroup.co
(hm)
Combury Park,
Charbury,
Oxon, OX8 5BZ
01865 558730 (h)
0207-942 0949 (w)
0207-723 1240 diana (h)
0207-393 1642 diana (w)
01608-811 600 County

Rosenthal, Jane
Tribeca Productions
375 Greenwich Street 8th floor
New York, NY 10013 (w)
212 941 4044 (w)
212 941 4044 (w)
001 516 537 8274
212 877 7042 (h)

Roth, Peter Thomas & Noreen
Korba Co.
52 E 73rd st (h)
New York, NY 10021
212-351-3500 (w)
212-377 7303 F.(h)
Email: @petrothomasroth.com
(hm) Peter Thomas Roth Labs
LLC
630 5th Avenue, Suite 1406 (w)
New York, NY 10017
212-757-7303 N. (h)
917 608 1701 (p)
212 737 2074 (h)
212 581 5910 (w)
212 581 5910 (p)
917 908 9306 (other office)

Rothschild, Edouard de
18 rue Jean Goujon
Paris 75009 France
00 33 1 4225 4177 (w)
00 33 1 4225 4177 (h)

Rothschild, Evelyn de
New Court
Rothschild Lane
London, E1P 3DU
011 44 171 2605302
011 44 171 220 7108f

Roumeger, Caroline
001 212 228 0532
Email: 105157.3276@compuser
c.co

Royle, Hon Lucinda
47 Cadogan Place
London, SW1
0207-235 0323 (h)

Rucellat Natalie
00 39 55 2011284
00 39 55 2011282
00 39 336911 4322 (p)
00 39 55 237 4731 (h)
011 43 55 55 55 55
00 39 55 231 3485
39 335 365945 Natalie's cell

Rudinick, Della
001 212 582 8111(h)
001 212 556 2721(w)
001 407 833 8111

Russel, Michelle
235 East 83rd St.
NY, NY 10028
001 212 772 3812(h)
001 212 224 3871(w)

Rust, Marina & Ian
33 E. 70th Street (h)
#2N
New York, NY 10021
212 535 8568(h)
Email: mrus@aol.com or
ian.ch.rmus@aol.com
Lazard Freres
(Hm)lan-office
30 Rockefeller Plaza
001 212 632 2650 lan (w)
001 212 632 2650 lan (p)
207 934 2280 lan (w)
212 632 2650 lan work

Rustow, Tim
129 E 94th St
NY, NY 10021
001 646 813 0271(h)
917 302 0608 cellular

Rutland Duke and Duch-
001 212 754 6750(w)

Safra, Edmund
001 212 355-5250 (h)
001 212 355-6427 (w)

Safro Wayne
Cafe Saffran Hotel
001 917 533 6190
001 212 382 8480

Said, Wafic
00 33 1 4503 1616 (h)
00 33 1 4503 1604 (w)
00 33 303 030 (h)
00 33 304 450 (w)

Sainsbury, Mr Jamie
18 Tedworth Square
London, SW1
0207-332 7566 (h)

Salama, Eric
1 212 632 6332 (w)
Email: esalama@wpp.com
07785 234 505 (p)
0207-408 2204 (main office w)
0207-656 5700 (w)

Sacco Amy
001 917 518 0101
Email: amy@daf1.com

Sachs, Jeffrey
001 212 750 1363(h)

Rutenber, Eric & Perri
1 Beekman Place (h)
NY, NY 10022
001 212 917 0809(h)
001 212 552 0382(pw)
Email: erutenber@tnticum.com o
(Hm)nticum Inc.
800 Third Ave.
NYC 10022
001 917 655 0568
001 212 317 0511 (h)
001 212 446 9301 (Ew)

Ryder, Mr Nicholas
74 Cornwell Gardens
London, SW1
0207-3623 2070 (h)

Safra, Wafic
00 33 1 4503 1616 (h)
00 33 1 4503 1604 (w)
00 33 303 030 (h)
00 33 304 450 (w)

Saltzman, Elizabeth

35 Lagbroke Grdns
W11 2PX
0207 450328
Email: elizabeth_saltzman@vf.com
001 212 737 4870
001 917 971 5975 Car
001 914 354 7033 (D)
001 212 550 8968 (W)
001 212 288 8150 (H)
001 207 235 0818 (H)
0771 4503818

Samuels, Mia

ABC Prime Time
001 212 550 6184 (W)

Sandelman Jon & Corrie

635 Park Ave
10022 New York
212 661 6008

Sangster, Guy & Fi

19 Crescent Grove
London, England, SW47AF
0207 488 9258 (D)
0207 488 9258 (W)

Sangster, Mr Ben

13 Farnshaw Road
London, SW16 0TG
0207 352 0453 (H)

Santo Domingo, Julio

Marlo
14 Promenade Saint Antoine
1204 Geneva
001 917 859 9090
Email: jmsd@alpi.ch
00 41 22 781 0870 (H)
00 41 21 8030 (W)

Santo, Mr & Mrs M

Espirito
Rua Inglaterra 31
2765 Estoril
Portugal
0207 373 5233 (H)

Saud Prince Solman

703 288 8770 (H)
202 409 3856 (P)

Scerbo, Randall

321 East 22nd Street
Apartment 6B
1 212 250 9749 (H)
1 917 520 1443 (P)
Email: 1 846 336 9623

Schiatti, Glanmarco

00 39 337 701 472 (P)
00 39 2 877 781 (W)
00 39 2 4919 126 (H)
00 39 1 4221 3201 (H)

Schifter, Helen & Tim

784 Park Ave
NYC
001 3553
212 535 8781
917 882 5775 (P)
917 866 9290 Tim Schifter P
946 239 4596 Helen P
516 537 7744 2nd home

Sebag Montefiore Simon & Santa

0207 353 4575
0207 498 7292

Seilern Christine

302 W12th St
#56
NY NY 10014
001 212 633 1609 (H)
001 212 924 5860 (W)

Sejourmet, Isabel de

11 Gadhow Gardens
London, SW7
0207 370 7621 (H)

Shabtai, Benny

001 212 355 3350
001 817 972 5080 (P)

Shad, Brenda

212 777 1122
Email: brendia.schad@verizon.net

Shearer Andre & Angie

001 212 877 5668 (H)
001 212 906 9700 (W)

Shore Chris and Maura

1040 Park Ave 10F
NY NY 10028

Shriver, Bobby

Suite 1850
100 East 42nd Street
New York NY 10017 USA
001 212 830 9109 (H)
001 212 444 9609 (W)
001 212 444 9609 Ocean Bv
Florida USA
001 405 842 4278 (H)
Special Olympics Productions
Inc
Room 220
1000 South Sepulveda Blvd
Los Angeles CA 90 025-3492
001 619 294 7402 (W)
001 310 478 8886 (fax)

Shriver, Maria

001 818 840 4813
001 818 840 4275 (H)

Shuster Susie
001 212 558 8572(w)
001 212 877 9371(h)

Siegal, Peggy
#45
125 East 74th(h)
NYC 10021

212-570-9804(h)
212-570-0084(hf)
212-566-5000(w)
212-566-4277(wf)
Email: peggy.siegal@aol.com
Hempstead Turnpike
Suite 404
Lanaiyette St.
NYC 10012
917-783-4113(p)
201-515-1837(ca)

Siegel, William (Bill)
Chitcraft Industries
767 5th Avenue
New York, NY 10018
212 421 0200 (w)
212 759 4100 (h)
Email: bsiegel@chitcraft.net, w
siegel@chitcraft.com
The Regency Hotel (h)
640 Park Ave.
New York
NY 10021
917 741 2189 (p)
212 759 7653 (wh)

Sieghart, William
75 Oxford Gardens
London, W10
0208-368 8352 (h)

Silver Ron
001 914 723 5712
001 212 838 4900(h)
001 212 869 8545(w)
001 212 838 4900

Silverman, Nancy & Henry
4 East 72nd Street
New York, NY 10021
001 212-835-3232(h)
212-472-7601(hf)
Email: silverman@condant.c
1119 West 57th St.
NYC 10019
212-421-6080(w)
212-421-9913(wf)
212-261-2527(h)
917-991-1353 Car phone
888-993-9545 Boat phone

Simon, Bren
MBS Associates, LLC
10110 Ditch Rd. (w)
Carmel
IN 46032
001 317 726 0865(h)
001 317 844 9467(w)
Email: bsimon310@aol.com
(h) 8545 Olde Mill Run (h)
Indianapolis
IN 46260

001 317 726 0741 (hp)
001 317 844 9450 (wf)
970 920 2113

Simpson (Caruth), Sophie
Email: simpson@artistsindependen
0207-373 0124 (h)

Sindi, Rena & Sami
813 Park Avenue, 10th Floor
New York
New York
10022
01 212 734 3236

Slayton Bobby
001 318 985 9493(p)
001 818 985 5313(h)

Smith Osborne
19 Silverdams
0208-909 2177

Smith Peterson, Noona
00 392 7200 4527

Smith, James
Aeglis Trust
UK Head Office
P.O. Box 2002
Newark
Nottinghamshire, NG22 9ZG UK
Email: james.smith@aeglis.org
001 1623 835378
(0) 44 (0) 1623 862950

Snyder, Maria
466 Washington Street Suite 4E
New York, NY 10013
001 212 214 9673
001 212 214 9677 (h)

Soames, Rupert & Milly
Milsys
0208-879 1186(w)

The Wilderness Upper
Wilderness House
Widmore Road
Worcestershire, WR11 5SH
00 33 1 4887 3326 (h)
00 33 1 4080 5403 (w)
0208-599 7883 (w) Direct
01944-299 540 (h)
01944-299 543 (h)
01631-487 487 (p)

Sobrinho, Esperanza
 Avenida Surferes
 NY NY 10021
 18 E 79th
 NY NY
 001 212 439 8737 (h)
 001 212 434 8300
 001 212 734 6300 (w)

Solomon, Andrew
 18 New York Times
 New York, NY 10011-8702
 212 477 2223 (f)
 212 477 2223 (f)
 Email: aws@awsolomon.com
 (r) 154 Kensington Park Rd
 2000, United Kingdom W11
 0207 221 5673
 0207 727 3533 (f)

Soros, Peter
 30 Endicott Gars
 London SW7
 001 212 628 8455
 001 917 882 1224 (p)
 001 720 720 720
 001 212 397 5515 (w Sharon)
 0207 584 0851 (f)
 001 508 257 6335

Soros, Peter
 900 Park Ave
 New York, New York 10021
 0207-823 4584(h)

001 212 891 3750(h)
 001 212 891 3750(h)

Soto, Fernando de
 81 Nunez de Balboa
 Madrid 28006 Spain
 00 34 1 575 8385 (h)
 00 34 1 275 8386 (w)

Soto, Jaime & Marina de
 34 Cadogan Sq
 London SW1
 0207-584-7910 (h)

South, Hamilton
 001 212 686 2241 (h)
 001 212 880 7623 (w)
 001 212 529 5533 (regen)

Souza, Carlos
 Valencia
 0335 372 03
 00 39 (0) 6 36 1248
 001 39 2 654 5223 (w)
 011 39 2 654 5223 (w)

Spacey, Kevin
 Tiger Street Productions
 755 La Cienega Boulevard
 Los Angeles, CA 90089
 319 380 1913 (w)
 212 841 5443 (h)

Squire, Hugo
 38 Evelyn Gardens
 London SW7
 0207-244 0496

St. Bris, Edward
 25 Rue de Bourg St Honore
 France
 00 33 1 4285 9318 (h)
 00 33 1 4286 9225 (w)
 00 33 607 885 386

Stanbury Caroline
 0207-373 1555(h)
 Email: costanbury@aol.com
 01794 301 393 country home
 0468 638 555 mobile
 07955 14 2706 Lisa (p)
 001 310 800 8879 Rachael
 Hunter

Stark, Koo
 0207-727 0977
 001 235 635 6623

Starzewski Thomas
 London SW7
 0207-244 7257(h)
 0207-235 0112(w)

Steenkamp, Chris
 082-567-9801
 082-928-9235
 054-451-0081 work
 054-451-0082 Office Fax

Steiner Jeffrey
 441 1st St
 001 212 308 6700(w)

Steinkampf, Chris & Nina
 Box 30
 Bodied Augrabies
 Cape Town 78374
 00 27 82 5579601(p)
 00 27 54 451 9400(w)
 00 27 28 314 1352 beach house

Stengel, Andrew
 24 Fifth Ave 4723, NY 10011(h)
 001 212 219 4559(w)
 001 212 254 8663(h)
 Email: an-
 drew.stengel@mitmax.co
 001 917 270 8305 (p)

Stengel, Rick & Mary
 225 West 86th Street Apt. 611
 New York, NY 10024
 001 212 522 2706 (w)
 001 212 522 2706 (w)
 001 212 721 6224 Maryn

Stern, Allison & Leonard

925 Fifth Avenue(h)
NY, NY 10021
001 212 744 2342(h)
001 874 630 3308(f)
Email: asl@stern.com (Allis
Leonard)
NYC 10021 Madison Avenue
94-536-9754 boat
212 772 7352 (hF)
212 808 8836 Leonard (h)
212 808 8836 Leonard (hF)
631 537 1545 Champions fax
631 537 8083 Champions fax 2
001 284 496 8636 (boat)
00 814 331 904515 (boat)

Stevens Michael

001 917 940 7564
0790 0000111

Stopford-Sackville, Char-

lie &
Shona McKinney
91 Albert Bridge Road
London, SW11 4PF
01832 731014
01832 716826
Email: charlie@stopfordsackville
0207-924 7532(h)
0207-627 5077(sw)
0873 316624 190
01832 735202 (graydon)

Stracher Kate

0207-371 2571

Sundin, Stuart

961 Lexington Avenue
New York, NY 10021
001 212 396 4911(h)
001 212 535 1743 (f)
001 212 535 0838(w)

Sunley, Mr James &

Amanda
45 Bury Walk
London, SW3
0207-499 8842

Sutherland Harry

0203 223 1073
079317282 731

Sverinsson, Peter

33 Redburn Street
London, W1A 8J3
001 499 28 8123
071-499 9980(w)
0385 326000
0790 069 1481

Swire Sophie

1 Lennox Grdn Mews
London, SW1 XODP
0207-785 0064(w)

07973 348520(p)
Email: sophiaswire@yahoo.com
0873 348520(p)

Swire, Hugo

4 Beachmore Road
London, SW11
0207-827 3337 (h)
0207-836 3321(w)

Swire, Jenny

0207-499-9080(w)

Swire, Mark

2 Lennox Gardens Mews
London, W1A
0207-785 0062 (h)
0207-589 0888 (w)
07768 875 808 (p)
Email: markswire@inspuk.com
(Hm) Mark Swire Properties Ltd.
87-89 Weymouth Street
London, W1A 2HP
07768 875 808 (p)
0207 589 0888 (w)
0207 589 2777 (w)
0207 584 5285 (h)

Sykes, Lucy Ewen

001 212 242 3136(h)
001 212 649 8020(w)
Email: lucy@sykesandsons.com
001 648 325 7224 (p)

Taaffe Paul

Hill & Knowlton
212 885 0500
Email: ptaaffe@hillandknowlton c

Tabet, Karim and

Cristina
65th Street Neighbors
114 East 65th Street
New York, NY 10021
212 772 8073 (h)
212 772 8068 (h)
212 821 2841 Karim (w)

Taki

36 Cadogan Square
London, SW1A 2NY
0207-235 6462 (h)

Talbot Williams, Simon

44 Anselm Rd
London, SW6
0207-398 6281 (h)
0207-398 6281 (w)
0836 239924

Tang, Mr David, & Lucy

Wasing
dw@hongkong.com
DWC Tang Development Ltd
75 Eaton Place, London SW1
12 Eaton House, Central
Hong Kong
07831 133 8601(p)
00 852 252 56320(w)

Theodoli Catherine
001 305 931 4292(w)
001 212 439 1712
Email: ktheodoli@aol.com

Tholstrup, Moegens
6 Fawcett St
SW10 9HE
0207-351 6429(h)
07785 250 980 (p)
Email: mtholstrup@cs.com
0207-384 7415 (w) (St. Trop.)
0031 27 771 6881 (Varadero)

Tholstrup, Paola
11 Sharnfield Terrace
Cromer, Norfolk NG
0207-727 9211(g)
07889 437 363 (p)

Thompson, Barnaby
001 212 285 7621 (w)

Tisch, David
212 752 0560 (w)
917 385 3377 (p)
Email: david.tisch@edb.com

Tisch, Merryll and Jimmy
9 East 79th Street

NY NY 10021
001 212 879 9414

Tish, Anne & Andrew
Regency Hotel
540 Park Ave. 10021
One Park Ave. #18th Floor
New York, NY 10016
001 212 545 3456

Titopupolo Sonia
001 212 706 2457(h)

Todhunter, Emily
Olympus
23 Warwick Sq
London SW1V 2AB
0207-828 4343(h)
0207-828 5353(f)
Email: emily.todhunter@earthlink.net
0207-927 8006
0468-473 789

Toledo Ignacio, Alvarez
de
00 33 1 6458 9451(h)
00 33 1 4413 0343(w)
00 33 1 696 8277
00 33 1 696 8277 (p)
001 305 582 917
001 305 584 8069
+44 795 183 5245

Tollman, Bea
011 207 235 9251

Tollman, Brett
485 Park Avenue
New York, NY 10022
001 212 848 4950 (h)
001 203 889 0720 (country)
001 914 745 2177

Tollman, Mr. & Mrs.
485 Park Avenue
New York, NY 10022
001 212 888 6048 (h)
001 407 858 0989

Tollman, Syrie & Gavin
21 East 93rd Street
New York, NY 10128
001 212 988 6310 (h)
001 212 988 6310 (p)
001 212 803 7516 (sw)

Tollman, Wynne
641 Fifth Ave. #34E
NY 10022
001 212 329 6932 (h)

Toub, Veronica (Busson)
570 Park Avenue
New York, NY 10021 USA

(Hm) 5 Rue Lalo
Paris
France
0033 1 4500 3341 (h)
001 212 888 0784 (h v)
001 212 472 8757 (h a)
001 212 472 8757 (h a)
00 33 1 4500 3341 (h)
00 33 1 4500 3341 (h)
001 917 887214553

Treacy Philip
69 Elizabeth St.
London
England
SW11 1WP J
0207-439 8095
0207-439 8094 (h)
0207-439 8094 (h)
(Hm) 07939 528663 Stefan

Trump Blaine & Robert
167 E 61 St NY 10021
New York, NY 10021

Trump, Ivana
001 212 319 4500
0207-483 0710 (h)
001 212 759 4770 (w)

Trump, Ivanka
0777 565 1554
001 917 446 2617

Trump, Robert & Blaine
Trump Management, Inc.
2611 W. 2nd Street
Brooklyn, NY 11223
(H) 718 638 4100
Apt. 36 C
New York, NY 10021
212 638 4693 home
001 914 677 8465

Tucker, Chris
213 386 0084 (h)
300 971 1285 (h)
010 815 1681 (h)
310 583 2950 office Ryllyn (his as-
sistant)
310 801 5469 (Ryllyn's Portable)
310 583 2997 (f)

Turlington, Christy
379 W. Broadway (w)
Suite 404
NY 10012
001 212 343 0550(w)
001 212 343 1671(f)

Turnbull, Governor Charles
governor of USVI
340 593 4500
340 714 1114

Turner, Jenny
7A Burslock Road
London SW15
0207-245 6447 (h)

Turner, Miles Creswell
28 Edgeley Road
London SW4
0207-622 6721 (h)
00 34 1 248 7922 (h) (Madrid)
00 34 1 419 9749 (w)

Tyssen, (Chessy) Francesca
00 43 6643 406080

Urbola Jorge
00 34 91 390 0331(w)
00 34 629 917403
Email: jurbola@presidencia.gob.

Vahabzadeh, Iraj and Linda
15 W. 53 St. #44
NY NY 10019
001 212 247 7289

Van Hagen Sophie
62 Finch St Fl
London, WIV 57A
0207-734 7511(w)

0207-734 6114(l)
01836 66 0684 (p)

Van, William Straubensee
10/33 Ganley Gard
London SW7
0207-835 1749

Varsavsky Martin
Email: martin@ya.com

Velasquez Patricia
001 917 406 4418
Email: sisly@aol.com

Verdin, Julia
142 N. Kings Road
Los Angeles, CA 90016
001 323 848 2900(w)
001 323 848 2900(h)

Verdin-Mulot, Annie & JP
1 Rue Flichpans
92100 Nanterre France
Email: anniemulot@wanadoo.fr
(Hm) 1 Rue Chevalier St. George
Paris France 75008
00 33 1 4296 5817 (h)
00 33 1 4221 8856 (w)
00 33 1 4221 8856 (w)

00 33 6 0802 0089 (ap)
00 33 1 4296 0107 (dw)
00 33 3 2360 9016 Puisseux
6A938 door code

Veronis, Jane
900 Park Ave.
NY NY 10021
212 570 0555
917 865 4066
001 212 371 1330 (w)

Villani, Carmine S.
Milestone Capital LTD.
00 393 332 3878 (p)
001 212 279 7900
0207-977 4256
00 39 02 365 18600

Villeneuve, Jacques
00 33 680 869 850

Vittadini, Emanuele A.
5 Rue du Pont de Lodi
Paris France 75006
+33 6 20 87 71 74(p)
Email: maele@vittadini.it
00 39 335 6341277(p)
Emanuele Vittadini@iol.it
Emanuele.VITTADINI@arc-init.co
001 518 726 4495 (h) Hampton
001 516 726 4495 (h)
011 39 2 89 40 95 Milan
011 39 2 58 11 19 Milan

GIUFFRE00163

00 917 539 6359 Lisa's cell
(Mom)

Wastnager, Lucy

3 B Rose Garden
9 Magazine Gap Road
Hong Kong
001 852 5 3081 2889p
001 852 5 2888 3291
Email: elshargh@compuserve.c
Hong Kong
153 Old Church Street
London, SW3 6EB
001 0171 352 0486
001 0631 193 860 portable

Waterman, Felicity

1982 N. Navvandie
Los Angeles, CA 90027
001 213 913 1568 (h)
001 213 999 4578 (w)

Watson, Victoria

265a New Kings Road
London, SW6
0207-731 4973 (h)

Webb, Veronica

001 917 929 3193 (p)

Weidenfeld, Lord

Flat 23 9 Chelsea Embankment

London, SW3
0207-622 9933 (w)
0207-351 0042

Weinberg, Jason

Untitled Entertainment
20 Fifth Avenue
Apartment 2E
New York, NY 10011
001 310 860 1515 (w)
001 310 863 1531 (p)
Email: jwuntitled@aol.com
(Hm) Untitled Entertainment
3255 Sunset Blvd.
Beverly Hills, CA 90069

Weinstein, Bob

001 212 941 4030 (o)

Weintraub, Harriet

920 5th Avenue
New York, NY 10021
212 935 1033 (w)
212 935 5008 (h)
212 935 1426 office fax

Westheimer, Ruth Dr.

001 212 861 9000

Weymouth, Mrs Lally

001 212 579 0040 (w)
001 212 288 1082 (h)

White Somers

19 Est. 80th St
New York, NY 10021
001 212 861 6073 (h)
212 757 0915 ext. 201

White Victoria

001 310 440 2989 (f)

White, Michael

0207 734 7707
0207 734 7727 (f)
07 836 202 175

White, O'Gara, Victoria

112 Price Lane
Bellevue
Idaho
833 786 6335
Email: whit3145@aol.com

Whitworth, Alan &

Wendy
18 Field Way
Cambridge CB1 8RW
Email: 781-876(p)
wendy@whitend.demon.co.uk
0223 239518 (h)
0223 21 8887 (h)
07947 141580 (2nd p)

Wial, Jim
William Morris Agency
01 310 859 4200 (w)

Wienberg Anouska and
Mark
0207-602 5811 (w)

Wiesel Dr Eli and
Marion
001 212 371 7029

Wigram Lionel and
Lydia
011 818 753 8442 (h)
011 818 954 2412 (w)

Wigram, Lionel
329 N. Palm
Beverly Hills, CA 90210
001 818 954 2412 (h)
001 818 954 2412 (w)

Williams Alexandra &
Nick
Home Farm
Threilford
North Luffery, Oxfordshire
OX17 2BN

Williams-Ellis, David & Serena

4 Welham Yard
London SW16 1JA, England
0207-381 8330
01768 868071 office

Willis, Rebecca

501 Juliet Road
W11 2QT
011 44 71-229 1127
0207-489 9080 x2111

Wilmot-Sitwell, Alex & Fi

27 Sibella Road
London SW1
0207-352 9377 (h)
0207-672 5066 (w)
00 21 21 794 2354 Home

Wilson, Carter

303 East 83rd Street
New York, NY
001 212 570 1018

Windisch Grazot, Manfred

00 39 68 87 2292 (h)
00 39 68 08 8516 (w)

Windsor-Taylor, Tim & Helen

4 Carpenters Close
Kilmington St
Kilmington
0207-381 1374 (h)
0207-409 3344 (w)

Winn, Steve

702 533 4123 (w)
702 533 4000 (h)
212 563 1711 (h)

Winston, Elizabeth

Travis Ranch, Kenney
TX
001 979 855 2911
001 713 705 7817 (p)
Email: ewinston@x.netcom.com
011 979 865 1351 (f)

Wipple, George

Jewellist - Fox
001 212 949 0202

Wolper Carol

308 North Sycamore Ave
Apt 308
LA 90036
001 323 934 7018 (h)
Email: cigaretegirl@earthlink.n

Wong, Andy

0777 618 8883 (p)

Wong, Theodore

138 Pavilion Road
London, SW1X 0AX, England
01 212 384 8888 (w)
01 212 384 8888 (h)
Email: t.wong@tigerfund.com
517 363 3333 cell

Woodall, Trinny

14 Thurston Street
London, SE17
0207-581 8675

Woods Emily & Carrie

001 212 847 0163 (w)
001 212 847 0163 (h)
001 212 866 2525 (w)

Woodward, Alexa

001 212 986 0090
001 212 353 4644 (h)
001 323 356 3588 (p)

Woodward, Shaun & Camilla

70 Ladbroke Road
London W11
01805-9359216 (ext.)
0207-233 5216

Email: woodwards@msn.com
(Hm) 073 3106833
07919 596707 (saun p)

Worcester, Marq & Marc

of
(Bunter & Tracey)
78 Halsey Street
London, SE1
0207 524 6592 (h)
0207 524 6592 (h)
0454 221 8491 The Cottage
Bedmington The Cottage
GL91DG Avon

Wyatt Jim

001 310 359 4200

Wyatt, Steve & Cate

40138 Main St.
VA
20197
0207-243 2810 (h)
001 703 244 7628
Email: wyatts@comcast.net
001 703 549 9291 (h)
001 703 549 9291 (h)
001 202 466 0599 (w)
223 5337

Yamani, Mai

72 Eaton Terrace
London, SW1
0207-730 3493 (h)

Yariv Zghoul
00 95 98 209149
917 378 4485
Email: yariv@synergyventures.com

Yates Andrew (piggy)
0208-743 2090
0207-939 275(w)
07976-42377 (p)

Young Toby
6 Hogwood St.
Winton
W12 7LJ
001 212 229 1050
Email: young@infohouse.com
0208-743 685(h)
0208-743 2695(f)
07946-518253(m)

Younger, Tracy & Lee, Greg
0207-589 3124(h)

Yugoslavia Dimitri
400 E. 52nd Street (h)
3 W. 57th Street(w)
New York, NY 10022
001 212 980 9484(h)
001 212 16 1616 (p)
Email: dimitri@philipsny.co
001 212 940 1282 work

Yugoslavia, Prince Michel of
Access International Advisors
509 Madison Ave
3rd Floor
New York
NY 10022
001 212 223 7187 (w)
001 212 223 3483 (f)
Email: prince@accessny.com
001 212 214 0688 (voice)
001 212 214 0688 (voicemail)

Yugoslavia, Serge de
0776 914 9290
0039 338 581 7025

Zacks Gordon
R G Barry Corp
001 614 864 8069

Zales, Alexi
001 917 864 8865
001 212 228 8747

Zangrillo Paige & Bob
1419 Crystal Lake Road
Aspen CO 81511
001 970 925 3812

Zawauri, Waleed
30 Wilton Cres
London, England SW1
0207-235 0721
Sultanate of Oman P.O. Box 879,
Muscat 113
Oman
001 212 585 2014(h)
Email: Betnalz@aol.com

Zecher Bibi and Adrian
Julia Walters
100 West 42nd Street
New York, NY 10018
00 65 646 467 43(h)
00 65 646 467 45(h)
Email: iwalters@ughareports.com
Himjoo 65 63 333 663(w)
00 65 63 733 465(w)

Zeff Mark
212 590 7090. x 201
Email: mzeff@zeffdesign.com

Zeller, John
3 Lincoln Center
New York, NY 10023
001 212 799 9600(h)
0207-376 3733 (h)
001 212 399 9900 (w)

Zevi, Dino & Rosi
8 Lemox Gdne
London, UK
001 212 485 8861 (h)
0207-485 8867

Zilkha, Bettina
Apt. 16A
50 East 79th St.
New York, NY 10021
001 917 825 8761(p)
001 212 585 2014(h)
Email: Bettina@adl.com

Zipp, Brian
160 E. 72nd St. #3A, 10021(h)
01 212 819 4240 (h)
01 212 332 1133(w)
Email: bzip@nyhospital.com
01 212 869 9182
01 212 869 9182 Home Fax

65TH STREET

Dionne, Ryan
the chef
301 East 66th Street
New York, NY 10021
1 212 435 9314 (h)
1 888 833 9632 (h)

Geffert, Scott
413 South Maple Ave.
Glen Rock NJ
07452
001 201 493 7647(h)
001 917 842 5755 (p)
Email: scott@cdny.com

212 875 8013 Guest Modern
371 4128653 Resate Number
212 202 4941 New E-fax
1 800 335 4685 AT&T World
Connect
917 680 8794 Joseph (p)
917 499 7336 Florina (p)
800 335 4685 World connect

chip SIM

917 842	5755	Scott cell
201 493	7647	Scott (h)
866 782	3274	Scott (w/Howie)
916 843	4685	AT&T World Con- nect (outside US)
212 879	9366	GM Line 1
212 879	2058	GM Line 2
212 879	0450	(40)

[illegible]

212 717 4672 71st St (I)
917 520 3106 (p)try first
917 497 4880 (p)
01144 7785 71552 GSM#
917 494 9690 Tahoe-Line 1(621)
917 855 6931 Tahoe-Line 2
561 346 7141 PB Merc.
01144 7785 71552 GSM#

1 888 387 4383 Eirveva
9 50084 Eirveva Mailbox#
9366 Eirveva security code
212 535 8817 Rich's Security

Arizona
206 East 60th Street
001 212 838 0440

Aspen Club
303-925-8900

Au Bar
58th Street
Between Madison & Park

Avis International
800-331-2112

Bel Air Hotel
General Manager
Frank Bowling
701 Stone Canyon
Los Angeles, CA 90045
310-472-1211
310-476-5890
310-472-1211 Res
Manager Marc

Tahoe, Kinney Garage
301 East 66th
212 744 5511 (George)

AMERICA(A)

Beverly Hills Hotel
9641 Sunset Blvd.
Beverly Hills, CA 90210
310-276-2251
310-271-0319
310-887-2887 fax

Antiques - Resale Number
13-3647756

GIUFFRE001C

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London
SW1X 7PA

Myers of Westwick
Park Place, Park Savages
934 Hudson Street
New York, NY 10021
212 681-4184

Nicolas
001 212 249 8850

Opia
anilino Blech
917 151 4551
212 688 3939

Peninsula Hotel
matthew barle (mg)
8882 South Santa Monica Blvd
Beverly Hills
Los Angeles, CA 90212
310 551 2888
310 788 2319 (f)

Peninsula Hotel
700 Fifth Avenue
New York, NY 10019
212 247-2200
212-963-3849

Pierre Hotel
2 East 61st Street
New York, NY 10021
212-838-8000

Plaza
001 212 759 3000

Plaza Athenee Hotel
Trust House 40
310 Lexington Street
New York, NY 10021
212-734-9100

Province Restaurant
between McDougal & Prince

Ritz Carlton
001 212 757 1900

Royallon
44 West 44th St
(between 5th & 6th)
212-869-4400

Sette Mezzo
969 Lexington
New York

0101 212 472 0400

Shoes-Repair
Shoe Service Plus
15 West 55th Street
001 212 282 4823

Shutters on the Beach
1 Pico Blvd.
Santa Monica, CA 90405
310 458 0630 (f)
800-334-9000

Sotheby's
JE Acct# 3011 4352
CMA Acct# 3062 4014
NY, NY 10021
001 212 506 7000
0207-493 8060
1 Hm 34-35 New Bond Street
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001 212 606 7423 Sully
001 212 606 7883 Sotheby's
Real Estate, Meridith
001 212 431 2424 Real Estate-Slave
Mcquire

St Regis Hotel
2 East 55th St
between 5th & 6th
New York, NY 10022
001 212 753 4500

Stanhope Hotel
212 774 1234

Sunset Marquee
0101 213 657 1333

Tao Restaurant
42 E. 58th Street
bet. Madison Park
001 212 886 2286

Taylor, The
300 East 82nd Street
001 212 535 8940

**The Great American
Health Bar**

35 West 57th Street
New York
0101 212 355 5177

The Lowell
0101 212 838 1400

The Westbury
0101 212 535 2000

Tickets

For shows and games
212-683-2274
212-683-2531 NYC Con-
cierge/Johanna London

Tribeca Grill

001 212 941 3900

Two Bunch Palm

0101 619 329 8791

Waldorf Astoria

0101 212 355 3000

Westbury hotel

212 535 2000

BRAZIL

Cecilia Szajman

55 11 30 34 3771 (t)
55 11 35 06 8553 (t)

Ganero, Mario Sr.

Brasileiro
Av. Brigadeiro Faria Lima, 1485

Terra Norte - 19 Andar

Sao Paulo, Brazil
CEP 01451-804
011 5511 3813 7011 (w)
011 5511 3813 7110 (t)
Email:
brasilinvest@brasilinvest.com
011 3349 5718 1330 House in
France
011 3362 1051 972 cell in France

Riccardo

#1 Polo player
00 55 11 9937 8888

ENTERTAIN- MENT (E)

Annabels

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071-629 4400

Bibendum

581 5817

Clermont Club

071-493 5587

Daphne

589 4257

Foxtrot Oscar

352 7179

Harrys Bar

408 0844
408 0844

Marks Club

212-499-2936

Nam long

373 1926

Nikitas

352 63 26

Patisserie Valerie

0207-823 9971

San Lorezo

594 1074

Scalinis

225 23 01

Tramp

071-734 3174

FINANCE (F)

Bear Stearns

Ira Zicherman
245 Park Avenue
New York, NY 10017
001 212 372 4169
acct # 042 33431

Centurion

1917 877 0887
1915 889 404 44006 Card num-
ber
10/04 Expiry date

Chemical Bank

Vice President
James A. Growney
Madison Ave.
New York, NY
212 688 6355
Barbara Parsley Wire Dept
425 0800 Sel Bus
001 212 688 6355
Supp. Payment no. 935-9935
212-360-0573

Colonial Bank
Credit Bank
125 North Avenue
Palm Beach, FL 33480
561 627 1776 (w)
561 833 0943 (f)

Nat West

Rob Bowran (Sharon Mulvaney)
Personal Accts, Executive Dept
171 High Street
Oxford OX1 4EU
01865 79 0053
01865 20 5157 (f)
Email: www.natwest.com
Unit 32 Cornmarket Street OX1
100TC
01865 79 88 18 Main number

Natwest Bank

1865 790053
1865 205157 (f)

PB National

Donnie Wilson
ch acct #010056588
ch acct #010019334
011 561 653 5352

FRANCE (FR)

Alala, Azzedine
7 Rue De Moussy

Paris, France 75004
00 33 1 4272 1919

ATT Access
0 800 99 0011.

Bristol Hotel

112 Rue du Faubourg St. Honore
Paris, France 75006
01 33 1 551 543 00
53 43 43 01 (f)
Email: clientservices@hotel-bris
331 698 99475 Jean Marie home
33(0)611999322 Jeanmarie port

Cab Blue

4936 1010

Cabaret (night club)

68 rue Pierre Charnet

Car rental

Mr. Baccari
00 33 04 93 21 48 90

Chateau de la

Messardier
011 33 4945 676000

Chezen Denise
00 33 1 4236 2182

Chez L'Ami Louis
32, Rue du Vert-Bois
Paris, France 75003
33 1 48 87 77 48
Ferme Lundi & Mardi

Epstein, Jeffrey

French Apartment
22 Avenue Foch
Paris, France 75016
33 1 44 7021 (f)
(Hm)1 Rue Chaligne/Staff En-
France
BA135
B206

C 01 47 37 18 18 Ambassador Car
0153 43 4300 Jean Marie (w)
01 698 99475 Jean Marie (p)
06 11 999 322 Jean Marie (p) Min.
06 130 1 13 13 (p) Valdsom Collin
01 40 61 18 83 stiaf line
01 45 00 44 78 Mr Cornu/garage
06 77 81 5521 car phone
06 8072 7262 Evelyn
06 01 66 61 61 Mr. Coudan (p)
0144 014 401 Expertion (w)
0144 014 401 Expertion (w)
331 44 86 4552 Ms. Guerin
01 45 00 99 90 Ms. Peres (conc.)
01 45 00 99 90 Ms. Peres (p)
06 06 502 853 Ms. Peres (p)
331 44 01 4301 Mr. Stephanie

Coulaux
06 12 14 37 56 Mr Santos

Epstein, Jeffrey (G)

French Apartment
22 Avenue Foch
Paris, France 75016
33 1 44 7021 (f)
Email: epsteinj@wanadoo.fr (Valds
(Hm)1 Rue Chaligne/Staff En-

Paris, France 75016
33 1 44 7021 (f)
Email: epsteinj@wanadoo.fr (Valds
(Hm)1 Rue Chaligne/Staff En-
France
BA135
B206
01 47 37 18 18 Ambassador Car
01 53 43 43 00 Jean Marie @
Bristol
01 698 99 475 Jean Marie @
06 11999322 Jean Marie cell
01133 61 30 14 377 (p) Valdsom
Collin 148 27 85 33 (h) Valdsom
01133 61 30 14 377 (p) Valdsom
01 40 61 18 82 stiaf line
01 45 00 44 78 Mr. Cornu/garage
06 77 81 5521 car phone
Evelyn 0680 727282
331 44 86 4552 Ms. Guerin
01 45 00 99 90 Ms. Peres (conc.)
01 45 00 99 90 Ms. Peres (p)
06 06 502 853 Ms. Peres (p)
01 45 27 85 05 Ms.
Rouler/Kitchen appliances
N 142 64 56 21 Mr. Pascal (cable
06 62 31 88 55 Mr Pascal cell (ca-
ble tv)
01 43 87 49 30 Mr Karim or
Lazno (stereo)

06 09 65 65 55 Mr. Karin or
L'Arche
01 48 71 15 25 Mr.
Touretau (videophone)
06 62 96 04 67 Mr. Tourteau
cell (videophone)
01 40 60 93 93 Mr.
Domenichini (alarm)
06 09 71 15 15 Mr. Belstan cell
(alarm)
01 42 71 99 93 Mr.
Domenichini (electricity)
06 07 34 50 84 Mr. Domenichini
cell (alarm)
06 42 88 15 90 Mr. Lafond (a/c,
heat, plumbing)
06 07 80 25 51 Mr. Lafond
cell (a/c, heat, plumbing)
06 08 03 42 71 Mr. Pasquer
cell (a/c, heat, plumbing)
06 12 14 57 56 Mr. Santos

Experton, Marie Joseph
Berloz & Co.
Avenue Louise 113
1011 32 25 38 22 34
011 32 25 38 22 34
011 32 25 38 22 46 FAX
Email: mjeexperton@skynet.be
011 32 474 95 0073 Belgian Cel-
lular
011 33 607 26 9785 French Cel-
lular
0133144014401 Berloz
France (w)
0133144159415 Berloz Franca
Fax

Gerard
33 (0) 609 515 909

Hotel Crillon
10 Place de la Concorde
Paris France 75008
331 44 71 1500

Hotel Raffael
4428 0028

Juno, Philippe
509 Madison Avenue
New York, NY
212 223 7167 (w)
212 223 3463 (w)
Email: phjuno@atagroup.com
1111 Madison Avenue Matignon
10018 Paris
France
+33 145 042611 Paris
+33 616 60 6000 (p)
+34 953 77 8425 (Spain)
+34 953 77 8425 (Spain fax)
+34 953 77 8425 (Spain p)
917 250 8416 (p)
212 223 7167
011 44 3 70272428 portable
212 223 3463 New York

L'Amilean
Rue de Varane
7ème
Rue de Varane

L'Arc
Rue Pajolle
33 1 4500 4500

L'Arpege
00 33 1 4551 4733

La Merlot
Rue de la cherche midi

La Poste
00 33 1 4280 6616
9 rue Peronaid

Lagardere, Betty
24 Rue Barbet de Jouy
75007 Paris
01 40 69 17 25
06 85 755 535
06 85 755 444
01 53 593 574 (f)

Lawyers
01 4401 4401 Stephane Coulaux
NW 1078 6479 Stephane Coulaux
(w)
(f) 4401 4401 Geraldine Talavera
(w)

Le Telegraphe
00 33 14015 0665
Rue Lille

Le Voltaire
Madame Lemerrier
00 33 1 4329 4465 (4)
00 33 160460293 (h)

Maid
01 48 49 07 50 Faiza
06 85 755 535
06 85 755 444
01 45 59 28 93 Anne-France

Massage - Paris
Claudia Hadida 0494791726 (St
331 4262 3031 Debbie/ Paris
331 4266 8800 Marie Francois
331 4763 3301 Rosemary
336 6280 5370 Alexandra
336 7043 3359 Claudia
336 7043 3359 Caroline
336 1409 3317 Debra Wakshal
336 0740 4991 Isabelle
336 6091 5533 Stephan (better
than any other)
331 4266 8800 5033 Bastien-foot
3314266 2422 Bastien-foot
massage
334 9487 2831 Deborah
336 9163 6176 Francois
336 9163 6176 Sophie
336 6098 3802 Corinne-thal
(Nicole's contact)
336 6261 7962 Katrine (Nicole's

contact)
331 4766 3727 Karine (Nicole's
contact)
336 8520 0066 Deborah (p)
068 100404 (p) Laetitia
068 100404 (p) Laetitia
0338 608 331 7111
011 336 6760 8207 Donna
011 331 4658 1508 Donna
011 336 109 8069 Yelena
06 7539 9535 180 Nadia
06 7539 9535 180 Nadia
060563341 801 Deborah
0662384788 Sonya (speak little
English)
0666033635 Tanya (speak NO
English)
0113624604141 Nadia (USE
THIS as of 4-5-03)

Mle, Mr & Mrs
00 33 9301 3359 (h)
00 33 9306 1179 (c)
00 33 9306 1273 (c)
00 33 9301 2196 (fax)

Ott Cynthia and Claude
22 Avenue Foch, Apt 2DD
Paris, France 75116
011 33 674 063086 (h)
011 33 674 063086 (h)
Email: 011 33 686 558377 (Claude)
01133 153 05 70 83 (w)direct
01133 153 05 70 88 (f)

Pinto, Alberto
Hotel de la Victoire (w)
11 Rue d'Aboukir

75002 FRANCE
Paris 331 401 30000(w)
011 331 4418 7575(h)
Email: alberto.pinto@albertopinto
fr
frimAlbertoPinto (h)
141 Clotilde D'Orsay
Paris, France 75007
011 331 4753 8421 (h) Linda
001 809 362 4335 Nassau
001 809 362 4335 Nassau
011 33 607 7359 (f)
011 33 607 7359 (f) Linda
011 33 607 7359 (f) Linda
011331 45 51 03 33 Serge
Boquet
01336 07 47 07 24 Serge
Boquet
011 33 600 4392 (p) Serge
011 33 600 4392 (p) Serge
011 33 140 137 556 Linda dir.
011 331 401 37642 Linda &
Alberto pvt fax
alberto.pinto@albertopinto.com
linda.pinto@albertopinto
jean.huguen@albertopinto
jean.huguen@albertopinto
01133 145 51 45 58 Danielle
01133 609 18 11 26 (p) Jean
01133 609 18 11 26 (p) Jean
01133 609 18 11 26 (p) Jean
01133 609 18 11 26 (p) Jean
Pascal Japart@albertopinto
433 144 187 575 Paris h
0112123993399 Pinto in
Morocco
011 212 39 93 7171 Morocco
fax
+33 144 1875 71 (hf)
+33 140 13 0000 (w)
+33 140 13 75 98 Direct
01133 609 18 11 26 (p) Jean
infographie.pinto@albertopinto

Plaza Athenee - Paris
25 Avenue Montaigne
Paris, France 75008
33 1 5336 6555
33 1 5336 786 66 (f)

Restaurant-takeouts
Sushi 01 56 26 00 55

Restaurants
Entrecole
15 rue Marbeuf
0149520717

Ritz - Paris
15, Place Vendome, Cedex 01
Paris, France 75041
331 4318 3030
331 4318 3178 (f)
331 4286 0091 Direct Fax Reser-
vations

River Cafe
00 33 1 4093 5020
146 quai de Stain grad

Tante Louise
41 Rue Bossy d'anglais
00 331 4285 0685

Taxi Bleus
01 49 36 10 10

Taxis
00 331 420 24202
00 331 420 24202
00 331 420 24202
00 331 420 24202

Taxis Bleus
0149 36 10 10

Vielra Cotrin, Valdson
21 Rue Voltaire
Paris
St Dennis
Paris, 93200
01482 78533 (h)
06130 74377 (f)
011 Rue Chaligny (Ave. Foch
Ave.)
Room 4041 Floor 6
Paris France
0613 011 83 Maria (p) girlfriend
0144 776 840 Maria (w)

HOTELS (HI)

Berkeley Hotel
0207 235 6000

Blakes
071-370 6701

Carlton Tower
071-235 5411

Claridges
Brook Street
Mayfair, London W1A 2JQ
44 207 629 8860
44 207 499 2210 (f)

Cliveden House
London
011441717306466
062-866-8561

Connaught
071-499 7070

Dorchester
071-629 8888

Lanesborough Hotel
General Manager
1 Lanesborough Place
Hyde Park Corner, LONDON
SW1X 7TA
44 207 259 5599
44 207 259 5806 (f)

4471-333-7633 Private fax. 8/2

Ritz
071 493 8181

Savoy
071-836 4343

The Barclay Hotel
London
0207-235-6000

Waterside Inn
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ISLAND(I)

Air Center Helicopter
340-775-7335 Nicholas & Tina
(c)
340-774-0976 home
340-690-1012/11 cell

Christopher Taxi
340-690-1581 (cell)
340-777-5092 (home)

Cox, Madison
Madison Cox Design, Inc.
220 West 19th Street
5th Floor
New York, NY 10011
212 407 8081 (w)
212 407 8081 (f)
Email: mc@madisoncox.com
917 495 9399 (p)
01121283526382 Morocco p

Epstein, Jeffrey
LsJ
6100 Red Hook Quarters B-3
Brooklyn, NY 10002
340 777 9181 Office (f)
340 777 9181 Home (f)
Email: calhille@yahoo.com
(H) manager@calhille.com
340 774 1611 Staff 1
340 775 7335 Air Center Helicopter
340 690 1012 Nicolas (p)
340 777 5334 Greichen(h)
340 774 0056 JE 1
340 774 0805 JE 2
340 774 0806 JE 3
340 774 2690 JE (p)
340 777 4414 JE Study (f)
340 774 2552 GM (p)
340 771 2679 GM (p)
340 771 2053 Niles (p)
340 771 0807 Staff 2 (p)
340 771 1523 Cell Backup 1
340 771 3829 Cell Backup 2
340 771 2032 Boscoe Hague(p)
340 771 1939 Boscoe Hague (p)
340 771 1939 Bruce White(p)
340 771 8284 Tim Cook
340 775 6970 Amer. Yacht Harb. (f)

340 774 4265 Cottage (f)
340 771 2676 Guest (p)
340 774 0808 Spare (Unused)

Epstein, Jeffrey
Financial Trust Company
6100 Red Hook Quarter
Brooklyn, NY 10002
340 775 2525 USVI 00802

340 775 2528 (f)
340 775 0093 Leon (h)
340 690 0241 Leon (p)
340 775 6671 Leon (p)
340 775 6671 Cecile (h)
340 775 6265 Jeanne (h)
340 775 2770 Lorette (h)
340 774 9599 Jermaine (h)
340 775 6057 Jamie (h)
340 774 3955 Kim (h)
340 690 1443 Cecile portable
340 771 6088 Leon car

Hoffman, Paul
Paul Hoffman, P.C.
41-42 Kongens Gade
P.O. Box 870 USVI
00842 St. John
340-774-2266 (w)
340-774-3318 (h)
Email: PaulHoffmanPC@ATT.net

PHM Estate Havens
P.O. Box 870
St. Thomas, VI 00804
340-690-6888 (p)
340-774-2030 (f)
617 347 7907 Boston h

340 774 3318 (h)
340 776 8309 (hh)

Massage A - Island

340-693-9040 Grapevine Salon
Lynn & Karen
340-693-8378 Lynn & Karen Gray
(p)
340-776-2414 Muffie Landt
340-777-7049 Zeno (h)
340-626-2813 Zeno (p)
340-693-8378 Kevin Raymond
340-693-8378 Gretchen Rhodes
340-777-5334 Gretchen Rhodes
home
310 435 4725 Gretchen's cell

Moseley, Brian

340 774 5310
340 776 4060 (f)
Email: bmoseley@viaccess.net
cell

Roberts, Theresa

6501 Red Hook Plaza
Suite 201 FVWB 540
St. Thomas, USVI 00802-1306
340-777-3030
340-776-5835 FAX
E-mail: t@compuserve.
340 513 4007 (p)

Romualdez, Daniel

architect
119 West 23rd Street

Sullie 909
NY NY 10011
212 989 8429 p
212 989 8886 f
Email: dan-
tel@danietromualdezarc
Him 130 East 87th
Room 611 NY 10021
212 989 1781 At 34 Fiona's direct
line
917 650 8429 (p)
212 989 1781x27 Jennifer

Sanchez, Carlos

Pedro Antonio Dealacion 41
4th floor
Granada, 18004 Spain
00 34 958 250466 (w)
Email: estudio@carlosanchez.net
00 34 609 380340 (p)
00 34 958 25521 (f)
00 34 958 250454 (wf)

Tropical Shipping

Point Pleasant, F3
St. Thomas, USVI 00802
340-776-8767
340-776-1860 (f)

Water Taxi

340-775-8501

ISRAEL

Eshed, Elisa

00-972-53-830-540 (p)
00-972-25-686-156 (h)
Email: esheda@ic.mof.gov.il

Evani Duud Efrat

00 972 51 52022 (p)
00 972 68 55569
Email: efrat@imgov.il

Gil Avi

00 972 68 311240
Email: gil_avi@netvision.net.il

Gutman, Arik

972 5 (0) 335786 (p)
011 972 3 641 783 (p)

Gutman, Arik

00-972-50-335-786 (p)
00-972-3-642-1045 (p)

Jerusalem Hyatt

00-972-2-533-1234

Neima, Yakhof

Hovevei Zion #8
Jerusalem, Israel
00-972-50-997-2030 (p)
00-972-3-682-2031 (p)
00-972-51-691-6271 (w)
00-972-23-691-6650 (p)
00-972-23-691-697 (h)
001 212 977 4000
001 917 817 6832 (p)

Olmer, Ehud

00 97 2 6296014 (p)
00 97 2 629789
00972 (2) 229 6014

ITALY (I)

Torre di Pisa

Via Mercato 26
81 48 77

Train Info

010 39 2 80231

JEFFREY (J)

301 East 66th St.

Front Desk
301 East 66th Street
New York, NY 10021

Apt. for Models

Cath
Fuller & Jaworski
806 Main Ave. (W)
New York
NY 10039
101039 1630 (h) 7hp
E-mail: cath@ao.com
Email: cath@ao.com
44m 1620 S Ocean Blvd.
Miami Beach
FL 33480.

212 751 4583 (w) Glenn
917 887 6349 (car)

Archer, Bill
230 Alumwood Drive (h)
Westerville, OH 43081
Three Limited Parkway
Columbus, OH 43230
614-415-7194(w)
614-415-7194 (wt)

Email: whcmr@limitedbrands.com
 (Hm) Threa Limited Parkway
 Columbus, OH 43230
 614-895-2733 (h&t)
 888-520-3515 Beeper
 614-746-1445 car
 614-370-3225 (p)
 614-370-7002 Mobile
 614-895-2733 Home Fax
 614-415-1786 Sherry Castle
 614-939-3070 emergency
 614-415-1771 (wf)

Aslanian, Linda
225 E. 57th St., 11J (h)

New York, NY 10022
212 758 5700 w
917 373 4083p
(Hm) Four Seasons Hotel(w)
58 E. 58th Street
212 582 6605 (f)
212 754 4432
212 758 5700 work(1-9-03)

Bandar Prince
50C. Cas Elliot

C/O Martha Grimes
P.O. Box 2795
Aspen, CO 81612
203-250-3776

Bannenberg, Jon
Jon Bannenberg Limited
6 Burnisall Street
London, England SW33ST
4420-7352 4851
4420-7352 8444

Barak, Ehud
Chairman
Barak & Associates, L.L.C.
917 841 7852
402 212 202 4032 (f)
Email: ehud@barak-assoc-
ates.com
01197238689991 office in Israel
404 919 3502 Barak's personal
cell in US 970 2722 Barak's cell
011 972 3570
01197250205375 Shmrit (assis-
tants call)
01197238689995 Fax number in
Israel

Barrack, Tom
Colony Capital Inc.
1999 Avenue of the Stars
Suite 1200
Los Angeles, CA 90067
310 282 8820
310 552 7240 direct
Email: tbarrack@colonyinc.com
310 282 8813 main fax
310 552 7215 assistant Jodie P

011 336 0331 9710 European portable
212 832 0500 NY office
310 720 5900 (p)
805 969 5399 (p)
202 705 9200 Pacific.net.sg
assistant 107 7315 direct fax to Tom's
011 336 3048 7995 Euro cell
011 39 3356 172044 Italian portable
011 3933 5765 1775 Tracey
011 3933 5617 2011 David
Monahan
808 885 8688 David Monahan (Hawaii)

Barrett, Anthony
Ossa Properties
30 East 80th Street
Room 403
New York, NY 10022
212 288 8578 (h)
212 702 8818 (w)
Email: anthony.barrett.com
(Hm) 27 East 68th (h)
Apt. 2A
New York, NY 10021
718 268 7311 (f)
212 282 8578 (w)
212 282 8578 (h)
908 249 3633 x224 Donna Landa - work
917 612 4137 (p)

Barrett, Jonathan
220 E. 63rd street #PH
New York, NY 10021
212 512 8112 (h)
212 512 8112 (p)
212 512 8112 (w)
Email: jonathan.barrett.com
(Hm) Luminus Management
499 8th Ave. 20th fl
New York, NY 10001
917 484 2782 (p)
212 512 8112 (h)
212 512 8112 (w)

212 615 3430 (w)

Beck, Jerry
Office of Fed. Oper
4751 Kitzinger Rd.
New Albany, Ohio 43054 (h)
Twd Limited Pky
Columbus, Ohio 43230
614 415-7194
614 415-7171

Benamou, Albert
16 Avenue Malignon
Paris, France 75008
33 1 45 63 12 21 (p)
33 1 45 63 22 11 (p)
Email: benamou@ent-cul-
ture.com
(Hm) home
18 Blvd. Georges Seurat
92 300 Neuilly Sur Seine
0607011818 Cell
0140883637 home

Biddle-Hakim, Sophie
Husband: Gilbert Hakim
1349 West 76th Street
Apt 2A
New York, NY 10023
212 873 2342 (h)
1349 West 76th Street
Apt 2A
New York, NY 10023
212 873 2342 (h)
401 423 0495 Parents/ Rhode Island
310 463 5759 (p)
310 553 5218 (p)

Bjorlin, Nadia
3 Longboat
Newport Coast, CA 92657
949 500 5555 (p)

413 637 9745
818 304 7575 (p)

Black, Leon
Black Management, L.P.
1301 Avenue of the Americas (w)
38th Floor
New York, NY 10019
212 512 3561 (w)
212 512 3561 (h)
Email: black@nyc.apolloip.com
(Hm) Residence
760 Park Avenue
New York, NY 10021
212 288 3650 (h)
212 288 3650 (p)
914 214 9895 Bedford
212 794 0227 (h)

Borden, David
President
Victoria International Corp.
187 West Brookline St.
Boston
02118
617-247-4100 (w)
617-247-0038 (w)
Email: david.borden@aol.com
617-233-3064 (p)

Bovino, Kelly
120 Hart Avenue
Santa Monica, CA 90405
310 316 1000
Email: kbovino@aol.com
510 286 0271 ext. 113 (w)

310 286 0279 (w)
310 722 9948 (p)

Brown, Coco
Brown Companies
461 Park Ave., South
New York
10016
212 583-4400
212 583-4011 (f)
(Hm) 59 East 90th
New York
NY 10028
212 289 8158 (h)
212 289 8158 (p)
631 537 5714 Country

Buckingham Research
Research
750 Third Avenue 8th Floor
New York, NY 10022
212 922-5525 or 26
212 922 5717 (f)
212 922 5543 Bob Crowley

Butler Aviation, Newark
(new name) Flight Support
Hanger 15
Newark International Airport
Newark, NJ 07114
201-624-1660

Campos, Michelle
11 Dash Place
Bronx, NY 10463
Fixed Soty.

718 884 8586 (h)
946 418 8306 (p)
Email: michelle@naproperty.com

Cayne, Jimmy
CEO
283 Madison Avenue
New York, NY 10167
212 212 8439 (w)
212 212 7688 (w)
Email: jicayne@aol.com
(Hm) 510 Park Avenue Apt 6A
New York, NY 10022
212 432 1707 Home
212 432 2435 Suzette Direct
212 432 2435 (p) NJ
906 225 4199 (h)
212 426 6369 (h)
908 222 7773 2nd Home Fax
212 272 7808 Suzette's fax
212 992 4999 Pat Cayne
732 229 2574 (ht)

Chou, Silas
80 Chasler Square
London, SW1W 9DU
917 353 9522 (p)
44 207 758 8566 (w)
Email: silas.chou@aspucy-gawvayd
(Hm) UK LTD
A&G UK LTD
8 Grafton Street
London, W1D 7JL UK
44 207 730 2436 (h)
+852 2371 8718 (w HK)
+852 2371 8505 (w HK)
+852 2370 1305 (w HK)
+852 9498 8708 (p HK)

Davison, Dayle
153 E 53 St.
New York, New York 10022
001 212 559 3366 (w)
001 212 559 0889 (h)
559 8663 Home
559 6063 Geoff VonKuhn

Daniel
011 537 879 17 82

+44 207 730 2808 (ht)
917 353 6522 (p)
917 602 1351 driver
212 548 1386 (w)ler
212 548 1380 (w)ler
0177 484 2755 emergency -
Driver lily

Delson, George
110 E 59 St. F & Associates
New York, New York 10022
212 909 9680 (w)
212 355 1421 (h)
Email: gdelson@aol.com
(Hm) 300 East 93rd St. (h)
New York, NY 10021
212 288 7242 (h)
917 834 4716 (p)
917 414 4260 (car)

Derby, Catherine
332 E 84th St. #1G
New York, NY 10028
468 48627 (p)
Email: catherine@naproperty.com

Derbowitz, Alan
1st Flr 105 W 7th St
8 Golden Rod Way
Chilmark, MA 02535
617 495 7855 (w)
Email: alder@law.harvard.edu
(Hm) 280 Central St. Apt (h)
New York, NY 10013
617 319 9892 (p) New Cell 11-8-02
508 845 9040 Mathias Vineyard
508 845 3774 MV fax
212 573 8865 NY Apartment
617 896 0393 (h)
617 974 1013 (car)
917 861 1965 (h) First*
000000000000000 (p)
212 573 8885 NEW NY # (12-7-01)

Edelman, Gerald Dr.
Neurosciences Research
10640 John Jay Hookins Dr.
San Diego, CA 92121
858 626 2000
858 626 2099 (h)
Email: gerald.edelman@nsi.edu
(Hm) 7428 Holt Avenue
La Jolla, CA 92037
858 454 5571 (h)
858 775 7129 (p)
858 434 0532 (h)

212 881 8218 (h)
958 626 2050 (w.direct)
958 626 2099 (w)

Engle, Don
570 Park Avenue # 2B
New York, NY 10021
01 212 371 1913 (h)
01 212 371 2775 (w)

EPSTEIN - PORTA-BLES
800 759 5665 #402 931 8525
2nd Flight phone
646 541 1751 Timeport
318 540 2265 Gulfstream
199 540 9065 Gulfstream
N908JE (ground)
319 540 2558 (air) 727 N908JE
319 540 8558 (ground) 727
N908JE 5194 (satel)
631 (agencies) N908JE
917 497 4880 spate 727 p
011 881 6314 54353 satellite -
GM
011 881 6314 54123 satellite -
pilot 545 6300 Guest cell

Epstein, Jeffrey
Epstein Interests
Alarm # 64548
457 Madison Avenue - 4th Floor
New York, NY 10022
212-750-9895

77

Insurance Office of Central Ohio
300 Polman Avenue
Columbus, OH 43215
614-221-5771 Work
614-221-4776 Fax
614-325-9978 (p)
614-221-3437 (after hours)
614-221-3438 (h)
ext. 204 Dr. Canfield
ext. 223 Janice Lichtenstein

Isaacson, Walter
7700 East 55th
212-522-1212 work
Email: walter.isaacson@turner.co

James, Randy
Email: randi@randi.org www.randi.org

Jampanol, Mylene
135 Rue de Sevres
Paris, France 75006
E 011 33 67 3960 158 (p)
mylenejampanol@hotmail.co
+33 60388 1316 emergency contact
+33 1 45 49 14 75 (wf)

Jarecki, Gloria
10 Timber Trail

Jarecki, Henry Dr.
Falconer, Christopher
655 Fifth Avenue (w)
3rd Floor
(between 5th & Madison @ 46th)
New York, NY 10017
212-684-1440 (w)
212-684-1442 (h)
Email: h@falconer.com
(Hm) 870 UN Plaza, Apt 37/38A (h)
between 1st & River on 49)
212-755-5900 creek
212-755-5917
340-690-2111 2109 Guyana
212-593-3098 (h)
914-967-7220 Westchester
212-884-1440 (w)
212-884-1442 (h)
612-894-6176 (w)
888-323-0859 0860 Plane
914-967-8048 Westchester f
212-884-1440 Emergency
914-967-7220
212-884-1436 Other

Johananoff, Pamela
14 Rue Mespero
Paris, France
331 484 7875 (h)
331 484 7875 (h)
Email: pamelajohananoff.com
(Hm) 4817 County Club Blvd
Little Rock, AK 72207
331 656 6851 Y (parents)
336 0711 4888 (p)

Kerry, Sen. John
Senator
John Kerry for President
101 E. 52nd St, 16th Floor
New York, NY 10022
202-224-2742
202-224-8525
202-224-0214 Direct Line
202-544-1880 Other
202-544-1883 Private line
212-481-4828 Jamia Whitehead (assistant)
212-421-2065 New Work #
(1-13-03)
212-421-2067 New Fax #
(1-13-03)

Johnson Lily
917 520 0787
541 552 7576

Johnson, Elizabeth (Libit)
Trump International Hotel & To
One Central Park West
Penthouse 50 B
New York, NY 10023
212-515-1515
212-515-5439 ERJ hou
Email: jengallen@aol.com
(Hm) Lighting Tree Farm
543 N. Mainbettsville Rd.
Millbrook, NY 12121
914-877-9351 Country home
212-245-5531 Secretary Anita
917-282-2302 ERJ house
917-282-2302 Elizabeth's Bentley
914-877-9350 Vail - Fax
914-877-9350 staff
914-877-9351 Millbrook house
Fax
212-596-2463 (wf)
914-877-9900 ERJ private
212-515-5439 Ania fax
212-707-8398 ERJ house
917 864 9464 car phone
917 864 9989 car phone
917 733 5757 ERJ's portable

Kessler, Jack
New Albany company
4883 Alantias Circle
New Albany, OH 43054 (h)
5906 East Dublin-Granville Rd
New Albany, OH 43054
614-838-8025f

Klincaid, Kristina
Victoria's Secret
1114 Sixth Avenue, 5th Fl.
New York, NY 10036
330 East 38th Street, #39M(H)
New York, NY
212-403-9284 (w)

Kosslyn, Steve
28 Garfield Street
Cambridge, MA 02138

(Hm) Harvard University
William James Hall #630
33 Kirkland Street
Cambridge, MA 02138
617 495-3832 (w)
617 495-3009 (h)
617 495-7121 (f)
617 853 8156 cell-emergency
only
617 441 8111 hf
617 441 8111 (hf)
617 842 0901 (p)
617 495 8155 other
617 884 8468 emergency contact
(Robin)

Kravis, Henry
Kohnberg Kravis & Roberts
212-230-9403 (w)
212-750-0003 (f)
(Hm) 9 West 57th Street 42Fi
New York, NY 10019

Lang, Adam Perry
1 River Place #3508
NY, NY 10036
1 212 268 8874 (h)
917 584 4735 (p)

Leach, Robin
Leach Entertainment Enterprise
425 West 12th Street
New York, NY 10168
212 557 8500 (w)
212 557 8501 (w)
Email: robiea@aol.com or
leachr@

(Hm) 40 PMB #260
133 West Topanga
Las Vegas, NV 89103
809 452 6000 Antiqua
702 221 1470 (h)
702 221 8230 (hf)
702 845 3700 (p)
702 845 3700 (p)
201 222 6004 Nick La Penna

Leese, Nick
Leese of Orem PTE Ltd.
182M Mount Pleasant Road
Singapore, 112201
180 Bukit Timah Road
Singapore, 0922
65 253 4536 (w)
65 253 4384 (w)
65 253 1798 (p)
65 253 0417 (w)
65 253 0417 (w)
65 720 4101 Car
65 253 5453 (h)
65 768 0978 (p)
65 768 0978 (p)
65 97660878 (p)

Lopez, (Buklarewicz)
Cindy
239 E 9th Street #C
New York, NY 10128
646 541 9353 (p)
917 492 2102 (h)
Email: ctlelopa@aol.com
Email: ctlelopa@aol.com
6 W 14th Street #4
New York, NY 10011
646 638 3331 x226 (w)
732 431 5374 parents

Lindberg, Marc
M4 Properties Inc.
6525 West Campus Oval
Suite 105
New Albany, Ohio 43054
001 614 784 2544 (h)
Email: m4properties@aol.com
Email: m4properties@aol.com
Hm 16800 N. OH 43082
614 939 6005 NAPI Direct
614 939 6025 f Marc's fax at na
prop

Luntz, Melinda
345 E 64th Street (h)
Apt 100
New York, NY 10021
917 884 5817 (p)
212 706 1691 (p)
Email: melinda@luntz.com
Luntz Clarkson Research
Group (w)
19 Townsend Square
Oyster Bay, NY 11771 PB
516 792 8893 Morn in PB
516 624 8823 (w)
561 762 3100 emergency contact
Denise Read

Mast Industries
Pres: John Welch
14/F East Wing
New World Office Building
New Salisbury
222 724 4736
852-813-8223 John Welch Home
852-311-4741 John Welch Fax

852-813-0180 Ron Shulman
(home)
Mast Industries - Milan
Fedarko, Karen
10 Zia Monteleone
Milan, Italy
3902 7806 2201
3902 7801 5031

McMillen, C. Thomas
C. Thomas
8401 Corporate Drive (w)
Suite 230
Landover, MD 20785
301 306 3470 x11(w)
301 306 3478 (wf)
Email: cmcmillen@washcapadvisors.
(Hm) 1103 South Carolina Ave
S.E.
Washington, DC 20003
202 546 1712 (p)
202 546 1712 (p)

McMillen, Thomas C.
Thomas C.
The Risk Group
8401 Corporate Drive
Suite 550
Landover, MD 20785
301 306 3470 (w)
301 306 3470 (wf)
Email: cmcmillen@tinquinura.com
202 251 4371 (p)

Vice Chairman
Aon-Rollins Hudig Hall
781 Fifth Avenue
New York, NY 10022 (h)
Two World Trade Center, 105th
New York, NY 10048-0090
212-441-1660 Work
212-441-1924 Fax
(Hm)Aon (w)
222 Lakeview Ave., Suite 510
West Palm Beach

FL 33401
212-847-5281 Car
212-573-5650 Kelly
212-365-7800 Home - NY
212-831-7166 Fax - NY
561-934-7635 Work Fax - Palm
Beach
561-455-0114 Home - Palm
Beach
561-253-2520 PB w
56591-655 3411 PB ht
917-885-8819 (p)

Merrit, Jerry
001 614 479 7210
001 614 479 7214
001 614 939 7800 (n)

Middleton, Mark
7 Lacelle Court (h)
Little Rock, AR 72223
501 847 0371 (w)
Email: mirmiddletonus@ad
(Hm)22039130
Bryant, AR 72022
501 821 8877 (h)
202 456 6798
800 719 7535 Other

501	821	6800	(w)
501	329	3355	(h)
501	821	8877	(p)
501	821	1881	priv.
501	821	1991	(hf)
202	737	9305	Was
202	456	2464	Was
501	847	8379	(wf)
501	847	0371	(w)

Minsky, Marvin

MIT
20 Ames Street
4th Floor
617 734 3393h
617 277 0583 (f)
Email: minsky@media.mit.edu
(h-m)111 Ivy Street (h)
Brookline, MA 02446
781 896 5142 Gloria
Rudish-Emergency only
617 730 2335 Gloria Minsky pili-
valia
617 253 5864 Marvin-office

Mitchell, David
24 East 22nd Street (h)
Apt 7

New York, NY 10010
 212 486 4444 (w)
 212 358 0911 (wf)
 (E-mail) djm@mitchellholdings.com
 (Fm) 18 E. 50th street, 10th fl(w)
 New York, NY 10022
 212 358 0911 home
 917 362 8787 (p)
 917 941 8152 Car phone
 212 758 8044 (wf)
 1 917 362 8787 (p)
 212 758 6622 (w)

Mitchell, Senator

**George
Piper, Rudnick**
901 15th street NW (w)
Suite 700
Washington, DC 20005
202 371 6155 (w)
202 371 6109 (wf)
E-mail: bchapman@verm...

202.371.6109 (WI)
Email: bchapman@vemer.com;

mkr	(Hm)	1965 Broadway (h)
	(Apt 19B	
	New York, NY 10023	
	305	365 2832 Florida
	646 505 1552 (h)	
	202 329 9486 (h)	
	646 505 1351 (h)	
	305 361 7187 Sister Barbara	
	202 371 6155 (asst Brnr	
	202 371 6000 (state)	
	202 547 9314 DC Home	
	202 376 4535 DC Fax	
	646 505 1350 NY (h)	
	212 857 4292 Heather (h)	

Morrison, Larry
11148 Cobblefield Road

11148 Cobblesfield Road
Wellington, FL 33467
001 561 798 6544(h)
Email: jalcate@aol.com
(Hm) 1514 Perimeter Rd
Suite 105A
(office address)
West Palm Beach, FL 33406
561 317 3982 cell
800 759 8988 PIN# 1158004

Myhrvold, Nathan
Intellectual Ventures
1422 130th Avenue N.E.

BelleVue Washington 98005
425 487 2300 (w)
425 487 2308 (w)
425 487 2308 (w)
Email: natthian@ntv.com
Hill 3344 1134th Ave N.E.
(425) 503 5160 (w)
(425) 503 5160 (w)
425 936 7333 Shaleen PT Assis-
tant
425 936 2170 Serena FT Assis-
tant
425 881 7828 (h)
425 936 1222 Direct Fax-Use
Instead of Corp
425 936 7328
425 936 7328 Corporate Fax Line
800 400 2417 Roger
888 433 2971 Plot Gerry Heinan
888 501 9014 Plane
425 859-5599 Joan Waters (per-
sonal) 425 859-5599 Claudia Leschuck
(425) 785 7788 p
425 467 2250 (w)
011 81 331 94511 Boat (sal)
888 501 9014 172 Boat
425 260 7319 Claudia - emer-
gency

N.A. Property, Inc.
N.A. Property
P.O. Box 688 (Mailing address)
6525 West Campus Oval
Suite 105
New Albany, OH 43054
614 939 6000
614 939 6025 (f)
5906 Dublin E Gran Fed Ex Ad-
dress
Ohio 43054
614 579 9316 Peg portable
614 688 5091 Marc Lundberg

Lesley Wexner

2453 0096
2683 5697 (H) Florida
2786 5149 (H) Florida
2927 9800 (H) Florida
3053 9823 (H) Florida
3283 1100 (W)

16248178 p
alt: selmaoueriani@yahoo.fr

970-274-0323 (P)
970-925-4770 Aspen Home amy
303-925-9081 Aspen Fax

PILOT INFORMATION

ture Fl. Supp.
703 661 8450 Washinton-Signa-
ture Fl. Supp.

Citrus

azek, Ed
920 Gorsuch Road (h)
alena, OH 43021 (h)
olumbus, OH 43230

Preece Dara
3139 Kingslon Court
West Palm Beach, FL 33409

Rosovsky, Henry
Dean
Harvard University
37 Bechcroft Road
Newton, MA 02458, (h)
Loeb House, 17 Quincy
Cambridge, MA 02138
617-495-4151(w)
617-495-9381(wf)
Email: hrosovsky@harv
617-332-8134 Home

Schaeffer, Stan
2211 Broadway
Apt. 78th & 79th
Belm. 001 212 580 5522 W
011 212 496 8817 F
305 531 2727

CITIX

Schantz, Jeffrey

1257 Veeder Drive
Hewlett Bay Park, NY
11557
Email: jcs@nysspic.com
516 791 0024 (h)
516 791 7220 (h)
516 791 7220 (h)
516 578 7683 (cell p)
212 504 8083 E Fax
115416 AA Frequent Flyer
Number

Schoettle, Douglas A

243 Riverside Dr Apt. 1005
New York, NY 10026
212 932 0535 (h)
214 292 5904 (College)
212 333 7774 (f) Bahamas
212 932 1250 (h)

Shadow, Monty

Abbatia Castello
28050
San Nazario Sesia (NO)
Italy
01139 0321 834030 (w)
01139 346 1380400 (w)
Email: montyshadow@libero.it
011380321834030 work fax
011380258912186 private fax
011380321827000 private line at
home

Shaeffer David

001 212 543 5845 (w)
001 212 414 0666 (h)
001 517 646 3365 (p)

Snyder, Richard & Laura

York
Gordon Locke Family Entertainment
803 Park Ave. Apt 1A (h)
NY 10026
868 Seventh Avenue (w)

New York, NY 101064100

212 547 6720 (w)
212 432 7878 (h)
Email: Luluajork@yahoo.com
101064100 Country home)
34 Boutonville Rd S.
Cross River
NY 10518
914 763 9167 Country
212 547 6720 Gail Assistant
212 547 6720 Country (f)
212 432 7878 (w)
212 547 6720 (w)
917 797 8514 (p) Laura
917 860 9588 (car)

Solomon, Melissa

3520 Kingsbridge Drive
Plant, NY 15075
972 599 7682 (h)
Email: melissasolomon@cs.com
Hm 60 Lincoln Center Plaza
Stu Box 821
NY 10023
917 816 6788 Dorm cell (Alan)
516 842 5010 Alan home
631 523 3317 Melissa's cell
646 459 1287 Julliard dorm room
phone

Sowell, Dottie

737 Park Avenue, Apt 8D
New York, NY 10021
212 628 8672
212 628 8672
212 628 8672 Mom
212 847 7681 Car
305 932 4004
917 446 4468 portable

Spector, Warren

President
Stern, Stearns & Co.
3831 Jackson Avenue (w)
New York, NY 10017
212 272 6119 (w)
212 272 7817 (w)
Email: wspector@bear.com

Hm 10 Fifth Avenue (h)

1000 USA
New York, NY 10011
917 817 8459 (p)
212 523 2823 (h)
508 543 9655 (h) Massachusetts
561 514 0202 (h) Palm Beach

Staley, Jes

JP Morgan
522 5th Ave, 3rd floor
(corner of NY) 10036
212 637 2375 (w)
212 744 0770 (h & f)
Email: jes.staley@jpmorgan.com
Hm 930 Park Avenue
New York, NY 10028

917 812 4364 portable
212 837 5003 (w)
212 744 0770 (h)
631 283 0168 Hamptons (h&f)

Stark, Caroline

Krista's friend
1100 West Avenue (h)
#326
The Mirador Building
Miami Beach, FL 33139
305 991 6124 w
305 321 4022 p
(Hm) Altin, Personal (w)
1001 Brickell Bay Drive
Suite 110
Miami, FL 33131

Steel, Kim

001 212 517 3063
914 931 3076 CA
208 726 1452 cell
208 726 1452 Fax number

Stein, Andrew

212 369 3252 (h)

212 572 5050
212 338 2708 Work

Stock, Ann

Social Secretary
US Government
The White House
Washington, D.C. 20500
202 456 1393
202 456 1414

Stone, Linda

P.O. Box 7477
(This is a stable address)
39006
Seattle, WA 98144
Email: linda@locaine.com
(Hm) 3226 Cascade Ave South
(not living here until 6003)
Seattle, WA 98144
206 760 3259 home & office
425 036 1656 direct line
425 705 8888 Linda toscano
(asst.)
lindastone@MSN.com another
e-mail
3703 7094 fax
206 465 3020 p
425 705 6954 Tamara (w)
206 335 6594 Tamara (p)
206 760 3228 (h)
310 722 9548 Emergency contact
Ken Bovino

Stroll, Lawrence S.

Allyl Investment Group
550 7th Avenue
7th Floor
New York, NY 10018
New York, NY 10018
514 487 8173 (h)
Email: clarkanne@strollfamily.
502
Montreal, Quebec
H3N 1X1
514 487 8173 Canada

1	748 280 2171	(cell)	
2	1 114 677	(p)	
3	1 114 677	(p)	
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97	1 114 677	(p)	
98	1 114 677		

Tafoya, Craig
Fraser Yachts
2107 Southeast 18th Street (h)
Fort Lauderdale, FL 33316
854 763 5093 (f)
854 763 9484 (h)
E-mail: tafoycraig@aol.com
(Hm)17800 S.E. 10th Avenue
Suite 400
Fort Lauderdale, FL 33316

Tobiason, Larry
Lawrence F. Tobiason Assoc.
6 Hillside Ave.
Winchester, MA 01890 (h)
5722 Freepoint Court
Westerville, OH 43081
001 614 865 2310
614 855 1738
001 614 898 0749 (h)
001 617 729 111 (h)
001 617 729 2519 (h)
001 614 391 4969 (c)

Trossle, Bob
Miller and Raved
914 634 7476(h)

Trump, Donald
The Trump Organization
400 New York Way #10022
New York, NY 10022
Tel: 212 637 2000(w)
Fax: 212 755 3230(f)
E-mail: matriknk@nyc.earthlink.net@aol.com

[illegible]

Tuckerman, Steve
Kitchman Optical Co.
5000 Kitchmillers Road (h&w)
Q box 188
New Albany, OH 43054
614 775 4092 (w)
614 775 4004 (f)
E-mail: stevetuckerman5000@msn.com

Ugland, Peg
7026 Wichita Drive
Cincinnati, OH 45207
(614) 744-9497 (h)
(614) 744-9447 (m)
(614) 989-0047 (p)
E-mail: pegu@naperproperty.com
(Hm) Nap (new) 8525 W. Campus
Dval
Suite 105
New Albany,
Ohio 43054
614-339-6006 Richard Ugland
614-339-6000 w direct
614-339-6003 w direct
614-339-6025 fax
614-339-6007 F direct

JPS
Account # E10-954
Domestic 800-742-5877
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Valukas, Tony
Jenner & Block
One IBM Plaza
Chicago, Illinois 60611
312-222-9350
312-527-0484
708-866-8348 Home

Wloski, Larry
131 Pine Point Road
Ft. 33404
Pine Point Island, FL
33404
212 737 9336(h)
917 868 6145 (p)
447 78 599 0070 Euro (p)
505 832 3599 (h) Santa Fe
561 543 7513 David Rigg
1814 433 7063 Lloyd Rigg

Wachner, Linda
Warraco, Inc.
2000 East 6th St. Street #36S
New York, NY 10021 (4) 36S
bop ark Avenue 26th Fl.
New York, NY 10016
212-370-8204 (f)
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317-476-0475 Sepulveda (f)
310-476-0475 Sepulveda (f)
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212-370-8205 Secretary direct
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212-308-1268 (f)
212-308-1269 Aspen (f)
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212-320-2017 S. Hampton
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0607 917 212 Claude-Paris
011-356-356-3058 (f)
011-356-0726-5960 (p)

[illegible]

15 Rue Le Sueur
Paris, France 75116
011 33 608 17425
011 33 58 08 17425 p
(Hm) Rue de la Touraille
Boulogne Billancourt
France
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011 33 493646157 Canne
0608471510 numm
011 39 055 225 296 Alexia
Italy
347 217 0981 NY cell
011 3314500207 Fax
011 33 145 000207 Cellula

[illegible]

10 E 29th St.
Apt #18H
NY NY 10016
646 232 3311
212 696 2315
Email: cristalle@

6619 Tallassee Plantation Cir
Albany, GA 31707
229-483-0638
229-483-9843 (f)
229-435-5932 Darrell Halstead
229-888-6637 Darrell Payer

+307 International Gateway
 Columbus, OH 43219
 614-479-7063
 614-239-7043
 614-239-8490 Tim Stehly
 614-203-9895 Tim Stehly (p)

78 Mount Street,
London, United Kingdom W1K
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44 20 7488 7703 Home - fax
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0111 441 385 351 David
Plaine, Paris
33 1 490 7711 Home
44 1 490 7711 Home
44 37 427 0744 Range Rover-
London
0831 355 956 Mercedes
0831 355 956 Mercedes
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071 4 70 883 954 Mercedes
London phone
011 44 70 883 955 Range Rover

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614-415-7000 information
212-650-0477 NY h
614-415-5006 Daina Ryan direct

Whitehead, Jim
301-581-3444 (w)
301-593-5407 (h)

Wolman, Herb
Insurance Office Central Ohio
253 North Columbia Avenue (h)
Bexley, Ohio 43209
38 Jefferson Avenue
Columbus, OH 43215
614-221-5471 Work

Barnett, Richard
14 Oakland Ave
Port Washington, NY 11050
516 883 4448(h)
116-497 pln #
E-mail: rbgas17@aol.com
(Hm)1800 skypeage
917 940 6157 (p)

Epstein, Jeffrey
9 East 71st Street,
New York, NY 10021
212-678-9416(h)
212-678-0841(h)
E-mail: jeffep@att.net
E-mail: jeffep@yehoo.com

Hamblin, Sue
41 Meadow Way
Constantia Meadows
7806, Cape Town South Afr
01127 827 795 782(p)
01127 21 761 8442(h)
Email: suehamblin2003@ya-
hoo.com

**Sawyers Tom/Pat (tele-
phones)**
Barbara (wife)
133 County Rd 513
Frichtown, NJ 08825
908-996-8903(g)
908-996-6958(f)
908-591-2641(ph)
pin# 5460174 Tom beeper 1 800
759 7243
pin# 4195978 Pat beeper 1800
958 7243
(610) 759-2939 Pat's home
(610) 759-7461 (ph)

Tindall, Brent
301 East 66th Street
Apartment 8C
New York, NY 10021
917 601 4143 (P)
212 535 7374 (H)

KENYA (K)

Muthaiga Club
010 254 2787/54/56

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0208-994 5458
0856 210252

Chelsea Police Station
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Coles, Alan
Registered Osteopath
The Brompton Health Clinic
115-117 Old Brompton Rd.
Eaton, London SW5 0EA
07802 828 109
(Hm) Courfield Medical Centre
23 Courfield Gardens
Eaton Court SW5 0NL

Drivers
welcomeminibus@.hotmail.com
020 8866 6644 Les Wellace
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0209 866 9844 Les (J)
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0781 112 5229 Ray Perkins (p)
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Martin Tim/Debbie Stewart
Grosvenor Estate
0207-405 8960
0207-312 6201 (id)

Martine
0207-235 0998(w)
0207-244 6636(h)

Massage - UK (a)

0208 715 6200 Liz
0976 283 6251 Liz
0208 717 1268 Annabel
079 7753 5377 Barry cell
016 2846 8654 Barry
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0207 956 1887 Joanne Bunt
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310 821 2799 Barry(LA)
0776 765 5220 Maxine cell
0776 765 5220 Maxine cell
0776 765 5220 Maxine cell
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077 4768 5190 Bernice Palazzo
(Stroll 5)
0780 282 6109 Alan Coles (os-
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0207-251 6109 Felicity (Thal
message)
079 4033 7382 Felicity (p)
0870 225 6007 Unlisted London
Cherie Elling/good unlisted/0670
225 6007

Maxwell, Ghislaine

44 Kinnerton Street
London, England SW1X 8ES
0207-838 9128 (h)
0207-838 9128 (h)
0207-838 9128 (h)
(Hm) fedex package to: Simon Edwards
Alexander Mann Global Markets
Alexander Hse, 9-11 Broad St
London, England WC1N 6HG

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07785 771552 (p)

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0207-331 0788(h)

O'Neil Nessa
0207-235 1209(h)
0831 458686(p)

Oping
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Outred, Anthony

533 Kings Road
London, England SW10 0TZ
0207-730 4782
0207-376 3627
0207-736 8756 Horne
0208-965-8733 Heddy's Humpers
(Movers)

Police 24 hours
0207-321-8273

Range Rover
0771 4236573

Ray John
001 212 715 7227(w)

Stichcraft
071-623 7919

Tobias, Maxine
Yoga UK
0207-351 7690
00 631 329 3869
Email: maxinelena@aol.com
0717 85520 (p)
516 329 3869

Unlisted London
Contact: Debbie Nichols
0870 225 6007 (w)

Yara
0207-349 0652

MEDICAL

Birnbaum, Dr
449 East 68th Street
at York
Suite 6, Second floor
New York, NY 10021
212 568 4760 (f)
John Scobell

Burman, Dr.
Vet for Man
52 East 64th Street
New York, NY 10021
212-832-3417

Chiropractor
Dr. Dean
Chiropractor
2067 Broadway between
71st & 72nd
212 712-2195

Chiropractor
Chiropractor
Calakos, Dr. Dean
370 Columbus Ave.
between 71th & 78th streets
4F
NY, NY 10023
212 712 2195

Cope, Bruce
GM Benlist
2 Harcourt House
19A Cavendish Square
London, UK W1M 9AD
0207-580 0646(w)

Dr. Bruno
535 Park Avenue
New York, NY 10021
212 838 3155

Dr. Dean Calakos
370 Columbus Avenue
41F
New York, NY 10024
212 712 2195

Dr. Farkus
30 East 60th Street
201 Floor
New York, NY 10022
212 355 5145

Dr. Ray, Dr. Kasha
Paula's DVT
561-478-1104

Dr. Schimoni
212 751 5069 (w)
917 922 7391 (p)

Ear Conning
310 West 72nd Street
NY, NY
001 212 580 3333

Gaynor, Dr J R
79 Cadogan Place
London
SW1X 9RP
0207-351 3454 (h)
0836 236965
0207-351 6801 (h)
0207-730 3700 (w)

Hirshfield, Dr.
614-864-8015 (f)
614-252-2034 (h)

Ishmail
177 Prince Street
(between Prince & Thompson)
212 353 2038
917 865 0394

Kent, Susan DVM
Park East Animal Hospital
52 East 64th Street
New York, NY 10021
212-832-8417

Krumholtz, Dr. Michael
111 East 80th Street
NY, NY 10021
212 734 5533

212 717 1688 fax

Lee, Dr.
614-688-5966
614-457-5955 (h)

Lister Hospital
0207-730 3417
0207-235 2672

Magnani, Dr.
501 Madison Ave, Suite 2101
(btwn 52nd and 53rd St)
New York, NY 10022
212 688 1080
203 925 3408 (h)
212 755 3156 fax

Medical
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ber(gm)
13378 4883 Prudential ID num-
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MedLink Emergency
001602 239 3627

Meltzer, J. Dr.
903 Park Avenue
New York, NY
212 988-4488
212 535 4796fax

Moskowitz, Dr. Bruce
1411 North Flagler Drive
Suite 9300
West Palm Beach, FL 33401
WPB, FL 33401
561 833 6116 (w)

561 848 7884 (h)
561 833 6351 (w)
X21 Melanie
561 833 1628 direct to Moskowitz
desk

Oxford Health Plans
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4311440-01 Member number

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Steinburg Dr.
NY Hospital ~~212~~ 746 4100
001 212 746 4100

Sternberg, Esther Dr.
3610 Uptown Street N.W.
Washington, DC 20008
001 202 237 6773 (w)
001 202 237 6773 (h)
Email: stember@baltatlantic.net

Tom, Maggie
0207-466 9272

Victor, Steve Dr.
30 E. 76th St. (P&M) 611
NY 10021
212 688 5095 (w)
212 688 5095 (h)
(Hm) 845 UN Plaza apt 32A
New York, NY 10017
001 212 628 5210 (h)
001 212 628 5210 (w)
917 516 3523 (car)
516 328 5823 (car)
917 228 1554 (p)
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917 328 8655 emergency

Wyntik, Wayne
Chiropractor
212-249-7790

PB

Babor
561 832 9385

Bard, Dr. Perry
4275 Okeechobee Blvd (w)
Sulte H
WPB, FL 33409
561 640 9969 (w) WPB
Email: docboston77@aol.com
Hm) 3636 S Ocean Blvd
Hollywood Beach, FL 33487
561 269 1844 (h)
561 302 1844 (p)

Breakers, The
561-835-5611
Account # 17313

Chiropractor
001 407 640 9999

Cleaners
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Witness

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wear**
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711 W. Indiantown Rd.
Jupiter
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561-741 6424

Devito, Dawn
267 Atlantic Ave.
Palm Beach, Florida 33480
212 350 8884 Paula (p)
(Hm) 144 Pleasant St.
Watertown
MA 02172
021 723 4615 Palm Beach Home
561 925 7817 Beach
401-423-9866 Rhode Island
561 248 3445 (p)

Driver - PB
305 491 1998 Ray

Epstein, Jeffrey
358 El Brilo Way
Palm Beach, FL 33480
Email: jeffrey@mindspring.com
561 309 6415 NY Merc
561 625 7526 JE Line 2
561 655 2779 JE Line 3
561 655 3704 JE Line 4
561 655 4870 GM
561 829 8659 (w) Main house kitchen
561 804 0840 Main house kitchen
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2710157 # Call forwarding

Gaie, Christophe
6102 Wheatley Ct
Bovington Beach
FL 33436 700 (p)
561 250 7742
561 250 7742
561 233 7240 (p)

Goldman, Francis
122 Lake Rebecca Drive
Golden Lakes, FL 33411
561 656 4409

Goldsmith, Gerald
20 Wells Road
Palm Beach, FL 33480
561 659 4341 (h)
561 659 4343 (h)
(Hm) Palm Beach National Bank
125 Worth Ave.
Palm Beach
561 323 3461
772 971 1000 (p)
561 653 5586 (w)
561 650 0866 (w)
212 319 9404 (w)
212 659 1433 (w)

212-695-7171
212-489-1818 home

Ellis Freedman
001 212 788 9583 (h)
001 212 351 3062/91 (w)

Grumbridge, Malcolm
Specialty Group
1A Alredale Avenue
London, England W4 2NW
0208-395 1515 (w)
Email: mgo@thehogarth.co.uk
10031 Cleveland Avenue
London, England W4 2NW
0208-395 0923 (h)
0208-395 0929 (w) switch board
0385 365 616 Car
0385 248897 Portable
44 20 8985 1515 w

Lemaline, Pierre
00 33 1 4329 4465 / 5184
00 33 1 4325 4080 (h)
00 33 1 4325 3414 / 000926
00 33 1 4345 5191 (h)

Marden Scott and Sarah
Nurse
001 212 595 1619(h)
011 212 702 8680(w)

Marden Scott and Sarah
Nurse
001 212 595 1619(h)
011 212 702 8680(w)

Marden, Scott & Sarah
001 212 702 8602(w)

212 595 1619(h)
212 595 1617 work
212 595 1618
212 272 6050

Miranda, Bob
001 914 739 6879 (h)
001 212 345 8408 (w)

Moss Brian /Carolyn
Coleman
01865 881165
01865 881153

Nesson, Mauri
001 212 724 8079
001 303 925 8817 Aspen

Oliver Keith
Peters & Peters
2 Harewood place
Harrover, Sq
London, W1R 9HB
0207-499-6792(w)
0207-499-6792(h)
Email: keo@petersandpeters.
(h)Fin (h)
Slatham Court
20 Tollington Way
Holloway, London, N7 6FP
0207-499-6793 Direct
07765 232 122 (p)

Onakewe, Rodolph
47 Rue de Chatelet
Paris,
33 1 4723 0063

Ord, Robert
01491 652642(h)
0385 307806(p)

Shaw Derek
0205 820944

Shelly Aboff
001 203 532 0453 (w)
001 203 622 5905 (h)

Tony Busby
0865 60884 X3593

Travis, Paul
0342 844686

Tuttle, Jim
(732) 248 1847
0867 358622 X3577
0867 358622 X3577

White, Justin
0765 724 372
0765 724 372

RUGS

Pierre, Jerome
Cedreline House
581 359 4354
581 537 3375
581 541 7955 (p)

SECURITY (SC)

Scotland Yard
0207-230 1212

0836 208089

Paul Cox
7532206

Peters & Peters
Keith Oliver/Helen McDowell
2 Harewood place
Harrover, Sq
London, W1R 9HB
0207-499 7891
0207-499 7891
0207-499 7891
0207-499 6792(f)
0385 232 122

Pisar, Samuel
011 331 4766 0212(w)
011 331 4022 8203(w)
011 331 4501 8718(h)
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011 331 4501 2354 (h)
Gravisse (f)
212 829 8800 x15 Leah Pizar (w)
517 654 8243 Leah Pizar (p)
212 829 8800 x15 Leah Pizar
work

Posen, Felix
24 Kensington Gate
London, W8 5NA
0207-584-9330 home
0207-584-0915 off.
Email: f.posen@dircon.co.uk
0207-584-0915 (h)
0207-584-0915 (h)
011342-833568 (f)

South Ken
0207-741 6212

The Home Office
0207-273 2124

SWITZERLAND **(SW)**

Bristol Hotel
10 rue du Mart-Blanc
Geneva, Switzerland 1201
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(Cent. Cards)

AT&T
1-800-225-5288

British Airways

001 800 247 9297
0845 775 9977uk
910/8094 Pin 9919 club number
(GM)
109 156 club number (JE)
0208 759 5511 (Paris)
0208 564 1880 Jilly B. Smith
718 425 5585 Roz Olivier/Special
Services
718 425 9654 Alan Jacob-
son special services
212 868 3335 Roz home (emer-
gencies)

718 553 5585 Penelope Foy
718 425 5585 Bernette Barry -
Spec. Rep.

Citicar

3515 37th Avenue
Great Neck, NY 10021
718 467-9990
800 436-3348
718 361-9800 Elant/Tackle
900 436-3348 Toll-Free Number
718 361-8634 when ph system is
down

Concord Tickets

David Gladwin
19 Main Street, Keyworth
Nottingham NG12 5AA, UK
0115 833 6330 (I)
812 931-0490 (Fisher) Susie Si-
mon (I)
212 268-9088 (Wilpon) Michael
Holz

Continental Airlines

001 800 525 0280
#SM147662 frequent flier number
(GM)

Delta Airlines

001 800 323 2323
2102103435 frequent flier number
(GM)
1-800-325-1999 Flight information
number
210 1009253 frequent flier number
(JE)

Delta Dash

1-800-638-7333

DHL Courier
800-225-5345

Flight Options

26160 Curtiss-Wright Parkway
Cuyahoga County Airport
Cleveland, OH 44133
877 357 1263 (W)
216 797 3325 (W)

Flyaway

081-759 1567/2020

Frequent Flyer Clubs

Delta One Pass
001 713 952 1630
001 713 952 1630
901 090 321 712
212 102 103435 frequent flier num-
ber

Garnero, Jr., Mario B.

011 35 11 9970 1020
Miami
mgarnero@brasilinvest.co
646 251 2211 (P) Europe
011 331 4720 1884 Paris

Helicopters

Air Helicopters
Jean-Paul Les Monnet
Nice Helicopters
Aéroport Nice Côte d'Azur
Terminal
06281
Nice, Cedex 3
04 93 21 34 32
04 93 21 35 64 (I)
Eugénie
helicopteres@wanadoo.
06 14 356 353 (P)

10 Moonacha Road
Woodbridge, NJ 07075
1-933-7556

00 525 3355
1385847234008 P1a(GM)
13 8182 5931 004 P1a (JE)

SR Reservations
081-439 4144

730 Sal
 212 753 1100 Homeric Tours
 800 466 777 Go Trips-Stacy PB
 877 409 5638 24 hr. hotline code
 5516
 212 690 4625 Raghu cell
 870 414 7224 citeapflights.co.uk
 212 243 3500 Lucy
 France Travel-airfrancisediscount
 207 637 8485 cheap concord
 tickets
 212 760 3737 FlyTime Travel -
 Fashi

94

800 223 5866 Navigant
Travel
1 800 443 7672 Amex. Centurian
Travel
800 443-7672 Platinum/Heather
ext. 63793
800 715-4440(22339 Global
Travel
Travel 2744 1st & Busi/Charlie
210 683 0779 UN Travels and
Tours
323 933-8763 Domestic only ml.
broker/John
800 239 8269 Virgin specialist

US Air
Frequent Traveler Center
P.O. Box 5
Winston Salem, NC 27102-0005
001 800 872 4738
001 800 458 4322
001 800 872 4738
#38515311 frequent flier number
(GM)

USA International
218 West 47th Street (B'Way)
New York, NY

Virgin Atlantic Airways
029-356-200
001 800 882 8621
#00 800 044 506 frequent flier
number (JE)

TWA
001 800 221 2000
#186925144 frequent flier num-
bers (GM)
34663436 frequent flier number
(JE)

United Airlines
001 800 241 6522
#00385250614 frequent flier #
G.M.
00316924999 frequent flyer # J.E.

Domb, Sam
230 Central Park South #18F
New York, NY

505-982-2283 Sabrina
505-982-2283 Sabrina
505-600-6192 Sabrina
505-984-8356 Rachel
505-424-7416 Rachel
505-669-1969 Rachel
505-989-9846 Linda
Spankman-Yoga
505-471-1244 Melinda Welker -
Reflexologist, C. Wier (German)

Landmark National
2817 Grain Highway
Upper Marlboro, Maryland 20774
301-574-3330(w)
240-463-3237(p)
E-mail:

[illegible]

EXHIBIT 3

Lynn & JoJo

① I sent Lucian & Rushia's mail to their correct address and called Post office to make sure all future mail will be sent to them.

② I Scheduled the cable company to come on Thursday. This is their soonest appointment. Ghislaine asked me to make ^{an} appointment because the TV in the Blue Room does not get a clear reception.

③ SHUTTER COMPANY WILL COME EARLY THURSDAY TO MEASURE SHUTTER NEXT TO GHISLAINE'S DESK. THE SHUTTER WILL NOT ROLL DOWN. ~~E~~

* BOTH CABLE COMPANY & SHUTTER COMPANY WILL CALL ME ON MY CELL PHONE TO MAKE SURE JEFFREY & GHISLAINE ARE NOT HERE.

Jeffrey E. Epstein

301.3101

Nicole

SA02969

IMPORTANT MESSAGE

FOR Mr Epstein

DATE 02/02/03 TIME 8:54 A.M. ~~P.M.~~

M. BANU

OF _____

PHONE 310 498 3045
AREA CODE NUMBER EXTENSION

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE could
for Please call back,
it's very important

SIGNED Evelyn

1184

IMPORTANT MESSAGE

FOR JE

DATE 01/02/03 TIME 16:30 A.M. ~~P.M.~~

M. CAROLINE CASEY

OF _____

PHONE 889 5900
AREA CODE NUMBER EXTENSION

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

SIGNED GM

1184

IMPORTANT MESSAGE

FOR Gail

DATE _____ TIME _____ A.M. ~~P.M.~~

M. _____

OF _____

PHONE _____
AREA CODE NUMBER EXTENSION

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Tanya PHoned
to confirm 10:00

SIGNED _____

1184

IMPORTANT MESSAGE

FOR JE

DATE 01/02/03 TIME 21:06 A.M. ~~P.M.~~

M. Amelia

OF _____

PHONE 463 8470
AREA CODE NUMBER EXTENSION

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE WANTS TO KNOW
IF SHE SHOULD RING
HER FRIEND HOLLY
WINTONIGHT

SIGNED Mimi

SAO01456

1184

IMPORTANT MESSAGE			
FOR <u>MR. EPSTEIN</u>			
DATE <u>4/23/04</u>		TIME <u>6:10</u> <small>A.M.</small> <small>P.M.</small>	
M <u>MARK EPSTEIN</u>			
OF _____			
PHONE/ MOBILE _____			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>FOR YOUR INFO</u>			
SIGNED _____ 1184			

IMPORTANT MESSAGE			
FOR <u>MR. EPSTEIN</u>			
DATE <u>4/23/04</u>		TIME <u>5:25</u> <small>A.M.</small> <small>P.M.</small>	
M <u>heller</u>			
OF _____			
PHONE/ MOBILE <u>Office</u>			
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE _____			
SIGNED _____ 1184			

IMPORTANT MESSAGE			
FOR <u>MR. EPSTEIN</u>			
DATE _____		TIME _____ <small>A.M.</small> <small>P.M.</small>	
M <u>MARK EPSTEIN</u>			
OF _____			
PHONE/ MOBILE _____			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE _____			
SIGNED _____ 1184			

IMPORTANT MESSAGE			
FOR <u>MR. EPSTEIN</u>			
DATE <u>4/23/04</u>		TIME <u>5:37</u> <small>A.M.</small> <small>P.M.</small>	
M <u>T. Heller</u>			
OF _____			
PHONE/ MOBILE _____			
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE _____			
SAO2827			
SIGNED _____ 1184			

IMPORTANT MESSAGE	
FOR	6m
DATE	7/28/04 TIME 2:00 AM P.M.
M	Martha
OF	Colonial Bank
PHONE/ MOBILE	653-5593
TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION
MESSAGE	
SIGNED	

IMPORTANT MESSAGE	
FOR	MS. MAXWELL
DATE	04/25/04 TIME 6:55 AM P.M.
M	MS. NICOLE HESSE
OF	-
PHONE/ MOBILE	832 6777
TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION
MESSAGE RETURNIN YOUR CALL	
SIGNED Rushi	

IMPORTANT MESSAGE	
FOR	
DATE	TIME A.M. P.M.
M	AMY BIRSE
OF	
PHONE/ MOBILE	561-373-9042
TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION
MESSAGE	
SIGNED	

IMPORTANT MESSAGE	
FOR	Jeffrey
DATE	TIME A.M. P.M.
M	Chislaine
OF	
PHONE/ MOBILE	
TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION
MESSAGE would be helpful to have someone come to Palm Beach today to stay here and help train new staff with Chislaine	
SIGNED	

IMPORTANT MESSAGE

FOR 05/21/04
 DATE FOR MR EPSTEIN TIME 5:37 ^{A.M.}/_{P.M.}
 M. JERRY GOLDSMITH
 OF _____
 PHONE/MOBILE 561 844 9715

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE ' PLEASE CALL ME '

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR MR EPSTEIN
 DATE _____ TIME 8:30 ^{A.M.}/_{P.M.}
 M. SARAH
 OF _____
 PHONE/MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE WILL CALL
BACK

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR MR EPSTEIN
 DATE 05/21/04 TIME 4:38 ^{A.M.}/_{P.M.}
 M. JOHANNA FJOBERG
 OF (561)
 PHONE/MOBILE 714 0546

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE " CALLED "
" CALL BACK "

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR 05/21/04
 DATE TO MR EPSTEIN TIME 12:45 ^{A.M.}/_{P.M.}
 M. CHRIS CONDOM (MS)
 OF BOA 2 561 301 2211
 PHONE/MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE CALLED

SAO2833

SIGNED _____ 1184

IMPORTANT MESSAGE			
FOR <u>Jeffrey</u>			
DATE	TIME	A.M. P.M.	
M	<u>Ghislaine</u>		
OF	<u>called</u>		
PHONE/ MOBILE			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE _____			
SIGNED _____			

IMPORTANT MESSAGE			
FOR <u>06/06/04</u>			
DATE	TIME	A.M. P.M.	
M	<u>FOR MR EPSTEIN</u>		
OF	<u>MS. MAXWELL</u>		
PHONE/ MOBILE			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>"CALLED BUT NOT</u> <u>VERY IMPORTANT"</u>			
SIGNED <u>R</u>			

IMPORTANT MESSAGE			
FOR <u>MR EPSTEIN</u>			
DATE	TIME	A.M. P.M.	
M	<u>06/11/04</u>		
OF	<u>FRANCIS WARD</u>		
PHONE/ MOBILE			
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>'CALL BACK'</u>			
SIGNED <u>R</u>			

IMPORTANT MESSAGE			
FOR <u>MR. EPSTEIN</u>			
DATE	TIME	A.M. P.M.	
M	<u>6/6/04</u>		
OF	<u>TONY</u>		
PHONE/ MOBILE			
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>"WILL BE COMING AT</u> <u>11 AM TODAY</u>			
SIGNED _____			

IMPORTANT MESSAGE			
FOR <u>Tatiana</u>			
DATE _____		TIME _____ A.M. P.M.	
M _____			
OF _____			
PHONE/ MOBILE		<u>577-5896</u>	
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE _____			

SIGNED _____ 1184			

IMPORTANT MESSAGE			
FOR <u>SARAH</u>			
DATE <u>6.12.2004</u>		TIME <u>3.55</u> A.M. P.M.	
M <u>50 50</u>			
OF _____			
PHONE/ MOBILE		<u>917 975 4500</u>	
TELEPHONED		<input checked="" type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>Calie D. saying</u>			
<u>some one called</u>			
<u>from Palm Beach</u>			

SIGNED <u>De</u> 1184			

IMPORTANT MESSAGE			
FOR <u>Tatiana</u>			
DATE _____		TIME _____ A.M. P.M.	
M _____			
OF _____			
PHONE/ MOBILE			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>she'll be here</u>			
<u>at 5.30</u>			

SIGNED _____ 1184			

IMPORTANT MESSAGE			
FOR <u>MR. Epstein</u>			
DATE _____		TIME _____ A.M. P.M.	
M _____			
OF <u>MS. Maxwell</u>			
PHONE/ MOBILE			
TELEPHONED		<input checked="" type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE _____			

SAO2837			
SIGNED _____ 1184			

IMPORTANT MESSAGE			
FOR <u>MR. EPSTEIN</u>			
DATE <u>7.9.2004</u>		TIME <u>7.30</u> A.M. P.M.	
M. <u>SCHANZ</u>			
OF _____			
PHONE/ MOBILE <u>516 791 0044</u>			
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>CALLER</u>			
SIGNED _____			

IMPORTANT MESSAGE			
FOR <u>MR. EPSTEIN</u>			
DATE <u>7/9</u>		TIME <u>8.45</u> A.M. P.M.	
M. <u>IVAN ROCH</u>			
OF _____			
PHONE/ MOBILE <u>914-393-1225</u>			
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE			
SIGNED _____			

IMPORTANT MESSAGE			
FOR <u>SARAH</u>			
DATE <u>7/9/04</u>		TIME <u>10.36</u> A.M. P.M.	
M. <u>LESLIE (NY OFFICE)</u>			
OF _____			
PHONE/ MOBILE <u>203 972 4488</u>			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>SHE IS WORKING FROM HOME TODAY PL CALL THE ABOVE # ASAP</u>			
SIGNED <u>R</u>			


IMPORTANT MESSAGE			
FOR <u>MR. EPSTEIN</u>			
DATE <u>7/9</u>		TIME <u>6.35</u> A.M. P.M.	
M. <u>MAXWELL E</u>			
OF <u>WARREN</u>			
PHONE/ MOBILE _____			
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>PLEASE CALL WHEN POSSIBLE</u>			
SAO2840			
SIGNED _____			

IMPORTANT MESSAGE			
FOR <u>AIR PROTEIN</u>			
DATE _____		TIME <u>9:15</u> A.M. P.M.	
M. <u>CECILIA (OFFICE)</u>			
OF _____			
PHONE/ <u>747-75921171225</u>			
MOBILE _____			

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

SIGNED _____



1184

IMPORTANT MESSAGE

FOR MR EPSTEIN

DATE 7/9/04 TIME 7:50 Arrive P.M.

MS ALAXITL E

OF TATUM

PHONE/
MOBILE

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE "BRITNY IS
AVAILABLE MON TUESDAY
NO ONE FOR TOMORROW

SAO2841

SIGNED R

1184

IMPORTANT MESSAGE			
FOR <u>MR. EPSTEIN</u>		A.M. P.M.	
DATE <u>MR. EPSTEIN</u>		TIME <u>7:30</u>	
M <u> </u>			
OF <u>MR. EPSTEIN</u>			
PHONE/MOBILE <u> </u>			
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>
MESSAGE <u> </u>			
<u> </u>			
<u> </u>			
<u> </u>			
<u> </u>			
<u> </u>			
SIGNED <u> </u> 1184			

IMPORTANT MESSAGE			
FOR <u>JE</u>		A.M. P.M.	
DATE <u> </u>		TIME <u>7:30</u>	
M <u> </u>			
OF <u>Brittany</u>			
PHONE/MOBILE <u>662-3098</u>			
TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>
MESSAGE <u>She said if she</u>			
<u>could drive her home</u>			
<u>before she died - and later</u>			
<u>after 4:00 (6:00 or 7:00)</u>			
<u>because she has to go</u>			
<u>dinner with her grandpa</u>			
<u> </u>			
<u> </u>			
SIGNED <u> </u> 1184			

IMPORTANT MESSAGE			
FOR <u>MR. EPSTEIN</u>		A.M. P.M.	
DATE <u> </u>		TIME <u> </u>	
M <u> </u>			
OF <u> </u>			
PHONE/MOBILE <u> </u>			
TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>
MESSAGE <u> </u>			
<u>she will see you</u>			
<u>at 7:30</u>			
<u> </u>			
<u> </u>			
<u> </u>			
SIGNED <u> </u> 1184			

IMPORTANT MESSAGE			
FOR <u>MR. EPSTEIN</u>		A.M. P.M.	
DATE <u> </u>		TIME <u>2:18</u>	
M <u>Manuela</u>			
OF <u> </u>			
PHONE/MOBILE <u> </u>			
TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>
MESSAGE <u>She said that some</u>			
<u>one has messages & said</u>			
<u>that she's sorry for</u>			
<u>not seeing you in</u>			
<u>California</u>			
<u> </u>			
<u> </u>			
SIGNED <u> </u> SA001465 1184			

IMPORTANT MESSAGE

FOR JEFFREY
 DATE AUG 2 TIME 12:45 ^{A.M.} ~~P.M.~~
 M TATUM & RHIANNA
 OF _____
 PHONE/ MOBILE 201-0237

TELEPHONED	<input checked="" type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE THEY ARE
AVAILABLE ALL WEEKEND
AND ~~ESTABLISHED~~ MAYOR
DANA TUM

SIGNED NICOLE HOSSE 1184

IMPORTANT MESSAGE

FOR MR EPSTEIN
 DATE 7/25/04 TIME 5:02 ^{A.M.} ~~P.M.~~
 M _____
 OF SNYDER
 PHONE/ MOBILE 914 763 9167

TELEPHONED	<input type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE "RETURNING YOUR CALL"

SIGNED Ru 1184

IMPORTANT MESSAGE

FOR SARA
 DATE AUG 2 TIME 3:00 ^{A.M.} ~~P.M.~~
 M NICOLE HOSSE
 OF _____
 PHONE/ MOBILE 352-6777

TELEPHONED	<input type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE Please call
IN REFERENCE TO
the above I have
and I would then
over the Maxwell's
request.

SIGNED Nicole Hosse 1184

IMPORTANT MESSAGE

FOR MR EPSTEIN
 DATE 7/25/04 TIME 1:48 ^{A.M.} ~~P.M.~~
 M _____
 OF MS MAXWELL
 PHONE/ MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/> PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE "TELL HIM TO
CALL ME"

SAO01464
 SIGNED Ru 1184

IMPORTANT MESSAGE

FOR JE

DATE 20 AUG TIME 9:00 A.M. P.M.

M 10

OF 501-120-1124

PHONE/MOBILE 501-120-1124

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE CALL

SHE HAS ALL THE INFO

YOU NEED

CALL AT 631.537.9385

SIGNED Manu 1184

IMPORTANT MESSAGE

FOR JE

DATE 20 AUG TIME 8:00 A.M. P.M.

M 10

OF 501-120-1124

PHONE/MOBILE 501-120-1124

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE Text

CALL HER BACK

917.503.2296

SIGNED Manu 1184

IMPORTANT MESSAGE

FOR JE

DATE 20 AUG TIME 8:40 A.M. P.M.

M 10

OF North River

PHONE/MOBILE 917.204.9676

TELEPHONED	<input checked="" type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE Returns your call

917.204.9676

SIGNED SA02848 1184

IMPORTANT MESSAGE

FOR JE

DATE 20 AUG TIME 3:40 A.M. P.M.

M Elaine

OF ✓

PHONE/MOBILE ✓

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE SHE LET LARRY GO

THE ONLY FLIGHT TO PB leaves

at 3:15

Not heard from Tom Ford

If you call it means she will pick

up TF alone in the chopper

If you want to change please

call GM back

SIGNED call GM back 1184

IMPORTANT MESSAGE

FOR MR. EPSTEIN

DATE 7/14/00 TIME 2:45 A.M. P.M.

M. MS. MAXWELL

OF MS. MAXWELL

PHONE/MOBILE 310-463-5759

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR JE

DATE 7/14/00 TIME 9:20 A.M. P.M.

M. Sarah

OF Brillady

PHONE/MOBILE 662-3098

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE She said if she can't come to her left before 4:00 or 6:00 coz she has birthday dinner w/ her grandpa

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR MR. EPSTEIN

DATE 7/14/00 TIME 7:30 A.M. P.M.

M. Sophie Biddle

OF SAO2850

PHONE/MOBILE 310-463-5759

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE she will see you at 7:30

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR MR. EPSTEIN

DATE 7/14/00 TIME 2:48 A.M. P.M.

M. Manuela

OF SAO2850

PHONE/MOBILE 310-463-5759

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE She said that Sophie got her messages & said that she's sorry for not seeing you in California

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR Sarah
 DATE 11-4-04 TIME 2:40 ^{AM}_{PM}
 M _____
 OF _____
 PHONE/MOBILE 644-7226

TELEPHONED	<input checked="" type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU	<input type="checkbox"/> WILL CALL AGAIN	
WANTS TO SEE YOU	<input type="checkbox"/> RUSH	
RETURNED YOUR CALL	<input type="checkbox"/> SPECIAL ATTENTION	

MESSAGE

Return
Brittney's
Call

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 12-04-04 TIME 2:55 ^{AM}_{PM}
 M _____
 OF from Sarah
 PHONE/MOBILE _____

TELEPHONED	<input type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU	<input type="checkbox"/> WILL CALL AGAIN	
WANTS TO SEE YOU	<input type="checkbox"/> RUSH	
RETURNED YOUR CALL	<input type="checkbox"/> SPECIAL ATTENTION	

MESSAGE

Brittney would
like to work @ 4:00
if possible.
is scheduled
for 5:00 today

SIGNED the

1184

movie is @ 7:30

IMPORTANT MESSAGE

FOR Sarah
 DATE 12/6/04 TIME 1:00 ^{AM}_{PM}
 M _____
 OF Britney
 PHONE/MOBILE (561) 965-6857

TELEPHONED	<input type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU	<input type="checkbox"/> WILL CALL AGAIN	
WANTS TO SEE YOU	<input type="checkbox"/> RUSH	
RETURNED YOUR CALL	<input type="checkbox"/> SPECIAL ATTENTION	

MESSAGE

Please call her

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Mr. J.E.
 DATE 12/6/04 TIME 1:30 ^{AM}_{PM}
 M v. Harry Beller
 OF _____
 PHONE/MOBILE (212) 750-1176

TELEPHONED	<input type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU	<input type="checkbox"/> WILL CALL AGAIN	
WANTS TO SEE YOU	<input type="checkbox"/> RUSH	
RETURNED YOUR CALL	<input type="checkbox"/> SPECIAL ATTENTION	

MESSAGE

Returning your
Call

SAO2939

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Mr. J.E.
 DATE 12/04/04 TIME 2:40 AM
 M r Goldsmith
 OF _____
 PHONE/MOBILE (772) 971-1000

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

Please call

him

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Mr. J.E.
 DATE 12/04/04 TIME 4:20 AM
 M s G. Maxwell
 OF _____
 PHONE/MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

Please call her.

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Mr. J.E.
 DATE 12/04/04 TIME 5:30 AM
 M s G. Maxwell
 OF _____
 PHONE/MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

Please call her

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Mr. J.E.
 DATE 12/04/04 TIME 5:40 AM
 M J. Linnz
 OF (561)
 PHONE/MOBILE 714-0546

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

Please call her

SAO2938

SIGNED _____

1184

IMPORTANT MESSAGE

FOR SARAN
 DATE 12/9/04 TIME 10:20 AM
 M. YDMAR
 OF Consulting
 PHONE/MOBILE (951) 709-7356

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE Scheduling for going
thru Palm Beach
House"

SIGNED R

1184

IMPORTANT MESSAGE

FOR Mr. J E
 DATE 12/9/04 TIME 5:00 AM
 M. Goldsmith
 OF _____
 PHONE/MOBILE (772) 971-1000

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE Please Call him

SIGNED R

1184

IMPORTANT MESSAGE

FOR Mr. J E
 DATE 12/09/04 TIME 8:30 AM
 M. Svetlana
 OF _____
 PHONE/MOBILE (917) 774-3061

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE "Tell him that I
called"

SIGNED R

1184

IMPORTANT MESSAGE

FOR Mr. J E
 DATE 12/09/04 TIME 8:00 AM
 M. Wexner
 OF _____
 PHONE/MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE Please She will call
back

SIGNED R

1184

SA02943

IMPORTANT MESSAGE

FOR J.E.
 DATE 1-8-05 TIME 4:05 AM
 M. Amya
 OF _____
 PHONE/MOBILE (818) 445-9879

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

Please call me

back

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 01/08/05 TIME 10:10 AM
 M. Nadia
 OF _____
 PHONE/MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

please call
her

SIGNED _____

1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 1-8-05 TIME 4:55 AM
 M. Copperfield
 OF Call (702) 235 5555
 PHONE/MOBILE (212) 753-6555

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

Please call him

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 01/08/05 TIME 9:30 AM
 M. John Luc
 OF _____
 PHONE/MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

saying if you
Mark called
him he has
sth for some
message for you

SIGNED _____

SA02949

1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 2/24/05 TIME 4:18 ^{AM}_{PM}
 M Katia

OF _____
 PHONE/ MOBILE 011-551183834951

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE
Please! Call her
Tomorrow is her
birthday

SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 2/22 TIME 12:45 ^{AM}_{PM}
 M Shana

OF _____
 PHONE/ MOBILE (561) 689-4717

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE
Please! Call her.

SIGNED J. 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/25/05 TIME 01:10 ^{AM}_{PM}
 M Dawn Bois

OF _____
 PHONE/ MOBILE 914 552 4400

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE
Please call
him back

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR Mr. Epstein
 DATE 2/24/05 TIME 11:19 ^{AM}_{PM}
 M Katia

OF _____
 PHONE/ MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE
She needs Leon's
telephone number.
Left her #
917-678-2772

SIGNED A.E.R. 1184

SA02967

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/25/05 TIME 1:34 A.M.
 M. Christine

OF _____
 PHONE/ MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE
Thud in called

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/25/05 TIME 8:42 P.M.
 M. _____

OF _____
 PHONE/ MOBILE 561 _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE
She would like to
spend with you.

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR _____
 DATE _____ TIME _____ A.M.
 M. _____

OF _____
 PHONE/ MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/25/05 TIME 12/2 P.M.
 M. _____

OF _____
 PHONE/ MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE

SIGNED _____ 1184

SAO2998

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 02/26/05 TIME 11:15 ^{AM} P.M.
 M Dance

OF _____
 PHONE/MOBILE 750 802 4061

TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION

MESSAGE

Please call her
back in 1h30
She is on the way
to the gym

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 02/25/05 TIME 05:30 ^{AM} P.M.
 M Ken - leec

OF _____
 PHONE/MOBILE You have it

TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION

MESSAGE

Going back to
concentration
what about
Paris on Saturday

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/26/05 TIME 12:40 ^{AM} P.M.
 M Search

OF _____
 PHONE/MOBILE _____

TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION

MESSAGE

Please call
her

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/26/05 TIME 12:21 ^{AM} P.M.
 M Anice

OF _____
 PHONE/MOBILE 646 436 9784

TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION

MESSAGE

Please call
her back

SIGNED _____

1184

SA02968

IMPORTANT MESSAGE

FOR J.E.
DATE 2/27/05 TIME 10:18 ^{AM}/_{PM}

M _____
OF Ms. Maxwell
PHONE/
MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE She is home

SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.
DATE 2/26/05 TIME 4:40 ^{AM}/_{PM}

M Geon Luc
OF _____
PHONE/
MOBILE no phone #

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE Please!
Call him

SIGNED J. 1184

IMPORTANT MESSAGE

FOR Teff. w
DATE 2/28/05 TIME 12:30 ^{AM}/_{PM}

M _____
OF _____
PHONE/
MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE She is home during
if 2:30 is ok
she needs to
stay in school

SIGNED _____

IMPORTANT MESSAGE

FOR Teff. w
DATE 2/27/05 TIME 07:45 ^{AM}/_{PM}

M Geon Luc
OF _____
PHONE/
MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE That he
called back

SAO01067

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/28/08 TIME 12:14 A.M. P.M.
 M. Darren
 OF _____
 PHONE/MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU...	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE He needs to speak with you.

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/28/05 TIME 12:10 A.M. P.M.
 M. Laurence Kocuss
 OF _____
 PHONE/MOBILE 216 970 3496

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE He has sent you some faxes that he would like follow up.

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/28/05 TIME 5:30 A.M. P.M.
 M. Christine
 OF _____
 PHONE/MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Pls call back

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/27/05 TIME 11:20 A.M. P.M.
 M. Sarah
 OF _____
 PHONE/MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Please call her back. She wanted make sure you know that she is going to meet Christine and go with her to the Ranch

SIGNED _____ 1184

SAO3000

IMPORTANT MESSAGE

FOR Jeffrey
 DATE _____ TIME 6:05 AM P.M.
 M _____
 OF NATALIE
 PHONE/
 MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE
Call back

 SIGNED Nadia 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/28/05 TIME 7:11 AM P.M.
 M Natalie
 OF _____
 PHONE/
 MOBILE 917 204 9896

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE
Barbara is away
Back on Wensday
and she might
have sth on Friday

 SIGNED _____ 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 02/28/05 TIME 7:56 AM P.M.
 M Teala
 OF _____
 PHONE/
 MOBILE 917 603 2286

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE
That she called
please call her
Back

IMPORTANT MESSAGE

FOR Ghislaine
 DATE 02/28/05 TIME 7:50 AM P.M.
 M Ghislaine
 OF _____
 PHONE/
 MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE
Please call
back

SAO3001

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 3/5/05 TIME 12:20 AM
 M Ghislaine

OF _____
 PHONE/ MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Pecno still doesn't
answer the phone.

SIGNED AM 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 3/1/05 TIME 10:20 AM
 M Cecilia

OF _____
 PHONE/ MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE She had on the phone.
Mr. Harvey Weinstein

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 3/5/05 TIME 12:22 AM
 M Christina

OF _____
 PHONE/ MOBILE 561 389 6874

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE She has problems
with car... could she
be here at 2 pm?

SIGNED _____

SA03002

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 3/5/05 TIME 11:50 AM
 M Larry Vizoski

OF _____
 PHONE/ MOBILE 917 868 6145

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Person for
the car will be
here in 15 min. to
drop off foam and
papers

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR Jeffrey
DATE 3/6/05 TIME 03:00 A.M.
M Mort Buckerman

OF _____
PHONE/
MOBILE 917 750 1900

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE

Returning your
phone call

SIGNED _____

1184

IMPORTANT MESSAGE

FOR Jeffrey
DATE 3/06/05 TIME 11:40 A.M.
M Clara

OF _____
PHONE/
MOBILE 914 669 4651

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE

That he called

SIGNED _____

1184

IMPORTANT MESSAGE

FOR J. E.
DATE 3/7/05 TIME 7:30 A.M.
M Dr. Moskowitz

OF office

PHONE/
MOBILE 833-6116

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE

Do you want to
see him?

SIGNED J.

1184

IMPORTANT MESSAGE

FOR Ms. A. Maxwell
DATE 3/06/05 TIME 9:01 A.M.
M Bruce

OF From the Island

PHONE/
MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE

Left his cell #

340-771-1339

SIGNED SC

SA001071

1184

IMPORTANT MESSAGE

FOR Sarah

DATE 3/20/05 TIME 1:10 A.M. P.M.

M Haley

OF _____

PHONE/
MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE
Life. Per cell #
308-0282

SIGNED α 1184

IMPORTANT MESSAGE

FOR J.E.

DATE 3/18/05 TIME 8:05 A.M. P.M.

M Jeff Stoly

OF (212) 744-0770

PHONE/
MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

SIGNED J. 1184

IMPORTANT MESSAGE

FOR Mrs. B. Maxwell

DATE 3/19/05 TIME 3:45 A.M. P.M.

M EMM

OF Spa The Breakers

PHONE/
MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE
Appointment is at
9:30^{am} tomorrow.
Christine is not
available if it's
okay to have
another person.

SIGNED α 1184

IMPORTANT MESSAGE

FOR J.F.

DATE 3/18/05 TIME 12:55 A.M. P.M.

M Sarah

OF _____

PHONE/
MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

SAO01474

SIGNED T 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 2/10/05 TIME 12:20 A.M. P.M.
 M Christine

OF _____
 PHONE/ MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Glen has pulled muscle and he is at the hospital "Good Sam" They have called dr. Moskowitz and everything has been arranged. In this case probably they won't make for lunch.
 SIGNED _____ 1184

16

IMPORTANT MESSAGE

FOR J.F.
 DATE 3/31/05 TIME 7:05 A.M. P.M.
 M Leslie Wexler

OF _____
 PHONE/ MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

 SIGNED J. 1184

#16

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 04/01/05 TIME 11:07 A.M. P.M.
 M Cecilia

OF _____
 PHONE/ MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE She had on the phone Mr. Cipriani

 SIGNED _____ 1184

SA02972

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 04/01/05 TIME 07:56 A.M. P.M.
 M Genia

OF _____
 PHONE/ MOBILE No number he will call back

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE That he called

 SIGNED _____ 1184

IMPORTANT MESSAGE	
FOR	<u>Jeffrey</u>
DATE	<u>4/9/05</u> TIME <u>02:10</u> A.M. P.M.
M	<u>Whislaine</u>
OF	
PHONE/ MOBILE	
TELEPHONED	PLEASE CALL <input checked="" type="checkbox"/>
CAME TO SEE YOU	WILL CALL AGAIN <input type="checkbox"/>
WANTS TO SEE YOU	RUSH <input type="checkbox"/>
RETURNED YOUR CALL	SPECIAL ATTENTION <input type="checkbox"/>
MESSAGE	
SIGNED _____	

IMPORTANT MESSAGE	
FOR	<u>Jeffrey</u>
DATE	<u>4/9/05</u> TIME <u>12:04</u> A.M. P.M.
M	<u>1</u>
OF	
PHONE/ MOBILE	<u>561 333 3333</u>
TELEPHONED	PLEASE CALL <input checked="" type="checkbox"/>
CAME TO SEE YOU	WILL CALL AGAIN <input type="checkbox"/>
WANTS TO SEE YOU	RUSH <input type="checkbox"/>
RETURNED YOUR CALL	SPECIAL ATTENTION <input type="checkbox"/>
MESSAGE	
SIGNED _____	

IMPORTANT MESSAGE	
FOR	<u>J.E.</u>
DATE	<u>4/10/05</u> TIME <u>1:20</u> A.M. P.M.
M	<u>Dana</u>
OF	
PHONE/ MOBILE	
TELEPHONED	PLEASE CALL <input type="checkbox"/>
CAME TO SEE YOU	WILL CALL AGAIN <input type="checkbox"/>
WANTS TO SEE YOU	RUSH <input type="checkbox"/>
RETURNED YOUR CALL	SPECIAL ATTENTION <input type="checkbox"/>
MESSAGE	
<u>She went running</u>	
<u>and back to the gym</u>	
SIGNED <u>T.</u>	

IMPORTANT MESSAGE	
FOR	<u>J.E.</u>
DATE	<u>4/10/05</u> TIME <u> </u> A.M. P.M.
M	<u>Dana</u>
OF	
PHONE/ MOBILE	
TELEPHONED	PLEASE CALL <input type="checkbox"/>
CAME TO SEE YOU	WILL CALL AGAIN <input type="checkbox"/>
WANTS TO SEE YOU	RUSH <input type="checkbox"/>
RETURNED YOUR CALL	SPECIAL ATTENTION <input type="checkbox"/>
MESSAGE	
<u>She went running</u>	
SIGNED _____	

SAO2975

IMPORTANT MESSAGE			
FOR <u>Jeffrey</u>			
DATE <u>4/9/05</u>		TIME <u>4:40</u> <small>AM</small> <u>PM</u>	
M _____			
OF _____			
PHONE/ MOBILE _____			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>She is waiting</u> <u>for her friend to</u> <u>call her back.</u> <u>She would like</u> <u>to speak with you</u>			
SIGNED _____ 1184			

IMPORTANT MESSAGE			
FOR <u>Jeffrey</u>			
DATE <u>4/9/05</u>		TIME <u>4:15</u> <small>AM</small> <u>PM</u>	
M _____			
OF _____			
PHONE/ MOBILE _____			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE _____ _____ _____ _____ _____			
SIGNED _____ 1184			

IMPORTANT MESSAGE			
FOR <u>Jeffrey</u>			
DATE <u>4/11/05</u>		TIME <u>11:40</u> <small>AM</small> <u>PM</u>	
M <u>Melisa Mancos</u>			
OF _____			
PHONE/ MOBILE <u>351 0944</u>			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE _____ _____ _____ _____ _____			
SIGNED _____ 1184			

IMPORTANT MESSAGE			
FOR <u>Jeffrey</u>			
DATE <u>4/9/05</u>		TIME <u>1:05</u> <small>AM</small> <u>PM</u>	
M <u>Ghislaire</u>			
OF _____			
PHONE/ MOBILE _____			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>Please call</u> <u>her back</u>			
SIGNED _____			

SAO3013

IMPORTANT MESSAGE

FOR J.E.
 DATE 5/9/05 TIME 3:05 ^{AM}/_{PM}
 M Kaytana
 OF (212) 645-7741
 PHONE/
 MOBILE

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

 SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 5/9/05 TIME 3:06 ^{AM}/_{PM}
 M Joana
 OF 714-0546
 PHONE/
 MOBILE

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

 SIGNED J. 1184

IMPORTANT MESSAGE

FOR JE
 DATE 5/9/05 TIME 9:45 ^{AM}/_{PM}
 M Nadia -
 OF _____
 PHONE/
 MOBILE

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Thank you -

 SIGNED _____ 1184

IMPORTANT MESSAGE

FOR JE
 DATE 5/9/05 TIME 12:15 ^{AM}/_{PM}
 M Leon Wexler
 OF _____
 PHONE/
 MOBILE

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL	<input checked="" type="checkbox"/>	SPECIAL ATTENTION	

MESSAGE _____

 SIGNED _____ 1184

SAO2980

IMPORTANT MESSAGE

FOR JE

DATE 5/24/05 TIME 9:10 ^{A.M.}_{P.M.}

M. Eva

OF _____

PHONE/MOBILE cell her at home

TELEPHONED	PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR J.E

DATE 5/19/05 TIME 7:20 ^{A.M.}_{P.M.}

M. Mrs Maxwell

OF _____

PHONE/MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/> PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

SIGNED T 1184

IMPORTANT MESSAGE

FOR JE

DATE Danielle TIME 12 ^{A.M.}_{P.M.}

M. Danielle

OF _____

PHONE/MOBILE 646 226 1403

TELEPHONED	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

SIGNED _____

IMPORTANT MESSAGE

FOR JE

DATE Nadia TIME 10:25 ^{A.M.}_{P.M.}

M. Nadia

OF _____

PHONE/MOBILE _____

TELEPHONED	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input checked="" type="checkbox"/> SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE she got there

Safe

SIGNED _____

SA02981

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 04/01/05 TIME 12:20 A.M.
 M. Christine

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Glen has pulled
muscle and he is at the
hospital "Good Sam" They
have called dr. Moskowitz
and everything has
been organized. In this
case probably they won't
make for lunch
 SIGNED _____ 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 3/31/05 TIME 7:05 A.M.
 M. Leslie Wexler

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

 SIGNED J. 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 04/01/05 TIME 11:07 P.M.
 M. Cecilia

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE She had on the
phone Mr. Cipriani

 SIGNED _____ 1184

IMPORTANT MESSAGE

FOR Jeffrey Moscov
 DATE 04/01/05 TIME 07:58 P.M.
 M. Genia

OF _____
 PHONE/
 MOBILE No number he will

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE That he called

 SIGNED _____ 1184

SAO2983

FOR 14/9/05 DATE 14/9/05 TIME 02:10 A.M. P.M.
M Whistaine

OF

PHONE/
MOBILE

TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION

MESSAGE

SIGNED

FOR Jeffrey
DATE 4/9/05 TIME 12:00 ☒ A.M. ☐ P.M.

M.

PHONE/
MOBILE

TELEPHONED	8	PLEASE CALL
CAME TO SEE YOU		WILL CALL AGAIN
WANTS TO SEE YOU		RUSH
RETURNED YOUR CALL		SPECIAL ATTENTION

MESSAGE.

SIGNED:

FOR J.E
DATE 4/10/05 TIME 1:20 AM
M Dana

OF

PHONE/
MOBILE

TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION

MESSAGE.

She went running
and back to the gym

SIGNED

FOR J. E.
DATE 4/10/05 TIME _____ A.M.
P.M.
M Daniel

OF

PHONE/
MOBILE

TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION

MESSAGE

She went running

SIGNED.

IMPORTANT MESSAGE

FOR J. E.

DATE 5/9/05 TIME 3:05 ^{AM}_{PM}

M. Kaytana

OF (212) 645-7741

PHONE/
MOBILE

TELEPHONED	<input checked="" type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

SIGNED J. 1184

IMPORTANT MESSAGE

FOR J. E.

DATE 5/9/05 TIME 3:06 ^{AM}_{PM}

M. Joana

OF 714-0546

PHONE/
MOBILE

TELEPHONED	<input checked="" type="checkbox"/> PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

SIGNED J. 1184

IMPORTANT MESSAGE

FOR JE

DATE 5/9/05 TIME 9:45 ^{AM}_{PM}

M. Madia -

OF _____

PHONE/
MOBILE

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE Thank you -

SIGNED _____ 1184

SA02990

IMPORTANT MESSAGE

FOR JE

DATE 5/9/05 TIME 12:15 ^{AM}_{PM}

M. Loewexhon

OF _____

PHONE/
MOBILE

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	<input checked="" type="checkbox"/> SPECIAL ATTENTION	

MESSAGE _____

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR _____

DATE 5/24/05

TIME 9:10

PM

M. Eva

OF _____

PHONE/
MOBILE

call her at home

TELEPHONED		PLEASE CALL	<input checked="" type="checkbox"/>
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

SIGNED _____

118

FOR.

DATE 3/24/08 TIME 9:10 P.M.

M. Lira

OF

PHONE/ MOBILE cell bar at home

TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION

MESSAGE

SIGNED

IMPORTANT MESSAGE

FOR J. E
 DATE 5/9/05 TIME 7:20 PM
 M. Mrs Maxwell
 OF _____
 PHONE/ _____
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

SIGNED T 1184

FOR

DATE 5/9/05 TIME 7:20 P.M.

M. 1/15/1964

OF

PHONE/
MOBILE

TELEPHONED	X	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE

SIGNED

IMPORTANT MESSAGE			
FOR _____			
DATE _____		TIME _____	A.M. P.M.
M. _____			
OF _____			
PHONE/ MOBILE _____			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE _____			

SA _____			
SIGNED _____			

1184

FOR..

DATE 10/10/1964 TIME 12:00 P.M.

M. San Jose

OF_

PHONE/ MOBILE 646 226 7403

TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION

MESSAGE

SIGNED

IMPORTANT MESSAGE			
FOR <u>DE</u>			
DATE _____		TIME <u>10.25</u> <u>A.M.</u> P.M.	
M. <u>Nadia</u>			
OF _____			
PHONE/ MOBILE _____			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL <input checked="" type="checkbox"/>		SPECIAL ATTENTION	
MESSAGE <u>She got there</u> <u>Sate</u>			
SIGNED _____			

FOR.

DATE 1-15 TIME 0.25 P.M.

M. Vasquez

OF_

PHONE/
MOBILE..

TELEPHONED	PLEASE CALL
CAME TO SEE YOU	WILL CALL AGAIN
WANTS TO SEE YOU	RUSH
RETURNED YOUR CALL	SPECIAL ATTENTION

MESSAGE

SIGNED

IMPORTANT MESSAGE

FOR J.E.

DATE 7/4/05 TIME 6:25 ^{AM} _{P.M.}

M _____

OF G.M.

PHONE/
MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.

DATE 7/4/05 TIME 7:20 ^{AM} _{P.M.}

M Tatiana

OF _____

PHONE/
MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

SIGNED T 1184

IMPORTANT MESSAGE

FOR JE

DATE 7-4 TIME 12:30 ^{AM} _{P.M.}

M G-

OF _____

PHONE/
MOBILE _____

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE She called Eduardo

she's going to have
dinner w/ him - He's not
going to Grand Prix -
but she told her to
call his secretary to
organize passes -

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR JE

DATE Tatiana TIME 10:35 ^{AM} _{P.M.}

M _____

OF _____

PHONE/
MOBILE _____

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE called to say

goodnight

SAO01081

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 8/19/05 TIME _____ A.M.
 M. Cecilia

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Remanid you
about conference
call at 9 AM

SIGNED J 1184

IMPORTANT MESSAGE

FOR Jeffrey
 DATE 25/07/05 TIME 11:45 A.M.
 M. from Wexner office

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Jim Lucas the
head of the text
department has
answer on aircraft
His number is

614 415 1078

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR JE
 DATE _____ TIME _____ A.M.
 M. _____
 OF Joanna

PHONE/
 MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE She doesn't want to camp
to the movies but call her
if you want a massage
before or after the
movie.

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR JE
 DATE _____ TIME 9:05 A.M.
 M. G-
 OF _____

PHONE/
 MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE She's at 7/ST
please call

SIGNED _____ 1184

SAO01084

IMPORTANT MESSAGE

FOR J.E.
 DATE 8/19/05 TIME 4:12 A.M.
 M. G.M.

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE she left
message on answering
machine.

SIGNED J. 1184

IMPORTANT MESSAGE

FOR 8/19/05 7:50 A.M.
 DATE Adriana TIME _____ P.M.
 M. _____

OF _____
 PHONE/
 MOBILE _____

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Alex forgot to call
key to get information
where he has to go to
Hampton and how to meet
this person?
He can be reach on Tatiana
cell phone.

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR JE
 DATE _____ TIME _____ A.M.
 M. _____

OF Savoh
 PHONE/
 MOBILE _____

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Don Butney work
on Sunday @ 4.00 and
@ 4.30

SIGNED _____ 1184

IMPORTANT MESSAGE

FOR 8/19/05 7:55 A.M.
 DATE Adriana TIME _____ P.M.
 M. _____

OF _____
 PHONE/
 MOBILE _____

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Ashley
will be here tomorrow
at 11:00 AM

SIGNED _____ 1184

SAO01085

IMPORTANT MESSAGE			
FOR <u>J.E.</u>			
DATE <u>8/3/05</u>		TIME <u>8:50</u> A.M./P.M.	
M. <u>Adriana</u>			
OF _____			
PHONE/MOBILE _____			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>I left message</u> <u>for Ashley to</u> <u>confirm for 11:00 AM</u> <u>and Vanessa</u> <u>for 4:30 PM</u>			
SIGNED <u>J.</u> 1184			

IMPORTANT MESSAGE			
FOR <u>J.E.</u>			
DATE <u>8/22/05</u>		TIME <u>3:20</u> A.M./P.M.	
M. <u>Nicole</u>			
OF _____			
PHONE/MOBILE _____			
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE _____			
SIGNED <u>J.</u> 1184			

IMPORTANT MESSAGE			
FOR <u>J.E.</u>			
DATE <u>9/4/05</u>		TIME <u>12:55</u> A.M./P.M.	
M. <u>Brittney</u>			
OF _____			
PHONE/MOBILE <u>662-3093</u>			
TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE <u>She would like to</u> <u>reschedule her</u> <u>time</u>			
SIGNED <u>J.</u> 1184			

IMPORTANT MESSAGE			
FOR <u>J.E.</u>			
DATE <u>8/22/05</u>		TIME _____ A.M./P.M.	
M. <u>G.M.</u>			
OF _____			
PHONE/MOBILE _____			
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	
MESSAGE _____			
SAO01477			
SIGNED <u>J.</u> 1184			

IMPORTANT MESSAGE

FOR M. J. Epstein
 DATE 8/23/05 TIME 2:18 A.M. P.M.
 M Alicia

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

 SIGNED L 1184

IMPORTANT MESSAGE

FOR TE
 DATE _____ TIME _____ A.M. P.M.
 M _____

OF Sunday
 PHONE/
 MOBILE _____

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Call has been placed

 SIGNED _____ 1184

IMPORTANT MESSAGE

FOR M. J. Epstein
 DATE 8/22 TIME 4:21 A.M. P.M.
 M Alicia

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Please call her

 SIGNED L 1184

IMPORTANT MESSAGE

FOR M. J. Epstein
 DATE 8/21 TIME 11:39 A.M. P.M.
 M Nadia

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE I am not work today. But I will be here at 2:00 PM.

 SIGNED L 1184

SAO01449

IMPORTANT MESSAGE

FOR _____ A.M.

DATE _____ TIME _____ P.M.

M _____

OF NADIAPHONE/
MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

I went to a store to
buy food
I will be back @ 5.00

SIGNED _____

1184

IMPORTANT MESSAGEFOR SE A.M.

DATE _____ TIME _____ P.M.

M _____

OF AdrianaPHONE/
MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

Christina & _____ are
confirmed

SIGNED _____

1184

IMPORTANT MESSAGEFOR JE A.M.

DATE _____ TIME _____ P.M.

M _____

OF JennyPHONE/
MOBILE 917 330 1033

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

Please call back

SIGNED _____

1184

IMPORTANT MESSAGE

FOR _____ A.M.

DATE _____ TIME _____ P.M.

M _____

OF NADIAPHONE/
MOBILE _____

TELEPHONED	PLEASE CALL	
CAME TO SEE YOU	WILL CALL AGAIN	
WANTS TO SEE YOU	RUSH	
RETURNED YOUR CALL	SPECIAL ATTENTION	

MESSAGE _____

The movie
starts @ 7.15

SIGNED _____

1184

SAO01086

IMPORTANT MESSAGE

FOR J. E.
DATE 9/4/05 TIME 3:40 ^{AM} _{PM}
M

OF _____
PHONE/
MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

SIGNED J. 1184

IMPORTANT MESSAGE

FOR Ms. B. Maxwell
DATE 9/4/05 TIME 1:40 ^{AM} _{PM}
M Coleen

OF _____
PHONE/
MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE She will be here
at 3⁰⁰ with family.

SIGNED L. 1184

IMPORTANT MESSAGE

FOR J. E.
DATE 9/4/05 TIME 7:25 ^{AM} _{PM}
M Adriana

OF _____
PHONE/
MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Canceled Julie.
She would like to speak
to you. I believe about
college - 561-801-3590

Should I schedule any
one else?

SIGNED J. 1184

IMPORTANT MESSAGE

FOR Mr. J. Epstein
DATE 9/4/05 TIME 2:08 ^{AM} _{PM}
M

OF _____
PHONE/
MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

SIGNED L. 1184

SAO01089

IMPORTANT MESSAGE

FOR J.E.
DATE 9/10/05 TIME 11:16 ^{AM} _{P.M.}

M G.M.

OF _____
PHONE/
MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Dana Burns
got invitation

SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.
DATE 9/5/05 TIME 10:25 ^{AM} _{P.M.}

M Brittney

OF _____
PHONE/
MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE 5:00 PM
is O.K. with her

SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.
DATE 9/10/05 TIME 11:16 ^{AM} _{P.M.}

M G.M.

OF _____
PHONE/
MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Dana Burns
got an invitation

SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.
DATE 9/8/05 TIME 4:50 ^{AM} _{P.M.}

M Tatum

OF _____
PHONE/
MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Her new phone #
574-0400

SAO01090

SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 9/10/05 TIME 12:50 ^{AM} _{PM}
 M Celina

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Call her in
North Salem

SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 9/10/05 TIME 11:16 ^{AM} _{PM}
 M G.M.

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Dana Burns
decline invitation

SIGNED J. 1184

IMPORTANT MESSAGE

FOR JE
 DATE _____ TIME _____ ^{AM} _{PM}
 M DANA

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE RETURNING
YOUR
CALL

@ 12²⁰
 SIGNED _____ 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 9/10/05 TIME 1:15 ^{AM} _{PM}
 M Adriana

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Lauren confirm
4 PM

SIGNED J. 1184
 SA001091

IMPORTANT MESSAGE			
FOR <u>J.E.</u>			
DATE <u>9/11/05</u>		TIME <u>9:15</u> ^{A.M.} _{P.M.}	
M. <u>Adriana</u>			
OF _____			
PHONE/ MOBILE _____			
TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>
MESSAGE <u>I got a car for</u>			
_____ _____ _____ _____ _____			
SIGNED <u>J.</u> 1184			

IMPORTANT MESSAGE			
FOR <u>JE</u>			
DATE _____		TIME _____ ^{A.M.} _{P.M.}	
M. _____			
OF <u>N</u>			
PHONE/ MOBILE _____			
TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>
MESSAGE <u>Adriana hasn't confirmed</u> <u>Julie at 11.00 yet so</u> <u>she is keeping Britney</u> <u>on hold in case Julie</u> <u>doesn't call back</u>			
_____ _____ _____ _____ _____			
SIGNED _____ 1184			

IMPORTANT MESSAGE			
FOR <u>Mr. J. Epstein</u>			
DATE <u>9/11/05</u>		TIME <u>10:01</u> ^{A.M.} _{P.M.}	
M. <u>George Haldsmith</u>			
OF _____			
PHONE/ MOBILE _____			
TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>
MESSAGE _____			
_____ _____ _____ _____ _____			
SIGNED <u>L</u> 1184			

IMPORTANT MESSAGE			
FOR <u>J.E.</u>			
DATE <u>9/10/05</u>		TIME <u>10:10</u> ^{A.M.} _{P.M.}	
M. <u>Adriana</u>			
OF _____			
PHONE/ MOBILE _____			
TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>
MESSAGE <u>Julie will be at</u> <u>11:AM</u> <u>Do you want me to</u> <u>cancel Britney</u>			
_____ _____ _____ _____ _____			
SIGNED <u>J.</u> SA001093 1184			

1184 T1

IMPORTANT MESSAGE

FOR J.E.
 DATE 10/1/05 TIME 2:50 ^{AM}/_{PM}
 M Nadia
 OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

SIGNED J 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 10/1/05 TIME 9:50 ^{AM}/_{PM}
 M Sarah
 OF _____
 PHONE/
 MOBILE _____

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE continuation
at 11 AM
and ending - 4 PM

SIGNED J 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 10/1/05 TIME 7:10 ^{AM}/_{PM}
 M John Brockman
 OF _____
 PHONE/
 MOBILE (212) 595-0208

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

SIGNED T 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 10/1/05 TIME 10:15 ^{AM}/_{PM}
 M Tatum
 OF _____
 PHONE/
 MOBILE 574-0400

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

SAO01469

SIGNED T 1184

IMPORTANT MESSAGE

FOR J. E.
 DATE 10/2/05 TIME 10:40 A.M.
 P.M.

M Sarah

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE Julie is sick
and she can't
come today

SIGNED J. 1184

IMPORTANT MESSAGE

FOR J. E.
 DATE 10/1/05 TIME 7:20 A.M.
 P.M.

M Jerry Goldsmith

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

SIGNED J. 1184

IMPORTANT MESSAGE

FOR Mr. J. Epstein
 DATE Oct. 2.05 TIME 12:30 A.M.
 P.M.

M Tatum

OF _____
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

574-0400 (501)

SIGNED L 1184

IMPORTANT MESSAGE

FOR J. E.
 DATE 10/2/05 TIME 10:20 A.M.
 P.M.

M Julie

OF 801-3590
 PHONE/
 MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CAME TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>
RETURNED YOUR CALL	<input type="checkbox"/>	SPECIAL ATTENTION	<input type="checkbox"/>

MESSAGE _____

SAO01470

SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 10/3/05 TIME 2:50 AM
 M Tila
 OF _____
 PHONE/MOBILE (917) 603-2296

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

 SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 10/2/05 TIME 9:05 AM
 M Sandy Berger
 OF _____
 PHONE/MOBILE (516) 759-2661

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Can you call him
at this # between
10⁰⁰ - 10³⁰ PM

 SIGNED J. 1184

IMPORTANT MESSAGE

FOR J.E.
 DATE 10/3/05 TIME 4:10 AM
 M Sarah
 OF _____
 PHONE/MOBILE _____

TELEPHONED		PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE Ashley will be
1/2 hour late

IMPORTANT MESSAGE

FOR Mr. J. Epstein
 DATE 10-2-05 TIME 12:30 AM
 M Natalie
 OF _____
 PHONE/MOBILE _____

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	
CAME TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		RUSH	
RETURNED YOUR CALL		SPECIAL ATTENTION	

MESSAGE _____

 SAO01471

EXHIBIT 4

IL' Villaggio 1455 Ocean Dr. Apt 811

Gretta 9am Aventura limo

[REDACTED] is back in PB 714-0546

Gretchen 8c (Friends Apt?)

Tammy (other Book?)

Pinto

Bard

Tammy (Port St)

Courtney W.

FRIDAY

* Adventure Limousine Service
PO BOX 80-0146 Fed ID 65-0376225
adventura, FL 33280 [REDACTED]

6/19/05

Forward to Sara. trip 6/20/05 9:00 AM Military

[REDACTED]

1455 Ocean Dr. South Beach 811
358 EL BRILLO.

Put in Miami

[REDACTED]

Work-900am Tammy @ office.

[REDACTED] to LSJ Thursday

yes to go!



3:30 Improv

Shauna colleen

? Miss Sarah - would you like to go running with me. Miss Dawn

Dawn - Ballet

Greta -



Natalya



Craig + a Foya



(h)

(o)

IN From California 3pm



EMERGENCY 911

ALARM SYSTEM	Benham / Joe (Technician)	1-800-940-4112 954-578-1990
FIRE RESCUE		(561) 838-5422
HOSPITAL	Good Samaritan Hospital 1309 North Flagler Drive West Palm Beach, FL 33401	(561) 650-6201
POISON		(561) 838-5422
POLICE		(561) 471-2000
VETERINARIAN	Island Animal Hospital 262 Sunset Avenue Palm Beach, FL 33480	(561) 833-8552
MIKE PEZZULO	Neighbouring House Manager who can be called in emergencies	(561) 854-9192 Disconnected
MS MAXWELL	Portable Home	(917) 520-3106 (212) 879-9366
JONITHA MACKENZIE	Portable Home	(917) 801-4143 (212) 535-7924

WORTH BUILDERS

116 East 65th Street
New York NY 10021

Ms Ghislaine Maxwell

Staff

Michelle Campos
Jennifer

House Managers
Joseph & Florena Rueda
Joseph
Florena

358 El Brillo Way, Palm Beach
Florida 33480

Mr. Jeffrey Epstein

Ms Ghislaine Maxwell

Staff

~~Lucian & Rishi McHanna~~

Jerome Pierre (Gardner) M- F

Alan Stopeck Landscape designer, Checks the garden

Francis & Pastora House cleaning service
Francis Peadon handles all cleaning/laundry
Bill Peadon

Nicole Hessey

Cherie Lynch

Nicole and Cherie are well versed in supervising and shopping for PB, when necessary

Pilots

Larry Visosky

David Rogers

Dave

Car phones

Black Mercedes 600

Black Suburban
Mercedes Sports Convertible

Residences

Zorro Ranch
49. Zorro Ranch Road,
Stanley, New Mexico 87056

Mr. Jeffrey Epstein

Ms Ghislaine Maxwell

Staff
Office

Brice & Karen Gordon Home
Brice
Karen

Floyd & Deire Home

Manolito
Little St. James
C/O Financial Trust Company
6190, Red Hook Quarters, Suite B3,
St. Thomas, USVI 00802.

Mr. Jeffrey Epstein

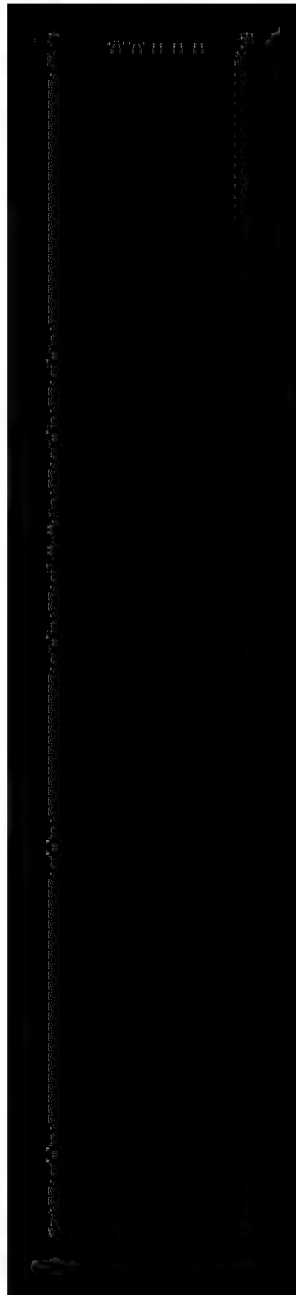
Ms. Ghislaine Maxwell

Staff

Miles & Cathy Alexander
Miles
Cathy
Paris
22 Avenue, Foch, Apt 2DD,
Paris, France 75116.
Tel: 011 331 441 70210
Fax: 011 331 441 70211
Staff
Valdson Cotrin

London

44 Kinnerton Street
London SW1X8ES
Tel: 011 44 207 838 9129
Fax: 011 44 207 838 9128
Staff
Kathie Orchard



6/2/05

Flight Safety Client - LARRY Visoski - Hyperion

Jenny 5:30-10:30

Key scan - doorkey

340-776-4912

212-750-2408

Tah? 6624199

Dr. Jarecki message

~~Cecilia~~ Cecilia "called twice" 2:45 AM +3PM

email ↗ Maer Roshan <mroshan@radarmagazine.com>

<cecilia.steen@gmail.com>

Message print out - 917-346-9154 Diana Cook

Dr. Nagrani (212) 688-1090

For
Jttislaine
Maxwell

louella's cell phone (cingular) 561-818-8961

561-752-6380

707-4985

ADRIANA'S PARENTS ARE GOING to the embassy on the 23rd

Letter - J. Epstein + Co.

The Villard House

457 MADISON AVENUE 4th Floor

NY NY 10022

SARAH Kellen - 116 A EAST 65th ST

NY NY 10021

917-855-3363

04-31-05

#2

972 3527 1080 (W)

972 544986 337 (P)

- ~~177~~ 17pre 917-699 8496

NEW YORK AT&T Wireless, Inc

- Patricia Velasquez

Kelly Benino

310 7229948

Charlie Get rid of code Mmm

33 620724063

510 813 2533 Charlie

212-517 9330 Jonny Fikes

VERIZON NEW YORK, INC.

Ghislaine Maxwell



EXHIBIT 5

Page 1	Page 3
<p>UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK</p> <p>CASE: 15-cv-07433-RWS</p> <p>VIRGINIA GIUFFRE, Plaintiff, v. GHISLAINE MAXWELL, Defendant.</p> <p>VIDEOTAPED DEPOSITION OF TONY FIGUEROA</p> <p>Volume 1 of 2</p> <p>Pages 1 - 157</p> <p>Taken at the Instance of the Defendant</p> <p>DATE: Tuesday, June 28, 2016</p> <p>TIME: Commenced: 8:59 a.m. Concluded: 1:22 p.m.</p> <p>PLACE: Southern Reporting Company B. Paul Katz Professional Center (SunTrust Building) One Florida Park Drive South Suite 214 Palm Coast, Florida 32137</p> <p>REPORTED BY: LEANNE W. FITZGERALD, FPR Florida Professional Reporter Court Reporter and Notary Public</p>	<p>INDEX</p> <p>VOLUME 1 (pages 1 - 157)</p> <p>TONY FIGUEROA</p> <p>Direct Examination by Ms. Menninger 5</p> <p>OATH OF REPORTER 156</p> <p>CERTIFICATE OF REPORTER 157</p> <p>VOLUME 2 (Pages 158 - 258)</p> <p>TONY FIGUEROA</p> <p>Cross-Examination by Mr. Edwards 162</p> <p>Redirect Examination by Ms. Menninger 218</p> <p>Recross-Examination by Mr. Edwards 243</p> <p>Further Direct Examination by Ms. Menninger 253</p> <p>OATH OF REPORTER 257</p> <p>CERTIFICATE OF REPORTER 258</p> <p>STIPULATION</p> <p>It is hereby stipulated and agreed by and between counsel present at this deposition and by the deponent that the witness review of this deposition would be waived.</p>
<p>APPEARANCE OF COUNSEL</p> <p>ON BEHALF OF THE PLAINTIFF:</p> <p>BRADLEY J. EDWARDS, Esquire Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, P.L. 425 North Andrews Avenue Ft. Lauderdale, Florida 33301 954-524-2820 Brad@pathtojustice.com</p> <p>ON BEHALF OF THE DEFENDANT:</p> <p>LAURA A. MENNINGER, Esquire Haddon, Morgan and Foreman, P.C. 150 East 10th Avenue Denver, Colorado 80203 303-831-7364 Lmenninger@hmflaw.com; Nsimmons@hmflaw.com</p> <p>Also appearing: Jenny Martin, Videographer from Abel Virginia Giuffre, Plaintiff</p>	<p>INDEX OF EXHIBITS</p> <p>(MARKED BY THE DEFENDANT:)</p> <p>Defendant's Exhibit 1 42 (Palm Beach County Sheriff's Reports - Case Number 98041883)</p> <p>Defendant's Exhibit 2 71 (Greenacres Reports)</p> <p>Defendant's Exhibit 3 77 (Two Pictures of Apartment Building)</p> <p>Defendant's Exhibit 4 83 (Palm Beach County Sheriff's Reports - Case Number 02075321)</p> <p>Defendant's Exhibit 5 134 (Royal Palm Beach Police Reports)</p> <p>Defendant's Exhibit 6 144 (Robert's School Records)</p> <p>(MARKED BY THE PLAINTIFF:)</p> <p>Plaintiff's Exhibit 1 162 (Photos)</p> <p>Plaintiff's Exhibit 2 163 (Passport)</p>

Page 57	Page 59
<p>1 A No. That was it.</p> <p>2 Q Where were you living at the time she</p> <p>3 left?</p> <p>4 A My parents' house.</p> <p>5 Q Is that where you were making the phone</p> <p>6 calls?</p> <p>7 A Yeah.</p> <p>8 Q Is that how you remember it?</p> <p>9 A Yep.</p> <p>10 Q Were your parents happy about the phone</p> <p>11 bill?</p> <p>12 A Well, they did not care, because they knew</p> <p>13 that Jeffrey had money. And I told them -- I was,</p> <p>14 like, "Well, he's going to be paying the bills, so</p> <p>15 don't worry about."</p> <p>16 And they were, like, "All right. As long</p> <p>17 as it gets paid."</p> <p>18 And it didn't get paid. And I didn't have</p> <p>19 a place to live, and so...</p> <p>20 Q Did you ever try to get money from Jeffrey</p> <p>21 to pay the phone bills?</p> <p>22 A No. Pretty much the only time I had ever</p> <p>23 talked to Jeffrey after that was mainly the</p> <p>24 conversations are, "Where is Virginia? I know you</p> <p>25 know where she's at."</p>	<p>1 Q And you were getting calls from Jeffrey on</p> <p>2 your cell phone --</p> <p>3 A Yes.</p> <p>4 Q -- asking where she was?</p> <p>5 A Uh-huh (affirmative).</p> <p>6 Q Did he say why he was trying to find her?</p> <p>7 A No.</p> <p>8 Q Was it him or someone else?</p> <p>9 A No. It was him.</p> <p>10 Q What was his tone when he was calling and</p> <p>11 asking for her?</p> <p>12 A I don't want to say, like, desperate, but,</p> <p>13 like, you could tell it was, like, a sense of</p> <p>14 urgency, like he was kind of upset, like, you know,</p> <p>15 where the hell is she, kind of without saying it,</p> <p>16 you know. He was -- you could tell he was</p> <p>17 definitely on the hunt, trying to figure out where</p> <p>18 she was at.</p> <p>19 Q Did you understand that he had paid for</p> <p>20 her trip to Thailand?</p> <p>21 A Yeah.</p> <p>22 Q Had she ever been to Thailand before?</p> <p>23 A Not that I was aware of.</p> <p>24 Q Did he know whether she had just left</p> <p>25 Thailand without a word?</p>
Page 58	Page 60
<p>1 I'm, like, "No, dude, I don't. You're the</p> <p>2 one that (descriptive sound) sent her away, not me.</p> <p>3 I have no clue. I have not heard from her. You're</p> <p>4 the reason she's not here, so why are you even</p> <p>5 coming to me? How would I know? She left me. She</p> <p>6 did not leave some guy I knew, she left me." You</p> <p>7 know.</p> <p>8 Q How did those conversation happen?</p> <p>9 A Because he would just call me. He was</p> <p>10 just trying to find her. He was, like, hunting her</p> <p>11 down.</p> <p>12 Q He called you on your phone?</p> <p>13 A Uh-huh (affirmative). He had my number.</p> <p>14 Q Your cell phone?</p> <p>15 A It was -- I believe so. A cell phone at</p> <p>16 the time, yeah.</p> <p>17 Q Is that where you were getting all these</p> <p>18 expensive phone calls was your cell phone?</p> <p>19 A No. I was using my parents' landline to</p> <p>20 make the calls.</p> <p>21 Q Got it.</p> <p>22 To call Thailand?</p> <p>23 A Yeah.</p> <p>24 Q But Jeffrey had your cell phone number?</p> <p>25 A Yeah.</p>	<p>1 A I don't know what he thought. I guess he</p> <p>2 stopped hearing from her, as well.</p> <p>3 Q Did he say that she called and said I'm</p> <p>4 getting married, and I'm never coming back?</p> <p>5 A No. He kept asking me what was going on.</p> <p>6 I said, "Dude, I don't know. Like, if I knew, don't</p> <p>7 you think I would tell you? I mean, I have no</p> <p>8 reason to not tell you. She left me. Why would I</p> <p>9 hide anything?"</p> <p>10 Q How did you know she had left you? She</p> <p>11 just didn't come back?</p> <p>12 A Like I said, she had written me a note</p> <p>13 telling me she wasn't coming back.</p> <p>14 Q So you're having a bunch of phone calls.</p> <p>15 And then all of the sudden you get a note saying,</p> <p>16 I'm not coming back?</p> <p>17 A Yep.</p> <p>18 Q During the phone calls, did she tell you</p> <p>19 she was breaking up with you?</p> <p>20 A No.</p> <p>21 Q Do you know the name of the rehab program</p> <p>22 where Philip and Ms. Roberts were together?</p> <p>23 A No. Like I said, pretty much that whole</p> <p>24 period I was not there. Like, literally, no trace</p> <p>25 of me or her were anywhere near each other until,</p>

EXHIBIT 6

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CASE NO. 15-CV-07433-RWS

-----x
VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.
-----x

May 18, 2016

9:04 a.m.

C O N F I D E N T I A L

Deposition of [REDACTED] pursuant
to notice, taken by Plaintiff, at the
offices of Boies Schiller & Flexner, 401
Las Olas Boulevard, Fort Lauderdale, Florida,
before Kelli Ann Willis, a Registered
Professional Reporter, Certified Realtime
Reporter and Notary Public within and
for the State of Florida.

1 that she was a daughter of one of his friends.

2 Q. But it was possible she was the school --
3 is it possible that the school she referred to was a
4 high school?

5 A. Yes.

6 Q. And what happened at that dinner, if
7 anything?

8 A. He did some magic tricks.

9 Q. Did you observe David Copperfield to be a
10 friend of Jeffrey Epstein's?

11 A. Yes.

12 Q. Did Copperfield ever discuss Jeffrey's
13 involvement with young girls with you?

14 A. He questioned me if I was aware that girls
15 were getting paid to find other girls.

16 Q. Did he tell you any of the specifics of
17 that?

18 A. No.

19 Q. Did he say whether they were teenagers or
20 anything along those lines?

21 A. He did not.

22 MS. MENNINGER: Objection, leading, calls
23 for hearsay.

24 BY MS. McCAWLEY:

25 Q. Did you ever hear or observe Jeffrey

1 talking on the phone about Frederic Fekkai?

2 A. Yes.

3 MS. MENNINGER: Objection, leading.

4 BY MS. McCAWLEY:

5 Q. What did you hear?

6 A. I heard him call someone, and say, Fekkai
7 is in Hawaii. Can we find some girls for him?

8 Q. And what was your reaction to that?

9 A. Well, I was massaging and I didn't have a
10 reaction. I tried to remain reactionless the whole
11 five years.

12 Q. Did Jeffrey ever take you shopping?

13 A. Yes.

14 Q. Can you describe for me what happened?

15 A. Sure. He took me to Victoria's Secret. I
16 believe he picked out everything and went into the
17 room with me, the fitting room, which was very odd.

18 Q. Did he make any comments about being in
19 the fitting room with you?

20 A. He joked that one time he was in there
21 with another girl, and she said something like
22 "Dad." But that's all I recall.

23 Q. Did Jeffrey ever talk to you -- let me
24 back up a moment.

25 Have you ever been propositioned by anyone

1 A. Just flying over it.

2 Q. When you said they called, do you know who
3 called your roommate?

4 A. I don't know who called my roommate.

5 Q. In this sort of pre-trip to New York
6 period, do you recall discussing any of the
7 particulars of your massages with Jeffrey, with
8 Ghislaine?

9 MS. McCAWLEY: Objection.

10 BY MS. MENNINGER:

11 Q. If that makes sense.

12 A. No.

13 Q. So before you got this call, had anyone
14 mentioned the idea of traveling to you?

15 A. No.

16 Q. Did you call Jeffrey immediately?

17 A. I did.

18 Q. And what conversation did you have with
19 him?

20 A. Basically he said, I want to take you
21 to -- to New York City. Can you be here quickly?

22 And I got to the house, and he said, Do
23 you have your passport?

24 I said, No.

25 He said, Go get it.

EXHIBIT 7

IMII 12/10/04 DDA STATEMENT HISTORY 10.02.11 PAGE 1
 JEFFREY E EPSTEIN OR ACCOUNT 000-000-0000-
 GHISLAINE MAXWELL OR ALFREDO RODRIGUEZ DATE LAST STATEMENT 11/23/04
 HOUSEHOLD ACCOUNT DATE THIS STATEMENT 12/10/04

*****DDA TRANSACTIONS*****

BEGINNING BALANCE	CHECKS/OTHER DEBITS NBR	TOTAL AMOUNT	DEPOSITS/OTHER CREDITS NBR	TOTAL AMOUNT	ENDING BALANCE
0.00	10	4006.36	2	7439.80	3433.44

DATE	CK NBR	AMOUNT	TP	TRANSACTION DESCRIPTION	BALANCE
10/14		7439.56	DP	DEPOSIT	7439.56
10/25	93	450.00	CK	TELLER CASHED CHECK	6989.56
10/25		0.24	CR	IOD INTEREST PAID	6989.80
10/27		69.38	DB	CLARKE AMERICAN CHK ORD	6920.42
11/01	2500	1150.00	CK	TELLER CASHED CHECK	5770.42
11/08	2504	340.00	CK	CHECK	5430.42
11/09	2502	684.87	CK	CHECK	4745.55
11/09	2505	415.86	CK	CHECK	4329.69
11/09	2503	406.25	CK	CHECK	3923.44
11/15	2511	360.00	CK	CHECK	3563.44
11/15	2512	80.00	CK	CHECK	3483.44
11/15	2501	50.00	CK	CHECK	3433.44

PF1 - PAGE FWD

ESC-CLEAR SCREEN

ALT-F2=PRINT SCREEN

ALT-X=EXIT

7

561 820-8790

IMII 12/10/04 DDA STATEMENT HISTORY 10.02.11 PAGE 2
 JEFFREY E EPSTEIN OR ACCOUNT 000-000-0000
 GHISLAINE MAXWELL OR ALFREDO RODRIGUEZ DATE LAST STATEMENT 11/23/04
 HOUSEHOLD ACCOUNT DATE THIS STATEMENT 12/10/04

*****DDA TRANSACTIONS*****

BEGINNING		CHECKS/OTHER DEBITS	DEPOSITS/OTHER CREDITS	ENDING
BALANCE	NBR	TOTAL AMOUNT	TOTAL AMOUNT	BALANCE
0.00	19	11614.78	17440.24	5825.46

DATE	CK NBR	AMOUNT	TP	TRANSACTION DESCRIPTION	BALANCE
11/16	2507	1135.03	CK	CHECK	2298.41
11/16	2509	803.24	CK	CHECK	1495.17
11/16	2506	344.91	CK	CHECK	1150.26
11/16	2508	125.24	CK	CHECK	1025.02
11/16	2510	110.00	CK	CHECK	915.02
11/17	2514	80.00	CK	TELLER CASHED CHECK	835.02
11/18		10000.00	CR	INCOMING WIRE CREDIT	10835.02
11/18		10.00	DB	INCOMING WIRE FEE	10825.02
11/18		2500.00	CK	TELLER CASHED CHECK	8325.02
11/22	2513	2500.00	CK	CHECK	5825.02
11/23		0.44	CR	IOD INTEREST PAID	5825.46

LAST PAGE

PF2 - PAGE BKWD

ESC-CLEAR SCREEN

ALT-F2=PRINT SCREEN

ALT-X=EXIT E 7

*****DDA TRANSACTIONS*****

DATE	CK NBR	AMOUNT	TY	TRANSACTION DESCRIPTION	BALANCE
11/30	2515	125.00	CHECK		5700.46
12/03	2516	1600.00	CHECK		
12/03	2517	549.29	CHECK		3551.17
12/06		10000.00	INCOMING WIRE CREDIT		
12/06		10.00	INCOMING WIRE FEE		
12/06		2000.00	TELLER CASHED CHECK		11541.17
12/07	2521	517.74	CHECK		
12/07	2522	210.00	CHECK		
12/07	2518	101.03	CHECK		10712.40
12/08	2519	2925.08	CHECK		
12/08		1000.00	TELLER CASHED CHECK	(To Mr. J.E)	6787.32

ALT-X=EXIT E 7

EXHIBIT 8

→ Colonial Bank /worth Ave.
 - Ben Leun
 - Leonor

BANKING

Household Banking Account	Palm Beach National Bank 125 Worth Avenue Palm Beach, FL 33480 Tel: (561) 653-5594	Account No: [REDACTED] Send to Eric Gany for reconciliation \$1,000 Petty Cash Float
----------------------------------	---	--

BICYCLES

Bicycles	Palm Beach Bicycle Trail Shop 223 Sunrise Avenue Palm Beach, FL 33480 Tel: (561) 659-4583	Mongoose Crossway 450 Raleigh Aluminium 300 Mercedes Benz Signal Sports Bike Schwinn World Huffy Santa Fe Raleigh Sport Scott Boston
-----------------	--	---

BOOKSTORES

Newspapers	Publix Super Market 265 Sunset Avenue Palm Beach, FL 33480 Tel: (561) 655-4120	
Magazines	Main Street News 255 Royal Poinciana Way Palm Beach, FL 33480 Tel: (561) 833-4027	

CLEANING SERVICE

Francis Peadon House Cleaning Services	(561) 833-4486 (561) 635-3068 Coll. 1. (561) 309-5820 " 2. (561) 346-1119	Every Tuesday and Wednesday 8:00am - 4:00pm (Francis and Pastora Peadon)
---	---	--

ENTERTAINMENT

The Breakers	One South County Road Palm Beach, FL 33480 Tel: (561) 655-6611	Renew car park stickers every September
Comedy Corner	2000 South Dixie Highway West Palm Beach, FL 33401 Tel: (561) 833-1812	
The Mar-a-Lago Club	1100 South Ocean Boulevard Palm Beach, FL 33480 Tel: (561) 832-2600	

EXHIBIT 9

VIDEO

BRITNEY SPEARS & BEYONCE'S VMA FEUD ANTHONY WEINER SPLIT



THE REAL REASON TOM CRUISE HASN'T SEEN HIS DAUGHTER IN YEARS



19 ACTORS WHO WERE BORN FILTHY RICH



YOU MAY LIKE

Sponsored Links by Taboola







1:21:

30:30



EXHIBIT 10

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CASE NO. 15-CV-07433-RWS

-----x

VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

-----x

June 20, 2016

9:12 a.m.

C O N F I D E N T I A L

Deposition of [REDACTED], pursuant
to notice, taken by Plaintiff, at the
offices of Podhurst Orseck, 25 West
Flagler Street, Suite 800, Miami, Florida,
before Kelli Ann Willis, a Registered
Professional Reporter, Certified Realtime
Reporter and Notary Public within and
for the State of Florida.

1 [REDACTED] - CONFIDENTIAL

2 men and women bodies mixed together.

3 Q. Okay. Do you remember the photographs?

4 MR. PAGLIUCA: Object to form and
5 foundation.

6 THE WITNESS: Not specifically, no.

7 BY MR. EDWARDS:

8 Q. At the point during your statement, the
9 specific passage that I'm asking about is, you say,
10 "Teenage, he's got lots of pictures of teenage
11 girls, like real photos that he took."

12 A. Yeah. They were not displayed.

13 MR. PAGLIUCA: Object to form and
14 foundation.

15 BY MR. EDWARDS:

16 Q. Okay. Where were they?

17 A. I remember one incident where he showed
18 them to me, and they were young women in the
19 bathtub.

20 Q. And did he take pictures of you?

21 A. Yes.

22 Q. Did he take pictures of you naked?

23 A. Yes. As far as I know, they were never
24 recovered.

25 Q. How could you tell that the photographs

EXHIBIT 11

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE No.502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff,

-vs-

SCOTT ROTHSTEIN, individually,
BRADLEY J. EDWARDS, individually, and
L.M., individually,

Defendants.

VIDEOTAPED DEPOSITION OF JEFFREY EPSTEIN

Wednesday, March 17, 2010
10:17 a.m.- 1:27 p.m.

303 Banyan Boulevard
Suite 400
West Palm Beach, Florida 33401

Reported By:
Sandra W. Townsend, FPR
Notary Public, State of Florida
West Palm Beach Office Job #1358

1 Amendment Rights as provided by the U.S.
2 Constitution.

3 BY MR. SCAROLA:

4 Q. Does a flight log kept for a private jet used
5 by you contain the names of celebrities, dignitaries or
6 International figures?

7 A. At least today, sir, I'm going to have to
8 respectfully decline to answer based on my Fifth, Sixth
9 and 14th Amendment Right, though I'd like to answer that
10 question.

11 Q. Have you ever had a personal relationship with
12 Donald Trump?

13 A. What do you mean by "personal relationship,"
14 sir?

15 Q. Have you socialized with him?

16 A. Yes, sir.

17 Q. Yes?

18 A. Yes, sir.

19 Q. Have you ever socialized with Donald Trump in
20 the presence of females under the age of 18?

21 A. Though I'd like to answer that question, at
22 least today I'm going to have to assert my Fifth, Sixth
23 and 14th Amendment Right, sir.

24 Q. Have you socialized with Alan Dershowitz?

25 A. Yes, sir. He's my attorney, as well as a

1 friend.

2 Q. Have you ever socialized with Alan Dershowitz
3 in the presence of females under the age of 18?

4 MR. PIKE: Form.

5 THE WITNESS: Sir, at least here today, I'm
6 going to have to assert my Fifth Amendment, Sixth
7 Amendment and 14th Amendment Rights.

8 BY MR. SCAROLA:

9 Q. Have you ever socialized with Tommy Mottola?

10 A. This is the type of questions where people who
11 have nothing to do with this case whatsoever have been
12 brought into the case by Mr. Edwards in an attempt to
13 simply imperil my relationships with social friends and
14 serves as an example of why this case has been brought
15 against Mr. Edwards and his firm, sir.

16 MR. PIKE: Form as well.

17 BY MR. SCAROLA:

18 Q. Well, do you know who brought those persons'
19 names into this lawsuit?

20 MR. PIKE: Form.

21 And just to be clear, what Mr. Scarola, I
22 believe, talking about this lawsuit, Epstein versus
23 RRA?

24 BY MR. SCAROLA:

25 Q. Yes, sir, that's the lawsuit I'm talking

From: Ens, Amanda [REDACTED]
Sent: 11/15/2016 2:44:06 PM
To: jeffrey E. [jeevacation@gmail.com]; Richard Kahn [REDACTED]
Subject: SPX put contingent on higher rates
Attachments: image001.jpg; image002.jpg; image003.jpg; image005.png

Importance: High

Navigating post-Trump volatility

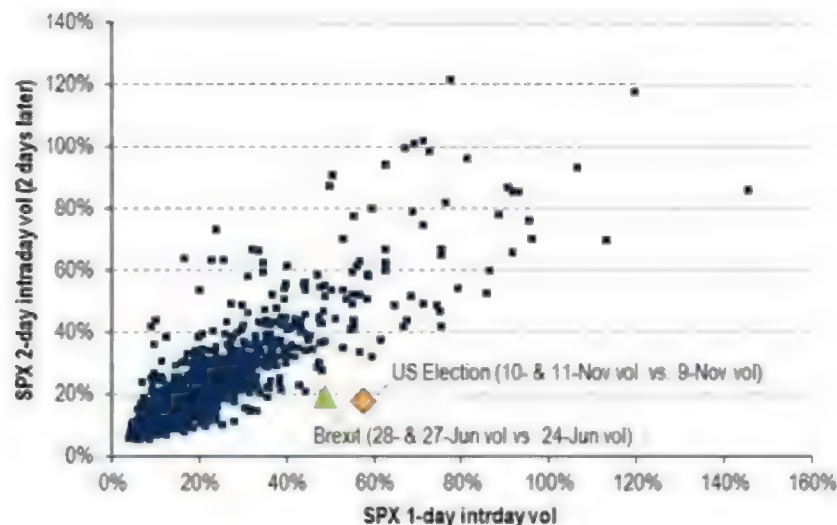
- We are recording unprecedented divergences in falling equity vol with rising rates vol post Trump's win. Intra-day S&P realized vol collapsed from near 60% to below 20% in 2d [Chart 1]
- While equities have shown less conviction over what a Trump win means (given strong sector rotation), the bond market has sold off with one of the largest moves in history [Chart 2 & 3]
- Stabilizing rates volatility from here is key to markets remaining calm and while equity upside may continue, it is not without higher risks
- We like cheap optionality to hedge long-equities if rates continue to move sharply

For investors long equities, we look at ways to cheapen protecting from downside risks in the event of further bond market volatility catalysed by Trump policy uncertainty

- **Buy an SPX Apr-17 95% put conditional on US 10Y CMS > 2.5% at maturity for 0.87%**
 - 70% discount vs. vanilla
 - CMS ref. 2.11%, SPX ref. 2,164.2

CMS = constant maturity swap

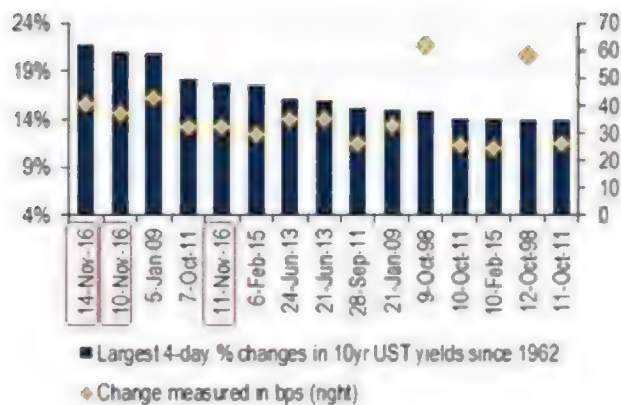
Chart 1: The response in S&P 500 realized equity volatility to the US election surprise was similar to Brexit but more extreme, as the spike in volatility collapsed at record speed



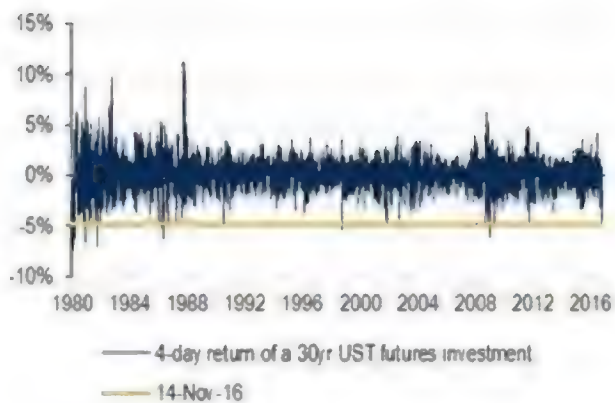
Source: BofA Merrill Lynch Global Research. Based on daily data from June 2004 to current.

Chart 2: Ten-year US Treasury yields see a near record spike after the US election

Chart 3: Long Bond futures prices down near record amount (~5%) in the four days since the election



Source: BofA Merrill Lynch Global Research. Based on daily data since 1962



Source: BofA Merrill Lynch Global Research

Amanda Ens

Director

Bank of America Merrill Lynch

Merrill Lynch, Pierce, Fenner & Smith Incorporated

One Bryant Park, 5th Floor, New York, NY 10036



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From: Ens, Amanda [REDACTED]
Sent: 11/17/2016 6:05:47 PM
To: jeffrey E. [jeevacation@gmail.com]; Richard Kahn [REDACTED]
Subject: Financials: buy XLF Mar17 \$22 call with \$26 KO for \$0.87 with full premium rebate on KO
Attachments: image001.png; Future of Financials Conference Takeaways.pdf

Importance: High

Our Financials Conference was this week and client attendance was up by 66% from last year. Yes, banks/financials might pull back at some point after this run-up but we would be buyers on any pullbacks and we continue to see further upside from multiple expansion and earnings growth. Our analyst raised her price targets by ~11% across the board. The long term rotation from bonds and div stocks into sectors like financials is only beginning.

Vol is higher on the week; what prices well now:

Buy the XLF March 2017 \$22 call with \$26 Knock-Out (continuous) for \$0.87, with a full premium rebate if knock-out occurs.

This prices attractively given flat call skew and if XLF breaches \$26 and this knocks out, at least you get your premium back.

Please find our Financials report attached.

Future of Financials conference hosted 90 public and private companies at our Future of Financials conference. We are raising our price objectives across most of our names. Three primary reasons why we think there is upside remaining after the recent rally: 1) an improved outlook on both activity levels and interest rates, driving revenue upside; 2) potentially lower regulatory burden, particularly as new supervisory leadership can come with the new administration; and 3) relatively lighter positioning in US financials vs. other sectors. (Erika Najarian)

From: Ens, Amanda
Sent: Monday, November 14, 2016 12:05 PM
To: 'jeffrey E.'; 'Richard Kahn'
Subject: RE: Financials trade for Monday

We continue to see buyers of XLF today. Funds are underweight financials in all regions, valuations are reasonable, earnings are improving and financials tend to outperform when bond yields rise.

Vol is higher today – refreshed pricing below.

Buy an XLF 17March2017 call spread:

- Buy the 105% call / sell a 110% call with a 115% at-expiry knock-in
- Total premium: 1.86%

Global Positioning in Stocks: Nigel Tupper notes the 4000 funds in our "Positioning in Stocks" analysis are more underweight Financials, on average, than any other sector and are underweight this sector in all regions of the world. If earnings continue to improve and yield rise, which is often the case in an upturn in our Global Wave, then the unloved Financials sector has the potential to continue to outperform.

Global Quant Panorama: "Bearish on Bonds" stocks (which tend to move in the opposite direction to bond yields) tend to outperform our "Bullish On Bonds" when bond yields rise. The sectors that tend to perform best as bond yields rise are Energy, Tech, Materials, Banks, and Diversified Financials. Of these sectors, the laggards this year have been Banks and Diversified Financials. With a PE of 15.9x and a PB of 2.0x, Global valuations are reasonable. Also, Risk is near all-time lows in terms of PE in most regions. Now that macro and earnings data have triggered the beginning of a rotation, Value becomes very relevant.

From: Ens, Amanda
Sent: Friday, November 11, 2016 4:04 PM
To: 'jeffrey E.'; 'Richard Kahn'
Subject: Financials trade for Monday

It's not too late to buy financials as a medium term trade. They've run up a lot this week but we're getting endless calls from generalists asking which banks to buy – there is still more upside to the sector. Banks also provide some offset to your bonds if interest rates continue to move. Our financials sector specialist thinks XLF could have another 20-25% upside given its many levers to the Trump trade: less regulation, higher interest rates/steeper yield curve, higher vol, economic growth, etc. The regional banks are asset sensitive and more of a pure play on a rates move but we view the larger cap banks as having even more upside to the Trump Trade given the above points.

Buy an XLF 17March2017 call spread:

- Buy the 105% call / sell a 110% call with a 115% at-expiry knock-in
- Total premium: 1.75%

All eyes are on Sunday's 60 Minutes interview with Trump. Market is pricing that all regulations will be rolled back (very optimistic). Any hint that this is not true could lead to pullback on Monday.

Note on tech: we're seeing FANG used as a source of funds with the rotation from growth into value. There's also the tax read-through: tech is already relatively tax advantaged @ 22%; Industrials are at 30%, Financials at 29%. Next year, tech could benefit from a repatriation tax holiday but that is viewed as more of a Q1/Q2 trade.

More thoughts on financials:

With respect to the economy, the market is certainly indicating that there will be a large fiscal stimulus which may send US growth higher and that's a good thing for financials for a wide variety of reasons, from employment to wages to loan growth and credit quality (even if somewhat offset by higher rates). It does remain to be seen exactly how much of this expected policy actually gets done, but at the moment, investors are willing to take a certain amount of growth on faith.

So those are positives for financials before we even discuss regulation. The move in the financials since the election would seem to indicate that investors have concluded that nearly every piece of financial regulation will get put into a shredder on day one of the new administration. The incoming administration has fueled that with comments about rolling back pieces (or more) of Dodd-Frank in particular. I can see making the case for that to the American public by saying that banks need less regulation in order to get more capital flowing into the economy to drive growth. Not only does that mean that the E is likely too low (meaning that the P/E is not as high as it seems) but it could help improve ROE's as well which could increase the multiple of that higher E investors are willing to pay. Note that while ROEs could go higher, it's unlikely that they can get back to the peaks...

Regards,
Amanda

Amanda Ens
Director
Bank of America Merrill Lynch
Merrill Lynch, Pierce, Fenner & Smith Incorporated
One Bryant Park, 5th Floor, New York, NY 10036



The power of global connections™



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Management and client bullishness implies further upside

Price Objective Change

Equity | 17 November 2016 Corrected

Conference tone bullish into 2017

We recently hosted over 90 public and private companies and 700 attendees at our Future of Financials conference, where investor attendance was up an impressive 66% YoY. The tone from management and investors was uniformly bullish, with more generalists attending than we have seen in previous years.

Revenue & regulatory upside + positioning = raising POs

We are raising our price objectives across most of our names. Three primary reasons why we think there is upside remaining after the recent rally: 1) an improved outlook on both activity levels and interest rates, driving revenue upside; 2) potentially lower regulatory burden, particularly as new supervisory leadership can come with the new administration; and 3) relatively lighter positioning in US financials vs. other sectors.

Full house at innovation-focused panels

New this year, we hosted expert panels on the evolution of clearing, fixed income market structure, equity market structure, and payments, and how innovation in blockchain, big data, and robo advisory can change the game. Strong panel attendance suggested high interest in these themes, and polling feedback suggests shareholders want banks to make investment spend in innovation a priority -- so long as it is self funded with savings found elsewhere.

Banks: Most constructive we've heard in years

We are raising our POs for our banks by c11% (see Table 1 page 63). When asked if the election results changed 2017 outlooks, all banks were more enthusiastic about growth. Echoing sentiment from our panel on regulation and M&A, banks were upbeat on the CCAR process potentially evolving post-election. Our top picks out of the conference: WFC (sentiment over retail sales practices clouding EPS sensitivity to improving macro), C (solid momentum on revenues and capital return), IBKC (moving closer to strategic targets), and EWBC (sentiment post-election appears constructive on regulatory relief).

Brokers, Alternatives, and Asset Managers

The sentiment around the capital market sector was mostly favorable post the election outcome, given the potential for de-regulation, pro-growth, rising rates, lower tax rates, and increasing activity levels. For the brokers, given mostly favorable 4Q activity trends (more so for trading vs. banking), 1H17 seasonality with easy comps, and potential for de-regulation and lower taxes – we like the outlook, particularly for GS. For the asset managers, despite the move higher post the election on a potential DOL delay/modification and lower tax rates, most expect the DOL to continue in some form and the core trends remain challenging – we remain cautious. For the alternative managers, while we continue to view the structural growth as attractive and a lower corp tax rate could potentially increase the odds of a transition to a C-corp, given the potential for a higher carry tax, rising rates, and de-regulation of banks potentially moderating some of the newer growth areas, we view the outlook as more balanced.

Specialty / Consumer finance

Companies were generally bullish on the US consumer heading into 2017. AXP presented a fairly upbeat outlook on billings, loan and revenue growth, while cautioning that Discount rate pressures and FX headwinds could impact near-term results. The private tech based lenders were cautiously optimistic that hiccups from earlier this year were behind the sector, while the private payments companies stressed the importance of partnering with incumbent leaders and the need to maintain safety standards.

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Refer to important disclosures on page 78 to 81. Analyst Certification on page 75. Price Objective Basis/Risk on page 64.

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Timestamp: 17 November 2016 06:24AM EST

United States
BanksUS Financials
MLPF&S

Erika Najarian
Research Analyst
MLPF&S
+1 646 855 1584
erika.najarian@baml.com

Michael Carrier, CFA
Research Analyst
MLPF&S
+1 646 855 5004
michael.carrier@baml.com

Ebrahim H. Poonawala
Research Analyst
MLPF&S
+1 646 743 0490
ebrahim.poonawala@baml.com

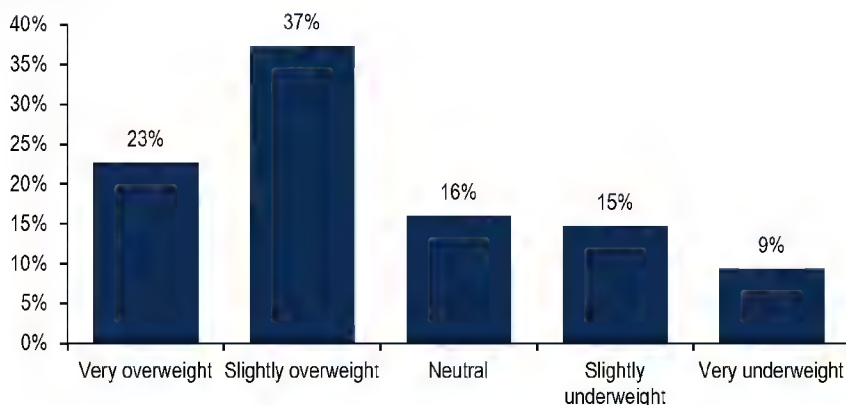
Kenneth Bruce
Research Analyst
MLPF&S
+1 415 676 3545
kenneth.bruce@baml.com

See Team Page for Full List of Contributors

Conference tone bullish into 2017

We recently hosted over 90 public and private companies and 700 attendees at our Future of Financials conference, where investor attendance was up an impressive 66% YoY. The tone from management and investors was uniformly bullish, with more generalists attending than we've seen in previous years. When asked how they would describe their portfolio positioning in financial stocks, 60% of the investors polled noted that they are either slightly overweight or very overweight the sector (see Chart 1).

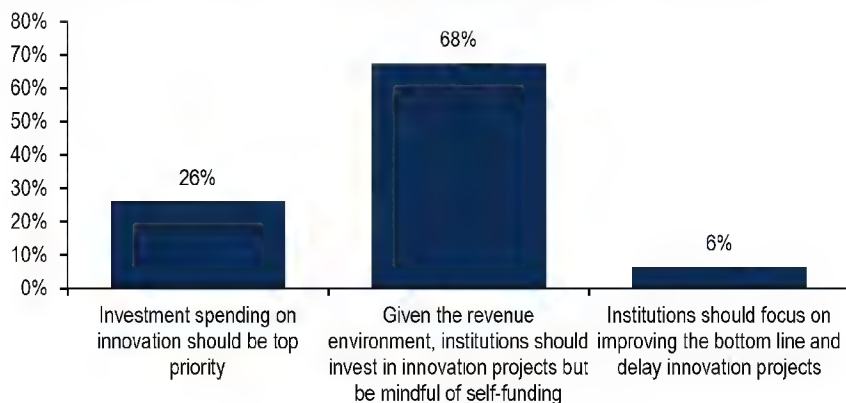
Chart 1: How would you describe your portfolio positioning in financial stocks, excluding insurance and REITs?



Source: BofA Merrill Lynch Global Research

New this year, we hosted expert panels on the evolution of clearing, fixed income market structure, equity market structure, and payments, and how innovation in blockchain, big data, and robo advisory can change the game. Strong panel attendance suggested high interest in these themes, and polling feedback suggests shareholders want banks to make investment spend in innovation a priority -- so long as its self-funded with savings found elsewhere. 68% of those polled across multiple company presentations believed that institutions should invest in innovation projects but be mindful of self-funding (see Chart 2).

Chart 2: As a shareholder, what statement most closely aligns with your view on how traditional financial institutions should allocate investment spending on innovation?

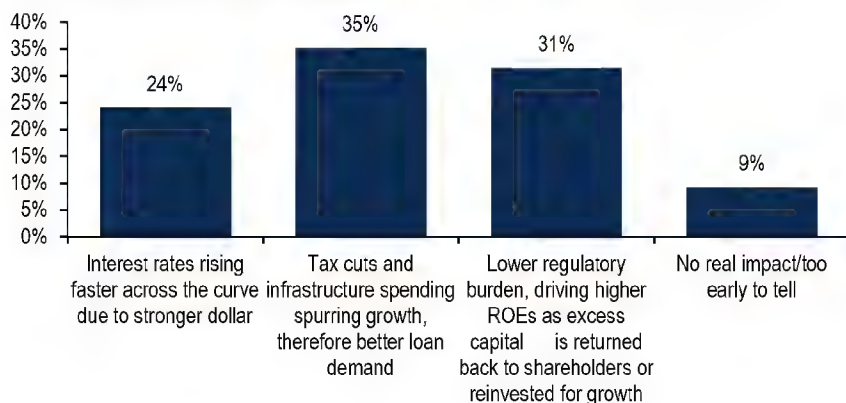


Source: BofA Merrill Lynch Global Research

Banks Takeaways

With our conference coming a week following a historic US presidential election that helped boost bank stocks by 12%, bank management teams were generally optimistic with regards to the economic outlook heading into 2017. Greater fiscal stimulus that is expected to spur economic growth coupled with potential regulatory relief has helped improve the overall sentiment in the sector. When asked what the biggest impact of the GOP sweep would likely be to bank earnings, 35% noted tax cuts and infrastructure spurring growth as the biggest impact.

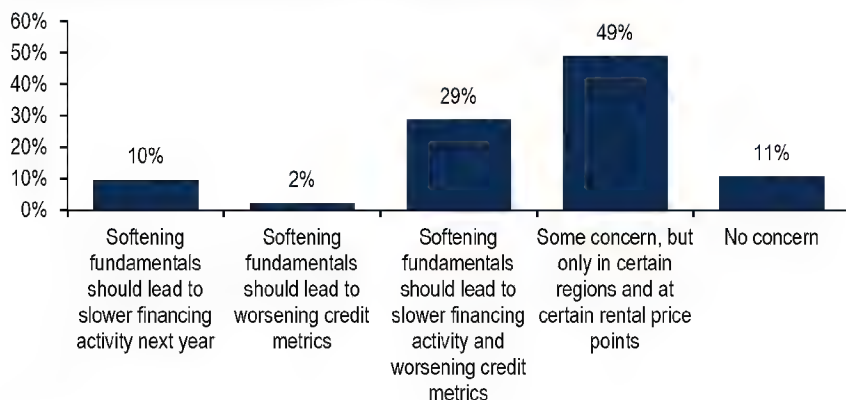
Chart 3: What do you think is the biggest impact of the GOP sweep to bank earnings?



Source: BofA Merrill Lynch Global Research

An area that has attracted particular attention among bank investors is around the current landscape of multifamily lending. We polled the audience around their outlook for multifamily lending in 2017 and found that 49% of those polled said there was some concern, but only in certain regions and at certain rental price points. Meanwhile, 29% noted softening fundamentals that should lead to slower financing activity and worsening credit metrics (see Chart 4).

Chart 4: How do you view fundamentals for multifamily lending in 2017?



Source: BofA Merrill Lynch Global Research

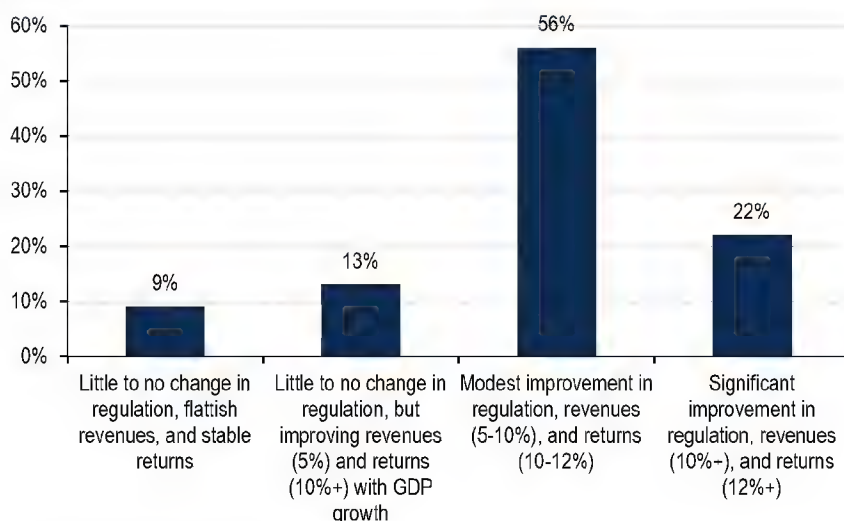
Brokers Takeaways

In brokers, GS presented, while MS hosted 1-1 meetings with investors. During the conference we polled the audience on several topics including the outlook for capital markets revenues.

Investors modestly positive on capital markets over next 1-2 years

Given the election outcome, recent rise in rates, potential for higher growth and de-regulation, and lower corporate tax rates, we asked investors about their outlook for capital markets over the next 1-2 years. The majority of investors (78%) were positive about the capital markets sector, with 56% who expect modest improvement in regulation, revenue growth of 5-10%, and returns of 10-12% and 22% who think we could see significant improvement in regulation, revenues growth of 10%+, and returns 12%+.

Chart 5: Based on the backdrop and the election outcome, what is your outlook for the capital markets over the next 1-2 years



Source: BofA Merrill Lynch Global Research

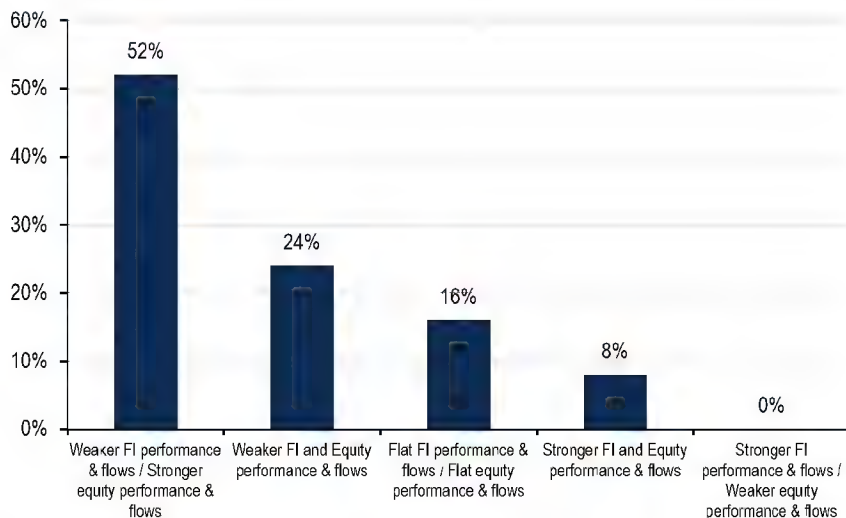
Asset Manager Takeaways

In asset management, four of the largest public managers, IVZ, EV, LM, and AB either presented or engaged in fireside chats, while several other firms including AMG, APAM, BLK, CNS, OMAM, and VRTS hosted 1-1 meetings with investors. During the conference we polled the audience on several topics including the outlook for DOL (in the panel section), the outlook for fixed income given the recent rise in rates/expected rate hike and outlook, active vs passive market share, M&A, and pricing/fee structures.

Fixed income outlook more muted

Given the recent rise in rates, a looming rate hike in December, and the potential for a higher growth/inflation outlook for the economy, we asked investors their outlook on fixed income performance and flows vs equities. The majority of investors believe we will see weaker fixed income performance and flows offset by stronger equity performance and flows (52%). Weaker fixed income/equity performance and flows was the second most popular answer at 24% while flat flows and performance came in third at 16%. Only 8% of the audience think we will see stronger fixed income/equity performance and flows, while nobody thinks fixed income will be stronger and equity will be weaker (both flows and performance).

Chart 6: What is your outlook on fixed income performance and flows versus equities?

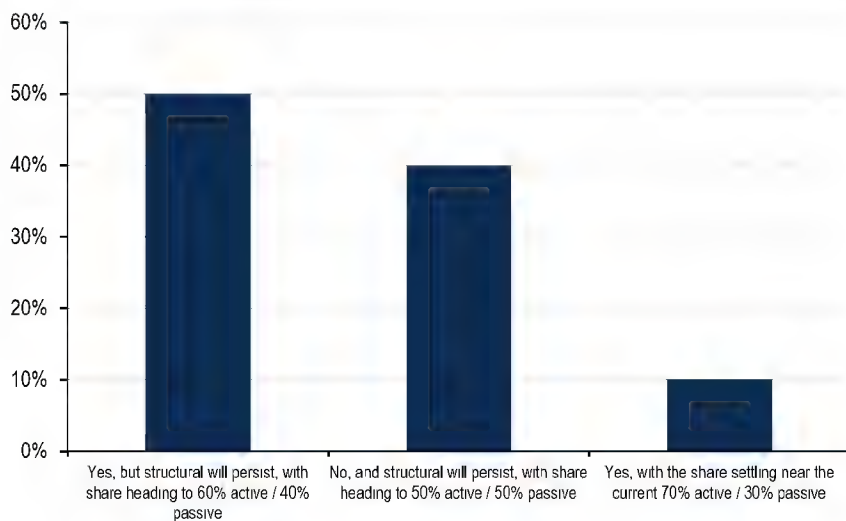


Source: BofA Merrill Lynch Global Research

Active vs passive outlook – passive to continue to gain share

Given the ongoing shift to passive investing from active, we polled the audience to see where they think the share split between the two styles eventually settles. Currently the share split is roughly 70% active and 30% passive which was the least popular answer (10%) when asked “do you see improving cyclical demand for active management, despite structural headwinds, and if so where do you think active/passive share settles?” Most investors do see improving cyclical demand for active management and think passive will eventually control 40% of the market (50%) while 40% of respondents do not see improving trends for active and that passive will eventually capture 50% of the market.

Chart 7: Do you see improving demand for active & where do you think active/passive share settles?



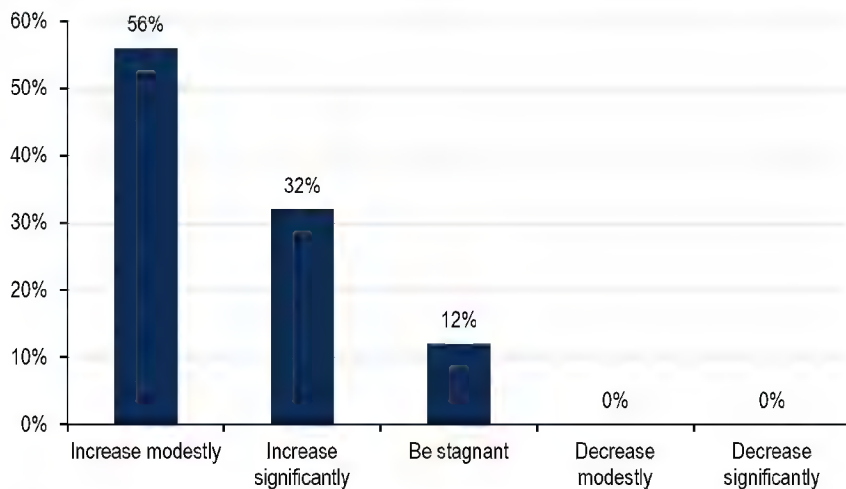
Source: BofA Merrill Lynch Global Research

M&A activity likely to rise

Given a recent pickup in M&A and pressures within the industry that will likely continue the trend, including rising regulatory costs, some fee pressure, and active outflows, we asked investors their outlook for M&A in the sector. We found that the majority think

that the number of deals in the asset management sector will increase modestly in 2017 vs 2016 (56%), 32% see M&A picking up significantly, and 12% see flat activity in 2017. Nobody sees lower M&A activity in 2017 vs 2016.

Chart 8: How will 2017 asset management M&A activity (# of deals) be versus 2016?

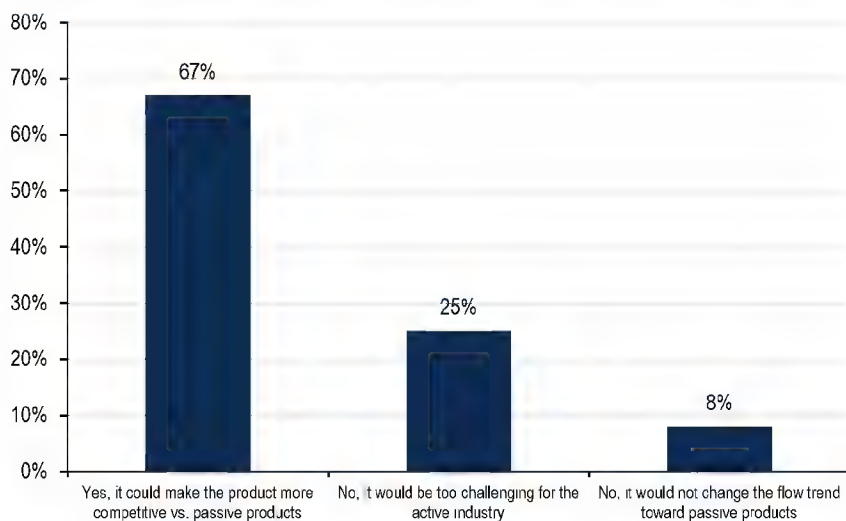


Source: BoFA Merrill Lynch Global Research

Pricing/fee structure in retail seems to have more of a following

Given some underperformance of active managers, some scrutiny around fees, as well as fee pressure from passive, we asked investors if they thought a change in active pricing could make sense, i.e. charge a lower base fee with a variable performance fee that would be earned when alpha is generated. We found a majority of respondents thought it would make sense to change the pricing structure and it could make active more competitive vs passive (67%). The rest of respondents felt it didn't make sense either because it would be too challenging for the active industry or it would not slow the flows into passive.

Chart 9: Do you think a change in industry active pricing (lower base + perf fee) could make sense?



Source: BoFA Merrill Lynch Global Research

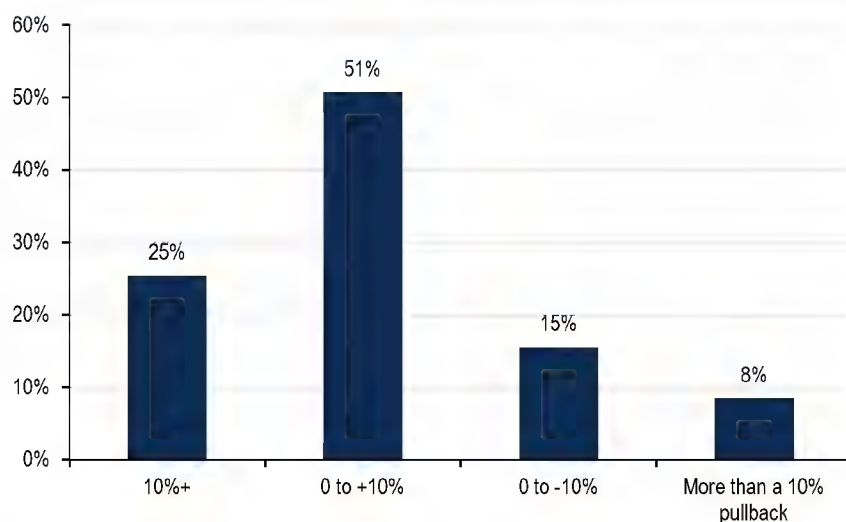
Alternative Asset Manager Takeaways

Within alternative asset management, four of the public managers, ARES, BX, CG, and KKR presented, while the others did meetings. During the conference we polled the audience on several key topics including the outlook for the equity and real estate markets, potential impacts from the recent election, distribution outlook, and firm structures and business models. Investors were generally bullish on the equity market, potential for fiscal stimulus ahead, and a key focus from investors was on the potential change in taxes following the election, and whether that means reassessing corporate structures for the alts, with a possible change from PTP to C-corp.

Investors bullish on the equity markets

Our polling results indicate that investors are generally positive on equity market returns over the next year. When asked “What is your expectation for equity market returns over the next year?” the most common response was +0-10% (51%), followed by 10%+ (25%), 0 to -10% (15%), and <-10% (8%).

Chart 10: What is your expectation for equity market returns over the next year?

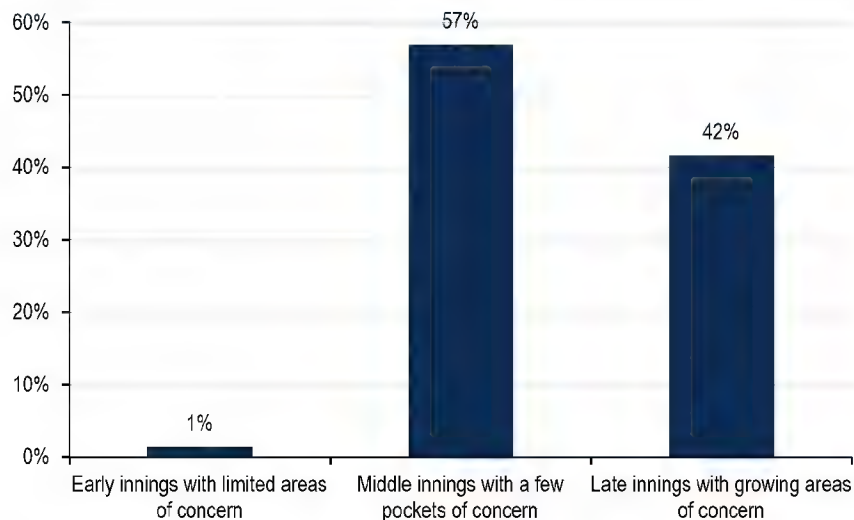


Source: BoFA Merrill Lynch Global Research

Investors are less positive on the real estate market

When asked “Where do you think we are in the overall Real Estate cycle?” most people think that we are in the middle innings with a few pockets of concern (57%), followed closely by later innings with growing areas of concern (42%). Very few people think that we are in the early innings of the real estate cycle (1%).

Chart 11: Where do you think we are in the overall Real Estate cycle?

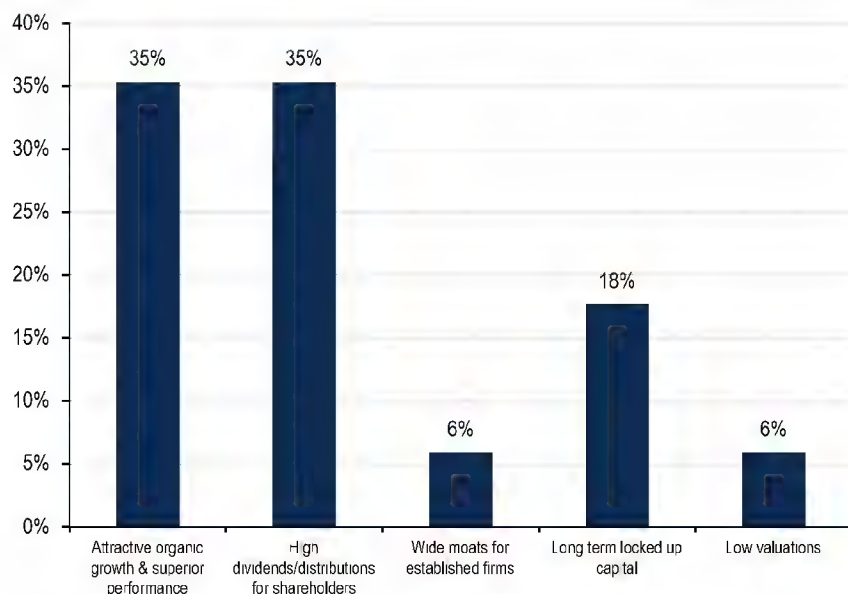


Source: BoFA Merrill Lynch Global Research

Investors like the growth, superior performance, & distributions

When asked “What is the most attractive aspect of investing in an alternative asset manager?” investors like both attractive growth & superior performance and high dividends/distributions (both at 35%). Investors also like the long term locked up capital (18%), while low valuations and wide moats were less important (both at 6%).

Chart 12: What is the most attractive aspect of investing in an alternative asset manager?

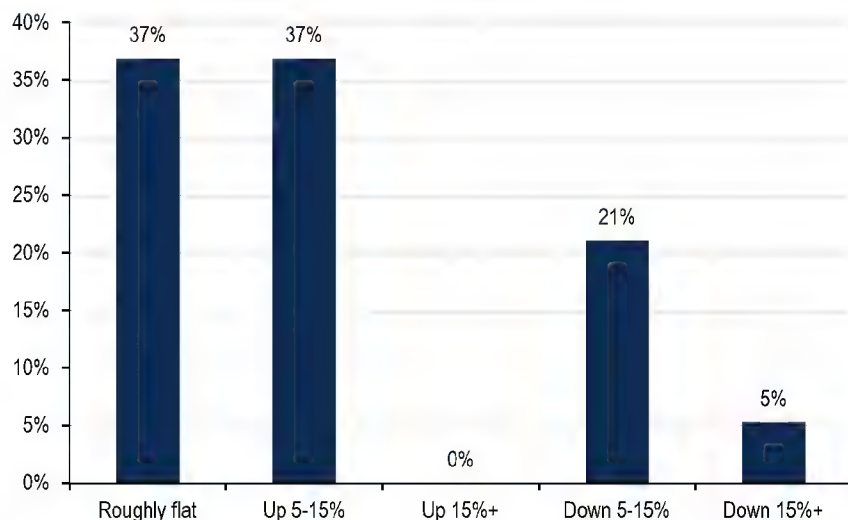


Source: BoFA Merrill Lynch Global Research

Despite moderating distributions of late, most expect flat to higher in '17

When asked “Where do you think distributions for the industry will be in 2017 vs. 2016?” investors expect roughly flat or up 5-15% (both at 37%), followed by down 5-15% (21%). Few investors expect distributions to change more than 15% year-over-year.

Chart 13: Where do you think distributions for the industry will be in 2017 vs. 2016?

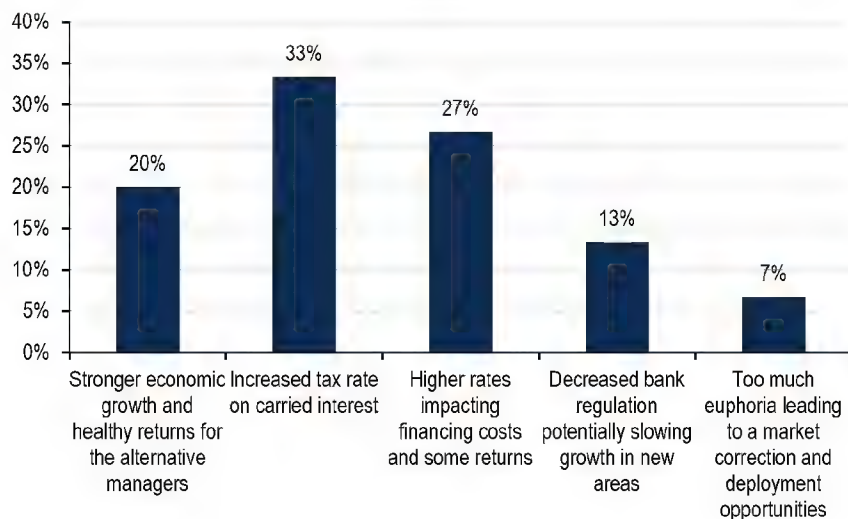


Source: BofA Merrill Lynch Global Research

Election results could have far reaching impacts for the sector

When asked “What is the most likely impact from the election results on the alternative asset managers?” investors were fairly mixed in their responses, indicating to us that investors expect a number of changes. The most common response was increased tax on carried interest (33%), followed by higher rates impacting financing costs and some returns (27%), then stronger economic growth and healthy returns (20%). Few investors expect a decrease in bank regulation slowing alternative manager growth in new areas (13%) along with too much euphoria leading to a market correction (7%).

Chart 14: What is the most likely impact from the election results on the alternative asset managers?



Source: BofA Merrill Lynch Global Research

Specialty / Consumer finance Takeaways

Companies were generally bullish on the US consumer heading into 2017. AXP presented a fairly upbeat outlook on billings, loan and revenue growth, while cautioning that Discount rate pressures and FX headwinds could impact near-term results. The

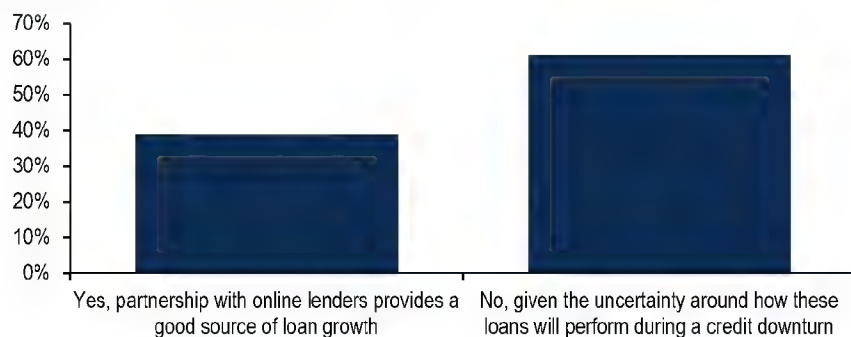
private tech based lenders were cautiously optimistic that hiccups from earlier this year were behind the sector, while the private payments companies stressed the importance of partnering with incumbent leaders and the need to maintain safety standards.

US Banks Top Takeaways

Associated Bancorp (ASB) B-3-7, Underperform

- **A strong Midwest market should lead to steady growth:** ASB's CEO Phillip Flynn and CFO Chris Niles highlighted the strong fundamentals of the bank's Midwest footprint with its low unemployment and a strong manufacturing base. While commenting on the potential for relief coming out of DC under the new Trump administration, management noted that shortage of skilled workers was probably the biggest issue impeding businesses in its footprint versus higher taxes or an overly stringent regulatory environment.
- **CRE represents a growth opportunity:** Management was positive on growth prospects within the CRE loan portfolio, which represents 24% of avg loans as of 3Q16. Management is targeting CRE to represent 30-40% of the portfolio in order for consumer, CRE, and commercial to each comprise approximately a third of the loan book. In the near term, executives see opportunities in the CRE space in 2017 as pricing and structure improve benefitting from a pullback by lenders with high CRE concentration.
- **Energy portfolio should begin to stabilize:** While management analyzes the energy book on a credit by credit basis, it noted caution if oil prices fell significantly. However, management noted that the energy book reflects lower energy prices as new energy loans price in lower hydrocarbon pricing vs. the maturing loans. Regarding energy loan growth, management expects muted growth going forward as the benefit from new loans will most likely be offset by continued pay-downs by existing customers.
- **Dec rate hike to surface in 1Q17 margin:** Management expects a Dec rate hike to have little impact on 4Q given that its LIBOR based portfolio would re-price on Jan 1. On the other hand, interest expense is expected to rise as deposits that are linked to benchmark rates re-price higher. Last year, the margin fell 1bp QoQ following the Fed rate hike as deposit costs rose 8bp QoQ. Management noted that 1Q16 saw lower loan renewal rates and compression from cost of funds, but that its cost of funds are in a better position this year, which should help lead to a modest positive impact to the margin in 1Q17 from a Dec rate hike.
- **Fee businesses could get augmented by additional M&A:** Within fees, management views insurance as the best opportunity from non-bank M&A. Recall that ASB completed the acquisition of Ahmann & Martin in 02/15. Management noted that it saw a significant opportunity from providing consulting services around employee benefits to small-to-medium sized businesses. Moreover, any changes to the Affordable Care Act that creates added uncertainty in the market would present an incremental revenue growth opportunity for this business.

Chart 15: Would you want to see ASB partner with emerging online lenders to augment organic growth?

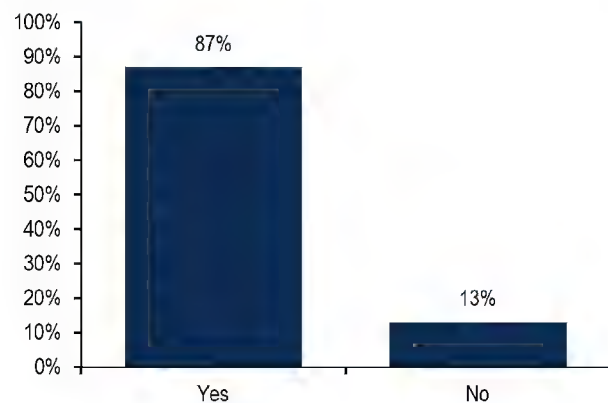


Source: BofA Merrill Lynch Global Research

BB&T (BBT), B-1-7, Buy

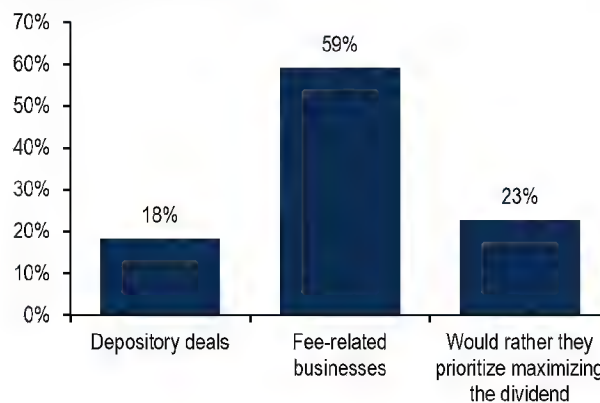
- Pent up demand in small and middle market corporates.** COO Chris Henson was upbeat with regards to the growth outlook for the US economy post the US elections, particularly from middle market companies that have been extremely cautious around making investments over the last few years. Mr Henson noted that as business confidence rises on back of potentially stronger job growth and lower tax reductions, BBT should see strength across its core banking operations.
- Out of M&A in the near term but looking to grow long term.** Management reiterated that it is out of the M&A game for now as it looks to execute on delivering its targeted synergies from recent deals. That said, management expects to eventually engage in M&A deals with BBT having the infrastructure for double its size, noting that scale has become important in the current regulatory landscape. When asked where investors would like BBT to focus on doing deals, 59% noted that it would like management to pursue fee related businesses while 23% would like management to prioritize dividend maximization.

Chart 16: Do you expect the deal activity in financial services to pick up in 2017?



Source: BofA Merrill Lynch Global Research

Chart 17: Once M&A is back on the table, where would you like to see BBT focus on doing deals?



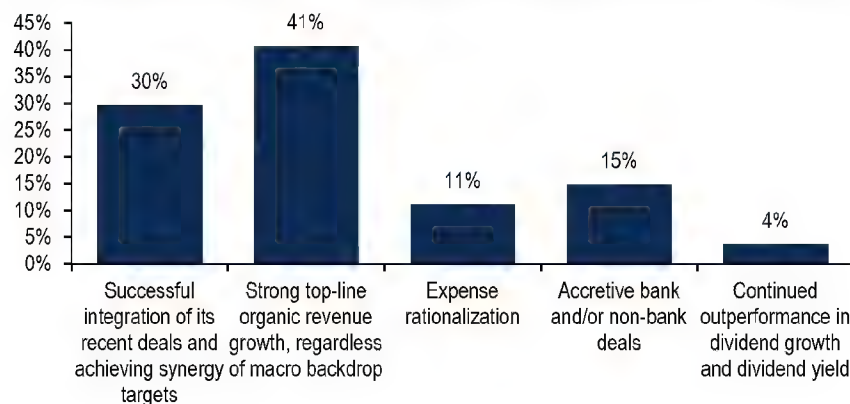
Source: BofA Merrill Lynch Global Research

- Well positioned from rising rates.** Given the outlook for higher interest rates on both the short and long end of the curve, Mr. Henson noted that while BBT tries to maintain a relatively neutral balance sheet, it would expect to see upside in the margin on back of higher rates. Additionally, higher long rates could also help drive

lower pension expense as it reduces the overall discounted pension liability given that BBT remains one of the few large regional banks that still have defined benefit pension plans.

- **Potential for regulatory relief requires BBT to reevaluate risk/compliance spending.** Management noted that 75-80% of its infrastructure budget is based around risk management and regulatory costs. Given the possibility of regulatory relief coming out of the new administration, management noted that it does not want to misallocate its expense spending. As such, management expects to redeploy some of those compliance related costs into revenue and service generation opportunities stemming from any regulatory relief.
- **Branches still have value, but the structure will likely change.** Mr. Henson noted that he still sees value from BBT's branch network but increasing customer usage across its digital channels and with branch transactions down 4%, he expects continued branch consolidation at a pace of more than 2-2.5% over the next couple years. Moreover, management believes that future branches will be likely be smaller in nature and staffed with fewer people that are cross trained with multiple responsibilities. As an example of this, Mr. Henson noted that BBT has combined its teller and relationship banking role into one branch banker role.

Chart 18: What do you think is the biggest catalyst for BBT shares over the next 12-24 months?



Source: BofA Merr. Lynch Global Research

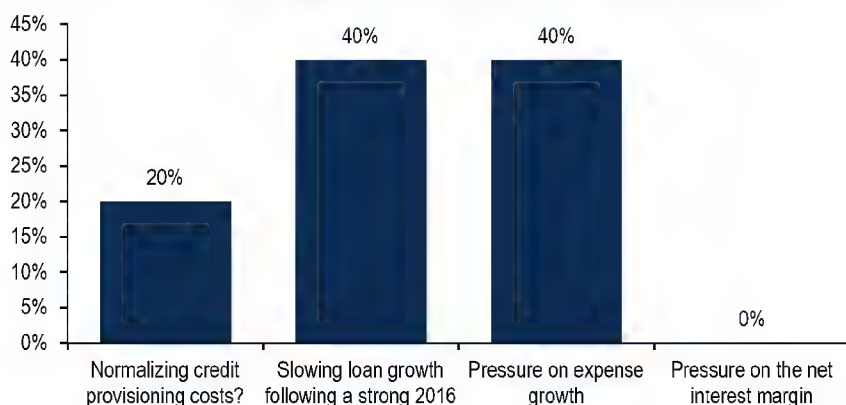
Bank of Hawaii (BOH), B-3-7, Underperform

- **Solid loan growth on back of a strong HI economy.** Chairman, President and CEO Peter Ho, Vice Chairman and CFO Kent Lucien and Senior Executive VP, Controller and Principal Accounting Officer Dean Shigemura were generally upbeat with regards to the operating outlook as we enter 2017. Management guided to achieving low double digit loan growth on the back of a robust Hawaiian economy. While management expects some moderation in C&I growth following a strong 3Q it sounded upbeat around the lending outlook given fairly healthy tourism activity. Management noted that while a de-emphasis on the Pacific Alliance, a priority for the Obama administration, was not a positive development, it remained fairly confident that strong military spending should continue to serve as a tailwind to the Hawaiian economy.
- **Credit outlook remains benign.** Mr. Ho affirmed the credit environment has been benign and believes BOH's strong credit will remain intact in the near future. As loan growth improves, Mr. Ho acknowledged provisions should follow a similar trend, but nothing on the horizon suggests credit will worsen anytime soon. Management acknowledged reserve balances are hard to predict, but believes the

greatest likelihood is for the loan loss reserve ratio is to stabilize near current levels.

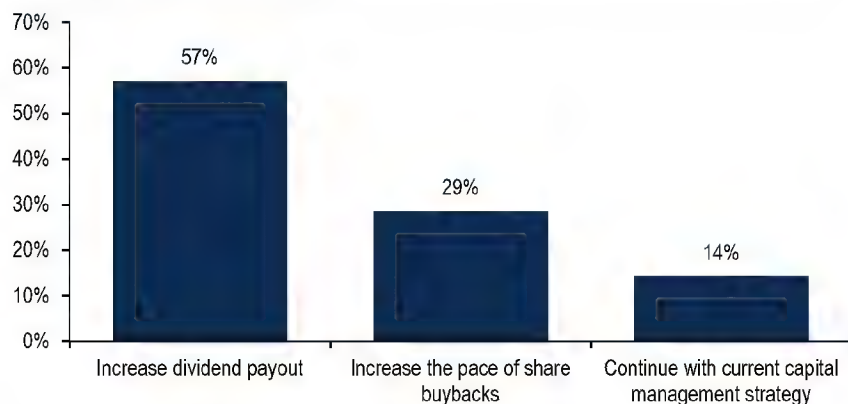
- **Remains asset sensitive.** Management acknowledged positive trends coming out of a future Trump administration, with one being the positive benefit from higher rates. With a December rate hike likely on the horizon, CFO Kent Lucien reminded investors that a 25 bp rate increase would benefit NII marginally (\$1.5mn on an annual basis), but as the 10yr continues to rally, spread income will benefit more significantly. A 100 bp increase contributes to a 5.2% increase in NII on an annual basis.
- **Continued focus on expenses.** Management expects expenses to come in at the upper end of their 3% to 3.5% guidance this year, mainly due to performance based expenses such as stock based comp and commissions. A potential source of expense savings should be reduction in the size of its branches, not necessarily overall count. While management has piloted this new branch design it believes that converting the entire branch network will be a multiyear process.
- **Capital deployment remains a priority.** BOH continues to provide great transparency in regards to their capital deployment strategy. Management reiterated their commitment to payout 50% of net income in the form of dividends, with a remaining portion going to buybacks. BOH has completed over \$400mn in buybacks over the past five years and noted that they are very comfortable with this strategy, given its proven track record.

Chart 19: What do you see as the biggest headwind to BOH's 2017 EPS growth outlook?



Source: BofA Merr Il Lynch Global Research

Chart 20: With regard to capital deployment, what would you like management to focus on?

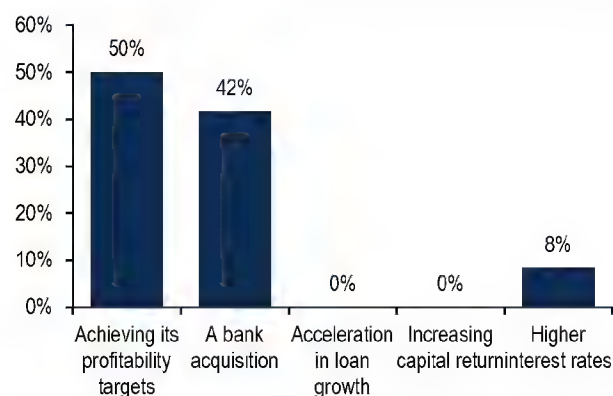


Source: BofA Merrill Lynch Global Research

Capital Bank Financial (CBF), C-1-7, Buy

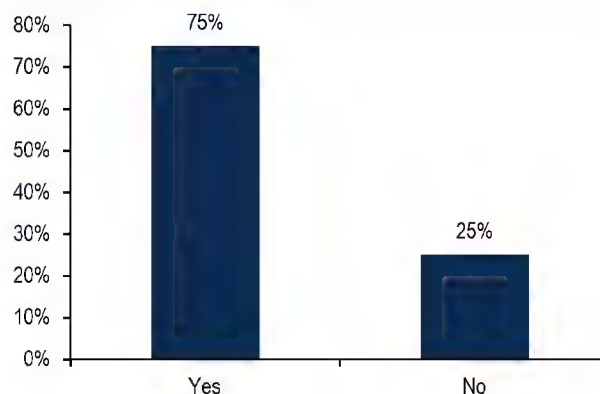
- **Investor expectations for CBF to achieve its ROA target increased YoY.** Of the audience polled, 75% believe CBF to achieve its 1.1% ROA by YE17. This compares to 67% of the audience polled last year. CEO Gene Taylor highlighted both the organic growth opportunities and limited expense growth for the bank to achieve its ROA target. Although the bank is expected to cross \$10bn in assets next year, management sounded confident that there would be little incremental expense growth as the bank has already built out leverageable systems.

Chart 21: What do you consider as the single most important catalyst for CBF shares in 2017?



Source: BofA Merrill Lynch Global Research

Chart 22: Do you think CBF will achieve its 1.1% core ROA target by YE17?

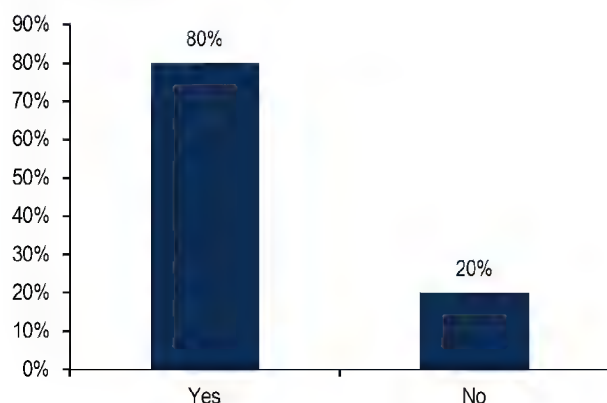


Source: BofA Merrill Lynch Global Research

- **Expectations around COB merger remain intact.** CBF reiterated their expectations to fully recognize the 39% of cost savings related to the CommunityOne merger by 2017 year-end. (Systems conversion is slated for mid-1Q17, with initial savings expected to be realized starting 2Q17). During their presentation, management introduced the source of these savings (new disclosure), with the majority expected to come from executive management compensation (23%) and back-office functions (33%).
- **Capital deployment remains a key catalyst for the stock.** Management agreed with the 80% of the audience polled that believe the pace of M&A activity will pick YoY (slightly better than last year's forward expectations). While management noted that it remains focused on integrating COB, and acknowledged that it remains

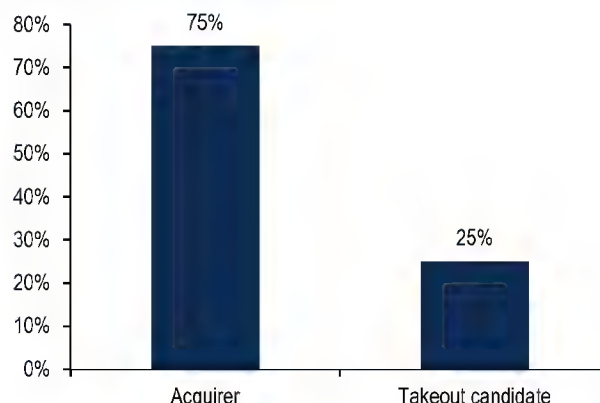
active in terms of M&A discussions, CBF continues to evaluate all opportunities that promise the best returns for shareholders. Interestingly, investor sentiment around CBF's positioning within the M&A market shifted, 75% of respondents believing the pro forma institution is better positioned to act as an acquirer. (Note last year, 55% of respondents believed CBF would be a takeout candidate in the medium term.

Chart 23: Do you think the pace of M&A activity will pick-up significantly in 2017 vs. 2016?



Source: BofA Merrill Lynch Global Research

Chart 24: Does the acquisition of CommunityOne better position CBF as an acquirer or a takeout candidate?



Source: BofA Merrill Lynch Global Research

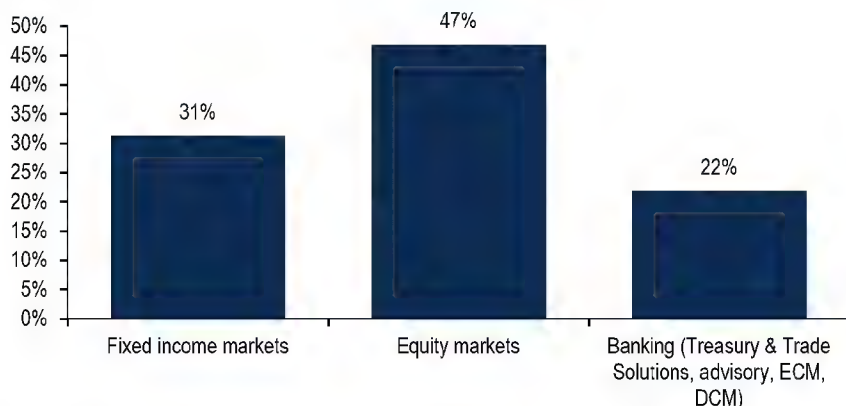
- **CBF expected to prudently grow in CRE as bank is underpenetrated.** CFO Chris Marshall acknowledged that there exist signs of frothiness within the multi-family lending segment. That said, he noted there is still room to grow as peers pull back in response to regulatory oversight (3Q: 161% vs. 300% threshold). That said, management remains selective and has implemented a 25-30% concentration limit (3Q: 22%).

Citigroup (C), B-1-7, Buy

- **Markets revenue up YoY so far, down from robust 3Q.** President and CEO of ICG Jamie Forese and CFO John Gerspach noted that at this current point in time, they expect a seasonal sequential decline in Markets revenue in 4Q, but revenues should be up YoY on back of stronger activity levels post the election. Moreover, banking activity is looking consistent with prior quarters.
- **DTA impact from lower tax rates.** Given the possibility of lower tax rates under the new administration, there have been many questions around what a potential tax cut could mean on C's ability to re-capture some of its DTA. Management noted that the impact will depend on 1) the ultimate tax rate, 2) either a worldwide or territorial regime, and 3) the time it takes to reflect the new changes. A federal tax cut would directly impact the \$21B timing related differences component of its DTA balance. Assuming a 20% decline in the federal tax rate, this would imply a \$4B charge to the P&L (20% X \$21B). That said, C has \$7B of timing difference DTA that is not includable in its regulatory capital. As a result, that \$4B impact would not have an impact on its CET1. In the event that there is a territorial regime, there is an element in its foreign subs equal to ~30% of the \$21B that would lose its value at an accelerated rate. Assuming a 25% tax rate and territorial regime, management noted that there would be roughly \$12B worth of DTA that would see some valuation adjustment and drive a \$4B of reduction in its regulatory capital.
- **Aiming to improve market share in Equities.** Management noted that C currently ranks around 8-9th in the Equities business and while it is not looking to achieve a top 3 market share, it would like to improve to around 5-6th. Management noted that the revenue gap to reaching that ranking is ~\$1B. While not all of that is

expected to fall to the bottom line, management noted that achieving this would be accretive to its overall margin. We note that when asked where is C's biggest opportunity to take global market share within ICG, 47% of those polled said the biggest opportunity lied within the Equities business.

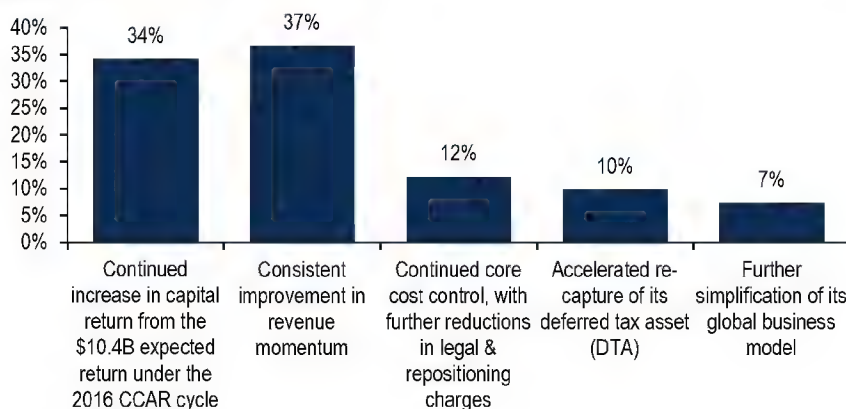
Chart 25: Where do you think C's biggest opportunity is to take global market share within its ICG business?



Source: BofA Merrill Lynch Global Research

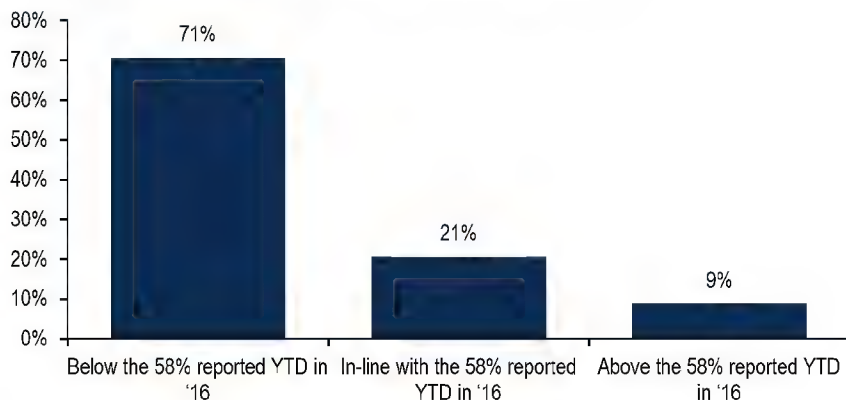
- **Lower regulatory constraints versus peers present opportunity.** Given C's strong regulatory position such as its above peer SLR ratio, management noted that it can compete in balance sheet intensive businesses such as Rates while more constrained peers are forced to pull back. In terms of its ability to take market share away from European banks, management noted that European banks are more likely to cede share in Fixed Income and less so within Equity and Banking.
- **Longer term goal of 14% ROTCE in ICG.** Management believes that under a more normalized rate environment and through its work towards improving efficiencies across ICG on back of its infrastructure refinements, ICG should be able to achieve a 14% ROTCE vs ~12% today.

Chart 26: Despite material progress, C shares still trade below TBV. What will drive shares to re-rate closer to TBV?



Source: BofA Merrill Lynch Global Research

Chart 27: Where do you see Citicorp's efficiency ratio settling in 2017?

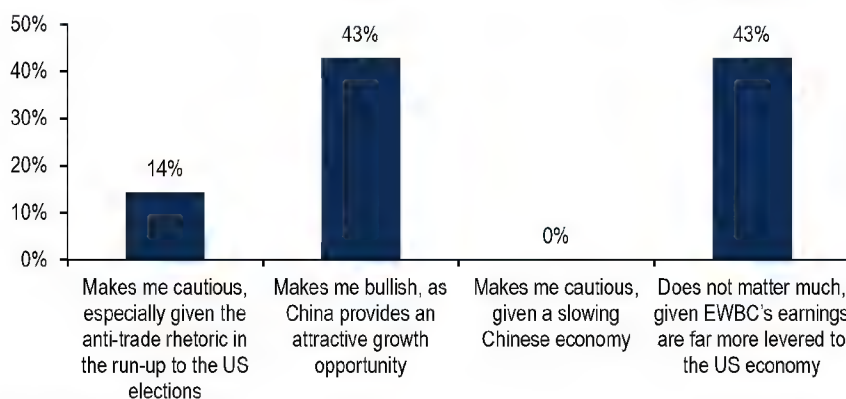


Source: BofA Merrill Lynch Global Research

East West Bancorp (EWBC), B-1-7, Buy

- **Sentiment post-election appears constructive on regulatory relief.** CEO Dominick Ng noted that the industry could be positively impacted should aspects of Dodd-Frank, which have been both challenging and taken up significant internal resources (even for banks below the \$50bn SIFI asset threshold), be reformed. Specifically, Mr. Ng believes the pace of expense growth could likely slow. That said, he noted the possibility to shift some of these expense savings to revenue generating areas.
- **EWBC sees limited impact from anti trade rhetoric during the run-up to the US elections.** Although recent political rhetoric on China has had a negative bias, Mr. Ng believes these views are primarily focused on the traditional-manufacturing Chinese industries vs. the country's current strategic emphasis on tech and consumer/retail. Despite having only a 4% exposure to Greater China (includes Hong Kong), EWBC benefits from its unique positioning, both as industry experts in parallel industries and as a relationship bank. Investor sentiment agreed; with 86% of the audience polled have a bullish view of EWBC's China exposure.

Chart 28: How does China exposure impact your investment thesis on EWBC?



Source: BofA Merrill Lynch Global Research

- **EWBC reiterated its strategy to sell CRE loans in favor of portfolio diversification.** Although Mr. Ng expressed caution on the overall commercial real estate (CRE) market, he noted seeing little tangible signs of concern within EWBC's footprint. That said, EWBC could continue to look to sell CRE loans in order to keep the loan portfolio balanced and thereby limit the reliance on any one segment. Note: CRE concentration was 261% of risk-based capital as of 3Q vs. 265% in 2Q.

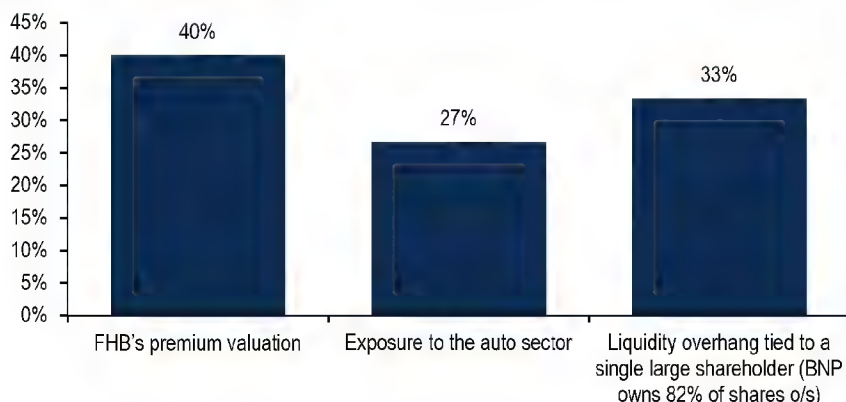
- **EWBC to maintain capital for organic growth opportunities.** As of 3Q, EWBC's CET1 ratio was 10.9%. While EWBC isn't opposed to using excess capital for an acquisition (depending on the market landscape), Mr. Ng prefers to use capital to support organic growth opportunities and the dividend (1.75% div yield). With respect to share repurchase, EWBC seemed less enthusiastic to buy back stock at current valuation levels (2.3x TBV).

First Hawaiian (FHB), C-2-7, Neutral

- **Positive outlook around the Hawaiian economy.** Chairman and CEO Robert Harrison and CFO/Treasurer Michael Ching were optimistic with regards to the outlook for the Hawaiian economy, particularly around tourism trends. While the recent strength of the dollar could impact the inflow of foreign tourists (with Japan and Canada the key foreign markets for HI) to the island, management noted that the potential for an increase in domestic tourism could help offset the pressure from any slowdown due to a stronger USD.
- **Positioned well for higher rates.** With regards to its outlook on the impact of potentially higher interest rates, management noted that it remains asset sensitive with 60% of its loan portfolio floating rate. On the funding side FHB expects the deposit beta to remain low given the competitive dynamics in the Hawaii landscape. Management anticipates that another 25bp increase in the Fed Funds rate in December could have a similar impact on the NIM (+6bp) as it experienced following the previous rate hike in Dec '15.
- **Cash deployment to securities completed.** Management noted that it has completed the liquidity actions that it planned to take from deploying excess cash into its securities portfolio and the full impact of this should be visible in 4Q results. Note the securities portfolio duration is 3.3yrs at the end of 3Q16. Management noted that it prefers to keep \$400-500mn at the Fed in cash liquidity.
- **Continued focus on maintaining dividend payout.** In terms of capital management, management reiterated that it would like to maintain a healthy dividend payout. Given that additional capital return from buybacks are limited due to the Fed's CCAR process (which FHB is subject to given that it is part of a larger holding company owned by BNP), management intends to increase its capital payout to shareholders (via higher dividend and buybacks) over time.

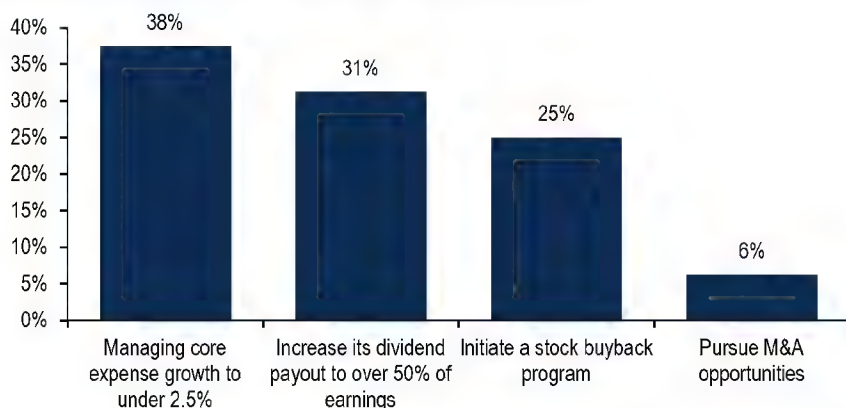
Expenses to stay relatively elevated in near term. During the audience poll, when asked about what management should prioritize in 2017, 38% of the investors polled noted that they would like management to manage core expense growth while 31% would like management to increase the dividend payout to over 50% of earnings. Management noted that the efficiency ratio would likely trend around 50%, modestly higher than the 48.5% it reported in 3Q as it incurs additional public company costs (\$14.5 – 17mn of expenses), but over time should move back below in the mid-to-high 40s.

Chart 29: What is the single biggest factor that would prevent you from buying or increasing exposure to FHB?



Source: BofA Merr II Lynch Global Research

Chart 30: What would you like management to prioritize in 2017?



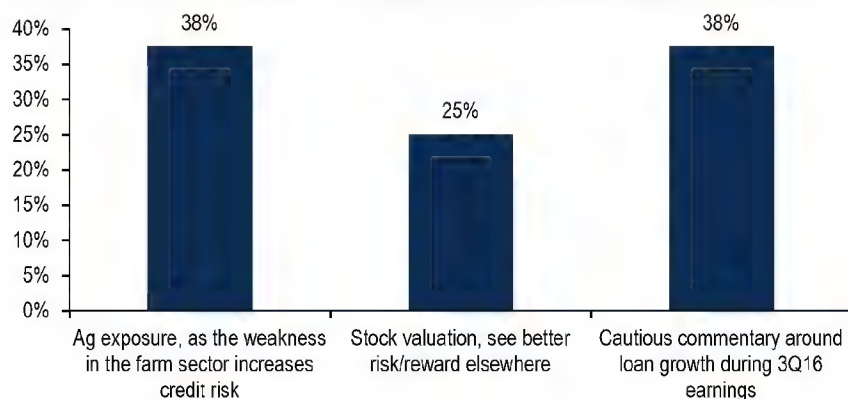
Source: BofA Merr II Lynch Global Research

Great Western Bancorp (GWB), B-1-7, Buy

- **GWB sees three potential benefits following the US presidential election results.** Chief Financial Officer Peter Chapman sounded optimistic that clarity around the corporate tax policy could act as a much needed impetus to spur lending activity. Secondly, current prospects for Head of Ag under the new administration are viewed as a net positive for the industry. Lastly, while GWB has already begun to see regulatory costs increase now that they've exceeded \$10bn in assets, management could see a potential for compliance costs to rationalize should the new administration reform the regulatory framework.
- **Management's revised growth rate outlook was meant to level set expectations.** During its 3Q16 earnings call, management tempered loan growth expectations slightly to "mid-single" digits for FY16 vs. "mid-to-high" single digits. Interestingly, this was the number one reason among investors polled as to why they were hesitant to increase their exposure to GWB. That said, management sounded optimistic about the growth opportunities within its AZ and CO markets. While growth in C&I should see continued momentum, management noted increased competition around pricing as banks tapped out of the CRE markets look to make C&I loans. On CRE, GWB sees itself as a potential beneficiary from pullback by some of its competitors. While management was generally constructive of the

CRE market across its footprint it noted some caution around the health of the market in Denver.

Chart 31: What is the primary reason keeping you from buying/increasing exposure in GWB?



Source: BofA Merrill Lynch Global Research

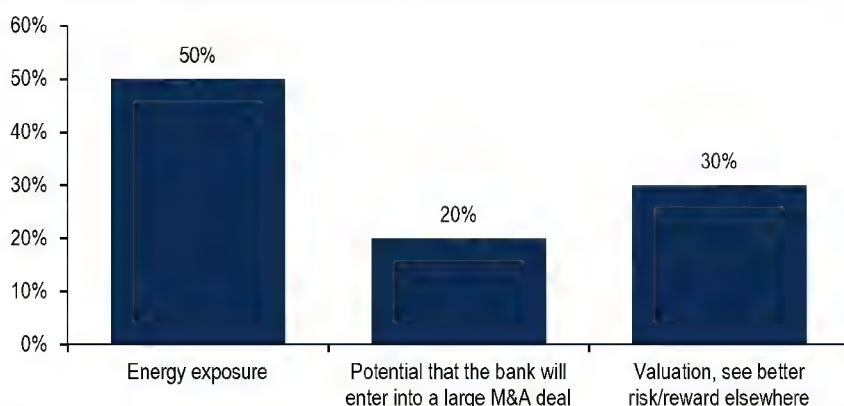
- **Ag portfolio offers unique opportunity, but management believes fears overstated.** As of 3Q16, ag loans represented 25% of the total portfolio (36% in grains, 50% in proteins and 14% in other). Tied for first at 38% as a reason why investors are hesitant to increase exposure to GWB resonates from the bank's ag exposure. While lower grain prices may constrain cash flow on those loans near-term, Mr. Chapman noted that this is offset by stronger yields. Management also highlighted the relatively low losses observed historically in this portfolio given the significant experience within GWB's management ranks in lending to this segment, including in the 1980s the last stress period for the farm sector. That said, management remains committed to this business as it is key to GWB's footprint.
- **Management reiterated its commitment to actively manage excess capital.** Although management is comfortable with its current capital levels (3Q: 9.5% tier 1 leverage), Mr. Chapman noted the bank's preference is to put its excess capital to work. Management reminded investors of the criteria it looks for in a potential target. While they continue to look for opportunities within their footprint, specifically IA and KS, they remain disciplined. In addition to its recently authorized repurchase program of \$100mn, management believes a total payout ratio of 30% is maintainable.

IBERIABANK (IBKC), B-1-7, Buy

- **Focused on moving closer to its strategic targets:** President and CEO Daryl Byrd and Senior Vice President John Davis were upbeat around the outlook for economic growth across IBKC's 10 state footprint as the bank looks out into 2017. While management has thus far not provided any specific guidance for 2017, we expect this to be forthcoming in conjunction with the announcement of 4Q16 results in January. Moreover, management sounded cautiously optimistic that pro-growth policies (if implemented) coupled with some relief on the regulatory front under the new Trump administration could lead to a much stronger growth outlook
- **Energy credit costs should trend lower:** Management noted the overall energy portfolio should continue to trend lower but is expected to moderate as run-off in stressed energy loans (and loan payoffs) are partially offset by new energy loans, with management looking to selectively lend again in the sector. Moreover, with energy criticized loans peaking in 1Q16, management expects the criticized loans to trend lower barring any major declines in oil prices.

- **Ready for M&A:** While a depressed valuation (due to the volatility surrounding oil prices) had kept IBKC out of M&A, given the recovery in valuation it noted its desire to pursue potential deals across its footprint. Management also noted that while the recent move in equity markets had pushed up valuations for potential publicly traded sellers, it sees significant opportunity among the privately held banks that may look for a merger partner to gain liquidity and monetize the improving sentiment surrounding bank stocks. From a size standpoint, management did not rule out larger deals. This is not surprising given that IBKC has not shied away from pursuing relatively large sized deals previously.
- **Rate increase to boost the margin:** In terms of its interest rate sensitivity, management noted that it retains an asset sensitive balance sheet, with a potential 25 basis point move in the Fed Funds rate expected to add 5c to quarterly EPS. That said, management recognized that slower mortgage activity due to rising long rates could temper the revenue outlook for its mortgage business.

Chart 32: What is the biggest factor that prevents you from owning or adding exposure to IBKC?

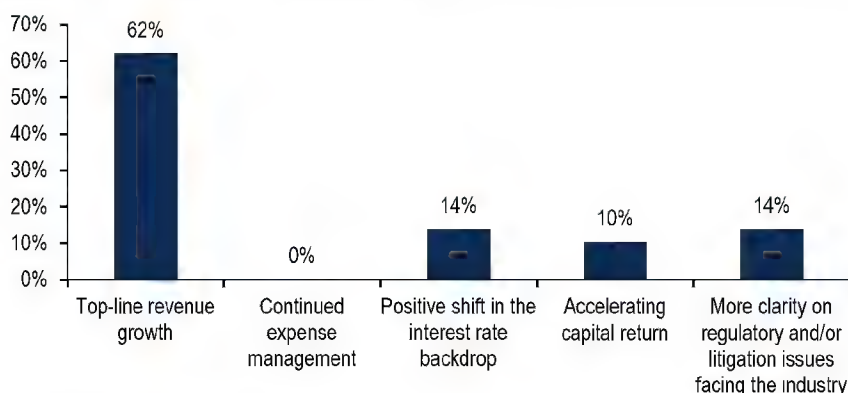


Source: BofA Merrill Lynch Global Research

JPMorgan Chase & Co (JPM), B-1-7, Buy

- **Pent up demand from macro uncertainty offers growth opportunity.** Doug Pento, CEO of JPM's Commercial Bank, sounded optimistic around the opportunity within commercial banking from the pent-up demand in the market that was constrained by the uncertainty surrounding the election. In addition, he highlighted the increased opportunity generated by JPM's expansion into 44 new markets since 2008, specifically in LA. This coincides with 62% of the audience polled who believe top-line revenue growth is most important for the stock to continue its outperformance.

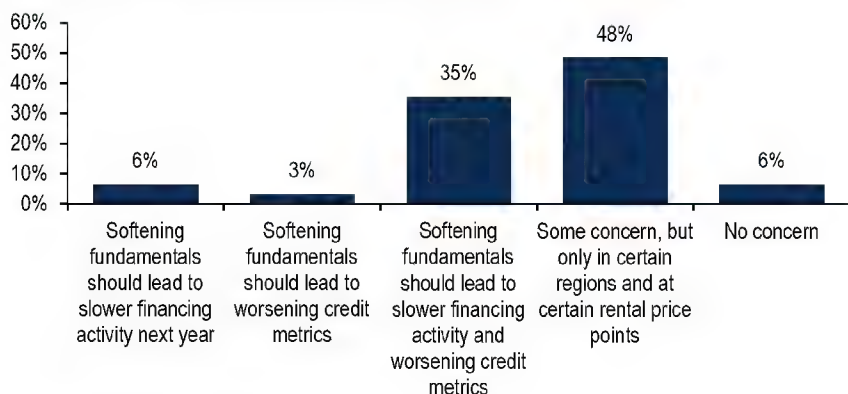
Chart 33: As a current or prospective JPM shareholder, what do you think is most important for the stock to continue its outperformance next year?



Source: BofA Merr II Lynch Global Research

- **JPM cautious on CRE; however, overall credit remains benign.** Forty-eight (48%) percent of the audience polled believe concerns around multi-family fundamentals will be concentrated in certain regions. Although credit for the overall bank remains benign, Mr. Petno believes we are in the later stages of the real estate cycle and expressed a cautious tone on the high-end condo/construction market. That said, JPM is primarily exposed to more stable, multi-family credit (i.e. rent-controlled apartments) where the average loan to value is 60%.

Chart 34: How do you view fundamentals for multifamily lending in 2017?



Source: BofA Merr II Lynch Global Research

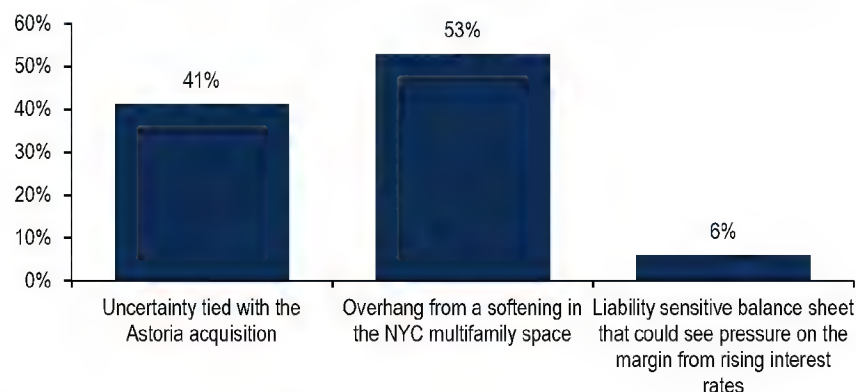
- **With tech/digital intellectual property at fingertips, capabilities within CB are on horizon.** Mr. Pento expressed his intention to leverage the technology that the Investment Bank has and the investments that the Consumer Bank has to build the right digital and mobile platforms for the bank's commercial clients. He noted that they have the largest investment and digital budgets ever this year and expect it to increase next year.

New York Community Bancorp (NYCB) C-1-8, Buy

- **Completion of Astoria acquisition best outcome for both banks:** Following the recent announcement of a regulatory delay in getting approval for the Astoria acquisition, NYCB CEO Joe Ficalora and CFO Thomas Cangemi reiterated that closing the Astoria deal represents the best outcome for both banks. Beyond that management was limited in its ability to talk about what particular factors led to the delay and refrained from providing a specific timeline to close the deal assuming that the BoDs at both banks agree to extend the deal deadline beyond

YE16. Management was quite clear that the bank was unlikely to cross the \$50bn SIFI asset threshold on an organic basis until the SIFI threshold is moved higher, which would take an act of Congress.

Chart 35: What is the biggest risk that prevents you from owning/increasing exposure to NYCB?

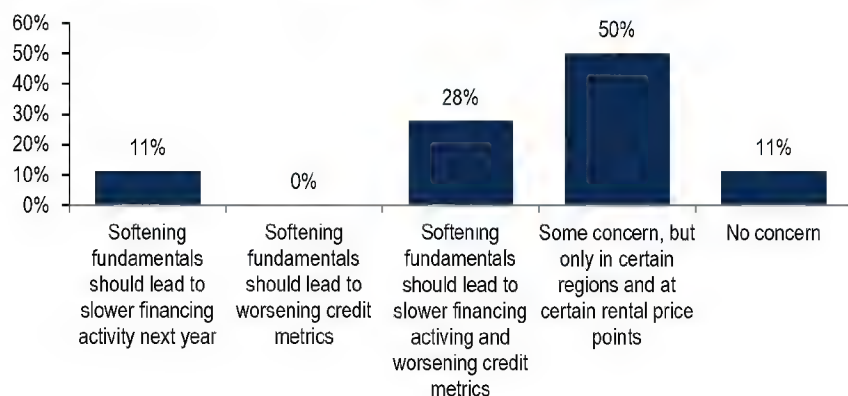


Source: BofA Merrill Lynch Global Research

- **Regulatory relief would be meaningful for NYCB:** Given that the prolonged timeline for gaining regulatory approval for the Astoria acquisition can be attributed to the pro-forma entity crossing over the \$50bn SIFI asset threshold, management noted the significant relief it would receive from legislative action that would push this threshold higher. This would not only make the regulatory burden following the closing of the Astoria acquisition more manageable, but would also allow NYCB to look at additional M&A opportunities once it integrates Astoria. Moreover, any potential relief on LCR compliance would also be welcomed by management as it would remove a source of significant pressure on its net interest margin.
- **Higher rates could accelerate refinance activity:** While investors tend to view rising rates as a headwind to refinance activity, management noted that it had already seen a pick-up in applications as borrowers look to lock-in rates based on the fear that rates could be significant higher 6-12 months out. As a result, this could provide a near term boost to the margin from higher prepay income.
- **Steepening yield curve leading to rising lending rates:** Management noted that it had recently increased its multifamily coupon by 0.375% to 3.50% on the improved interest rate environment. NYCB was not alone in this rate hike as SBNY commented that it recently moved up lending rates for its 5-year and 7-year fixed multi-family loans. Notably, the increased lending rates are above the current book yield of NYCB's loan book implying the potential to offset some of the potential pressure from higher funding costs following the December rate hike.
- **NYCB able to withstand downturn in multifamily market:** Management was also upbeat on its ability to withstand a downturn in the multifamily market given its history through multiple credit cycles of outperforming on credit metrics. While it is debatable how close we are to the next downturn, we believe that the defensibility of NYCB's balance sheet is a key strength of the bank and should create significant

organic and M&A driven growth opportunities during the next downturn. That said, management noted that it was very likely that potential pro-growth measures taken by the incoming Trump administration could push out any downturn, as in the short run the economy would witness stronger growth.

Chart 36: How do you view fundamentals for multifamily lending in 2017?

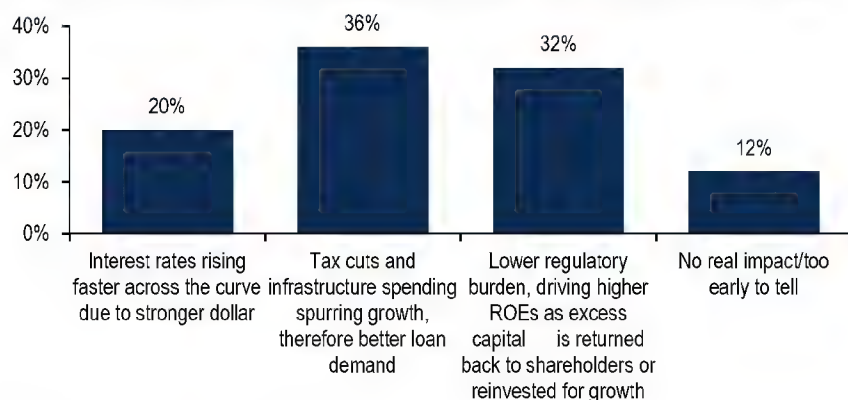


Source: BofA Merrill Lynch Global Research

Regions Financial (RF), B-2-7, Neutral

- **Regions harnessing consumer to drive growth:** Scott Peters, Senior EVP and Consumer Services Group Head, Logan Pichel, Consumer Lending Group Head, and Darren Smith, Treasurer, noted that Regions is utilizing its retail platform to drive growth. Management highlighted strength in mortgage, card, and online lending as avenues for growth. Importantly, management felt the US election has provided tailwinds for Regions revenue growth prospects heading into 2017. Combined with a better rate back drop, management sounded upbeat on its outlook.

Chart 37: What do you think is the biggest impact of the GOP sweep to bank earnings?

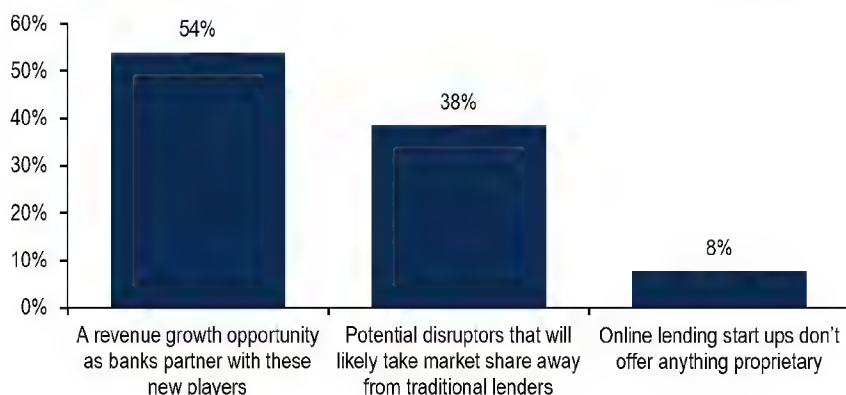


Source: BofA Merrill Lynch Global Research

- **Multiple channels to drive loan growth:** Management illustrated several avenues for loan growth. Within mortgage, Regions has 450 originators that generate 95% of its \$6bn in annual originations. Management is seeking to increase its originations from home loan direct and telephone banking to 15-20% of total originations (currently 5% of originations) given the greater profitability from these channels. Card growth has also been strong with active credit card growth at 12%

YoY and card penetration reaching 20%. Importantly, management is utilizing online lenders like GreenSky, a nationwide point-of-sale home improvement business, to drive growth as balances having increased to \$660mn (1% of loans) from its 2014 inception. Of note, management expects challenged growth in auto, though its exclusive lending to the prime space limits the credit downside.

Chart 38: How do you view the impact of new online lending startups on the banking industry?



Source: BofA Merrill Lynch Global Research

- **Possible tailwind from regulation:** Management at Regions noted that while it is still uncertain how the regulatory landscape will evolve, a more favorable environment could allow Regions to free up investments tied to regulatory initiatives and risk management. Management would likely direct these funds to product development and customer initiatives.
- **Asset sensitive, particularly to the long end:** Regions' executives noted its highly asset sensitive balance sheet given the more favorable rate back drop since 3Q. According to management, a 100bp parallel shift in the yield curve produces ~\$175mn in incremental spread revenue (11% of '17e operating income) with two-thirds of the impact coming from the middle to long end of the curve. Part of the benefit of a rate rise is derived from lower premium amortization on its investment portfolio from higher rates. Given the steepening of the yield curve, we expect Regions to benefit more than peers.
- **Branch network continuing to evolve:** Management intends to increase the productivity of its branches through several measures. Firstly, it is designing smaller, more visible locations to drive traffic. Management is also implementing the universal banker model, which has already resulted in 500 fewer tellers, in order to increase revenues at branches. Management noted that it expects to consolidate at the higher end of its expected 100-150 branch reductions, having already identified 90 branches for closure.

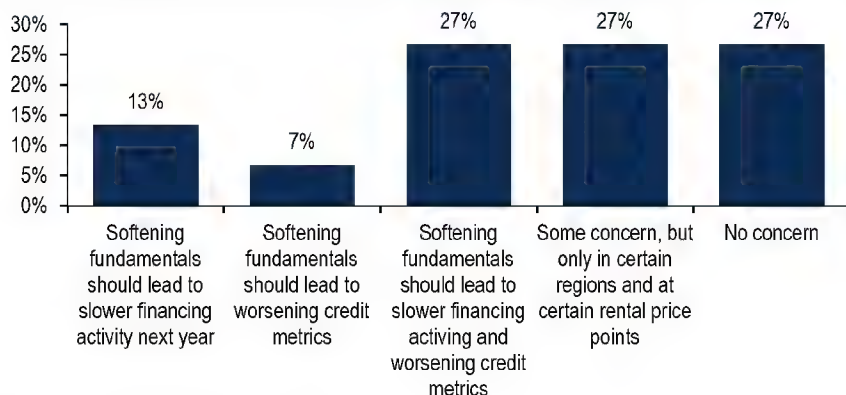
Signature Bank (SBNY), B-1-9, Buy

- **Focused on \$4-6bn asset growth target:** President & CEO Joe DePaolo & EVP Eric Howell sounded fairly optimistic about the outlook for balance sheet growth with \$4bn in loan growth and \$4.6bn in deposit growth YTD as of 9/30 vs. management target for \$4-6bn in annual asset growth. Management reiterated that the fundamentals of the multifamily business (which is focused on the low-to-moderate

income segment) have not changed despite the headlines surrounding a softening in the multifamily space.

- **Hiring bankers, even as team hiring on pause:** On the hiring front, management noted that although it does not expect to hire teams heading into year-end, it is continuing to hire individual bankers (recently hired 4 to 5 lenders). Hiring will be focused on C&I and specialty finance lenders. Management does not expect to hire additional CRE lenders.
- **Easing in regulatory environment could provide some relief on expense growth:** With regard to the potential for some easing of regulatory burden on the banks (important here as SBNY approaches the \$50bn asset threshold) under the incoming Trump administration management noted that it could see some abatement in expense growth associated with compliance costs. However, management is running the business based on the current regulatory framework and will look for more tangible signs before it makes any changes to investment decision, especially as it relates to the compliance infrastructure.
- **Lending rates reflecting the steepening in the yield curve:** SBNY noted that it had raised rates on its 5-year fixed by 0.125% to 3.5%- 3.625% and 7-year fixed up by 0.25% to 4.0%-4.125% following the steepening in the yield curve over the last week. We note that this was echoed by SBNY's NY rival NYCB which also noted increasing rates on lending products in the aftermath of the move higher in interest rates. We believe higher rates associated with new loans and better reinvestment opportunities in the securities portfolio should serve as a tailwind to the margin even as funding costs will likely trend higher, especially as the Fed raises interest rates by 25bp in December.
- **Regulatory scrutiny on multifamily lending manageable:** With regard to the heightened regulatory concerns surrounding CRE multifamily lending (multifamily is 50% of SBNY's loan book), management noted that it has implemented a new loan system likely coming on line in 3Q17 which should allow the bank to analyze the loan portfolio at a more granular level. Management is also underwriting fewer interest only multifamily loans in response to the regulatory concerns. Although, it noted that it was not losing any significant business due to this as competitors had also pulled back and borrower ability (in most instances) to service a non-interest only loan.

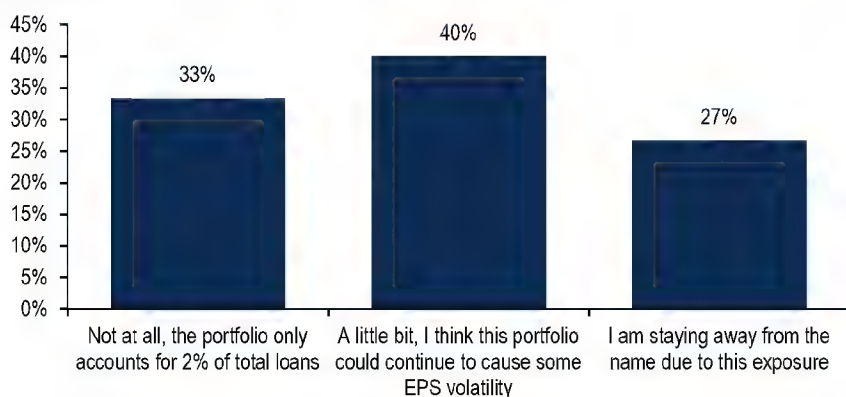
Chart 39: How do you view fundamentals for multifamily lending in 2017?



Source: BofA Merrill Lynch Global Research

- **Confident past most of taxi medallion issues:** Management expressed confidence that it has taken care of most of the issues on its Chicago taxi medallion loan book and is seeing stabilization of its New York book with New York fleets near 100% utilization. Management also expects the \$20mn +/- in quarterly provisioning outlook to absorb the impact from any incremental provisioning associated with the medallion portfolio.

Chart 40: How much does SBNY's taxi medallion exposure impact your decision to invest in the stock?



Source: BofA Merrill Lynch Global Research

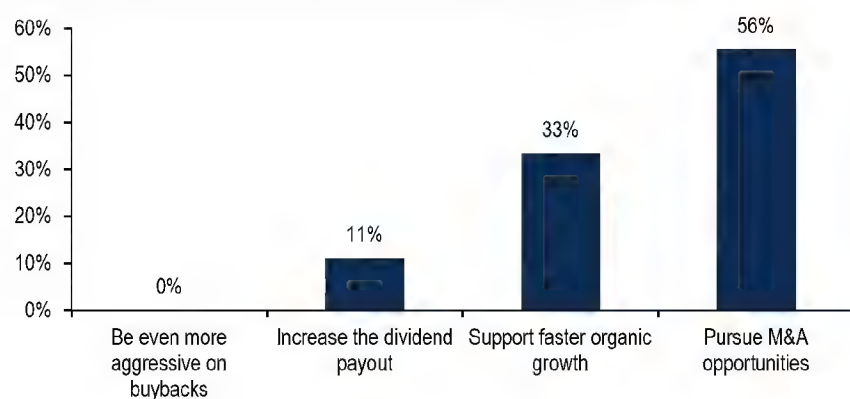
Synovus Financial (SNV), C-2-7, Neutral

- **SNV hesitant to react too quickly to post-election excitement.** Chairman and CEO Kessel Stelling noted that despite the very positive reaction seen in bank stocks from the results of the US elections, it was too soon to say the real impact on growth outlook. That said, he believes that a more encouraging business climate (i.e. increased infrastructure spending) as well as some regulatory relief (i.e. raising the \$50bn asset threshold) could be a benefit for SNV and the overall industry.
- **SNV could see a benefit at both ends of a steepening yield curve.** As of 3Q16, 50% of SNV's total loan portfolio was fixed rate (includes variable rate loans with floors), implying a benefit to spread income from a rise in both the short- and long-end of the yield curve. With the futures market now pricing in a 94% probability the Fed raises rates in Dec., CFO Kevin Blair believes the net interest margin could expand by 6bp in from a 25bp rate hike (vs. +9bp last year). That said, the benefit is

dependent on what happens with deposit costs. SNV's current sensitivity analysis assumes a 50-60% deposit beta.

- **SNV keenly focused on credit.** Chief Credit Officer Kevin Howard noted expectations for net charge-offs to naturally tick up as recoveries become less of a benefit and some seasoning in the loan portfolio. Recall during its earnings call, management lowered its FY16 net charge-off range to 10-20bp (3Q: 12bp). Mr. Howard noted that he would not be surprised if NCOs increased to 15-20bp in 2017 (cons: 12bp) and stay near those levels for the near future.
- **Management reiterated its intent to continue to deploy excess capital.** Although SNV will disclose a more detailed capital plan in January, management expects to continue deploying excess capital via buybacks, M&A and/or organic growth. When asked how management should utilize its excess capital, 56% of the audience polled prefers SNV pursue M&A opportunities (vs. 8% last year). In reaction, Mr. Stelling noted continued interest in strategic acquisitions (like Entaire) but hesitant to execute a large, dilutive transaction. While DTA accretion could allow for continued share repurchase, management may choose to be a bit more opportunistic around buybacks given the run up in the stock.

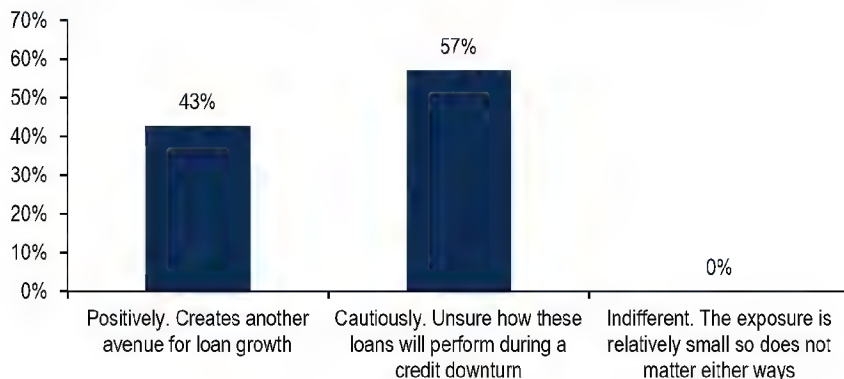
Chart 41: What would you like to see management do with its excess capital?



Source: BofA Merr Il Lynch Global Research

- **Management is positive but cautious on online lending partnerships.** Investors were also relatively split in how they view SNV's partnerships with online lenders SoFi and GreenSky. The majority (57%) remains cautious on how these loans will perform during a credit cycle. Mr. Stelling agreed; however, he believes these partnerships represent the right vehicle to help the bank grow its retail portfolio to 20-25% of loans (in line with its strategy to transition away from CRE) and achieve its 1.0% ROA target (3Q: 0.88%). Although we note that SNV is being deliberate around growing this book and is targeting these loans to grow to approximately 2-3% of total loans.

Chart 42: How do you view SNV's partnerships with online lenders (SoFi/GreenSky)?

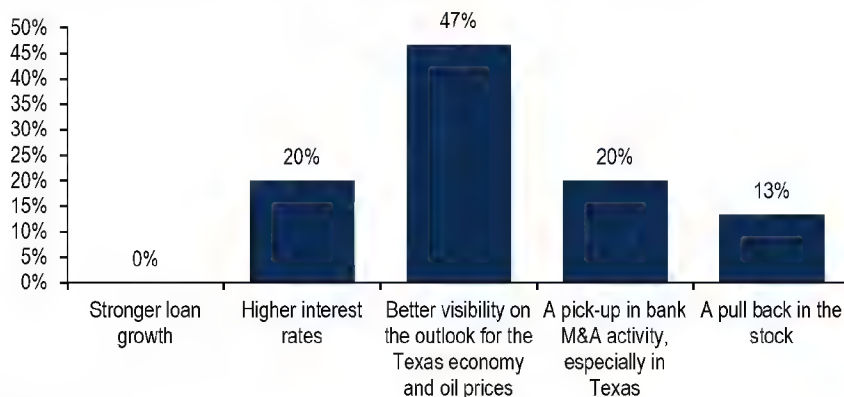


Source: BofA Merr Il Lynch Global Research

Texas Capital Bancshares (TCBI) C-2-9, Neutral

- **Upbeat on business outlook:** TCBI's President & CEO Keith Cargill, CFO & COO Peter Bartholow, CAO Julie Anderson, and CLO Vince Ackerson were relatively upbeat about TCBI's business outlook. Management expects its mortgage businesses, particularly MCA to be to be a source of strength even if overall mortgage volumes were to slow down due to the rise in interest rates. Management expects to mitigate the negative impact from lower mortgage activity by picking up greater wallet share of existing clients and given the option to bring back to the balance sheet loan participations. Regarding expenses, despite expectations for an uptick in the efficiency ratio over the next couple of quarters management expects to beat its 2016 efficiency guidance (low-to-mid 50s).

Chart 43: What would drive you to buy or increase your positioning in TCBI?

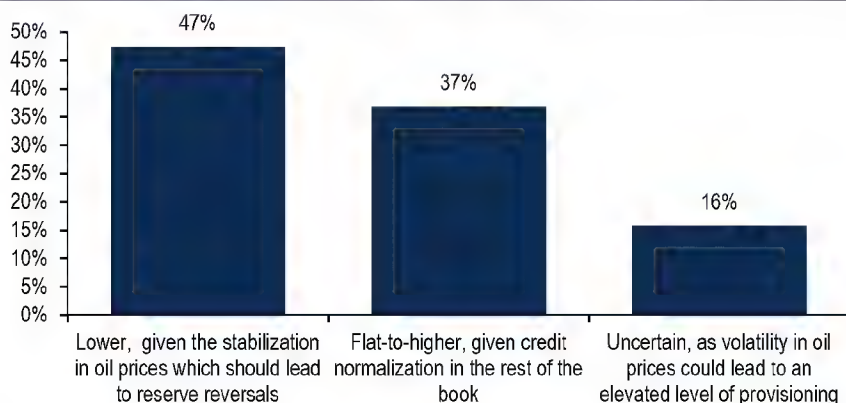


Source: BofA Merrill Lynch Global Research

- **Credit provisioning likely to trend lower in 2017:** During an investor poll, nearly half of investors expect credit provisions to be lower in 2017 vs. 2016, based on expectations for stabilization in oil prices. Management expressed comfort that reserve levels should be adequate even if oil prices were to decline to the mid-to-high \$30s in the near term (vs. spot WTI prices of \$45/bbl today). However, management would need to consider increasing its reserve level if oil falls to the high \$20s. Conversely, if oil stabilizes in the high \$50s-low \$60 levels, management could consider reserve releases. Management stressed on looking at the forward curve when assessing the impact from oil prices on credit costs vs. the spot rate.

With regard to growth in the energy book management expects balances to stay relatively flattish as new growth is offset by pay downs and deleveraging.

Chart 44: Where do you see TCBI's provisioning in 2017 relative to 2016?



Source: BofA Merrill Lynch Global Research

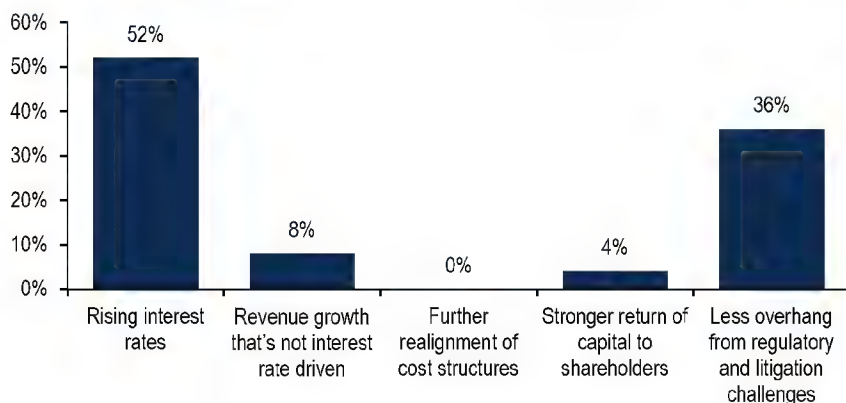
- **Mortgage growth to continue despite a downshift in activity:** Management was optimistic on the outlook for both its mortgage businesses – warehouse lending and MCA businesses. Management expects both these portfolios in aggregate to total 28-33% of average total loan portfolio. Management tried to debunk the perception that the MCA business was cannibalizing its warehouse lending business and noted that two business were complimentary in nature. Moreover, while initially the vast majority of the MCA customers were the ones that TCBI had a relationship on the warehouse lending side, it noted that that number had fallen to 50% and is likely to move lower over the coming quarters. TCBI has a dedicated sales force prospecting for the MCA business.
- **Next rate hike to give a bigger boost to EPS:** Management noted its high asset sensitivity with most of their loans tied to LIBOR and prime and its expectations for an increase in funding costs to remain relatively tempered. With strong demand deposit growth during the year and a \$1bn reduction in loans with floors (from \$3.1bn to \$2bn), TCBI has become more asset sensitive relative to last year, when a rate hike led to a \$4mn increase in spread income. Management expects a Dec rate hike to boost spread income by more than \$4mn a quarter.
- **Remains cautious around CRE lending:** Management noted that it intends to grow CRE more slowly as it de-risks the portfolio and until it sees a turn in the cycle. However, management is optimistic on the credit quality of CRE, particularly noting that trends in its Houston real estate portfolio (Houston special mention loans are 1% of Houston CRE) continue to be fairly benign.

US Bancorp (USB), B-2-7, Neutral

- **Strong growth outlook across the business spectrum.** CEO Richard Davis provided an upbeat view around the outlook for the economy across the business spectrum ranging from small businesses to large corporates and noted that businesses could drive the economic recovery vs the consumer side.

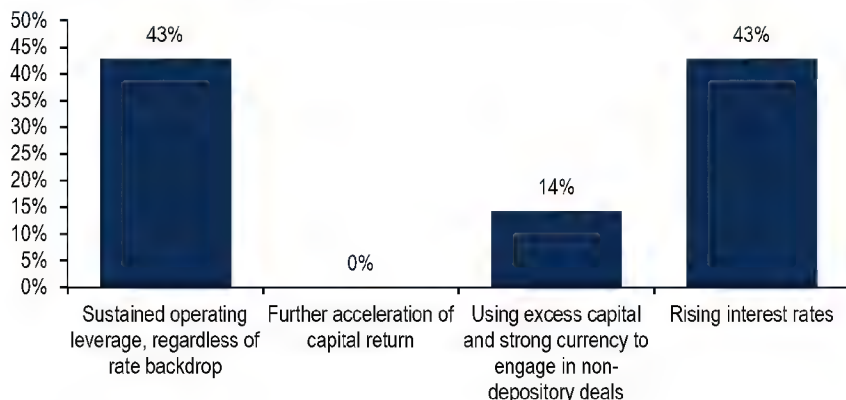
- **Continued Investments in regulatory costs despite potential regulatory relief.** On the topic of regulation, management noted that it is still too early to know what type of regulatory relief banks of USB's size may receive so management has not slowed down any of its investments in regulatory costs.
- **Long term 13.5- 16.5% ROE target unchanged.** Despite the outlook for higher rates, management noted that it was not going to change the range at this point of time but noted that USB could reach the top end sooner than later if its outlook proves accurate.
- **Risk management compliance expenses sustaining at this level.** Management noted that while compliance related expenses could trend lower following the new administration, it will continue to invest and the impact will likely not be meaningful.
- **In terms of innovation projects, 86% of those polled noted that it should invest in innovations projects that are self-funded.** Davis noted that given the importance of innovation, it would not just self-fund those expenses and would look to spend money for long term benefits. In terms of its P2P initiative with Zelle, Davis was optimistic around its growth.
- **In terms of potential M&A, management noted that it would look for in market opportunities and double down where it has scale.**

Chart 45: What do you consider to be the most important catalyst for large-cap banks in 2017?



Source: BoFA Merrill Lynch Global Research

Chart 46: What do you consider to be the most important catalyst for USB in 2017?



Source: BoFA Merrill Lynch Global Research

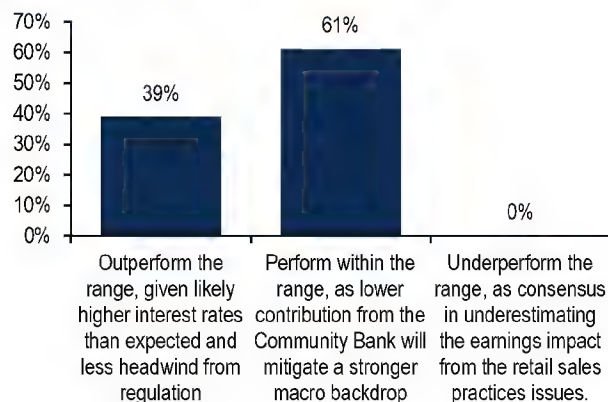
Wells Fargo & Co (WFC), B-1-7, Buy

WFC sees modestly better benefit from steepening yield curve vs parallel shift.

Following the election, the 10yr yield is up 37bp while futures currently imply a 94% probability the Fed raises rates in Dec. As such, Treasurer Neal Blinde noted that WFC could realize a modestly better benefit to spread income from a steepening yield curve vs. the current +\$150mn/qtr expectation from a 25bp parallel shift. He outlined how the bank's actions to manage an interest rate cycle via balance sheet positioning protect on the downside (i.e. post-Brexit) while at the same time allow for an uptick when rates rise. WFC received numerous investor questions on when they would deploy its dry power (\$572bn in liquidity), and management noted that the rate backdrop – not question marks on deposit duration – mostly drove deployment decisions.

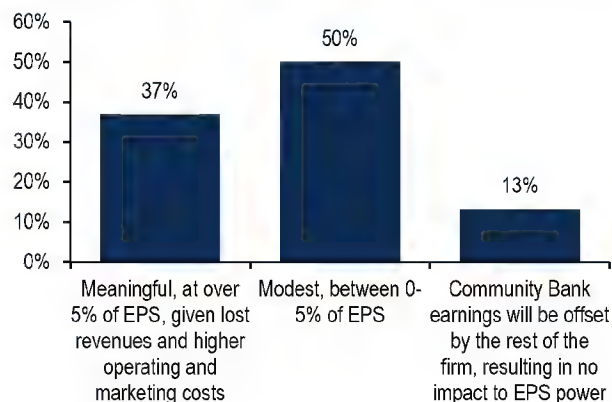
- WFC reiterated its performance targets disclosed at its Investor Day. WFC reiterated its 2-yr performance targets: **(1)** 1.1-1.4% ROA; **(2)** 11-14% ROE; **(3)** 55-59% efficiency ratio; and **(4)** 55-75% net capital payout. As of 3Q16, the bank is currently within these ranges on all metrics except for efficiency (3Q: 59.4%). This is consistent with the 61% of the audience polled that expect WFC to perform within the targeted ROE range as headwinds from Retail Banking is offset by an improvement in the macro-economy. That said, 50% of the audience polled believe the issues arising from the retail sales issue will modestly impact earnings (0-5%).

Chart 47: Based on your post-election outlook for 2017, how do you think WFC will perform against this 2 year target?



Source: BoFA Merrill Lynch Global Research

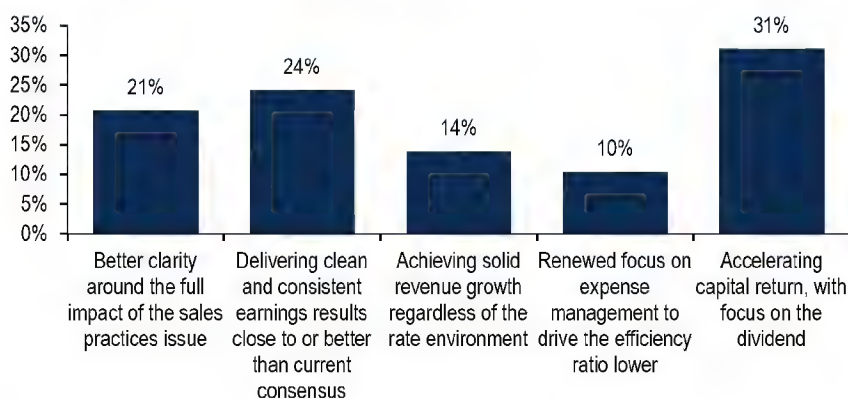
Chart 48: What do you think is the earnings impact of the retail sales practices issue?



Source: BoFA Merrill Lynch Global Research

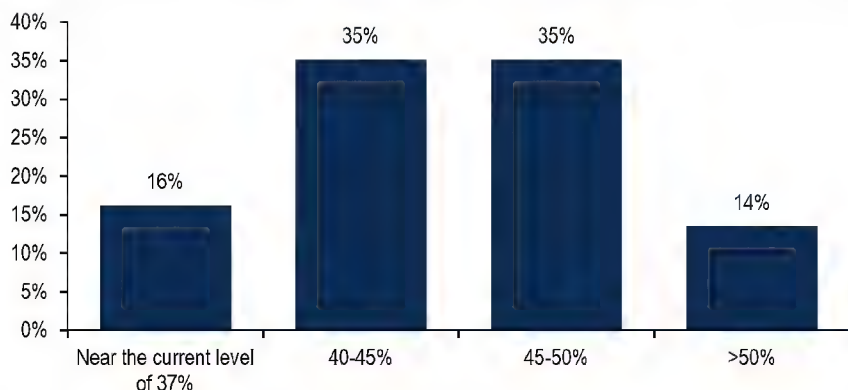
- **WFC continues to make progress on regulatory compliance.** As of 3Q, WFC's current total loss absorbing capacity (TLAC) shortfall was 2.1% of risk weighted assets or \$29bn (\$43bn including its internal buffer), an \$8bn QoQ improvement. That said, Mr Blinde assured investors that WFC will continue to focus on deposit growth (66% of total funding) even as its long-term debt needs continue. WFC is compliant with the liquidity coverage ratio (LCR).
- **Potential changes to annual stress test process viewed as positive.** Mr. Blinde noted that potential changes to the annual stress test process, as proposed by Gov. Tarullo in Sept., is a "real" positive, specifically as it reduces any variance between how the stressed risk weighted asset balance is calculated. This is likely positive for the majority of investors polled (31%) who think capital return is the biggest catalyst for the stock and the (70%) who see the dividend payout growing towards the 40-50% range long-term (currently 37%).

Chart 49: What do you think is the biggest catalyst for WFC shares over the next 12-24 months?



Source: BofA Merr Il Lynch Global Research

Chart 50: As a result, what do you think WFC's long-term dividend payout ratio will be?



Source: BofA Merr Il Lynch Global Research

- **Note:** WFC is scheduled to report October customer activity in Retail Banking on Thur, Nov. 17th at 9am ET.

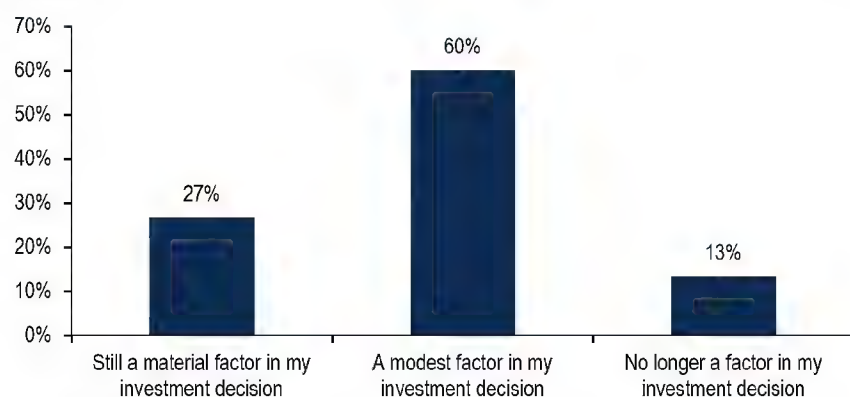
Zions Bancorporation (ZION), C-3-7, Underperform

- **Sentiment post-election appears constructive on growth prospects.** Consistent with other bank management teams speaking at this year's conference, CFO Paul Burdiss noted that small businesses have been reluctant to invest given the

uncertain macro backdrop. That said, following the results of the election, and assuming the new administration can create fiscal stimulus, management sounded optimistic around growth prospects in C&I (10% ex-energy YoY), owner-occupied, etc.

- **Energy portfolio performing in-line with expectations.** Management reaffirmed the >8% allowance on its energy portfolio (\$2.3mn or 5% of total loans) remains sufficient to cover future losses. However, continued stress in its oilfield services portfolio (26% of portfolio) remains the primary reason behind ZION's cautious view. This was consistent with the 60% of the audience polled whose ownership in the stock is modestly influenced by this portfolio. That said, until supply/demand fundamentals improve or activity picks up, material reserve release is unlikely.

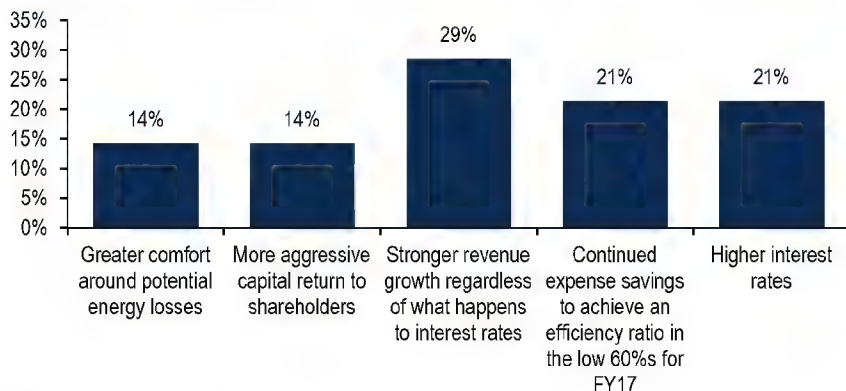
Chart 51: How much does credit quality in ZION's energy portfolio influence your decision on owning the stock?



Source: BoA/Merrill Lynch Global Research

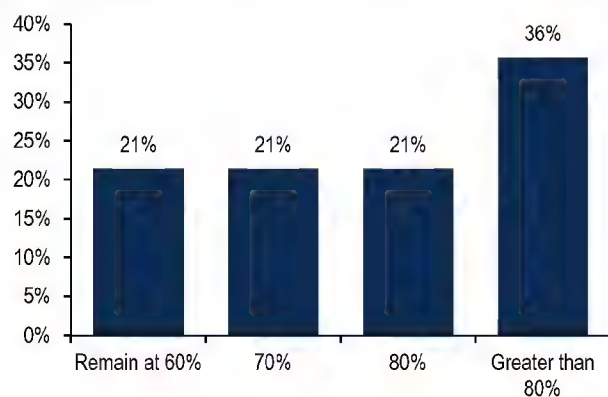
- **Steepening yield curve a modest benefit, though short-end matters more.** Despite recent actions that have reduced the bank's asset sensitivity, ZION remains the most asset sensitive among US banks. For a 25bp rise in the short-end, ZION estimates a \$30mn incremental benefit to spread income. That said, due to the variable-rate mismatch between assets/liabilities, a steeper yield curve is expected to have a marginal impact.
- **Potential changes to CCAR viewed as positive for ZION.** Mr. Burdiss viewed the potential change to the annual stress test (CCAR), specifically the static RWA balance, as net positive for the bank/industry. That said, overall these changes are immaterial as CCAR remains their capital constraint. Although only 14% of the audience polled think more aggressive capital return is the most important catalyst for the stock (top response: 29% for stronger revenue growth), investor bias leaned higher as it relates to total payout.

Chart 52: What do you consider as the single most important catalyst for ZION shares in 2017?



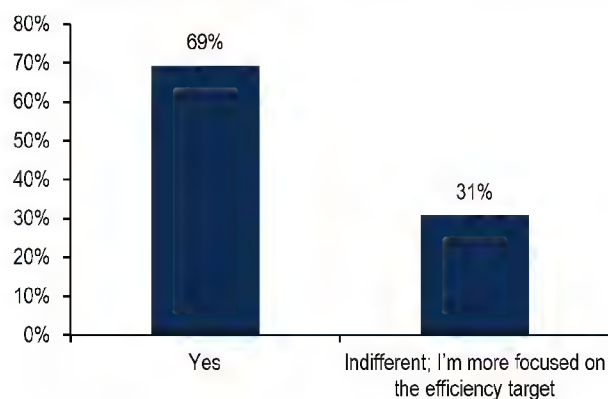
Source: BofA Merrill Lynch Global Research

Chart 53: Compared to this year's CCAR capital ask which implies a total payout of ~60%, what level would you like to see ZION's 2017 CCAR payout increase to?



Source: BofA Merrill Lynch Global Research

Chart 54: ZION expects total expenses in 2016 to come in below \$1.58bn and then slightly increase in 2017. Would you prefer absolute expenses be flat to down in 2017?



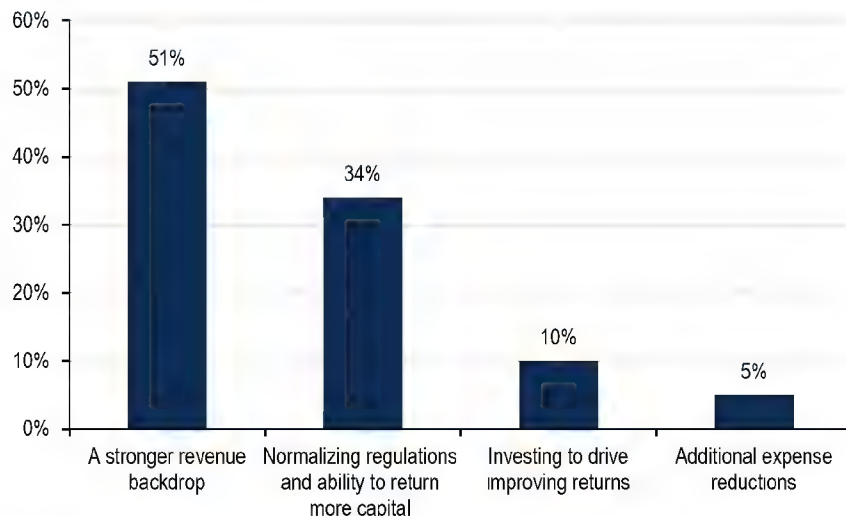
Source: BofA Merrill Lynch Global Research

Brokers Top 5 Takeaways

Goldman Sachs (GS), B-1-7, Buy

- GS' Harvey Schwartz, CFO, and Harit Talwar, Head of Digital Finance presented at our conference. Overall, Harvey and Harit were optimistic about the consumer lending opportunity with Marcus as well as the overall outlook for the firm.
- When asked about what would get investors more interested in GS stock, 51% of the investors responding to the poll voted for a stronger revenue backdrop, while 34% voted for normalizing regulations and ability to return more capital.

Chart 55: What would get you more interested in investing in GS stock?



Source: BofA Merrill Lynch Global Research

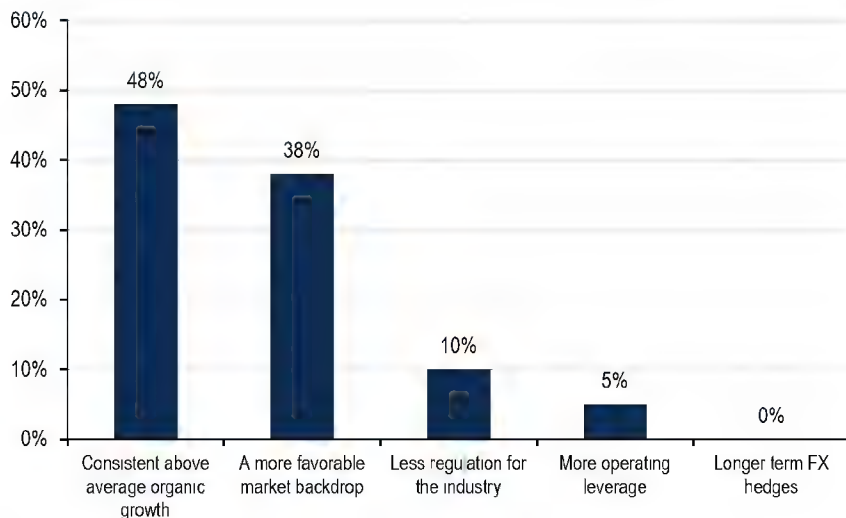
- Management focused the presentation on Marcus, Goldman's new consumer lending effort. This venture has significant potential with an unsecured consumer loan target market of \$850B and Goldman coming to the market with a unique skillset of technology and risk management, no channel conflicts or bricks and mortar, a strong balance sheet that can provide loans at a meaningful discount to peers, and a long history in the financial markets with a strong brand. When fully ramped up, this unit could produce pre-tax ROA's of 3-4%, and assuming 9-11% equity commitments, this could translate into a high teens ROE.
- Given the positive sector/GS stock reaction post the election, management was asked on what they thought about the future of current regulation and activity levels. While they said it is too early to tell the impact, a lower corporate tax rate would benefit GS some, a pro-growth policy could positively impact confidence/activity levels, and some de-regulation could ease some of the operational challenges, though much of the regulation was well intended and has created a stronger industry.
- In terms of the current environment, GS didn't give an exact update, but said activity has been healthy and around the election activity was similar to around Brexit (slow before and very active post). Most other firms also mentioned positive trends in 4Q, with normal seasonality, but up materially year over year.

Asset Managers Top 5 Takeaways

Invesco (IVZ), C-1-7, Buy

- Presenting from IVZ was Loren Starr, CFO. Overall Loren was optimistic on the outlook for IVZ to generate above average organic growth given its product mix and performance, deliver cost savings, and accelerate buybacks, and does not expect a significant change in the DOL impact from the election.
- When asked what would get investors more excited about investing in IVZ stock, the majority of respondents said that a consistent above average organic growth rate would get them most excited (48%), followed by a more favorable market backdrop (38%), less regulation (10%), and more operating leverage (5%), while nobody said longer term FX hedged would get them more interested.

Chart 56: What would get you more interested in investing in IVZ stock?



Source: BoFA Merrill Lynch Global Research

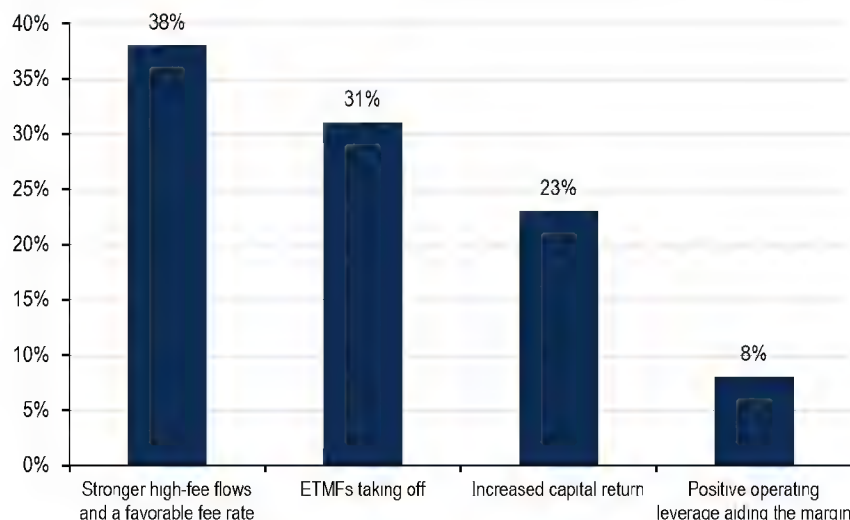
- IVZ is confident it can achieve its 3-5% organic growth rate driven by three main pillars. The first being the ongoing search for yield driving fixed income flows/allocation which IVZ has benefitted from and should continue to benefit given their strong performance, distribution, and product set. The second being ongoing “barbell” by clients which drives flows into passive and alternatives, two products IVZ has leadership in. Lastly, IVZ sees opportunity in its institutional channel, particularly in Asia which has had notable momentum.
- Given the run up in rates, IVZ touched upon its fixed income exposure and what might be at risk of underperformance/outflows. IVZ mentioned roughly \$100B of its AUM or ~13% was in fixed income that didn’t include short duration or floating rate, a number they feel is relatively small compared to some of its peers. Additionally, within that \$100B a major portion had been underperforming because of strategic shorter duration, which in a rising rate environment should lead to outperformance and potentially negate some of the flow headwind.
- Regarding potential changes from the election, while very early, management thinks that whatever happens to the DOL Fiduciary Rule (delay, modify, etc.), the industry has already been shifting in a fiduciary direction, and they expect that to continue, though the pace could vary depending on the eventual outcome. Additionally, IVZ is relatively well positioned given its diversification among ETF/passive and active strategies, as well as similar regulations in Europe that it has managed through. In terms of a lower corporate tax rate, that would not have much impact to IVZ given its Bermuda domicile.

Eaton Vance (EV), B-3-7, Underperform

- Presenting from EV was Thomas Faust, CEO, Laurie Hylton, CFO, and Dan Cataldo, Head of IR and Treasurer. Management reported relatively positive F4Q flows, expects organic growth to hold up well given its mix and performance, and does not expect a significant change in the DOL impact from the election, but would expect a significant benefit from a lower US corporate tax rate.
- When asked what would get you more interested in EV’s stock, the majority of investors were fairly split between better high fee flows and ETMFs taking off (38%/31% respectively). Investors also thought increased capital return was

important (23%) while investors thought more operating leverage was least important for EV (8%).

Chart 57: What would get you more interested in investing in EV stock?



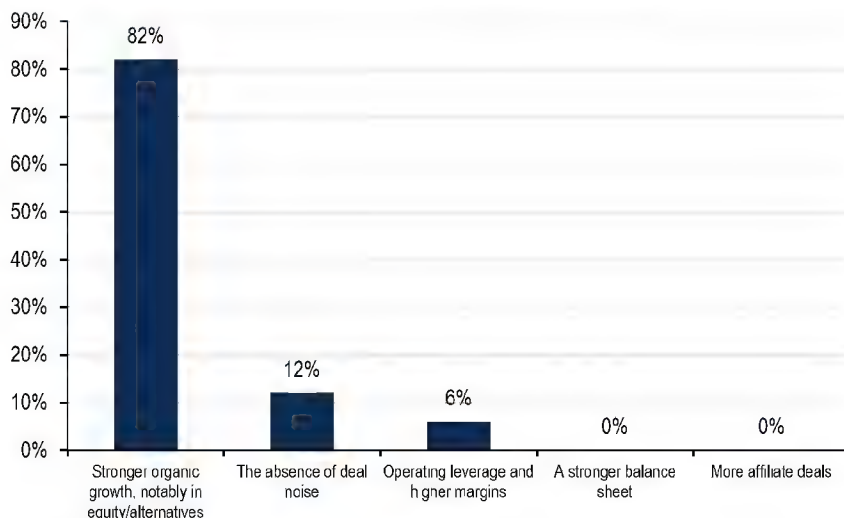
Source: BofA Merrill Lynch Global Research

- EV disclosed their F4Q AUM which was \$336.4B up modestly from \$334.4B at the end of its prior quarter as modest market losses were offset by inflows which were also disclosed by EV. Flows for C3Q (F4Q) were \$4.8B/6% aog or \$1.7B/3% aog ex exposure management flows, roughly in-line with expectations in a fairly challenging backdrop. EV also commented on their recent acquisition of Calvert Investments (~\$12B AUM, see [note](#)) and is excited about the opportunity in ESG investing. Calvert is a leader in investing in socially responsible companies, a small but rapidly growing area.
- When asked about the outlook on fixed income performance and flows given the recent run up in rates as well as the outlook, EV was fairly positive in their outlook given their positioning and leadership in floating rate which should perform well and attract flows in a rising rate environment.
- ETMFs continue to be topical for EV given they are the only player in the non-transparent active ETF business with their NextShares franchise. EV has launched 3 NextShares thus far and Waddell and Reed launched 3 of their own in October, making 6 total NextShares in the market right now, however they are only available through Folio and Interactive Brokers. While we continue to view this as not very significant in the near term and a potential longer term opportunity, with EV signing on UBS and Envestnet for distribution in 2017, we should see a little more traction ahead.
- Regarding potential changes from the election, while very early, management thinks that whatever happens to the DOL Fiduciary Rule (delay, modify, etc.), the industry has already been shifting in a fiduciary direction, and they expect that to continue, though the pace could vary depending on the eventual outcome. Additionally, EV has limited exposure to higher distribution share classes (<20% of sales), so they see a more limited impact. In terms of a lower corporate tax rate (15-20%), this would have a meaningful benefit for EV, potentially increasing earnings by 15-20%.

Legg Mason (LM), C-1-7, Buy

- Presenting from LM was Joe Sullivan, Chairman & CEO, and Alan Magleby, Head of IR. Joe was optimistic on the flow outlook for LM given the repositioning over the past few years, mostly favorable investment performance, and a healthy institutional pipeline, and does not expect a significant change in the DOL impact because of the election or a lower corporate tax rate on their cash tax rate.
- When asked what would get you more interested in investing in LM stock, investors overwhelmingly (82%) replied “strong organic growth, particularly in equity/alternatives” while the absence of deal noise (12%) and higher margins/operating leverage (6%) were less interesting for investors. Nobody said that a stronger balance sheet or more affiliate deals would get them more excited about LM’s stock.

Chart 58: What would get you more interested in investing in LM stock?



Source: BofA Merrill Lynch Global Research

- LM was relatively upbeat on the flow outlook, despite some ongoing headwinds for the industry. Management sees the following drivers offsetting some of the industry headwinds to position LM to flow better than the industry: strong investment performance, notable progress with consultants over the last several years, a healthy institutional pipeline (\$8B of unfunded wins/\$3B uncalled committed capital), highest level of search activity in active equity in several years, large cash balances in Europe (20-50% cash allocation across the continent), increasing demand for real estate / infrastructure / alts (Clarion, RARE, and EnTrustPermal), and a diverse / differentiated product/vehicle set.
- Management also mentioned that besides offering well performing products across strategies, it also wants to be able to deliver to clients in different vehicles, including ETFs. The firm has been launching some ETF products and also has an interest in Precidian, which has its non-transparent ETF submission under the review process.
- Regarding potential changes from the election, while very early, regarding the DOL fiduciary rule, LM sees it getting delayed and watered down some as the most likely outcome. However, they mentioned the fiduciary rule was just an accelerant for trends that were already occurring (i.e. the shift to fee based accounts and away from brokerages) and whether or not the rule goes through as expected or gets

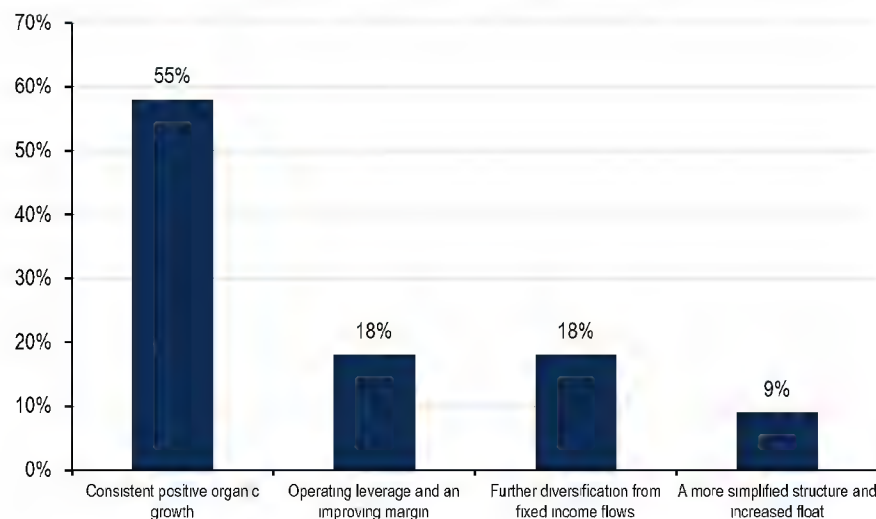
modified will not likely change the outlook. LM feels its strong positioning in global distribution and product sets bodes well to perform in a new fiduciary world.

- Additionally, a lower potential U.S. corporate tax rate will not change its cash tax rate which is likely to be 6-7% through 2021 and in the mid-teens through 2025 after that. However, it would impact GAAP EPS and a lower corporate tax rate would lower the value of LM's DTA.

AB (AB), B-1-8, Buy

- Presenting from AB was Peter Kraus, Chairman & CEO. Peter expects AB to generate above average organic growth and hopes to accelerate it given its product mix and mostly favorable investment performance. In addition, he sees the potential for new pricing in the industry, and does not expect a significant change in the DOL impact from the election or a lower corporate tax rate on their tax rate.
- When asked what would get you more interested in AB's stock, 55% of investors said they wanted to see consistent positive organic growth, 18% said a better operating margin, another 18% said diversification from fixed income flows (i.e. equity and alternative flows), and only 9% of investors wanted to see a simplified structure and increased float.

Chart 59: What would get you more interested in investing in AB stock?



Source: BofA Merrill Lynch Global Research

- AB has seen and expects to continue to see above average organic growth (ex 3Q which was weighed down by lumpy institutional outflows) given a relatively new and attractive product set, strong investment performance (notable improvement in recent years), better traction with the consultant community, and opportunities to gain in the retail and private wealth channels.
- Regarding potential changes post the election, AB had a similar tone to other asset managers on DOL, in the sense that it likely gets delayed/modestly modified, but regardless of what happens, asset managers and distributors need to accept that the industry is living in a new fiduciary world with minimized (potentially no) conflicts of interest which ultimately is a good thing for end clients. A lower potential corporate tax rate would not likely benefit AB given its tax structure/low current tax rate.

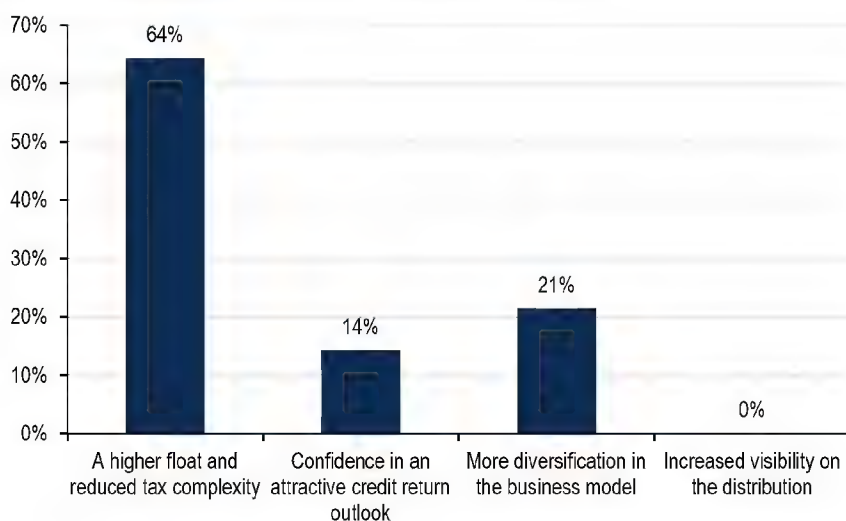
- Another topic which AB elaborated on was fees/pricing particularly in the US retail market. Peter Kraus commented that there is a very strong philosophical argument for the regulators to approve new fee structures which would allow investors to pay a low beta fee and a higher performance fee for alpha generated (while it exists in Europe, a similar structure is not available in the U.S.). While some in the industry may not be fans to adapt such a structure, given challenging cost structure changes, he thinks the product could be much more competitive relative to passive products.

Alternative Asset Manager Top Takeaways

Ares Management (ARES), C-2-7, Neutral

- Michael Arougheti, Co-founder and President, presented for Ares. Overall, Mr. Arougheti was positive on the firm's growth prospects, given demand for their products across the platform by institutional investors. In addition, given recent fundraising and fees on the horizon, the outlook for FRE and DE is attractive.
- When asked "What would get you more interested in investing in ARES stock?" the most common response was a higher float and reduced tax complexity (64%), followed by more diversification in the business model (21%), and confidence in an attractive credit return outlook (14%). Investors were less concerned over the visibility on the distribution (0%).

Chart 60: What would get you more interested in investing in ARES stock?



Source: BofA Merrill Lynch Global Research

- If comprehensive tax reform includes an elimination of carried interest tax, potentially moving to an ordinary income rate, it could have some impact to after tax unitholder returns, but 80-90% of revenue comes from management fees and much of the income already faces a corporate tax rate. It could make it more attractive to shift to a C-corp. A change to the tax deductibility of interest expense could have more far-reaching changes to the business, and to U.S.
- Ares will always look to do tuck-in acquisitions, and has been doing almost one a year. The pipeline of M&A opportunities continues to grow for ARES, given demographics of principles with founders aging, and the environment becoming harder to compete for small managers.

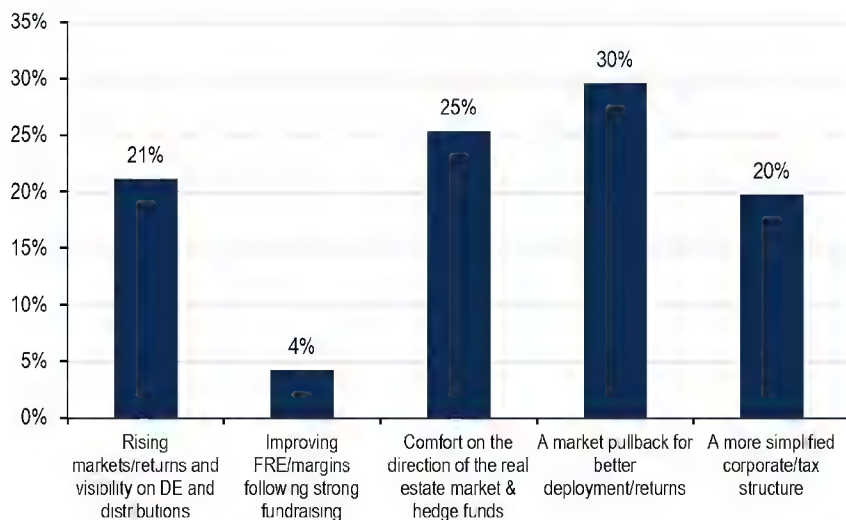
The Blackstone Group (BX), C-2-8, Neutral

- Jonathan Gray, Global Head of Real Estate, presented for Blackstone. Overall, Mr. Gray was positive on the outlook for the U.S., with new pro-growth fiscal policies

likely. Mr. Gray also thinks that concerns over the commercial real estate market may be overdone.

- When asked “What would get you more interested in investing in BX stock?” the most common response was a market pullback (30%), followed by comfort on the direction of the real estate market (25%), rising returns and visibility on distributions (21%), and a more simplified structure (20%), while fundraising and margin improvement were less important (4%).

Chart 61: What would get you more interested in investing in BX stock?



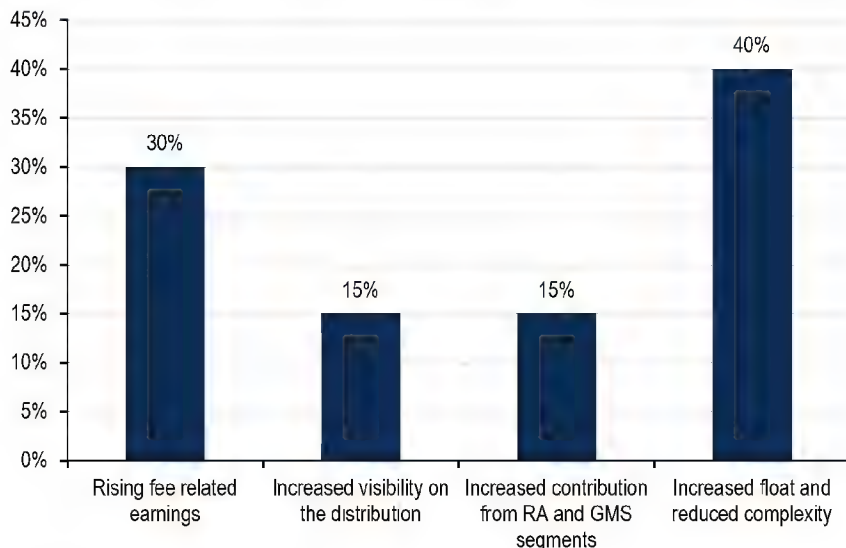
Source: BofA Merr I Lynch Global Research

- Mr. Gray thinks the economic narrative has changed for the U.S., from low growth and low interest rates to a more pro-growth outlook. There will likely be lower taxes, less regulation, and more fiscal spending. A potential offset is that deficits from government spending and tariffs could create inflation. Even so, management was cautiously optimistic on growth.
- For Europe, Brexit was the big news and Mr. Gray expects the next couple of years will be somewhat challenging for the U.K, though the bigger question is core Europe, where rates and inflation are likely to be lower for longer. In Asia, China is decelerating, particularly for manufacturing, infrastructure, and real estate which will likely continue though don't expect a hard landing in China. A trade war between the U.S. and China could be a risk to the downside for China. In India, BX sees accelerating economic growth and falling inflation and interest rates, along with a lot of demand for office space in India.
- Mr. Gray does not believe we are in the early stages of the real estate cycle, but concern over a bubble in commercial real estate in the U.S. is probably overdone for a couple of reasons. 1) Supply and demand are reasonable, given modest growth in supply and an economy that is growing. 2) Debt levels aren't out of hand like in '06/'07. 3) Cap rates are low at around 5%, compared to '07 when 10yr treasuries were at the same level. Overall, you aren't going to see the same returns as in the past, but looking at past periods where rates and growth increased, commercial real estate did fine.
- In terms of growth, Mr. Gray is optimistic on the outlook. Half of the areas BX invests in today didn't exist at the time of the IPO, and that culture of innovation, growth, and investing for attractive returns is alive and well.

Carlyle Group (CG), C-2-8, Neutral

- Glenn Youngkin, President and Chief Operating Officer, presented for CG. Overall, Mr. Youngkin is positive on the economic/market backdrop and on CG's ability to generate cash carry relatively consistently over time given the firm's diversity of funds.
- When asked "What would get you more interested in investing in CG stock?" most investors would like to see an increased float and reduced complexity (40%), followed closely by rising fee related earnings (30%). Investors are also interested in seeing increased visibility on the distribution (15%) and increased contribution from RA and GMS segments (15%).

Chart 62: What would get you more interested in investing in CG stock?



Source: BofA Merrill Lynch Global Research

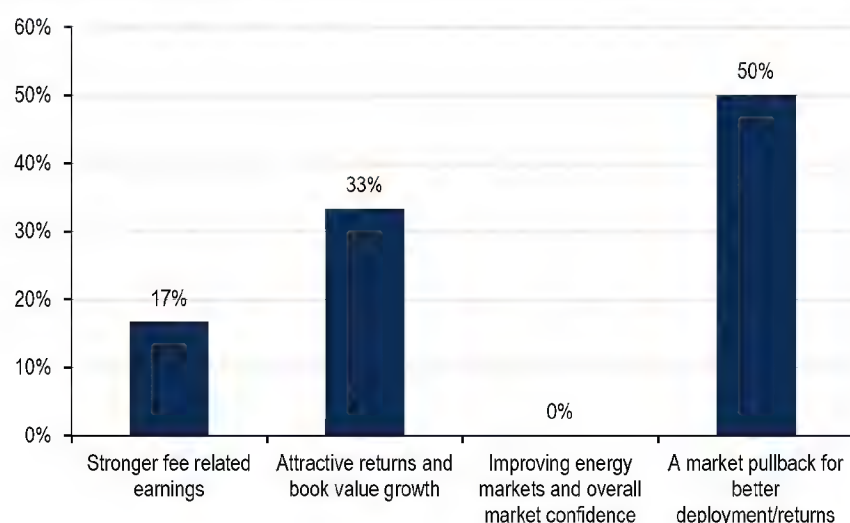
- If comprehensive tax reform includes an elimination of carried interest tax, potentially moving to an ordinary income rate, it could have some impact to after tax unitholder returns. However, Glenn thinks it is very early to speculate on any changes and expects tax changes to likely be comprehensive.
- Glenn sees the potential for a strong push in infrastructure, along with tax change, defense spending, and the border will get a lot of attention along with international trade. Three main conclusions: 1) First time in a long time that there is a universal pro-business outlook across congress and the presidential office; 2) Unclear today what is going to be enacted, there is optimism but uncertainty; and 3) CG is not going to make meaningful changes one way or another based on speculation. CG launched its latest infrastructure fund in September, and the election results are more wind in the sails.
- CG has multiple funds, each with its own economic engine. That makes the cash flow profile more stable than other firms. Management believes that a discounted valuation in the stock is driven more by fear of a recession vs. lower FRE. Glenn thinks that outlook has changed with the election. The economy may be going into extra innings now.
- The investment environment hasn't changed materially in last few weeks - it continues to be tough. Global growth will continue to be muted, and despite the

move in the ten year treasury rate, interest rates remain low and the combination of those things results in high prices.

KKR & Co (KKR), C-1-8, Buy

- Bill Janetschek, Chief Financial Officer, presented for KKR. Overall, Mr. Janetschek believes that KKR's balance sheet gives them the ability to take advantage of market dislocations, sees opportunities to grow in certain areas (e.g. infrastructure and real estate), and noted that they don't need to grow the headcount to bring on more assets.
- When asked "What would get you more interested in investing in KKR stock?" the most common response was a market pullback for better deployment/returns (50%). Respondents also felt that attractive returns and book value growth (33%), and stronger fee related earnings (17%) were also important. Less important for investors was improving energy markets and overall market confidence (0%).

Chart 63: What would get you more interested in investing in KKR stock?



Source: BoFA Merrill Lynch Global Research

- Overall, KKR likes the publicly traded partnership structure today. If comprehensive tax reform includes an elimination of carried interest tax, the income would still get passed through in that scenario which avoids a second level of taxation, so it still may not be attractive to change the structure. But, if the corporate rate is also lowered significantly, it could potentially make sense to go to a c-corp.
- Bill sees infrastructure as a real growth area for KKR. 7-8 years ago it was difficult to raise an infrastructure fund as the asset class didn't do very well in the financial crisis; today there is more interest. KKR's first infrastructure fund was around \$1B and the second one was around \$3B. Infrastructure needs are tremendous long-term, with \$1-2 trillion capital needed for projects over the next decade, and infrastructure spend is one area of consistency across the two major parties.
- Management thinks that investors understand the reason for the change in the distribution policy. KKR likes to pay out the stable dividend and redeploy capital into the balance sheet. As part of the year-end process, KKR will likely review the level of the fixed distribution and determine whether it should be changed. KKR would like to have around 40% of the balance sheet invested in private equity over time.
- KKR will manage concentration risk, and it is unlikely that the firm will make another investment as big as First Data again. The biggest advantage to having a

large balance sheet is the ability to take advantage of market dislocation, along with high margins.

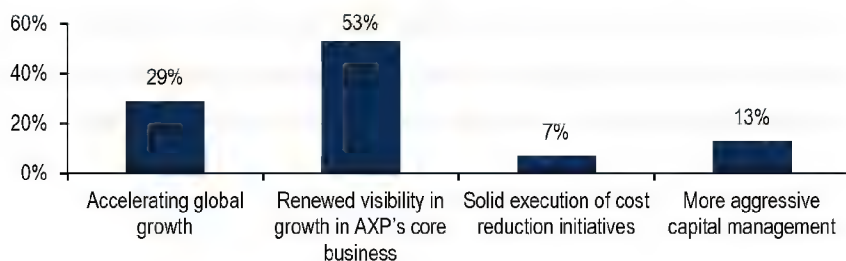
- The firm grew at a healthy rate from 2004-2014, and with around 1,200 people now there doesn't need to be much growth in headcount for the time being, the infrastructure is in place. Marshall Wace AUM has grown significantly since they did the deal, due in part to advantages from combining the two firms. Real estate is an area where KKR is small and could see more growth.

Specialty Finance

American Express Company (AXP), B-2-7, Neutral

- Presenting from American Express Company was Mr. Jeff Campbell, Chief Financial Officer. Overall we thought AXP presented a fairly upbeat outlook on billings, loan and revenue growth. AXP did express caution on near-term Discount rate pressures and FX headwinds.
- When asked what would be a key factor to increase / initiate a position in AXP, 53% of the audience said they would like to see better visibility in AXP's core growth. AXP acknowledged the sale of the Costco portfolio to Citi has added complexity to reporting results and has provided additional disclosures on underlying trends in the quarterly results. AXP also said that accelerating revenue growth is a key area of focus for management.

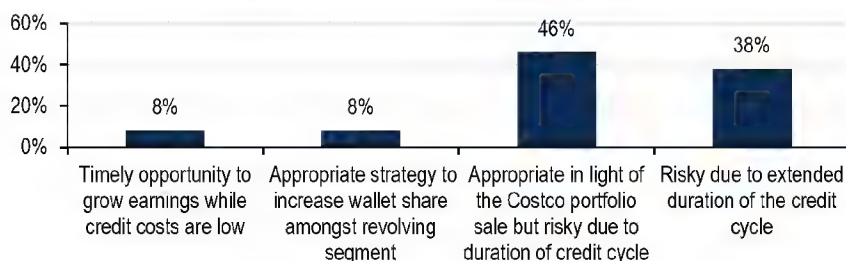
Chart 64: What would be a key factor for you to increase / initiate a position in American Express?



Source: BofA Merrill Lynch Global Research

- AXP was a little surprised that more investors did not view its focus on loan growth as an appropriate strategy to increase wallet share amongst the revolving segment. Instead a plurality of investors viewed AXP's strategy as appropriate in light of the portfolio sale but risky due to the duration of the credit cycle. While investors were concerned about the duration of the credit cycle, AXP emphasized its low loss rates and premium customer base as well as the loss of the Costco portfolio to argue that AXP's credit profile will not materially change from its current strategy to grow revolving balances through revolving credit card customers.

Chart 65: How would you describe American Express' strategy to expand exposure to credit?



Source: BofA Merrill Lynch Global Research

- On a more cautious note, AXP said that Discount rate pressures are likely to remain elevated near-term as EU merchants renegotiate contracts post-interchange rules and the OptBlue program gains additional scale in the US. Strengthening in the US\$ will also lead to FX headwinds that will likely impact NT results, particularly from countries like Mexico where AXP has a large business.

Conference Panels Top Takeaways

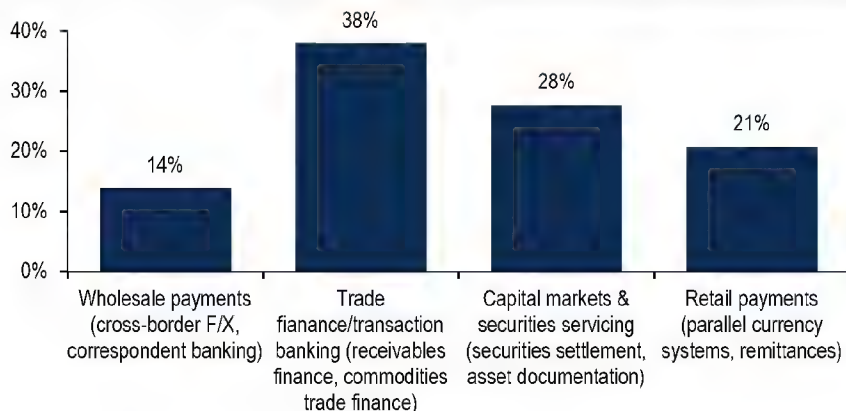
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Blockchain: Potential Transformation of Financial Markets

With Blockchain one of the most talked about potential disruption in financial services and 71% polled noting that blockchain is a significant opportunity for financial service firms, we thought it was timely to host a panel on the potential impact of Blockchain on financial markets that included **Co-founder & COO of R3 Todd McDonald** and **CEO of Axoni Greg Schvey**.

- Blockchain could lead to \$60-80bn of annual potential cost savings for financial institutions.** While it is still early days to know what the full impact of potential cost savings that blockchain technology could bring to financial institutions, the panelists believe that total savings could reach \$60-80bn.
- Successful implementation of equity swaps.** An area where Blockchain has shown to be successfully implemented is around equity swaps. Axoni had worked with multiple financial institutions to handle data reconciliation around its equity swaps record which drove efficiencies.
- Trade finance viewed as most likely for success.** When asked which part of the financial industry will be the first to successfully utilize blockchain technology, 38% of those polled cited trade finance/transaction banking as the most likely, with 28% citing capital markets & securities servicing.

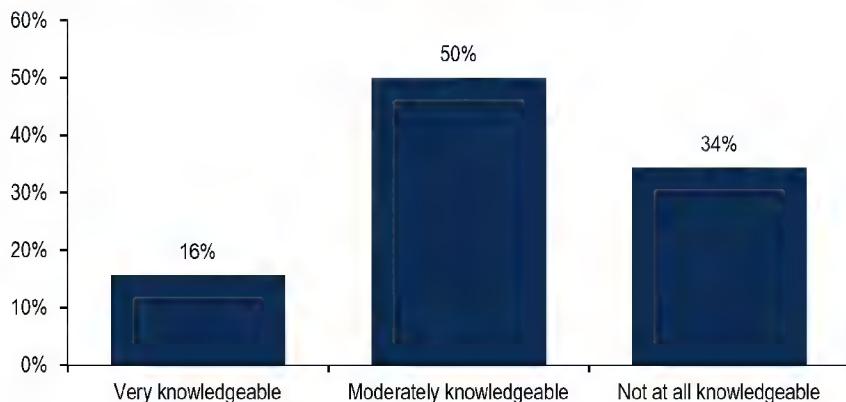
Chart 66: Which part of the financial industry do you believe will be the first to successfully utilize blockchain technology?



Source: BofA Merrill Lynch Global Research

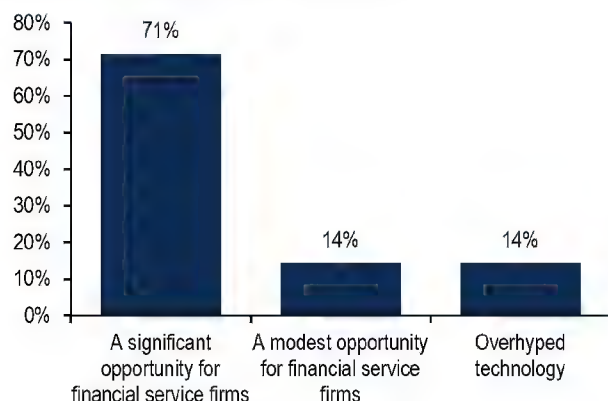
- Implementation could be earlier than expected.** While many investors are skeptical that blockchain will be broadly adopted in the near term, with none of the audience expecting it to be widely adopted within 12-24 months, the panelists were more optimistic and believes that there could be upside surprise in terms of the timing as proof points and implementation could happen more quickly than expected.

Chart 67: How knowledgeable are you with blockchain technology?



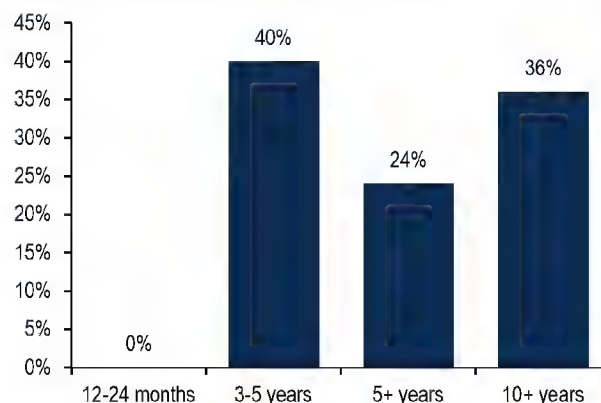
Source: BofA Merrill Lynch Global Research

Chart 68: After this panel, how do you feel about the applicability of blockchain technology in financial services?



Source: BofA Merrill Lynch Global Research

Chart 69: How long do you think it will take for financial services industries to broadly adapt blockchain technology?

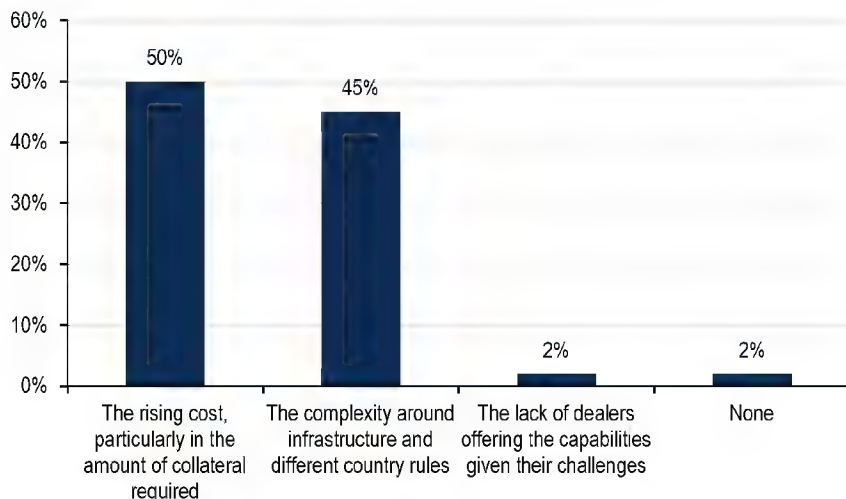


Source: BofA Merrill Lynch Global Research

The Future of Clearing: Understanding the Options

- Guest speakers in this panel included Brian Ruane (CEO, Broker Dealer Services, BNY Mellon), Lee Betsill (Chief Risk Officer, CME Group), Michael C. Bodson (President & CEO, DTCC), John Horkan (Head of North America and Global COO, Rates & FX, LCH, LSE Group) and Marcus Denne (Director, Global Clearing, BofA Merrill Lynch).
- With the start of the Uncleared Margin Rule (UMR) on September 1st, we asked investors what was the primary challenge related to the new clearing rules. Most investors (95%) thought the rising cost, particularly in the amount of collateral required (50%) and the complexity around infrastructure and different country rules (45%) were the main issues.

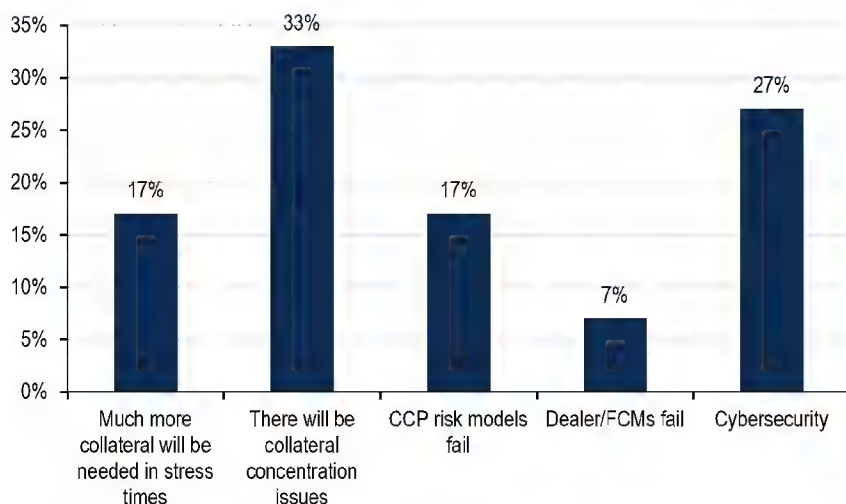
Chart 70: What is the primary challenge related to the new clearing rules?



Source: BofA Merrill Lynch Global Research

- Panel participants believe that the election/shift in regulatory outlook might lead to a slowdown of products being added to the clearing mandate, with FX being the biggest unknown.
- Going forward, firms are tackling U.S. vs Europe collateral harmonization/transfer (DTCC and Euroclear are working on a collateral transfer initiative that is expected to launch in 1Q17), collateral management through firms including BNY Mellon, and Cleared repo could also be on the horizon (CME has filed an application with the SEC but no timeline given).
- We asked investors what the biggest potential risks are in the clearing mandate and CCPs, and 33% of voting investors thought collateral concentration issues with cybersecurity (27%) coming in 2nd.

Chart 71: What is the biggest potential risk in the clearing mandate and CCPs?

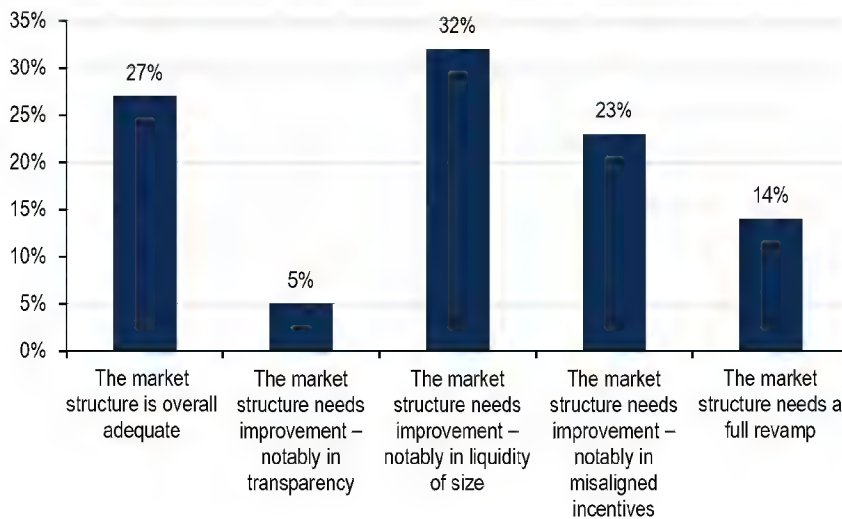


Source: BofA Merrill Lynch Global Research

Equity Market Structure: Simplifying the Complex

- Guest speakers in this panel included Anthony Barchetto (EVP, Head of Corporate Development, BATS Global Markets, Inc.), Jamil Nazarali (Head of Execution Services, Citadel Securities Inc.), Eric Stockland (Chief Strategy Officer, IEX Corp.) and Pankil Patel (Managing Director, Electronic Sales, BofA Merrill Lynch).
- Panel members had a spirited debate regarding the current market structure pros and cons, rebates, off-exchange trading, latency, market maker obligations, and the future of regulation post the election.
- We asked investors what they thought of the current state of the equity market structure, and 74% thought that the market needs revamping. 32% believe that there was a problem with the depth of liquidity and 23% thought there were misaligned incentives.

Chart 72: What is your view of the current state of the equity market structure?



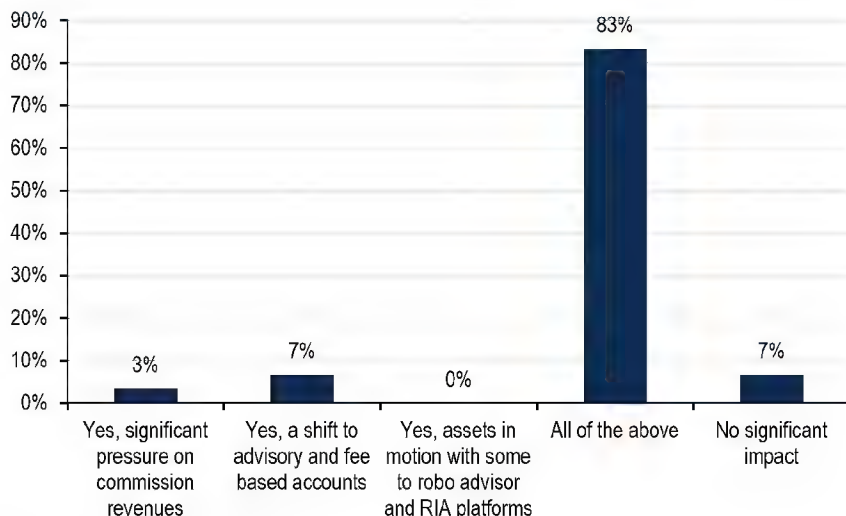
Source: BofA Merrill Lynch Global Research

- Given the announcement that SEC Chairwoman White will leave at the end of President Obama's term, this will likely lead to some regulatory uncertainty and lack of activity given not enough commissioners to make forward progress. In addition, the new Chair will likely be focused on less regulation and one panel member thought Reg NMS could come under review.

Life after DOL: Evolving Beyond the Fiduciary Rule

- We hosted industry experts for a panel on the Department of Labor's (DOL) fiduciary rule, which is set to go into effect in April 2017. Panel participants included Michael Hadley (Partner at Davis & Harman LLP), Lisa Bleier (Associate General Counsel at SIFMA), and Kevin Crain (Head of Workplace Financial Solutions at Bank of America Merrill Lynch).
- Given potential changes for the brokerage industry, we asked investors "Will the DOL's fiduciary rule cause meaningful changes to the brokerage industry?". Most investors believe that the rule will cause a number of significant changes to the brokerage industry (83%), including significant pressure on commission revenues, a shift to advisory and fee based accounts, and assets in motion with some to robo advisor and RIA platforms.

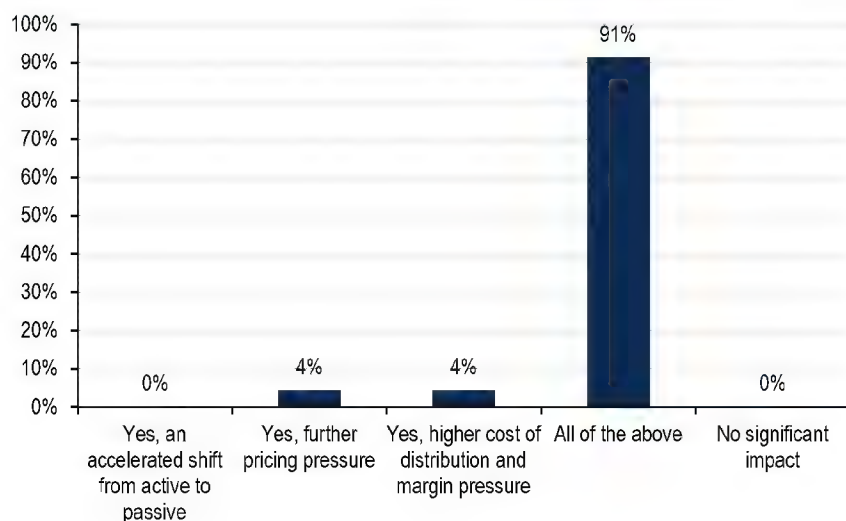
Chart 73: Will the DOL's fiduciary rule cause meaningful changes to the brokerage industry?



Source: BofA Merr Il Lynch Global Research

- We also asked about changes to the asset management industry, posing “Will the DOL's fiduciary rule cause meaningful changes to the asset management industry?” Investors again expect multiple changes (91%), including an accelerated shift from active to passive, further pricing pressure, and higher cost of distribution and margin pressure. No respondents expect there to be no significant impact to the asset management industry.

Chart 74: Will the DOL's fiduciary rule cause meaningful changes to the asset management industry?



Source: BofA Merr Il Lynch Global Research

- The panel noted that President Elect Trump did not address the Fiduciary Rule during his campaign, so his view on the rule is unknown, but Republicans have largely been against it. There is some precedence on what we could expect President Elect Trump to do with the fiduciary rule. President Bush had implemented an investment advice regulation that President Obama delayed several times until it was finally withdrawn. The view from the panel was that the most likely action over the next several months is that President Elect Trump delays the rule, though to repeal or change it would take work and new regulatory

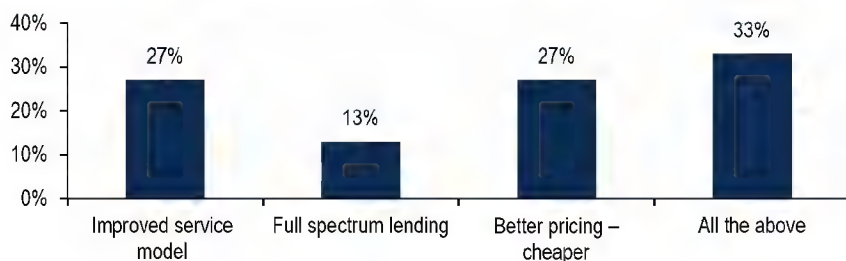
proposals. Mr. Trump and congress could also ultimately defer to the SEC to act on a Fiduciary Rule.

- The biggest issue from the brokerage industry is the contract requirement under the BIC. The issue with the contract is increased liability, given the contract makes it easier to litigate. This would likely be the primary area for modifications. Even though many firms have made announcements regarding changes they expect to make, most have not figured out all of the underlying steps yet given that it is so complicated and impacts large parts of the business.
- The industry will have to move forward on implementing the rule, given the April 2017 implementation date, but firms may not put as much effort into certain areas that need to be final by January 2018. In addition, prior to Mr. Trump starting, the transition team could make an announcement about the rule. However, even at that stage firms would have to determine whether or not to act on the announcement.
- While the most likely scenario is a delay in the rule, with the potential for some modifications to ease some of the burdens, most see the trend towards a fiduciary rule already well in motion for the industry.

The Future of Tech-Based Lending

- James Paris, Executive Vice President at Avant, Ashish Jain, Senior Vice President at SoFi and John Schleck, Senior Vice President at Bank of America discussed key trends and recent developments in Tech-Based lending.
- Audience members and panelists generally agreed that improved customer service, full spectrum lending, and better pricing all are contributing to the growth in tech-based lending. SoFi did caution that better pricing is not usually the primary driver as banks can usually offer cheaper pricing.

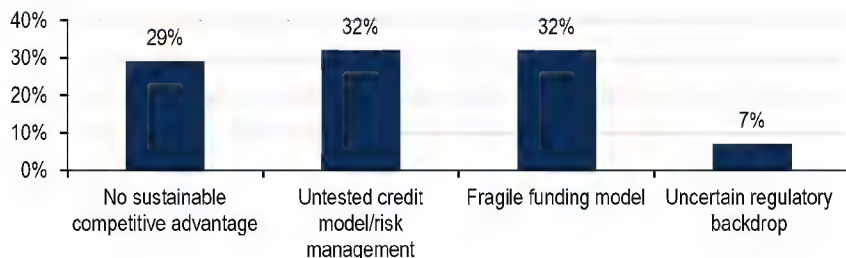
Chart 75: What is the biggest driver of growth in tech-based lending



Source: BoFA Merril Lynch Global Research

- Acquisition models differ by company but being efficient at customer acquisition is key for a successful tech-based lender. SoFi estimated that its customer acquisition cost is 1/5th that of a bank which enables it to effectively compete and partner with banks. Panelists highlighted the use of data analytics to more efficiently target potential customers via direct mail, digital ads or through affiliate programs.
- Audience members were split on the main risks to investing in tech-based companies with limited sustainable competitive advantage, untested credit models and fragile all highlighted as key risks. Somewhat surprising given events earlier this year, regulatory concerns were not high on the list of investor concerns.

Chart 76: Biggest risks to investing in a tech-based lending companies



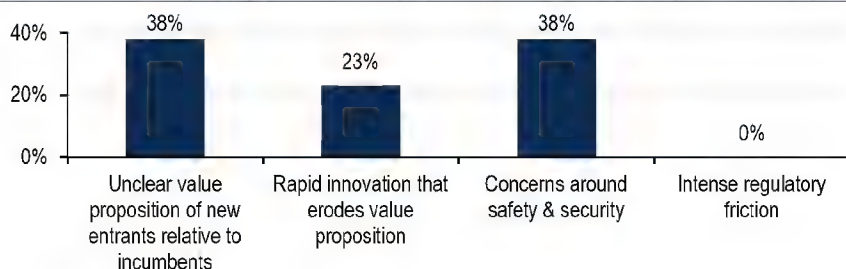
Source: BoFA Merrill Lynch Global Research

- Panelists agreed that flexible funding models that utilized both balance sheet lending and distribution of loans were important for a tech based lender. Additionally, panelists said that risk management is top of mind and tech based lenders are increasingly applying refined analytics that rely on credit variables directly from credit bureaus into their lending and portfolio management decisions

The Future of Payments: The Need for Speed

- Jonathan Lear, President – North America, Earthport and Bruce Parker, Founder of Modopayments spoke on The Future of Payments panel. In a wide ranging discussion, the panelists discussed the B2B opportunity, the importance of partnering with incumbents and the need to maintain Safety standards.
- Audience members identified the lack of a clear value proposition for new players relative to Incumbents and concerns about Safety and Security as the largest risks to investing in new Fin Tech payments companies.

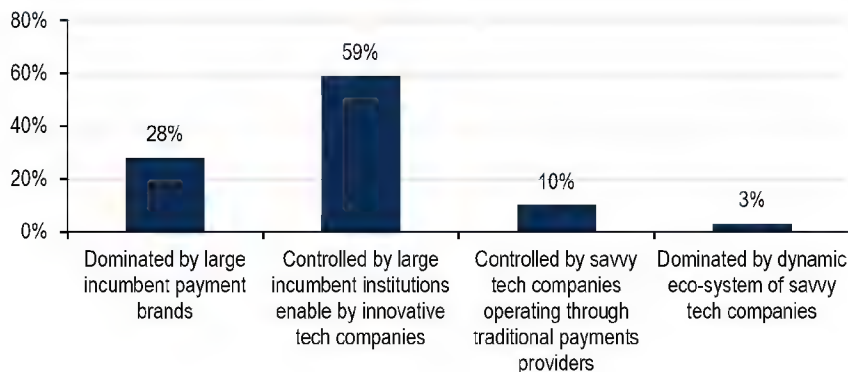
Chart 77: What is the primary risk to investing in new entrants within the payments landscape?



Source: BoFA Merrill Lynch Global Research

- Panelists generally thought the best way for a new Fin Tech companies to succeed was by partnering with incumbents. This was consistent with the views of audience members, a majority of whom thought the payments industry would continue to be controlled by incumbent institutions partnering with innovative tech companies.

Chart 78: What do you believe will be the structure of the payments industry in 5-7 years?



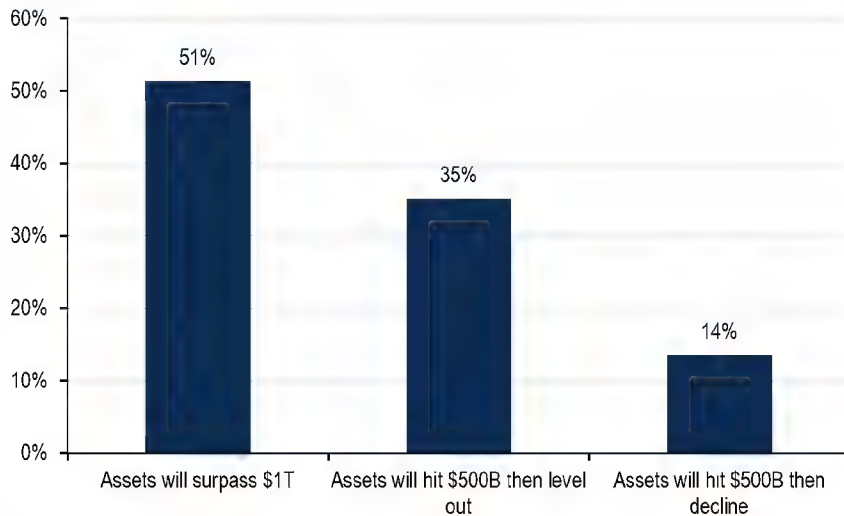
Source: BofA Merrill Lynch Global Research

- Panelists highlighted that while recent innovations in faster payment transfers have been focused on P2P applications, the B2B opportunity is 7-10x larger. That said, panelists thought, based on experience in the UK, the cost of faster payments would likely have to be borne by the existing payment infrastructure as consumers have not been willing to pay for faster transfers. Additionally, panelists pointed out that in countries where faster payments have been implemented, it has mostly been a mandate by regulations suggesting the government has an important role to play.
- Panelists highlighted Security and Compliance as being essential for a new Fin Tech company to be admitted as part of the industry ecosystem. Incumbent payment companies will only partner with a new FinTech company that can meet the safety and regulatory standards that the incumbent is required to meet.

Robo Advisors: Shedding Light on the Potential Opportunity

- Guest speakers in this panel included Eli Broverman (Co-Founder and President of Betterment), Randy Sternke (Vice President, Business Development at Alkanza), and Vaughn Bowman (Director, Managed Solutions Channel Management at BofAML). Each firm discussed the unique aspects of their individual business models and where they see the robo industry headed in the future.
- Broverman brought up several key points on how the independent robo advisor model came about and why it will continue to grow in the future. He believes that the main drivers include a lack of quality advice for investors with few assets, investors' beliefs that financial institutions are not aligned with their interests or transparent, and the fact that people want financial services to work as well as the other technology in their lives. Broverman believes that the biggest opportunity going forward is in the mass affluent segment and the 401K space.
- Alkanza is focused on providing robo capabilities to financial advisory firms through partnerships, rather than directly to consumers, with a focus on the platform as well as portfolio construction.
- We surveyed the audience to gauge their views on the potential size of the robo advisor market and the most common answer was that assets will surpass \$1T, followed by assets will hit \$500B and then level out.

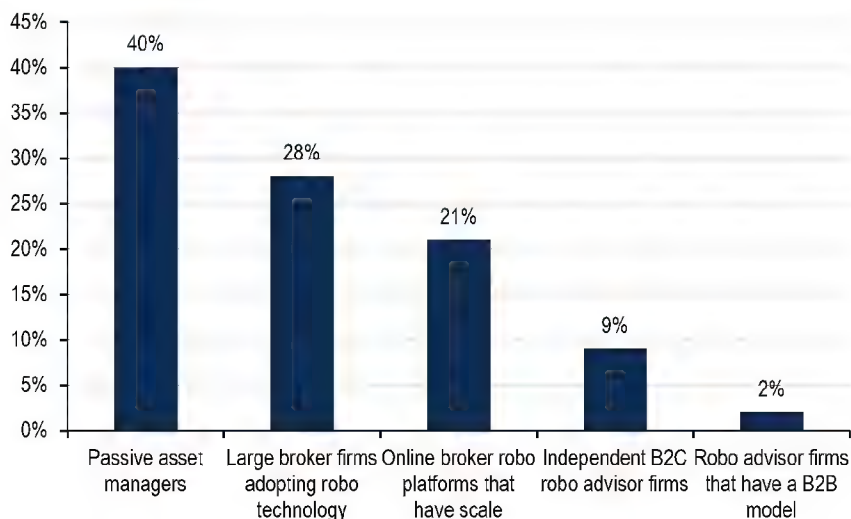
Chart 79: How significant do you think robo advisor platforms will become over the next 3-5 years?



Source: BofA Merrill Lynch Global Research

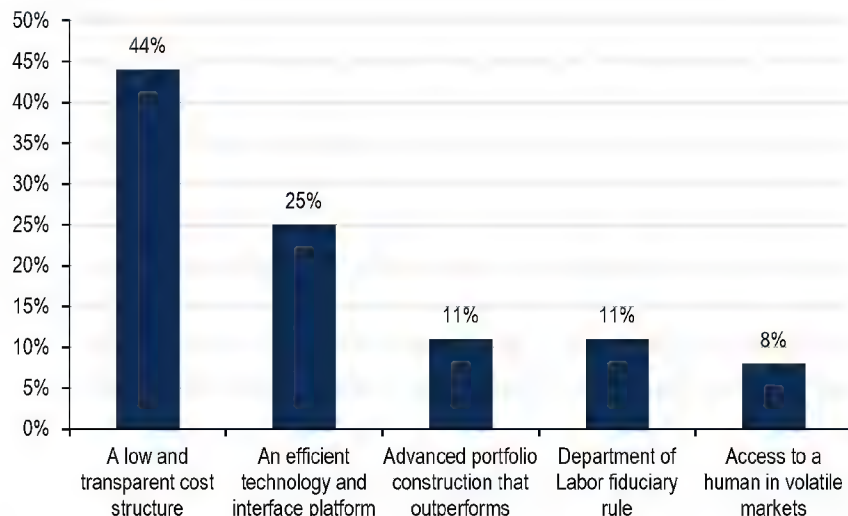
- Based on our polling questions, investors believe that the main beneficiaries of the robo advisor trend will be the passive asset managers (40%), followed by the large broker firms adding robo technology (28%) and the online brokers that have scalable robo platforms (21%). They also believe that the main driver of success for robo advisors will be a low and transparent cost structure (44%), followed by an efficient technology and user interface (25%).

Chart 80: Which firms will benefit the most from the robo advisor trend?



Source: BofA Merrill Lynch Global Research

Chart 81: What do you expect to be the main driver of success for robo advisors?



Source: BofA Merrill Lynch Global Research

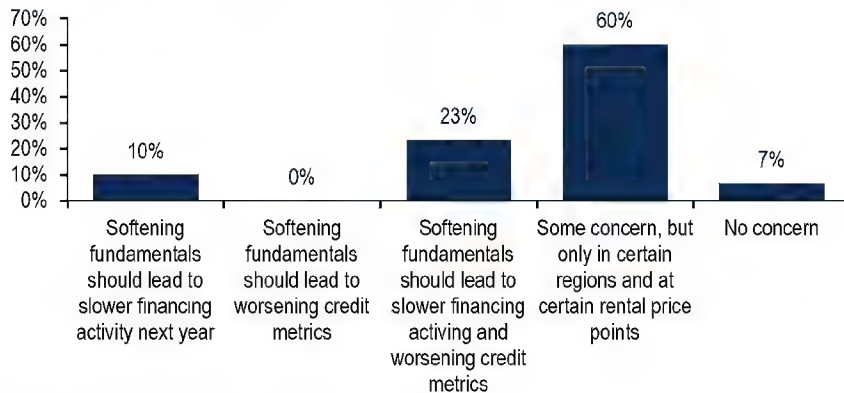
- Finally, all of the panel participants believe that the DOL Fiduciary Rule will not be repealed by the new administration, although it may be delayed. In the end, this should benefit robo advisors, as most of the models have low fee structures and limited conflicts of interest.

State of the Multifamily Market: Cooling or Collapsing?

We hosted a panel to discuss the state and the outlook for the multifamily market following a year which has witnessed increased investor anxiety around multifamily loan growth and heightened scrutiny by banking regulators of multifamily loan portfolios, particularly at banks with a high concentration of multifamily loans. Our panelists included **John Jardine, Co-CEO of Ares Commercial Real Estate Corp**, **David Brickman, Executive Vice President and the Head of Multifamily business at Freddie Mac** and **Alan Fishman, Chairman of the Board at commercial real estate investment trust Ladder Capital**.

- Multifamily on solid footing:** The panelists view the multifamily market as having a solid foundation with most of the risk lying at the high end, class A properties in particular markets (New York, San Francisco). Even here, the panelists agreed that the issues at the high end segment were more likely to manifest themselves in the form of decelerating growth in rents (and increased incentives by landlords) as opposed to serious credit issues. Investors echoed this sentiment during a live audience poll with 60% of the investors seeing issues in the multifamily market limited to certain regions and at certain rental price points.

Chart 82: How do you view fundamentals for multifamily lending in 2017?



Source: BofA Merrill Lynch Global Research

- **Future demand in multifamily promising:** Looking forward, the panelists see healthy demand for multifamily housing given a preference among millennials to live in urban areas versus the suburbs. Moreover, the panelists noted that increasing debt burden tied to student loans is likely to make home ownership out of reach for several first time home buyers. Furthermore, it was noted that the US needs 1.5mn new housing units each year and the present level of construction activity was not keeping pace with this when looking at it on a national level.
- **Foreign capital part of the equation:** Some of the panelists are seeing a significant flow of foreign capital into the multifamily market with Mr. Brickman surmising that data around inflow of foreign capital into the commercial real estate market was likely understated given that significant amount of inflows have come indirectly through investment vehicles like private equity.
- **Risk retention rules modest impact:** Our multifamily panelists viewed the risk retention rule for CMBS as having a modest impact given the large role played by the GSEs in lending to the multifamily space. It was also noted that while the rule may dampen private securitization activity, less competition from the CMBS markets would be a positive for balance sheet lenders.
- **Impact from rising rates may not be all news:** While the panel acknowledged that the rise in interest rates will likely push cap rates higher, an increase driven by a more favorable growth outlook may not be as bad. This is because a stronger economy should theoretically lead to a better backdrop for jobs and wage growth, thereby providing landlords some leeway to raise rents.

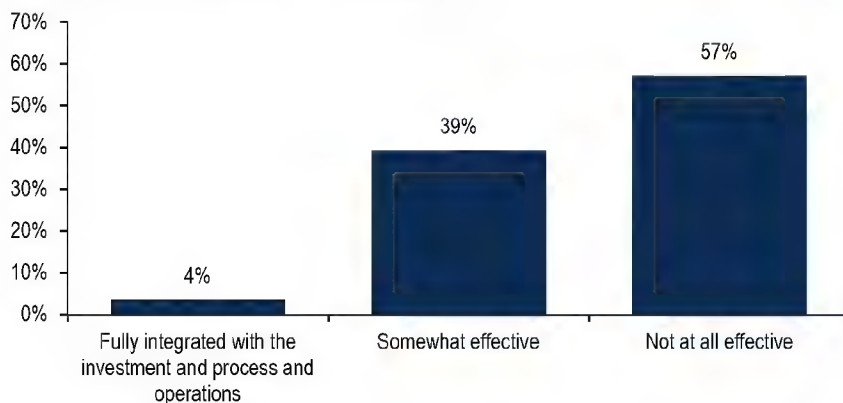
The Future of Big Data in Financials

We hosted a panel to discuss how big data is impacting the financial services industry. The panel discussed key big data buzzwords including machine learning, data scientist, structured data and unstructured data. They panel also reviewed how different firms are adapting big data solutions to solve specific company issues. Our panelists included **Jessica Donohue, the Chief Innovation Officer for State Street and the head of advisory and information solutions for State Street Global Exchange, Greg Michaelson, head of data science practice at Data Robot, and Sandeep Saini, head**

of global markets sales, research, and capital markets technology at Bank of America Merrill Lynch.

- **How big data can influence the future:** The panel confirmed the notion that there are many different definitions for big data, but everyone seemed to agree almost all financial firms are seeking effective ways to implement big data techniques to 1) generate alpha, 2) manage risk 3) manage expenses.
- **Companies polled are a long way from benefitting big data:** 96% of the audience polled said their firm is either somewhat effective or not at all effective at using big data. Some of the main challenges the panelists highlighted during our discussion were merging multiple legacy data systems and finding attractive talent with both data science and business experience.

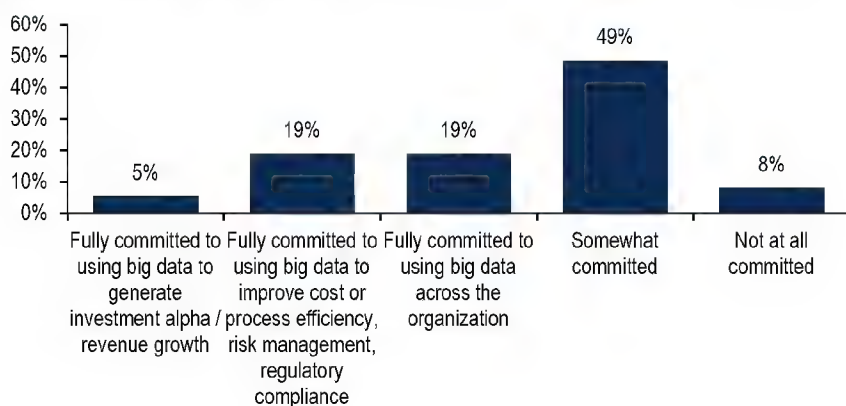
Chart 83: How effective is your firm at using big data?



Source: BofA Merrill Lynch Global Research

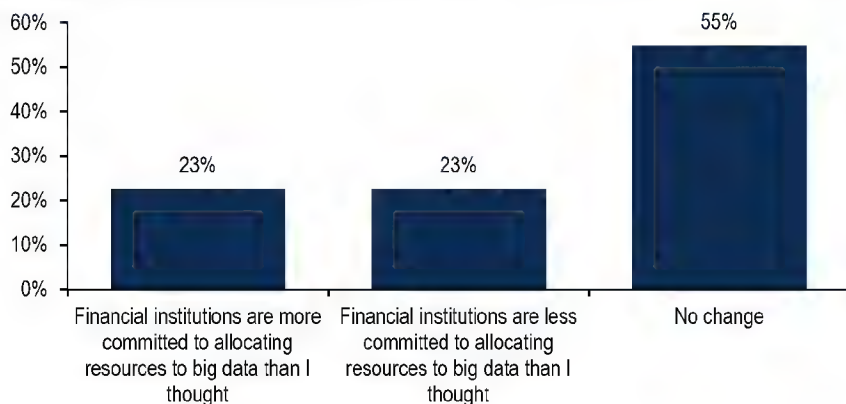
- **The panel discussed three roles needed to solve data science problems:** 1) someone who has sway to make change and implement solutions 2) business champion, someone to discuss solutions with technical employees and to share knowledge on key issues such as regulation 3) technically savvy employees.
- **Implementation advice:** The panel provided advice for firms that have yet to utilize big data to attempt to solve problems facing their companies. The advice included seeking problems that could be solved using data science and focusing on small wins with the data present.

Chart 84: Now that we've defined "big data", how far do you think financial institutions are at embracing the use of big data today?



Source: BofA Merrill Lynch Global Research

Chart 85: After this conversation, have you changed your mind on how financial institutions are adopting big data in their businesses?



Source: BofA Merrill Lynch Global Research

The Future of Financials M&A and Regulation

We hosted a panel to discuss the state and outlook of M&A and regulation. Given the results of the US election and the potential for easing of regulations, the panel discussed a timely topic on the mind of investors. Our panelists included **Rodgin Cohen, Senior Chairman of Sullivan & Cromwell; Richard Kim, partner at Wachtell, Lipton, Rosen & Katz, and Ed Hill, Senior Vice President, Government Affairs, Bank of America Corporation.**

- **Regulation is about tone:** Our panelists agreed that the scope and strength of regulation comes from the tone and attitude of regulators rather than from legislation. They noted that an attempt to repeal legislation such as Dodd-Frank would be misplaced as most direction derives from the tops of regulatory bodies. They also felt Senator Hensarling's Financial Choice Act would not be a better alternative to Dodd-Frank given the 10% leverage ratio is not a Federal Reserve definition of leverage. Utilizing a Fed definition would likely lead to leverage north of 10%. The inclusion of CAMEL ratings with the leverage ratio would also allow regulatory sway over institutions.

Chart 86: Following last week's GOP sweep, do you think regulatory relief is in the cards for the financial services industry?



Source: BofA Merrill Lynch Global Research

- **CCAR a product of regulatory attitude:** The panelists agreed that CCAR in its current form is not a result of legislation as post-recession bank stress tests (SCAP) existed prior to Dodd-Frank. Furthermore, the panelists noted Dodd-Frank's definition of a stress test is very basic, which has been made more stringent and complex as a result of regulators. Mr Cohen also noted that a lack of transparency of the test was the least defensible part of CCAR.
- **Biggest obstacle for bank M&A and activist influence is regulation.** Despite headlines of increased shareholder activism within the banking industry, the majority of investors polled (61%) believe activist investors have only a moderate impact on corporate strategy (see chart). Specifically, Mr. Cohen explained that two of the three reasons why an activist will typically get involved with a corporate are difficult to achieve on a bank's board given the level of regulatory oversight on the industry. While selling the bank is the one area where activists have had success, this typically occurs at the community bank level. That said, he believes a change in attitude of regulators could free up M&A activity.

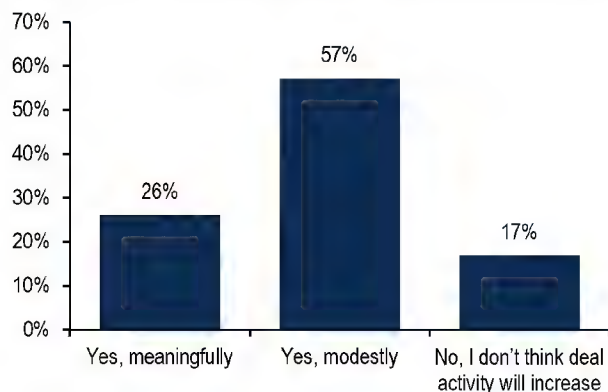
Chart 87: What kind of impact does an activist investor have in corporate strategy and ultimate shareholder value?



Source: BofA Merrill Lynch Global Research

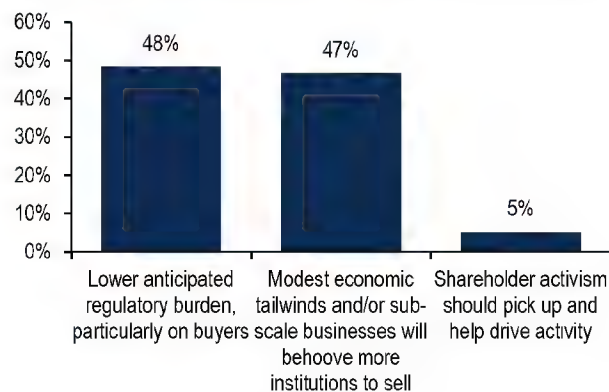
- **How to do M&A right:** When describing acquisitions that most impressed the panelists, a key reason for success was the acquirer keeping the target management in place as well as giving the target management independence. The scope and planning of the integration was also critical for success.

Chart 88: Do you think M&A activity in financial services will pick up in 2017?



Source: BofA Merrill Lynch Global Research

Chart 89: If you voted yes, what statement closely matches your rationale?



Source: BofA Merrill Lynch Global Research

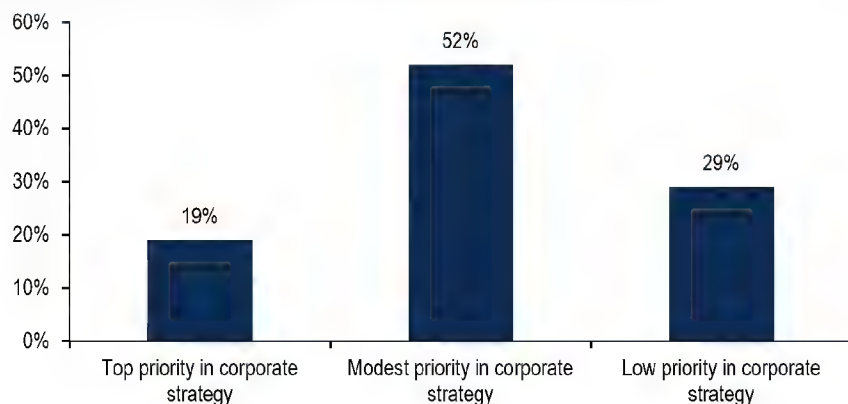
Understanding the Changing Fixed Income Markets

We hosted a panel to discuss the evolution of the fixed income market structure given the advent of electronic trading and regulatory construct. Our panelists included **Lee Olesky (co-founder and CEO of Tradeweb)**, **Adam Brown (Head of US Rates Electronic Trading at BofAML)** and **Brian Callahan (Head of US Par Loan Trading and the head of Electronic Initiatives for Global Credit and Special Situations at BofAML)**.

- **Electronification of fixed income markets steadily growing; however, lag European market.** Electronic trading came to fixed income trading in the late 1990's as a way of automating transactions (i.e. create a more efficient process between parties). Today in the US, the investment grade market is 16-20% electronic, the high yield market is 8% (has doubled over the last few of years), the treasury market (which has been growing steadily over last 10-15yrs) is 80-90% of the actual trade count is electronic. While the electronification of the derivative market was slower to evolve, recent regulatory reform has accelerated the electronification process (50% today). That said, while the evolution towards electronification in the US continues to grow, the European bond market is actually more advanced with nearly 50% of the bond market automated (vs. 20% for the US).
- **Regardless of possible regulatory relief, electronification may slow but won't end entirely.** While a partial repeal or lightening of Dodd-Frank would be a net positive for the financial markets, and possibly lower the costs to banks and end-users, Mr. Brown doesn't see a dramatic effect on the market structure. In other words, regulatory relief may only slow down the electronification progress.
- **Electronification within the fixed income market is a modest priority among asset managers.** Fifty-two percent (52%) of the audience polled believe it to be a modest priority in their own corporate strategy to embrace new technologies/electronification in fixed income. Mr. Brown was not surprised by the results as many of the asset managers have their own constraints from technology funding to regulatory issues to running the day-to-day business. While

electronification is something that pays dividends, these benefits occur over time. That said, general sentiment from asset managers is that electronification is something they want as it leads to efficiency.

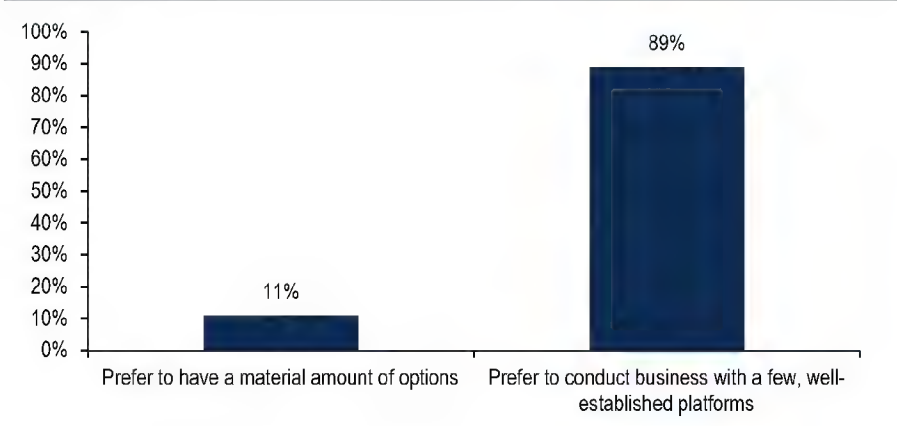
Chart 90: As you think about corporate strategy for asset managers, how open is your firm with embracing new technologies/electronification in the fixed income space?



Source: BofA Merrill Lynch Global Research

- **ETF market for fixed income securities expected to grow significantly.** Unlike in the equities market where ETFs are 7% of the volume traded, fixed income ETFs are still sub-1% (0.8% at YE15). As the market continues to grow, particularly in the asset classes where the underlying bonds aren't that liquid, Mr. Callahan noted seeing increased liquidity in the ETFs for liquidity reasons. Following in the footsteps of the equities market, Mr. Callahan expects the fixed income ETF market to grow significantly and be very impactful to the overall market structure.
- **Greater concern around speed at which liquidity can change vs. liquidity in the market.** There is a lot of concern around liquidity in fixed income markets. That said, Mr. Brown is more concerned with the speed at which liquidity can change. There has been growing evidence that the market is going to adjust greater and faster than the underlying fundamental reasons for the correction. As such, this is causing participants to revisit how they look at risk management. Now market participants need to take into account not only their behavior, but their reaction to other participants' behavior (i.e. contagion effect).
- **Fewer, well-established platforms reduce overall risk within system.** Eighty-nine (89%) percent of the audience polled prefer to conduct business with a few, well-established platforms to diminish risk within the system. Using the government bond market as an example, Mr. Olesky points out that the growing contribution from PTFs to the overall treasury trade volume has increased the risk outside the primary-dealer system. This is a risk Mr. Olesky believes needs to be addressed and prefers a central clearinghouse for fixed income transactions.

Chart 91: As you think about platform management, what is your view on having multiple options of liquidity providers?



Source: BofA Merr Il Lynch Global Research

Table 1: PO Changes

Firm	Rating	QRQ	Current Price	Old PO	New PO
ASB	UNDERPERFORM	B-3-7	\$22.45	\$19.00	\$20.00
BANC	NEUTRAL	C-2-7	\$14.80	\$18.50	\$15.50
BBT	BUY	B-1-7	\$42.82	\$41.00	\$45.00
BKU	BUY	C-1-7	\$34.19	\$36.00	\$37.00
BOH	UNDERPERFORM	B-3-7	\$85.67	\$64.00	\$75.00
C	BUY	B-1-7	54.63	\$55.00	\$60.00
CBF	BUY	C-1-7	\$35.80	\$35.00	\$38.00
CBSH	NEUTRAL	A-2-7	\$56.39	\$53.00	\$60.00
CFG	BUY	B-1-7	\$30.73	\$28.00	\$33.00
CFR	UNDERPERFORM	B-3-7	\$82.93	\$70.00	\$74.00
CMA	UNDERPERFORM	B-3-7	\$59.21	\$49.00	\$55.00
EWBC	BUY	B-1-7	\$45.64	\$45.00	\$50.00
FBP	NEUTRAL	C-2-9	\$6.29	\$6.00	\$6.50
FCB	BUY	C-1-9	\$39.75	\$44.00	\$44.00
FHB	NEUTRAL	C-2-7	\$29.48	\$28.00	\$31.00
FHN	UNDERPERFORM	B 3 7	\$17.97	\$14.50	\$16.00
FITB	NEUTRAL	B-2-7	\$24.90	\$23.00	\$26.00
FSB	NEUTRAL	C-2-9	\$33.80	\$40.00	\$36.00
GS	BUY	B-1-7	\$206.26	\$195.00	\$230.00
GWB	BUY	B-1-7	\$38.85	\$38.00	\$42.00
HBAN	BUY	C-1-7	\$11.93	\$12.00	\$13.00
HBHC	NEUTRAL	B-2-7	\$39.05	\$35.00	\$41.00
IBKC	BUY	B-1-7	\$78.05	\$74.00	\$85.00
JPM	BUY	B-1-7	77.40	\$74.00	\$83.00
KEY	BUY	B-1-7	\$16.73	\$17.00	\$18.00
MS	BUY	B-1-7	\$39.19	\$36.00	\$43.00
NYCB	BUY	C-1-8	\$15.36	\$17.00	\$17.00
PB	UNDERPERFORM	B-3-7	\$64.38	\$50.00	\$58.00
PNC	BUY	B-1-7	\$107.51	\$100.00	\$110.00
RF	NEUTRAL	B-2-7	\$12.89	\$11.00	\$13.00
SBNY	BUY	B-1-9	\$147.02	\$140.00	\$160.00
SIVB	BUY	B 1 9	\$147.35	\$140.00	\$165.00
SNV	NEUTRAL	C-2-7	\$38.01	\$35.00	\$40.00
STI	BUY	B-1-7	\$50.79	\$48.00	\$53.00
TCB	UNDERPERFORM	B-3-7	\$16.23	\$13.50	\$14.00
TCBI	NEUTRAL	C-2-9	\$70.75	\$62.00	\$74.00
UMBF	BUY	B-1-7	\$72.04	\$65.00	\$78.00
USB	NEUTRAL	B-2-7	\$47.87	\$45.00	\$50.00
WFC	BUY	B-1-7	51.68	\$50.00	\$55.00
ZION	UNDERPERFORM	C-3-7	\$37.46	\$30.00	\$36.00

Source: BofA Merr Il Lynch Global Research

Price objective basis & risk

AllianceBernstein (AB)

Our \$25 price objective is based on 13x target P/E on our '17E, a discount vs our target for asset managers as a group, based on improving but inconsistent flows and limited active equity exposure as well as the MLP structure which means less liquidity, though a high distribution. Upside/downside risks to our price objective are market appreciation/depreciation, similar to other asset managers, underperformance, and an unpredictable yield since it is based on earnings rather than fixed. Because Alliance is an MLP, total potential return includes a variable distribution based on earnings.

Amer Express (AXP)

Our \$74 price objective reflects a 13x PE multiple to our 2017 EPS estimate. Given the elevated uncertainty, we expect AXP will trade near the low end of its historical valuation range, which averages 12x-16x. This multiple reflects our view of solid loan growth and better billings, offset by increased risks of rising credit and marketing costs. We think the market will view AXP through a more credit card lens in the near-term, which also supports a multiple at the low end of the historical range.

Upside risks to our PO are stronger than expected macroeconomic conditions, accelerating consumer and business spending, lack of disruptions in capital markets, or a decreasing regulatory burden. Downside potential could come from weaker than expected macroeconomic conditions and renewed recessionary pressure, softer consumer and business spending, disruptions in capital markets, or an increasing regulatory burden.

Ares Management (ARES)

Our price objective (PO) for Ares is \$18, which implies a target price-to-ENI (P/ENI or P/E) multiple of 11x our 2017 ENI estimate. Our price objective is based on our sum-of-the-parts (SOTP) analysis. Our SOTP analysis includes the following components: a target multiple on fee related earnings (15x - in line with or a premium to asset manager multiples given healthy growth and sticky assets), book value for the balance sheet investments and accrued carry, and a discounted value on the performance fee upside over a cycle (1.3x MOIC). Based on this method, we value the fee related earnings at \$13/unit, the balance sheet (principal investments and accrued carry) at \$4/unit, and the discounted value of future carry income and investment income at \$1/unit, which equates to a total value of \$18.

Risks to our PO: a weak macro and capital markets backdrop, potential changes in tax laws related to carried interest and partnerships, legal and political risk, increased regulation, credit market disruptions, poor performance, weak fundraising, expansion risk, key person and talent risk, competition, a unique corporate structure that limits unitholder control, and lock ups.

Associated Banc-Corp (ASB)

We use an equal weighted three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$20 price objective and assign a 1.4x multiple to 3Q17E TBV and a 14.9x 2017 P/E multiple, in-line with mid-cap peers due to their near median return profile. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 5%. The upside risk to our price objective is a less onerous residential RE cycle. Downside risks are a double dip in housing prices, deteriorating energy portfolio and falling rental income for commercial properties.

Banc of California (BANC)

To arrive at our \$15.50 price objective, we have employed a three-factor valuation methodology that incorporates target P/E, target P/TBV and a DCF model. For our P/E analysis, we use a 14x earnings multiple on BANC's 2017E core earnings below peer

multiples due to lagging EPS growth. For our P/TBV valuation, we apply a 1.2x tangible book multiple to BANCs 2Q17E tangible book below peer multiples due to lagging ROTE. For our DCF analysis, we forecast net income growth stabilizes at 3% in the terminal stage. We also assume a beta of 1.1x in the terminal stage.

Downside risks to our price objective are slower than expected loan growth, and a reduction in the common dividend.

Bank of Hawaii Corp. (BOH)

We use an equal weighted three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$75 PO and assign a 2.2x multiple to 2Q17E TBV, representing a premium to peers, which we believe is appropriate given a stronger profitability and capital profile. Our 17x multiple on 2017E EPS is equal to the peer median given average EPS growth relative to peers. Our DCF assumes a two-stage cost of capital of 9.8% and a terminal growth rate of 3%.

Downside risks to our price objective are a longer-than-anticipated low rate environment and a reversal of local economic improvement. Upside risks are a stronger-than-expected economic rebound, better-than-expected capital distribution and a shorter-than-anticipated low rate environment.

BankUnited, Inc. (BKU)

To arrive at our \$37 price objective, we have employed an equal-weighted three factor valuation methodology that incorporates target P/TBV, P/E and DCF. We have applied a target P/TBV value multiple of 1.5x on our 2Q17E TBV and a P/E target multiple of 16x '17 EPS, based on BKU's above average growth relative to peers. Our DCF assumes a two-stage cost of capital of 7.9% and 9.3% and a terminal growth rate of 6%.

Downside risks to our price objective are slower CRE loan growth on the back of regulatory oversight, as well as an inability to deploy excess capital, increased competition for Florida M&A and an inability to continue to implement an organic growth strategy in New York City.

BB&T Corporation (BBT)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$45 PO and assign a 1.6x multiple to 2017E TBV and 14.5x multiple on 2017E EPS. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

Our EPS multiple is in-line with BBT's historical avg, which reflects very high-growth years in the 1990s, a pace unlikely to be achieved near term given BBT's size as well as the challenging macro backdrop and industry headwinds. Our DCF assumes a two-stage cost of capital of 9.7% and 10.9% and a terminal growth rate of 4%.

Risks to our price objective are macro risks such as a double dip recession, the implementation of a strict liquidity coverage ratio and further regulation on overdraft income that restricts bank profitability. Specific to BBT, risks are enhanced regulatory scrutiny and capital standards as a Domestic SIFI, the announcement of a large, expensive deal, and the risk that the NPBC transaction does not consummate.

Capital Bank Financial Corp. (CBF)

Our \$38 PO is based on an equal-weighted, two-factor valuation methodology that assumes: We assumes a 20.0x P/ 2017e EPS and a target P/TBV of 1.6x to 2017E tangible book given our forecast above peer EPS growth.

Downside risks to our PO are an inability to deploy excess capital and create value through acquisitions.

Citigroup Inc. (C)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$60 PO, assigning a 0.9x multiple to 2017E TBV and 11x multiple on '17E blended NA and EM earnings. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

Near term, we view C's current market multiple as overly discounted, but expect money center banks will likely continue to trade at a discount to the regionals. Our 1x TBV multiple represents a 0.3x discount to our median multiple for our universe. Our discount to TBV is a reflection of the earnings drag from Holdings and the fact that money centers will most likely continue to trade at a discount to regional peers. Our 11x 16E multiple is based on a sum of the parts analysis, where we apply a 10.5x multiple, on all operations ex. Lat Am and Asia GCB. We then apply a 11x multiple on Lat Am and Asia GCB to represent the earnings growth for consumer banking in emerging markets. Lastly, we deduct the earnings drag from Holdings. Our DCF analysis assumes a 5% growth rate and two stage cost of equity of 13%.

Risks to our PO are macro risks such as a slower than expected rate of fed hikes, and economic downturn and further scrutiny of the financials industry. Specific to C, risks are enhanced regulatory and capital standards as a Global SIFI, slower wind-down on Citi Holdings than expected, and slower-than-expected growth in the emerging markets and potential fines.

Citizens Financial Group (CFG)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our \$33 price objective and assign a 1.2x multiple to our 2017E TBV in-line with other asset sensitive peers. We place a 15x multiple on our 2017E EPS, also in-line with its asset sensitive peer group. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 5%.

Downside risks to our price objective are: 1) a significantly delayed Fed rate hike leading to pressured revenue growth, 2) higher losses associated with CFG's consumer oriented loan portfolio, and 3) a quicker than expected credit normalization.

Comerica Incorporated (CMA)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$55 PO, and assign a 1.2x multiple to 2017E TBV (in line with the median energy-exposed peers) and 16x multiple on 2017E EPS due to below peer EPS growth and ROTE. We have weighted the P/E and P/TBV factors equally at 33%, and our DCF analysis by 33%. Our DCF assumes a two-stage cost of capital of 12.3% and 10.5% and a terminal growth rate of 5% and Tier 1 common of 8% at termination.

Downside risks to our PO are a more severe than expected impact from lower energy prices, or a slower than expected rate of fed hikes. Upside risks are a better than expected rebound in energy prices and sooner recognition of cost saves.

Commerce Bancshares Inc. (CBSH)

We use an equal-weighted three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$60 PO and assign a 2.2x multiple to 2Q17E TBV, representing a premium to peers, given higher-quality earnings and capital position. Our assigned 18x multiple on 2017E EPS is at a premium to peers due to higher earnings quality. Our DCF assumes a terminal cost of equity of 9%, and a terminal growth rate of 3%.

Downside risks to our price objective are regulatory headwinds, or longer-than-anticipated low-rate environment. Upside risks are a stronger-than-expected economic rebound, better-than-expected capital distribution and a potential takeover above our price objective.

Cullen/Frost Bankers Inc (CFR)

To arrive at our \$74 price objective, we employed a three-factor valuation methodology that incorporates target P/E, target P/TBV and a DCF model. For our P/E valuation, we apply a 15x earnings multiple on CFR's 2017E core earnings. For our P/TBV valuation, we apply a 1.7x tangible book multiple to CFR's 2017E tangible book. Both multiples are lower than peers for CFR due to EPS headwinds and rising credit costs from lower energy prices. For our DCF analysis, we use a net income growth of 3.0% and assume a beta of 1.0 in the terminal stage.

Upside risks to our PO: a sharp rebound in oil prices, higher than expected interest rates, stronger loan growth, better than expected credit performance of CFR's energy loan portfolio. Downside risks: A worse than expected decline in Texas economic growth that impacts CFR's balance sheet growth, a slower than expected pace or rate hikes and a worse than expected sell off in oil prices.

East West Bancorp, Incorporated (EWBC)

Our three-pronged valuation methodology (target P/E, target P/TBV, and DCF analysis) drives our price objective of \$50. We assume a 16.0x P/ 2017e EPS and a target P/TBV of 2.0x to 2Q17E tangible book given our forecast above peer EPS growth. Our DCF assumes a two-stage cost of capital of 9.5% and a terminal growth rate of 3%. Upside risks to our PO are a quick economic recovery (led by stabilization or appreciation in CA housing values) or a faster than expected recovery in China. Downside risk to our PO is an even deeper economic slowdown driving corporate losses higher than we currently anticipate, faster than expected normalization in credit.

Eaton Vance (EV)

Our \$35 price objective is based on a target P/E of 15x calendar 2016E (14x '17E), at a discount to our asset-manager group target multiple, given recent outflows from high fee products, offset by distinct products in areas such as floating rate and overlay.

Downside risks to our price objective are market depreciation and investment under-performance, as for all asset managers, and (should the economy slow) concentration in some credit areas, such as bank loan funds, high yield and longer-duration munis. Upside risks are improving performance, flows, or future traction from EV's ETF licensing initiative.

FCB Financial Holdings, Inc (FCB)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our \$44 price objective and assign a 1.6x multiple to our 2017E TBV given that we believe the market would pay a 0.3x premium for FCB's 2016 estimated returns in line with the median premium of its peer group (Florida banks, High Growth, Bank Acquisition, and SMIDs). We place a 18x multiple on our 2017E EPS, a premium to its SMIDs peers given our outlook for stronger EPS growth. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 3%.

Downside risks to our price objective are a deterioration in credit quality in FCB's unseasoned newly originated loan portfolio, a downturn in the Florida economy, and continued competition for C&I loans. Upside risks are a better than expected improvement in its return profile and a much stronger economic improvement in the Florida economy.

Fifth Third Bank (FITB)

Our PO of \$26 is predicated on target P/E multiple of 15x to reflect higher confidence in FITB achieving most of its profit improvement goals related to Project North Star. This represents a modest premium versus peers. Downside risks to our PO are a prolonged low interest rate environment, expensive M&A and slower than guided loan growth on weaker economic activity.

First Bancorp Puerto Rico (FBP)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our \$6.50 price objective. We assign a 1.0x multiple to our 2Q17E TBV, below the 1.6X for peers, due to the overhang of PR fiscal issues that may reduce TBV. Our revised implied 2Q17E TBV of 1.0x is consistent with a 5% ROE. We assign a 10x multiple to our 2017E EPS, in line with peers. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 3%.

Downside risks to our price objective are a worse-than-expected restructuring of PR government debt, deterioration in the Puerto Rican economy that could hurt the ongoing credit and earnings recovery at FBP, a change in management's strategy to dispose troubled assets, and potential regulatory risk stemming from the ongoing implementation of the Dodd-Frank financial rules. Upside risks to our price objective are a much stronger economic improvement in Puerto Rico and a better-than-expected improvement in asset quality trends at FBP.

First Hawaiian Inc. (FHB)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$31 PO and assign a 2.2x multiple to 2017E TBV and 17x multiple on 2017E EPS, representing premium target multiples for the median smid-cap banks under coverage. We have weighted the P/E and P/TBV factors equally.

A superior profitability profile suggests an above peer multiple. Our DCF assumes a two-stage cost of capital of 8% and a terminal growth rate of 4%.

Risks include 1) FHB's reliance on the Hawaiian economy with 80% of the franchise spread across Hawaii, Guam, and Saipan poses downside risk to EPS from a severe economic downturn in this region. 2) While FHB has a history of conservative underwriting its exposure to auto loans could serve as an overhang if investor concerns around the health of the auto sector and consumer increase. 3) Expectations for continued divestiture by French bank BNP (owns 82% of shares o/s) could temper stock performance.

First Horizon National Corp. (FHN)

We use a three-prong valuation framework (P/E, P/TBV, DCF) to arrive at our \$16 price objective and assign a 1.5x multiple to 2Q17E TBV and a 14x multiple to 2017E EPS (inline with median for our mid-to-small cap universe). We believe that this valuation discount is warranted given the below average earnings growth that we forecast for FHN. Our P/TBV and P/E targets reflect our expectation that earnings growth and profitability will remain challenged by a low growth low interest rate environment. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 5%.

Downside risks to our price objective are a double dip in home prices and slower residential real estate recovery. Upside risks are FHN being taken out above our price objective and better performance in the economy than we expect.

Franklin Financial Network, Inc. (FSB)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our \$36 price objective and assign a 1.8x multiple to our 2Q17E TBV, given that we believe the market would pay no premium for FSB's 2016 estimated returns of 14%, below the median of its peer group (High performing, Southeast peers, and SMIDs). We place a 14x multiple on our 2017E EPS, a premium to its peer group given above average expected EPS growth. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 3%.

Downside risks to our price objective are: 1) execution risk leading to slower than expected loan growth or lower than expected improvement in the efficiency ratio, 2)

downturn in the local real estate markets affecting Franklin's construction loans and increasing credit costs via higher charge-offs and provisions, and 3) inability to effectively fund asset growth driving greater than expected compression in the net interest margin.

Goldman Sachs (GS)

We value the brokers based on the relationship between ROE (return on equity) and PB (price to book), which has a high historical correlation. Our \$230 PO is based on a target PB multiple of 1.2x our forward book value estimate, which is above our 2017E ROE of roughly 10% as we add in higher interest rate expectations and loosening regulations into our multiple.

Risks to the downside are a weaker economy/capital markets, increased macro issues, tougher regulation, and litigation, while risks to the upside are a stronger economy, moderating macro risks, market share gains, and less onerous regulatory and legal issues.

Great Western Bancorp Inc (GWB)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our \$42 price objective and assign a 2.0x multiple to our 2Q17E TBV given that we believe the market would pay premium for GWB's 2016 estimated returns of 15%, in line with the median premium of its peer group (High performing, Midwest peers, and SMIDs). We place a 16x multiple on our 2017E EPS, a premium to its peer group given higher quality earnings. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 3%.

Downside risks to our price objective are a prolonged downturn in the farm sector and lower for longer interest rate environment. Upside risks are a better than expected improvement in the farming industry and a much stronger economic improvement in the Midwest economy.

Hancock Holding (HBHC)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our \$41 price objective. We assign a 1.5x multiple to our 2Q17E TBV, in line with SMID-cap peers based on their in-line return profile, and this translates to \$35.75. We place a 14.5x multiple on our 2017E EPS, in line with other peers based on forecasted EPS growth, for \$33. Our DCF assumes a two-stage model with terminal growth rate of 3.5% and a cost of capital of 8.5% to derive our \$35 PO.

Downside risks to our price objective are regulatory issues, slowing growth and if M&A synergies do not materialize. Upside risks are better than expected cost saves, stronger loan growth that would lead to better than forecast spread revenue and lower credit costs.

Huntington Bancshares Inc. (HBAN)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our PO of \$13 and assign a 1.8x multiple to 2017E TBV and a 14x multiple on 2017E EPS, below historical multiples. This is due to more stringent capital standards and the negative fee income impact of pending regulatory reform. Our DCF analysis uses a cost of equity of 15.7% in the first stage and 11% in the second stage, and a terminal growth rate of 3%.

Risks to our price objective are an inability to offset regulatory fee income headwinds and integration risk associated with FMER. Other risks are an inability to return capital to shareholders in a timely fashion or overpaying for an acquisition target.

IBERIABANK Corp (IBKC)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our \$85 price objective and assign a 1.6x multiple to our 2Q17E TBV, in line with multiples of other

high growth peers. We place a 16x multiple on our 2017E EPS in line with SMID peers. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 3%.

Downside risks to our price objective are worse than expected decrease in oil prices, regulatory issues, deteriorating credit quality, and if M&A synergies do not materialize. Upside risks are sooner than expected recovery in the oil price, faster than expected rate hikes or better than expected improvement in the US economy.

Invesco (IVZ)

Our \$36 price objective is based on a target P/E multiple of 14x our 2017E, which is above IVZ's historical valuation relative to the group given expectations for superior organic growth. Risks to our price objective are market depreciation and investment underperformance, as for all asset managers, along with volatile flows in IVZ's passive strategies, non-US currency and market risk.

JPMorgan Chase & Co. (JPM)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$83 PO, assigning a 1.5x multiple to 2017E TBV and 13x multiple on 2017E EPS. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

Near term, we view JPM's current market P/E multiple as overly discounted, but expect money center banks will likely continue to trade at a discount to the regionals. Our 11x multiple is a 2x discount to our median multiple as we believe in the near future, money centers will continue to trade at a discount to regional peers. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 4%.

Risks to our price objective are macro risks such as a longer than expected low interest rate environment and further regulation and scrutiny of the financials industry. Specific to JPM, risks are enhanced regulatory and capital standards as a Global SIFI, mortgage putback risk, material decline in investment banking/trading profitability, and increased litigation on matters such as private label securitization, foreclosures, etc.

Key Corp (KEY)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$18 PO and assign a 1.4x multiple to 2017E TBV and 15x multiple on 2017E EPS, in-line with its peer group due to near median profitability and EPS growth. Our DCF assumes a two stage cost of capital of 13.4% and 10.9% and a terminal growth rate of 5% and Tier 1 common of 8% at termination.

Downside risks to our PO are a prolonged low interest rate environment, greater than expected expenses, inability to maximize balance sheet efficiency, and the announcement of expensive deals.

KKR & Co. (KKR)

Our price objective (PO) for KKR is \$17, which results in a target price-to-ENI (P/ENI or P/E) multiple of 10x our 2017 economic net income (ENI) estimate. Our price objective is based on our sum-of-the-parts (SOTP) analysis. Our SOTP analysis is based on the following components: a target multiple on fee related earnings (11x - discount to asset manager multiples given revenue mix), a discount to book value for the balance sheet investments and accrued carry given markets, and a discounted value on the performance fee upside over a cycle. Based on this method, we value the fee related earnings at \$6/unit, the balance sheet (principal investments and accrued carry) at \$9/unit, and the discounted value of future carry income and investment income at \$2/unit, which equates to a total value of \$17, in line with our price objective.

Risks to our PO: a weak macro and capital markets backdrop, potential changes in tax laws related to carried interest and partnerships, regulatory and political risk, poor

performance, weak fundraising, principal investment and balance sheet risk, expansion risk, key person and talent risk, competition, a unique corporate structure that limits shareholder control, and share lock-ups that could weigh on the stock.

Legg Mason (LM)

Our \$36 price objective is based on a target P/E multiple of 12x our calendar '17E, a discount to the group, given financial leverage, muted flows, and deal/integration risk. Downside risks to our price objective: an equity sell-off or weakening flows, which would pressure AUM and revenues. A return to past under-performance at key affiliates is also a risk for Legg, given its fragile recovery and brand issues. Given their affiliate model there are integration risks. Upside risks to our price objective are better than expected equity markets, performance, or flows, or an accretive acquisition.

Morgan Stanley (MS)

We value the brokers based on the relationship between ROE (return on equity) and PB (price to book), which has a high historical correlation. Our \$43 PO is based on a target PB multiple of 1.3x our forward book value estimate, which is above our 2017E ROE of roughly 8% as we add in higher interest rate expectations and loosening regulations into our multiple.

Risks are a weak economy, low rates for longer, a significant reduction in capital markets activity, weak returns, another shock to the financial system, ongoing competition and talent risk, tighter regulation, significantly higher capital requirements, and ongoing litigation risks.

New York Community Bancorp (NYCB)

Our price objective is \$17 and we use a three factor valuation model equally weighing valuations using P/E, P/TBV and DCF models. To arrive at our P/E valuation, we assign a 14x multiple to our blended '17e EPS or inline with the median of other CCAR banks with \$50-100bn in assets. To arrive at our P/TBV valuation we applied a 2.2x multiple to our 2Q17E TBV, a premium to NY/Thrift and smid cap peers given NYCB's superior return profile. We arrive at our DCF valuation using we assume a 2% terminal growth rate and a WACC of 8%.

Upside risks to our price objective are: 1) Change in SIFI threshold could drive a relief rally, 2) Lower for longer rate backdrop, and 3) A period of heightened market volatility.

Downside risks to our price objective are: 1) worse than expected impact on ROTE from increased capital standards from obtaining the SIFI designation and 2) higher than expected impact from increasing rates on funding cost.

Prosperity Bancshares Inc (PB)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our \$58 price objective. We assign a 1.8x multiple to our 2Q17E TBV (40% weight) compared to 1.1x median of TX peers. We believe the 0.7x premium to Texas peers is warranted given PB's above average return on tangible equity (ROTE) profile. We place a 14x multiple on 2017E EPS, in line with historical P/E median (40% weight) net of accretable yield. Our DCF valuation ((20% weight) suggests a fair value of \$45. Our DCF assumes a terminal growth rate of 3% and cost of capital of 9.9%.

Risks to our price objective are worse than expected drop in the price of oil, better than expected macro environment and increasing rates which offset the effects of lower oil prices, or inability to close an M&A deal due to regulatory or capital constraints.

Regions Financial (RF)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$13 price objective and assign a 1.4x multiple to 2017E TBV and 14x multiple on 2017E EPS. Our

estimates imply RF would generate ROTEs of 10-11% in 2016-2017E, hence we find RF fairly valued at 1.3x TBV. Our 13x multiple is in-line with large regional peers. Our DCF assumes a two-stage cost of capital of 13.6% and 10.5% and a terminal growth rate of 6.5% and Tier 1 common of 8% at termination.

Downside risks to our PO are a slower-than-expected credit recovery, and the Fed on hold for a longer period of time.

Signature Bank (SBNY)

We use an equal-weighted three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$160 PO and assign a 2.1x multiple to 3Q17E TBV, representing a premium to the group, which we believe is appropriate given a stronger profitability and capital profile, and above-peer-growth prospects. Our 16.1x multiple on 2017E is higher than peers given consistent above peer growth. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 4%.

Risks to our price objective are required provisioning at higher-than-forecast levels, further deterioration in rental income for commercial properties, and a longer-than-anticipated low-rate environment.

SunTrust Banks, Inc. (STI)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$53 PO, assigning a 1.7x multiple to 2017E TBV and 14.5x multiple on 17E EPS. Above peer P/TBV due to their above median profitability, and below peer P/E due to their below median EPS growth. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

Our DCF assumes a two-stage cost of capital of 12% and a terminal growth rate of 4%.

Risks to our price objective are macro risks, such as a slower than expected rate increase. Upside risks are higher-than-expected capital return, a general beta rally for bank stocks, and faster recognition of "normalized" earnings.

SVB Financial Group (SIVB)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our \$165 price objective and assign a 1.8x multiple to our 2Q17E TBV and apply a 17x P/E to 17E EPS. Our valuation multiples are both in line with high growth peers due to SIVB's high profitability and EPS growth profile. Our DCF assumes a two-stage cost of capital of 9.5% and a terminal growth rate of 6%.

Downside risks are a longer than expected low rate environment and a slowdown in the technology sector and related IPO activity. Upside risks are sooner than expected rate hike, or better than expected pickup in the tech sector.

Synovus Financial Corp. (SNV)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$40 price objective and assign a 1.7x multiple to our forward 2Q17 TBV, given peers are currently trading higher and a discount is warranted given their lower return profile. We place a 15x multiple on 2017E EPS, in line with the historical median for the stock. Our DCF assumes a two-stage cost of capital of 9%, and a terminal growth rate of 3%.

Downside risks to our price objective are potentially slower-than-expected economic growth in their footprint or a potential takeover price that is lower than where the stock is trading today. Upside risks to our price objective are a quicker pick-up in capital return than we are expecting and SNV being acquired above our price objective.

TCF Financial Corp. (TCB)

We use an equal weighted, three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our PO of \$14. We assigned a 1.2x multiple to 2Q17E TBV and a 12x multiple on 2017E EPS, with lower PTBV/PE multiple than peers assigned due to the higher perceived risk of their lending model. Our DCF assumes a two-stage cost of capital of 9.4% and 11.5% and a terminal growth rate of 2%.

Upside risk to our price objective is a less onerous residential real estate cycle favorably benefiting credit provision forecasts. Downside risks are a double dip in home prices and a prolonged low rate environment.

Texas Capital Bancshares Inc. (TCBI)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our \$74 price objective and assign a 1.7x multiple to our 2Q17E TBV, below high growth peers due to possible losses as a result of the downturn in energy prices. We place a 17x multiple on our 2017E EPS, below TCBI's historical pre-crisis P/E multiple based on possible EPS headwinds from their energy exposures. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 4%.

Downside risks to our price objective are lower than expected oil prices and a slowdown in economic activity in Texas. Upside risk to our price objective is better than expected ramp up in MCA business, and sooner than expected hike in rates, faster than expected recovery in oil prices.

The Blackstone Group (BX)

Our price objective (PO) for Blackstone is \$29, which results in a target price-to-ENI (P/ENI or P/E) multiple of 12x our 2017 ENI estimate. Our price objective is based on our sum-of-the-parts (SOTP) analysis. Our SOTP analysis is based on the following components: a target multiple on fee related earnings (16x - roughly in line with or a premium to top tier asset manager multiples given healthy growth and sticky assets), book value for the balance sheet investments and accrued carry, and a discounted value on the performance fee upside over a cycle (1.5x MOIC). Based on this method, we value the fee related earnings at \$14/unit, the balance sheet (principal investments and accrued carry) at \$6/unit, and the discounted value of future carry income and investment income at \$9/unit, which equates to a total value of \$29, in line with our price objective.

Risks to our PO: a weak macro and capital markets backdrop, potential changes in tax laws related to carried interest and partnerships, legal and political risk, increased regulation, poor performance, weak fundraising, expansion risk, key person and talent risk, competition, and a unique corporate structure that limits unitholder control.

The Carlyle Group (CG)

Our price objective (PO) for Carlyle is \$18, which implies a target price-to-ENI (P/ENI or P/E) multiple of 13x our 2017 ENI estimate. Our price objective is based on our sum-of-the-parts (SOTP) analysis. Our SOTP analysis is based on the following components: a target multiple on fee-related earnings (16x, roughly in line with or a premium to asset manager multiples given growth outlook), book value for the balance sheet investments and accrued carry, and a discounted value on the performance fee upside over a cycle (1.5x MOIC). Based on this method, we value the fee-related earnings at \$4 share, the balance sheet at \$5 share, and incentive upside at \$9 share, which equates to a total value of \$18, in line with our price objective.

Risks to our PO: a weak macro and capital markets backdrop, potential changes in carried interest and partnership tax laws, regulatory and political risk, poor performance, weak fundraising, expansion risk, key person and talent risk, competition, a unique corporate structure that limits shareholder control, a limited float, and share lock-ups that could weigh on the stock.

The PNC Financial Services Group, Inc. (PNC)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$110 PO and assign a 1.4x multiple to 2017E TBV and 14x multiple on 2017E EPS, in line with target multiples for the median large regional banks under coverage. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

A superior profitability profile suggests an above peer multiple - however, a challenging macro backdrop and specific industry headwinds restrain our P/E target. Our DCF assumes a two-stage cost of capital of 9.6% and 11.2% and a terminal growth rate of 4%.

Risks are macro risks such as a lower for longer rate environment, the implementation of a strict liquidity coverage ratio and further regulation on overdraft income that restricts bank profitability.

U.S. Bancorp (USB)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$50 PO, assigning an above peer 2.8x multiple to 2017E TBV and near median 14.5x multiple on 2017E EPS due to their above median profitability. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%. Our DCF assumes a two-stage cost of capital of 9.5% and 10.9% and a terminal growth rate of 5%.

Risks to our price objective are macro risks such as a double dip recession, the implementation of a strict liquidity coverage ratio and further regulation on overdraft income that restricts bank profitability. Specific to USB, risks are enhanced regulatory scrutiny and capital standards as a Domestic SIFI and an announcement of a large expensive deal that could weigh on the stock price.

UMB Financial Corporation (UMBF)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our \$78 price objective and assign a 1.8x multiple to our 2Q17E TBV, in-line with peers, and we place a 18x multiple on our 2017E EPS, above peers given our above median EPS growth forecast. Our DCF model assumes cost of equity of 8% and a terminal growth rate of 4%.

Downside risks to our price objective are continued rising long rates, which could negatively impact the company's sizable securities book and erode tangible book value. In addition, a sudden outflow of deposits could impact EPS and the asset sensitivity of UMBF's balance sheet to higher interest rates. Upside risks to our price objective are a much faster asset mix change into higher yielding loans that significantly increases its net interest margin.

Wells Fargo & Company (WFC)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$55 PO, assigning a 1.75x multiple to 2017E TBV and 13x multiple on 2017E EPS. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

Our 1.6x TBV multiple represents a 0.3x premium to our mega-cap median multiple, but we believe this is justified due to WFC's superior returns on tangible equity (ROTE consistent between 13%-14% throughout our forecast period, versus 12% for peers). Our 12x EPS multiple is in line with our mega-cap median multiple. We believe WFC deserves to trade at a premium due to better earnings growth, but we are assuming WFC trades in line with peers due to a higher percentage of earnings from mortgage banking and accretable yield, as well as potentially greater regulatory scrutiny as the second largest US depository. Our DCF assumes a two-stage cost of capital of 11% and a terminal growth rate of 4%.

Downside risks to our price objective are an economic slowdown and the final implementation of a strict liquidity coverage ratio. Specific to WFC, risks are enhanced regulatory scrutiny and capital standards as a Global SIFI, and issues surrounding its cross selling.

Zions Bancorp (ZION)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our \$36 price objective and assign a 1.2x multiple to 2017E TBV. Our 16x P/E multiple, which we apply on 2017E EPS along with debt extinguishment upside, is 1x higher than its historical median due to low interest rates. Our DCF assumes a two-stage cost of capital of 16.1% and 11.6% and a terminal growth rate of 8%.

Upside risks to our price objective are more robust economic recovery and less onerous post cycle reserve requirements. Downside risks are a slowdown in housing price appreciation and a prolonged low interest rate environment.

Analyst Certification

We, Erika Najarian, Ebrahim H. Poonawala, Kenneth Bruce and Michael Carrier, CFA, hereby certify that the views each of us has expressed in this research report accurately reflect each of our respective personal views about the subject securities and issuers. We also certify that no part of our respective compensation was, is, or will be, directly or indirectly, related to the specific recommendations or view expressed in this research report.

Special Disclosures

BofA Merrill Lynch is currently acting as financial advisor to KKR and the Company in connection with its proposed sale of a majority stake in SMCP Group to Shandong Ruyi Group. The signing of an exclusivity agreement between the parties was announced on 31 March 2016.

BofA Merrill Lynch is currently acting as financial advisor to Huntington Bancshares Inc in connection with Huntington and FirstMerit Corp's proposed sale of 13 bank branches in Stark and Ashtabula counties to First Commonwealth Bank, a subsidiary of First Commonwealth Financial Corp, which was announced on July 27, 2016.

BofA Merrill Lynch is currently acting as financial advisor to Blackstone Group LP in connection with its proposed acquisition of Team Health Holdings Inc, which was announced on October 31, 2016. The proposed transaction is subject to approval by shareholders of Team Health Holdings Inc. This research report is not intended to (1) provide voting advice, (2) serve as an endorsement of the proposed transaction, or (3) result in the procurement, withholding or revocation of a proxy.

BofA Merrill Lynch is currently acting as financial adviser to Blackstone Real Estate Partners Europe IV and Blackstone Real Estate Partners VIII (jointly "Blackstone") through its entity Vega Holdco Sarl in connection with a proposed offer to acquire a controlling stake of D. Carnegie & Co. AB, which was announced on 15 July 2016. The transaction will, if completed eventually result in Blackstone passing the threshold for a mandatory offer obligation.

BofA Merrill Lynch is currently acting as financial advisor to Ares Capital Corp. in connection with its proposed acquisition of American Capital, Ltd., which was announced on May 23, 2016. Ares Management L.P. will provide financial support to the transaction. The proposed transaction is subject to approval by shareholders of American Capital Ltd. and Ares Capital Corp. This research report is not intended to (1) provide voting advice, (2) serve as an endorsement of the proposed transaction, or (3) result in the procurement, withholding or revocation of a proxy.

US - Brokers, Asset Managers, & Exchanges Coverage Cluster

Investment rating	Company	BofA Merrill Lynch ticker	Bloomberg symbol	Analyst
BUY				
	Affiliated Mgrs	AMG	AMG US	Michael Carrier, CFA
	AllianceBernstein	AB	AB US	Michael Carrier, CFA
	BlackRock, Inc	BLK	BLK US	Michael Carrier, CFA
	Charles Schwab Corp	SCHW	SCHW US	Michael Carrier, CFA
	CME Group	CME	CME US	Michael Carrier, CFA
	Cohen & Steers	CNS	CNS US	Michael Carrier, CFA
	Goldman Sachs	GS	GS US	Michael Carrier, CFA
	Houlihan Lokey	HLI	HLI US	Michael Carrier, CFA
	IntercontinentalExchange	ICE	CE US	Michael Carrier, CFA
	Invesco	IVZ	IVZ US	Michael Carrier, CFA
	KKR & Co	KKR	KKR US	Michael Carrier, CFA
	Legg Mason	LM	LM US	Michael Carrier, CFA
	Morgan Stanley	MS	MS US	Michael Carrier, CFA
	Oaktree Capital Group	OAK	OAK US	Michael Carrier, CFA
	Old Mutual Asset Management	OMAM	OMAM US	Michael Carrier, CFA
	TD Ameritrade	AMTD	AMTD US	Michael Carrier, CFA
NEUTRAL				
	Apollo Global Management	APO	APO US	Michael Carrier, CFA
	Ares Management	ARES	ARES US	Michael Carrier, CFA
	E*TRADE Financial	ETFC	ETFC US	Michael Carrier, CFA
	Franklin Resources	BEN	BEN US	Michael Carrier, CFA
	Janus Capital	JNS	JNS US	Michael Carrier, CFA
	Nasdaq Inc	NDAQ	NDAQ US	Michael Carrier, CFA
	Och-Ziff	OZM	OZM US	Michael Carrier, CFA
	T Rowe Price	TROW	TROW US	Michael Carrier, CFA
	The Blackstone Group	BX	BX US	Michael Carrier, CFA
	The Carlyle Group	CG	CG US	Michael Carrier, CFA
	WisdomTree	WETF	WETF US	Michael Carrier, CFA
UNDERPERFORM				
	Artisan Partners	APAM	APAM US	Michael Carrier, CFA
	CBOE Holdings	CBOE	CBOE US	Michael Carrier, CFA
	Eaton Vance	EV	EV US	Michael Carrier, CFA
	Federated Inv	FII	FII US	Michael Carrier, CFA
	Virtus Investment Partners	VRTS	VRTS US	Michael Carrier, CFA
	Waddell & Reed	WDR	WDR US	Michael Carrier, CFA
RSTR				
	Bats Global Markets, Inc	BATS	BATS US	Michael Carrier, CFA

US - Specialty Financial Services Coverage Cluster

Investment rating	Company	BofA Merrill Lynch ticker	Bloomberg symbol	Analyst
BUY				
	Apollo Commercial Real Estate Finance	ARI	ARI US	Kenneth Bruce
	Ares Commercial Real Estate Corp.	ACRE	ACRE US	Kenneth Bruce
	Blackstone Mortgage Trust Inc	BXMT	BXMT US	Kenneth Bruce
	Compass Diversified Holdings	CODI	CODI US	Derek Hewett
	Ladder Capital Corp.	LADR	LADR US	Kenneth Bruce
	MGIC Investment Corp	MTG	MTG US	Mihir Bhatia
	New Residential Investment	NRZ	NRZ US	Kenneth Bruce
	Radian Group Inc	RDN	RDN US	Mihir Bhatia
	Starwood Property Trust, Inc.	STWD	STWD US	Kenneth Bruce
	TCP Capital Corp	TCPC	TCPC US	Derek Hewett
	TPG Specialty Lending, Inc	TSLX	TSLX US	Derek Hewett
NEUTRAL				
	AGNC Investment Corp	AGNC	AGNC US	Kenneth Bruce
	Ally Financial Inc	ALLY	ALLY US	Kenneth Bruce
	Amer Express	AXP	AXP US	Kenneth Bruce
	Annaly Capital	NLY	NLY US	Kenneth Bruce
	CIT Group Inc.	CIT	CIT US	Derek Hewett
	Discover Financial Services	DFS	DFS US	Kenneth Bruce
	Golub Capital BDC, Inc.	GBDC	GBDC US	Derek Hewett
	MasterCard Inc	MA	MA US	Kenneth Bruce
	PayPal	PYPL	PYPL US	Kenneth Bruce
	PennyMac Financial Services, Inc.	PFSI	PFSI US	Kenneth Bruce
	Synchrony Financial	SYF	SYF US	Kenneth Bruce
	Visa Inc.	V	V US	Kenneth Bruce
UNDERPERFORM				
	Apollo Investment Corporation	AINV	AINV US	Derek Hewett
	Capital One	COF	COF US	Kenneth Bruce
	Credit Acceptance Corp.	CACC	CACC US	Kenneth Bruce
	Essent Group	ESNT	ESNT US	Mihir Bhatia
	Goldman Sachs BDC, Inc	GSBD	GSBD US	Derek Hewett
	OneMain Holdings, Inc	OMF	OMF US	Kenneth Bruce
	PennyMac Mortgage Investment Trust	PMT	PMT US	Kenneth Bruce
	Santander Consumer USA, Inc	SC	SC US	Kenneth Bruce
RSTR				
	American Capital, Ltd.	ACAS	ACAS US	Derek Hewett
	Ares Capital Corporation	ARCC	ARCC US	Derek Hewett
RVW				
	AG Mortgage Investment Trust, Inc.	MITT	MITT US	Kenneth Bruce
	ARMOUR Residential REIT, Inc	ARR	ARR US	Kenneth Bruce
	CYS Investments, Inc	CYS	CYS US	Kenneth Bruce
	Ellington Financial LLC	EFC	EFC US	Kenneth Bruce
	Hannon Armstrong	HASI	HASI US	Kenneth Bruce
	Invesco Mortgage Capital, Inc.	IVR	IVR US	Kenneth Bruce
	Two Harbors Investment Corp.	TWO	TWO US	Kenneth Bruce
	Western Asset Mortgage Corp	WMC	WMC US	Kenneth Bruce

US - Banks Coverage Cluster

Investment rating	Company	BofA Merrill Lynch ticker	Bloomberg symbol	Analyst
BUY				
	BankUnited, Inc.	BKU	BKU US	Ebrahim H. Poonawala
	BB&T Corporation	BBT	BBT US	Erika Najarian
	Capital Bank Financial Corp.	CBF	CBF US	Erika Najarian
	Citigroup Inc.	C	C US	Erika Najarian
	Citizens Financial Group	CFG	CFG US	Erika Najarian
	East West Bancorp, Incorporated	EWBC	EWBC US	Ebrahim H. Poonawala
	FCB Financial Holdings, Inc.	FCB	FCB US	Ebrahim H. Poonawala
	Great Western Bancorp. Inc.	GWB	GWB US	Ebrahim H. Poonawala
	Huntington Bancshares Inc.	HBAN	HBAN US	Erika Najarian
	IBERIABANK Corp	IBK	IBK US	Ebrahim H. Poonawala
	JPMorgan Chase & Co.	JPM	JPM US	Erika Najarian
	Key Corp	KEY	KEY US	Erika Najarian
	New York Community Bancorp	NYCB	NYCB US	Ebrahim H. Poonawala
	Signature Bank	SBNY	SBNY US	Ebrahim H. Poonawala
	SunTrust Banks, Inc.	STI	STI US	Erika Najarian
	SVB Financial Group	SIVB	SIVB US	Ebrahim H. Poonawala
	The PNC Financial Services Group, Inc.	PNC	PNC US	Erika Najarian
	UMB Financial Corporation	UMBF	UMBF US	Ebrahim H. Poonawala
	Wells Fargo & Company	WFC	WFC US	Erika Najarian
NEUTRAL				
	Banc of California	BANC	BANC US	Ebrahim H. Poonawala
	Commerce Bancshares Inc.	CBSH	CBSH US	Ebrahim H. Poonawala
	Fifth Third Bank	FITB	FITB US	Erika Najarian
	First Bancorp. Puerto Rico	FBP	FBP US	Ebrahim H. Poonawala
	First Hawaiian Inc.	FHB	FHB US	Ebrahim H. Poonawala
	Franklin Financial Network, Inc.	FSB	FSB US	Ebrahim H. Poonawala
	Hancock Holding	HBHC	HBHC US	Ebrahim H. Poonawala
	M&T Bank	MTB	MTB US	Erika Najarian
	Regions Financial	RF	RF US	Erika Najarian
	Synovus Financial Corp.	SNV	SNV US	Ebrahim H. Poonawala
	Texas Capital Bancshares Inc.	TCBI	TCBI US	Ebrahim H. Poonawala
	U.S. Bancorp	USB	USB US	Erika Najarian
UNDERPERFORM				
	Associated Banc-Corp	ASB	ASB US	Ebrahim H. Poonawala
	Bank of Hawaii Corp.	BOH	BOH US	Ebrahim H. Poonawala
	Comerica Incorporated	CMA	CMA US	Erika Najarian
	Cullen/Frost Bankers Inc.	CFR	CFR US	Ebrahim H. Poonawala
	First Horizon National Corp.	FHN	FHN US	Ebrahim H. Poonawala
	Prosperity Bancshares Inc.	PB	PB US	Ebrahim H. Poonawala
	TCF Financial Corp.	TCF	TCF US	Ebrahim H. Poonawala
	Zions Bancorp	ZION	ZION US	Erika Najarian
RSTR				
	First Republic Bank	FRC	FRC US	Erika Najarian

Disclosures

Important Disclosures

Equity Investment Rating Distribution: Banks Group (as of 30 Sep 2016)

Coverage Universe	Count	Percent	Inv. Banking Relationships*	Count	Percent
Buy	81	43.55%	Buy	74	91.36%
Hold	45	24.19%	Hold	41	91.11%
Sell	60	32.26%	Sell	56	93.33%

Equity Investment Rating Distribution: Financial Services Group (as of 30 Sep 2016)

Coverage Universe	Count	Percent	Inv. Banking Relationships*	Count	Percent
Buy	113	46.89%	Buy	89	78.76%
Hold	66	27.39%	Hold	55	83.33%
Sell	62	25.73%	Sell	40	64.52%

Equity Investment Rating Distribution: Global Group (as of 30 Sep 2016)

Coverage Universe	Count	Percent	Inv. Banking Relationships*	Count	Percent
Buy	1553	49.44%	Buy	1130	72.76%
Hold	730	23.24%	Hold	538	73.70%
Sell	858	27.32%	Sell	514	59.91%

* Issuers that were investment banking clients of BofA Merrill Lynch or one of its affiliates within the past 12 months. For purposes of this Investment Rating Distribution, the coverage universe includes only stocks. A stock rated Neutral is included as a Hold, and a stock rated Underperform is included as a Sell.

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Investment rating	Total return expectation (within 12-month period of date of initial rating)	Ratings dispersion guidelines for coverage cluster*
Buy	≥ 10%	≤ 70%
Neutral	≥ 0%	≤ 30%
Underperform	N/A	≥ 20%

* Ratings dispersions may vary from time to time where BofA Merrill Lynch Research believes it better reflects the investment prospects of stocks in a Coverage Cluster.

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Research Analysts

US Banks

Erika Najarian
Research Analyst
MLPF&S
+1 646 855 1584
erika.najarian@baml.com

Ebrahim H. Poonawala
Research Analyst
MLPF&S
+1 646 743 0490
ebrahim.poonawala@baml.com

Michael Liu
Research Analyst
MLPF&S
+1 646 855 3874
mliu3@baml.com

Brandon Berman
Research Analyst
MLPF&S
+1 646 855 3933
brandon.berman@baml.com

Andrew Schukman
Research Analyst
MLPF&S
+1 646 855 3622
andrew.schukman@baml.com

Christopher Nardone
Research Analyst
MLPF&S
+1 646 743 2016
christopher.nardone@baml.com

Brokers, Alternatives, Asset Managers, and Trust Banks

Michael Carrier, CFA
Research Analyst
MLPF&S
+1 646 855 5004
michael.carrier@baml.com

Sameer Murukutla, CFA
Research Analyst
MLPF&S
+1 646 855 2960
sameer.murukutla@baml.com

Jeffrey Ambrosi
Research Analyst
MLPF&S
+1 646 855 5034
jeffrey.ambrosi@baml.com

Michael Needham, CFA
Research Analyst
MLPF&S
+1 646 743 0179
michael.needham@baml.com

Shaun Calnan, CFA
Research Analyst
MLPF&S
+1 646 855 1362
shaun.calnan@baml.com

Specialty Financial Services

Kenneth Bruce
Research Analyst
MLPF&S
+1 415 676 3545
kenneth.bruce@baml.com

Mihir Bhatia
Research Analyst
MLPF&S
+1 415 676 3575
mihir.bhatia@baml.com

From: Ens, Amanda [REDACTED]
Sent: 11/17/2016 8:55:12 PM
To: jeffrey E. [jeevacation@gmail.com]; Richard Kahn [REDACTED]
Subject: USDJPY testing 110. Buy Japan upside
Attachments: image001.png; image002.png; image003.png; image004.jpg; image005.jpg; image006.jpg; image007.jpg; image008.png; image009.jpg; image010.jpg; image011.jpg; image012.gif; Nikkei to 20000.pdf; Japan - Ready for ignition.pdf; Japan Macro Watch.pdf

Importance: High

Buy DXJ Jan 50/52 Call Spread for \$0.35, ref 47.45, 13d. 4.7X net payout

We can also discuss single stock and Topix banks index (TPNBK) ideas

The Republican sweep means higher USD and yields are a foregone conclusion. We see USDJPY reaching 120 next year and Japanese reflation, bullish for Japanese equities, particularly the banks.

- Huge focus on Banks/Financials post Trump election, they're the big winners.
- The Banking sector is the main beneficiary of higher rates/less regulation overhang.
- Investors are still underweight Japan. Especially in financials, so the move can have legs
- Valuation still at depressed levels. Japanese Banks are cheap versus their peers.
- Having said that, uncertainty still there so buying calls and call spreads makes sense. Some investors are still skeptical. Instead of building a large cash position, we believe options are a better play in case the market reverses and initiates a risk off move again.

- BAML expects USDJPY 115-120 by end of 2017. NKY target of 20,000 (12% upside)
- BOJ's intentions to refrain from further flattening of local yield curve positive for Banks and Insurers.
- DXJ carries a **12% weight in banks** whereas NKY is only 1.07% and even TPX is only 8.55%.
- Positioning light. DXJ shares outstanding at 3year lows as foreigners have net sold \$52bln of JP equities ytd.
- DXJ skew remains flat. 2m 25d Put /Call skew at 19%tile over the past year.

Japan Investment Strategy, Japan Econ Outlook and Japan Macro Watch attached

DXJ 2m 25d Put/Call over the past year.



Source: Bloomberg

DXJ ETF shares outstanding remain at 3 year lows.



Source: Bloomberg

YTD net foreigner Japanese Equity flows:



Source: Bloomberg

Amanda Ens
Director | Global Equities
Bank of America Merrill Lynch
Merrill Lynch, Pierce, Fenner & Smith Incorporated



Japan Investment Strategy

Nikkei to 20,000: Inventory cycle upturn → cyclicals; inflation → banks, insurance

Investment Strategy

18 November 2016

Key takeaways

- Solid macro and weaker JPY positive for Japan equities, which also tend to outperform when US rate rises (esp. steepening)
- The inventory cycle continues to recover on fiscal easing and capex, implying cyclical stocks will outperform
- Inflation and higher yields positive for banks, insurance. Risk is diplomacy, protectionism, and US economic cycle



Bullish equities 2017; rotation into cyclicals, banks, insurance

We are bullish Japan equities for 2017 and we estimate the Nikkei 225 index will recover to 20,000 by end-2017 (see [\\$/¥'s eventual surge: Buy Nikkei 06 September 2016](#)). Our new Chief Japan Economist Izumi Devalier forecasts above-consensus Japan GDP growth and inflation in 2017, which is also supportive of our bullish equities scenario (see [Ready for ignition 18 November 2016](#)). We expect rotation into cyclicals, banks and insurance as explained below.

1) Upturn in inventory cycle: Defensives→Cyclicals

We expect cyclicals to outperform defensives, premised on [our end-2017 \\$/¥ estimate of ¥120](#), and this is supported by our above-consensus economic growth outlook. Our Japan economist sees a shift to fiscal easing, firms countering the tight labor market by increasing capex, and estimates industrial production to grow 3.5% and 3.6% in 2017 and 2018, respectively. With the inventory cycle exiting a "contraction" phase and entering a "recovery" phase, conditions are likely to remain conducive to cyclicals outperforming defensives ([Chart 1](#), [Exhibit 3](#)).

2) Higher inflation, rates: Deflation stocks→Inflation stocks

Up to 1H16, the Japan equity market saw continued preference for deflationary stocks as domestic inflation remained subdued and the JGB curve underwent excessive bull flattening. Defensives outperformed cyclicals ([Chart 1](#)), growth outperformed value ([Chart 2](#)), and stocks that benefit from a low-yield environment (REITs) outperformed the converse (banks, insurance; [Chart 3](#)). However, we expect conditions to reverse into 2017. We see US Treasury yields rising and Japanese core CPI inflation recovering to +1.4% yoy by 2018 and core-core to +1.1% yoy. Stronger inflation and higher foreign yields should steepen the JGB yield curve above 10yr, while below 10yr should escape from downward pressure as BoJ rate cut expectations recede. Against this backdrop, we expect to see a rotation from deflation to inflation stocks, which in addition to cyclicals means banks and insurance should outperform REITs within the financial sector ([Chart 3](#)). This is also in line with the global rotation expected by Michael Hartnett ([The Flow Show: The Inflation Era Begins 10 November 2016](#)).

3) Nikkei winner of steeper UST and strong macro

In a scenario of strong external demand and US rate hikes (particularly with curve steepening), Japan equities tend to be the winner on a local currency basis, led by cyclicals, banks and insurance stocks ([Exhibit 4](#)). Resurgence in the "Japan macro trade" of short yen / buy equities is also a possibility.

Our Buy-rated stocks in bank, insurance and cyclical sectors are listed in [Table 1](#).

Shusuke Yamada, CFA 

FX/Equity Strategist

Merrill Lynch (Japan)

Global Research

Bank of America
Merrill Lynch 

Japan Economics Viewpoint

Ready for ignition

18 November 2016

Key takeaways

- We are upbeat on Japan's outlook and think consensus is underestimating the strength of medium-term GDP and inflation.
- While the consensus looks for just 0.8% growth next year, we expect growth of 1.4% in CY17 and 1.2% in CY18.
- With inflation moving in the right direction, we expect BoJ to keep its rates targets unchanged for the foreseeable future.



Consensus underestimating GDP and inflation

We are upbeat on Japan's outlook and think consensus is underestimating the strength of medium-term GDP and inflation. We expect growth of 1.4% in CY2017 and 1.2% in CY2018, well above consensus of just 0.8% growth next year. For the first time in four years both monetary and fiscal policy are supporting growth. The combination of modestly higher commodity prices, a weaker yen, and a tightening output gap should drive Japan-style core inflation to 1.0% in CY2017, and 1.4% in CY2018. We expect the BoJ to keep its rate targets unchanged for the foreseeable future as inflation moves in the right direction.

Fiscal and monetary policy realigning

For years Japan has oscillated between loose and tight fiscal policy. Japanese policymakers now seem to be on the same page and we see little risk of another policy error. If anything, we see upside risks from greater fiscal stimulus via a third supplementary budget or a relatively aggressive FY17 ordinary budget. Meanwhile,

the BoJ's new interest-pegging regime ensures that financial conditions will become increasingly stimulatory as inflation rises.

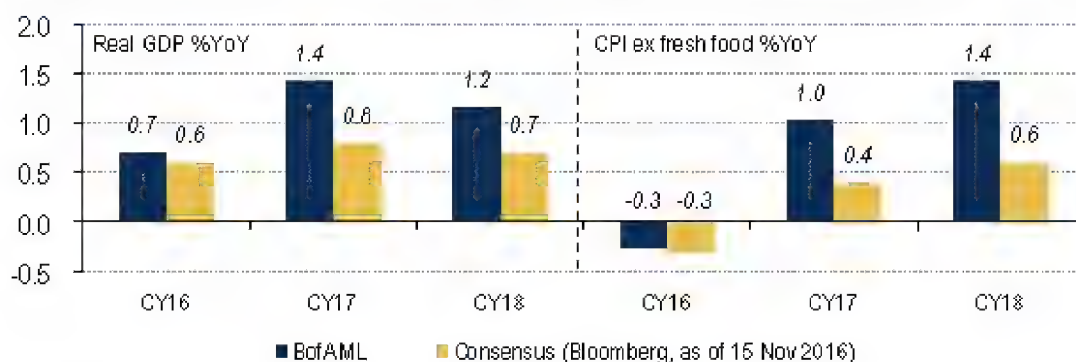
2017 - a year of recovering domestic demand

We think the economy is heading towards a cyclical sweet spot and see a broad-based recovery in domestic demand. Specifically, 1) consumption is poised to rebound as the saving rate peaks; 2) capex should accelerate in response to the improving demand outlook, deepening supply-side constraints, and "low-for-longer" real rates; and 3) increased efforts by policymakers to accelerate income redistribution could push up the velocity of money at the margin, helping to reflate the economy.

Biggest risk factor: US policy uncertainty

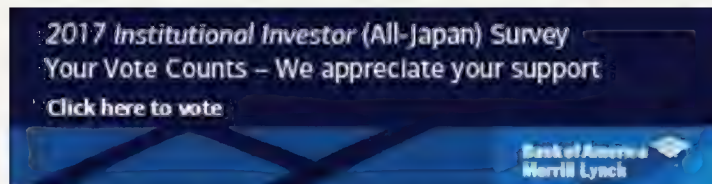
External developments pose the greatest risk to our forecasts, chief among them US policy uncertainty. The downside scenario for Japan is a combination of rising US protectionism, sliding global trade, and a stronger yen, which could reduce 2017 growth to zero. The Trump presidency may increase pressure on Japan to achieve greater military self-reliance, boosting defense spending. There will also be greater incentives to deepen economic and trade linkages with key regional players, such as China and Russia.

Chart 1: We think consensus is underestimating the strength of medium-term GDP and inflation



Source: BofA Merrill Lynch forecasts, Bloomberg

Izumi Devalier 
Japan Economist
Merrill Lynch (Japan)



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Nikkei to 20,000: Inventory cycle upturn → cyclicals; inflation → banks, insurance

Investment Strategy

18 November 2016

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Our Buy-rated stocks in bank, insurance and cyclical sectors are listed in Table 1.

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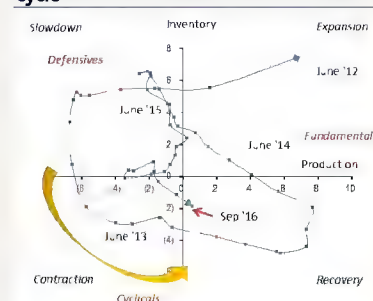
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Investment Strategy
Japan

Shusuke Yamada, CFA >>
FX/Equity Strategist
Merrill Lynch (Japan)
+81 3 6225 8515
shusuke.yamada@bam.com

Exhibit 1: Sector rotation and inventory cycle



Source: BofA Merrill Lynch Global Research Bloomberg
Haver

Exhibit 2: Shares rated Buy by our analysts in cyclical, bank and insurance sectors*

Company	Ticker	Company	Ticker	Company	Ticker
Mitsubishi F&I	8306 JP	Dai-ichi Kang	8750 JP	JR East	9020 JP
Japan Post Bank	7182 JP	Mitsubishi	8725 JP	JR Central	9022 JP
SMEC	8318 JP	Sompo	8810 JP	Nippon	7974 JP
Renaissance	8308 JP	Shimizu	4083 JP	Recruit	8048 JP
Mitsubishi Estate	8501 JP	F&E	4501 JP	Oriental Land	4861 JP
Nidec	6594 JP	Sony	6758 JP	Fuji Heavy Ind	7270 JP
Hitachi	6501 JP	NTT DATA	9813 JP	Suzuki Motor	7289 JP
Panasonic	6752 JP	Yamaha	5401 JP		

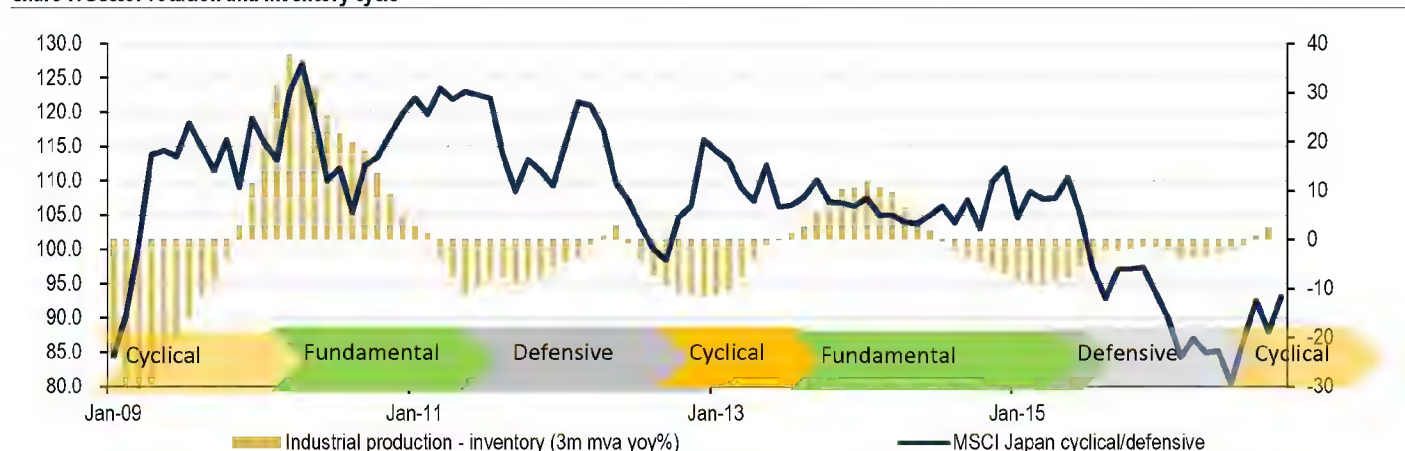
Source: BofA Merrill Lynch Global Research

*Market cap above 1.5trn JPY except bank, insurance shares

Risks: Geopolitics, diplomacy and US economic cycle

The biggest risk to our scenario is the implications for Japan's diplomatic and geopolitical environment of the Donald Trump presidency in the US. The likelihood of agreement on the TPP (Trans-Pacific Partnership) has already declined and been priced into the market, but any downward spiral in Japan-US relations would likely be further negative for Japan equities near-term. A rise in protectionism would be negative for stocks with high US export exposure. Meanwhile if the US economy slows or enters recession and the protectionist response weakens USD, it would be negative for Japanese cyclicals, particularly exporters, due to stronger JPY and potential trade conflicts. Moreover, a potential improvement in US-Russia (US-China) relations under the new US President most likely implies a relative worsening in Japan-Russia (Japan-China) relations. On the other hand, we expect Japan to move closer to Europe under such a scenario, raising the incentive to sign the Japan-EU EPA (Economic Partner Agreement), positive for related stocks. If the Trump presidency tips the US towards isolationism, we expect Japan's spending on defense to increase. If this results in higher spending on Japan's Self Defense Forces (rather than compensating for US spending on Japan-based US military), Japan's defense-related stocks would be beneficiaries, and it could reshape the arms industry in Japan.

Chart 1: Sector rotation and inventory cycle



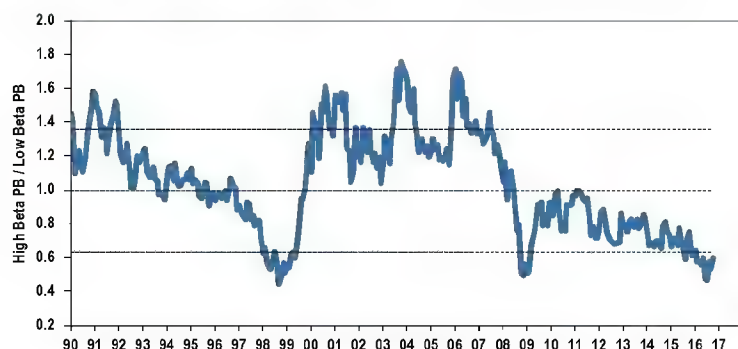
Source: BofA Merrill Lynch Global Research, Bloomberg, Haver

Cyclical: Industrials, consumer discretionary, IT, materials

Defensive: Healthcare, telecom, consumer staples, utilities

Calculated cyclical and defensive % change using monthly index return and index weight.

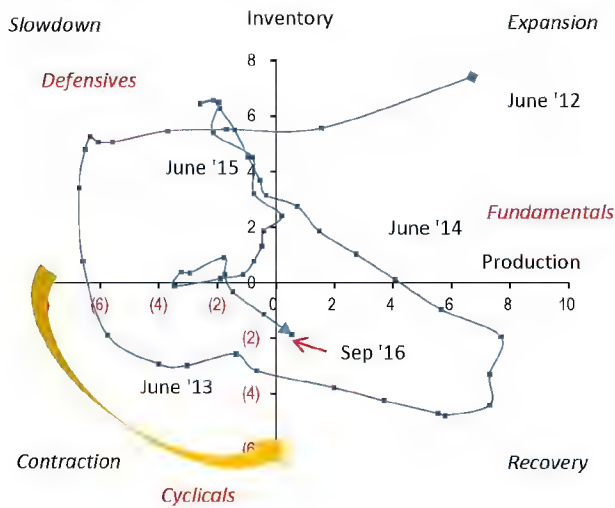
Chart 2: Japan – High Beta PB vs. Low Beta PB



Source: BofA Merrill Lynch Global Quantitative Strategy, MSCI, IBES

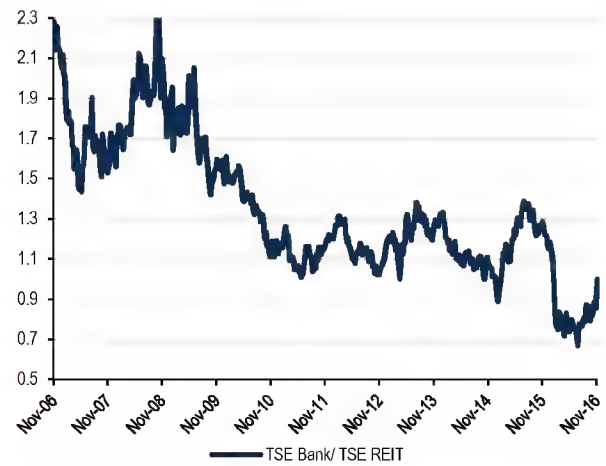
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Exhibit 3: Sector rotation and inventory cycle



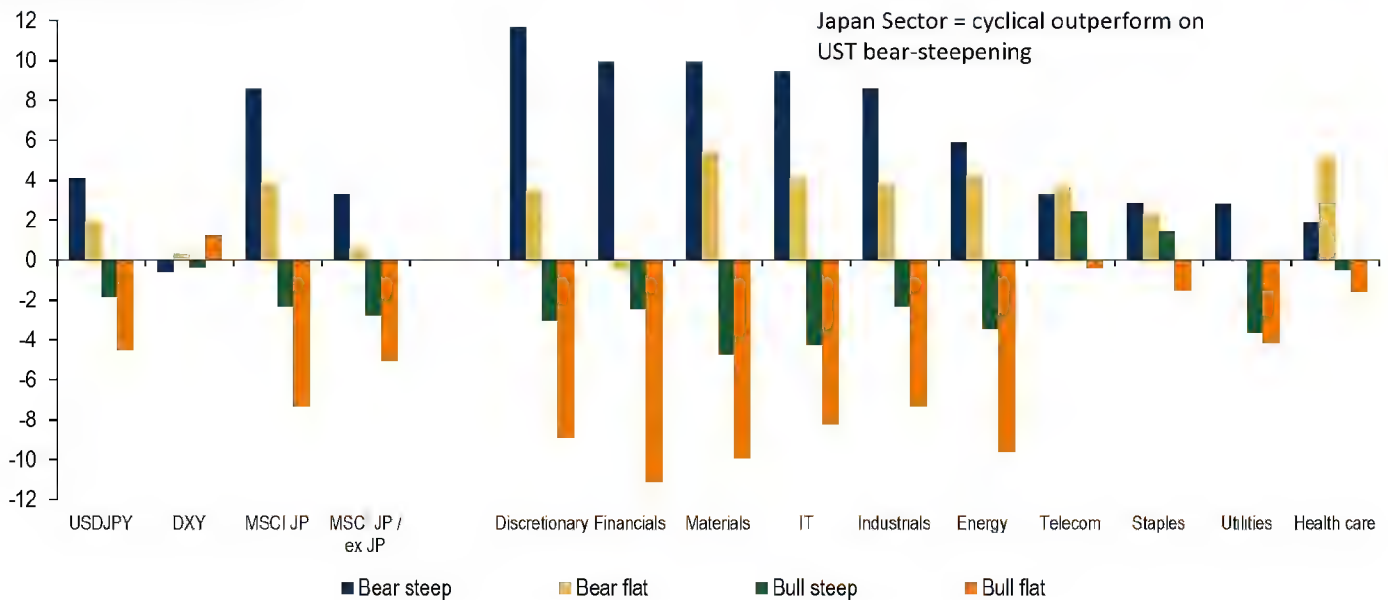
Source: BofA Merrill Lynch Global Research, Bloomberg, Haver

Chart 3: Higher inflation/yields suggests banks will outperform REITs



Source: BofA Merrill Lynch Global Research, Bloomberg,

Exhibit 4: Reactions to US Treasury curve moves (% , simple average of past 43 quarters) – Japan equities have outperformed during bear-steepening led by cyclicals, banks and insurance



Source: BofA Merrill Lynch Global Research, Bloomberg.

Curve movements based on 2yr move and 2s10s move (Bloomberg US Treasury yield index), so includes twist movements, but even if we exclude these implications do not materially change.

Bear steepening (2yr +16bps, 2s10s +33bps) - 11 quarters, bear flattening (2yr -26bps, 2s10s -20bps) - 10 quarters, bull steepening (2yr -48bps, 2s10s +28bps) - 10 quarters, bull flattening (2yr -27bps, 2s10s -30bps) - 12 quarters

Table 1: Shares rated buy by our analysts in cyclical, bank and insurance sectors*

Company Name	Ticker	Industry (JPX definition)	Price	MKT CAP (Billion Yen)	Analyst Name
Mitsubishi UFJ FG	8306 JP	Banks	683	9,674	Futoshi Sasaki
Japan Post Bank	7182 JP	Banks	1331	5,990	Futoshi Sasaki
SMFG	8316 JP	Banks	4190	5,925	Futoshi Sasaki
Resona HD	8308 JP	Banks	538	1,251	Futoshi Sasaki
Mitsubishi Elec	6503 JP	Electric Appliances	1592	3,418	Mikio Hirakawa
Nidec	6594 JP	Electric Appliances	10460	3,035	Masashi Kubota
Hachi	6501 JP	Electric Appliances	588	2,658	Mikio Hirakawa
Panasonic	6752 JP	Electric Appliances	1033	2,533	Mikio Hirakawa
Dai-ichi Life	8750 JP	Insurance	1850	2,202	Futoshi Sasaki
MS&AD Holdings	8725 JP	Insurance	3405	2,085	Futoshi Sasaki
Sompo Holdings	8630 JP	Insurance	3684	1,506	Futoshi Sasaki
Shin-Etsu Chem	4063 JP	Chemicals	8328	3,599	Takashi Enomoto
FUJIFILM	4901 JP	Chemicals	4095	1,906	Hiroyasu Eguchi
Sony	6758 JP	Electric Appliances	3226	4,075	Mikio Hirakawa
NTT DATA	9613 JP	Information & Communication	5530	1,551	Hiroyasu Eguchi
NSSMC	5401 JP	Iron & Steel	2384	2,266	Takashi Enomoto
JR East	9020 JP	Land Transportation	9542	3,743	Yasuhito Tsuchiya
JR Central	9022 JP	Land Transportation	17825	3,672	Yasuhito Tsuchiya
Nintendo	7974 JP	Other Products	26050	3,129	Hiroyasu Eguchi
Recruit HD	6098 JP	Services	4340	2,453	Yoshiyuki Kinoshita
Oriental Land	4661 JP	Services	5957	1,991	Rie Sakai
Fuji Heavy Ind	7270 JP	Transportation Equipment	4320	3,371	Kei Nihonyanagi
Suzuki Motor	7269 JP	Transportation Equipment	3711	1,637	Kei Nihonyanagi

Source: BoFA Merrill Lynch Global Research

*Cyclical sectors – Industrials, consumer discretionary, IT, materials in GICS definition

*Market cap above 1.5tn JPY except bank, insurance shares

*Exclude Fast Retailing

Disclosures

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Investment rating	Total return expectation (within 12-month period of date of initial rating)	Ratings dispersion guidelines for coverage cluster*
Buy	≥ 10%	≤ 70%
Neutral	≥ 0%	≤ 30%
Underperform	N/A	≥ 20%

* Ratings dispersions may vary from time to time where BofA Merrill Lynch Research believes it better reflects the investment prospects of stocks in a Coverage Cluster.

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18 November 2016

Consensus underestimating GDP and inflation

We are upbeat on Japan's outlook and think consensus is underestimating the strength of medium-term GDP and inflation. We expect growth of 1.4% in CY2017 and 1.2% in CY2018, well above consensus of just 0.8% growth next year. For the first time in four years both monetary and fiscal policy are supporting growth. The combination of modestly higher commodity prices, a weaker yen, and a tightening output gap should drive Japan-style core inflation to 1.0% in CY2017, and 1.4% in CY2018. We expect the BoJ to keep its rate targets unchanged for the foreseeable future as inflation moves in the right direction.

Fiscal and monetary policy realigning

For years Japan has oscillated between loose and tight fiscal policy. Japanese policymakers now seem to be on the same page and we see little risk of another policy error. If anything, we see upside risks from greater fiscal stimulus via a third supplementary budget or a relatively aggressive FY17 ordinary budget. Meanwhile, the BoJ's new interest-pegging regime ensures that financial conditions will become increasingly stimulatory as inflation rises.

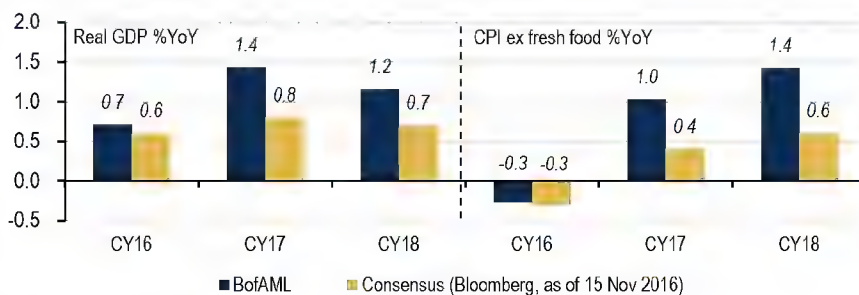
2017 – a year of recovering domestic demand

We think the economy is heading towards a cyclical sweet spot and see a broad-based recovery in domestic demand. Specifically, 1) consumption is poised to rebound as the saving rate peaks; 2) capex should accelerate in response to the improving demand outlook, deepening supply-side constraints, and "low-for-longer" real rates; and 3) increased efforts by policymakers to accelerate income redistribution could push up the velocity of money at the margin, helping to reflate the economy.

Biggest risk factor: US policy uncertainty

External developments pose the greatest risk to our forecasts, chief among them US policy uncertainty. The downside scenario for Japan is a combination of rising US protectionism, sliding global trade, and a stronger yen, which could reduce 2017 growth to zero. The Trump presidency may increase pressure on Japan to achieve greater military self-reliance, boosting defense spending. There will also be greater incentives to deepen economic and trade linkages with key regional players, such as China and Russia.

Chart 1: We think consensus is underestimating the strength of medium-term GDP and inflation



Source: BofA Merrill Lynch forecasts, Bloomberg

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Economics
Japan



Izumi Devalier
Japan Economist
Merrill Lynch (Japan)
+81 3 6225 6257
izumi.devalier@baml.com

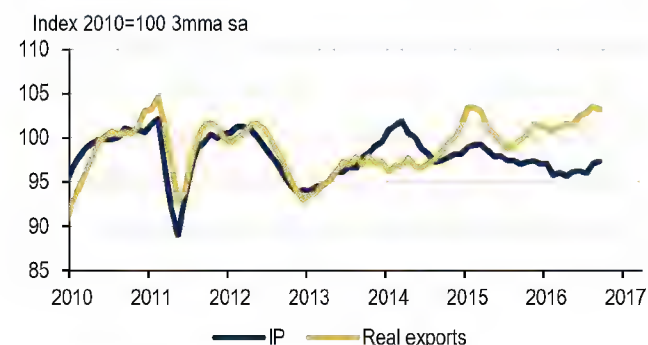
Escape from zero

The Q3 CY16 GDP print confirms our view that Japan has at last emerged from the de facto zero-growth trap of the past few years. Growth accelerated to an above-consensus 2.2% q-o-q saar, after a 0.7% rise in Q2 CY16 and 2.1% rise in Q1 CY16. We expect a moderation in Q4 CY16, but underlying growth will remain firmly in the 1.0-1.5% range. We are currently tracking CY2016 growth of 0.7%, a modest improvement from 0.6% in CY2015, though the switch to a new GDP standard¹ next month raises uncertainty around our forecasts.

Upturn in exports to be sustained through Q3 CY17

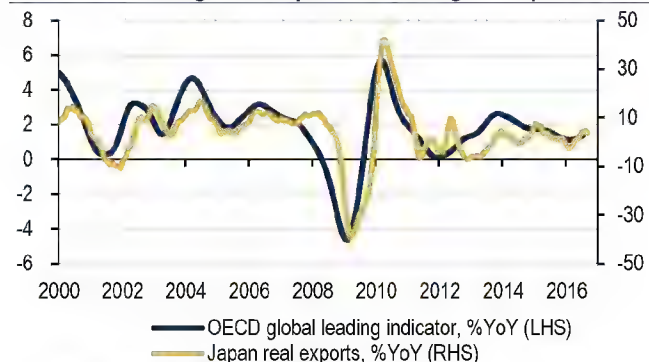
The recent recovery has been driven by a fading consumption tax shock and stronger exports. The downturn in the global industrial cycle in 2014-16 hurt Japan, but manufacturing activity bottomed out early this year and is now modestly expanding (Chart 2). The OECD leading indicator continues to signal a synchronized pick-up in global growth (Chart 3). The domestic inventory cycle also points to production gains ahead (Chart 4). For Japanese exporters, the improvement in demand has been most visible for Europe (Chart 5). US and Chinese demand will likely follow, though the mainland's [structural shift to services](#) implies only a modest acceleration. We expect the current up-cycle in global exports to be sustained through Q3 CY17 – possibly longer depending on developments in the US (more on this later). The combination of stronger external demand and [a weaker currency](#) should shore up business confidence, especially among manufacturers, and lay the foundations of Japan's recovery.

Chart 2: Industrial activity has bottomed out



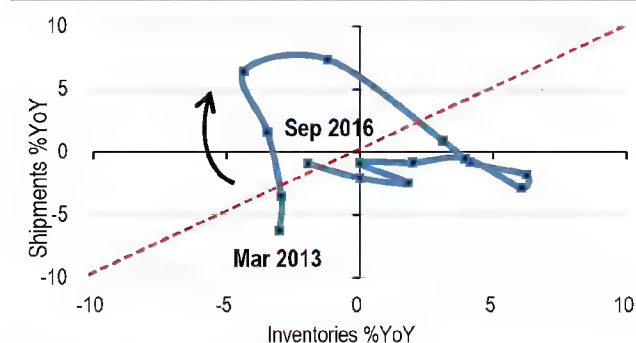
Source: BofA Merrill Lynch Global Research, METI, BoJ

Chart 3: OECD leading indicator points to modest global expansion



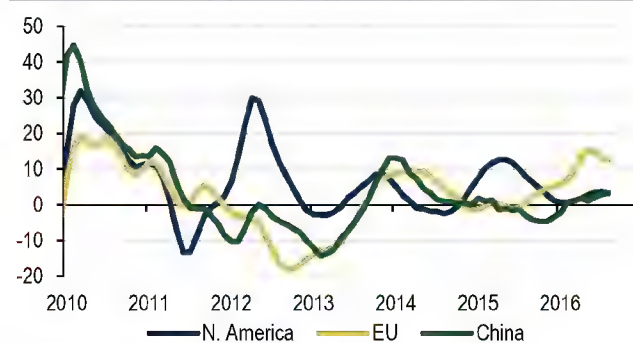
Source: BofA Merrill Lynch Global Research, OECD, BoJ

Chart 4: The shipment-inventory cycle points to production gains ahead



Source: BofA Merrill Lynch Global Research, METI

Chart 5: Japan's real exports by destination, 3mma %YoY



Source: BofA Merrill Lynch Global Research, BoJ

¹ Japan will switch to SNA2008 methodology, starting with the release of revised Q3 CY16 GDP due 8 December 2016.

Automatic easing

Policy headwinds are also abating: for the first time since 2013, both fiscal and monetary policy are poised to turn stimulatory in 2017.

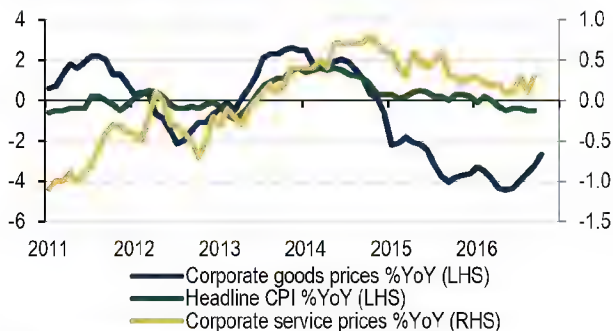
Monetary policy: BoJ pegs to zero

The BoJ's [transition to yield-curve targeting](#) ensures that [real yields will drop as inflation picks up](#), implying that financial conditions will turn increasingly loose as the recovery progresses. There are good reasons to be cautiously optimistic: after all, despite a triple whammy of weak domestic demand, weak commodity prices, and a stronger yen, Japanese inflation measures are showing early signs of bottoming out (Chart 6).

We expect Japan-style core inflation (CPI ex fresh food) to trough in Q4 CY16, after which it should accelerate relatively quickly in the first two quarters of 2017 in response to 1) a recovery in crude oil prices, 2) a weaker yen (we assume USDJPY [rebounds to 120 by the end of the year](#)), and 3) stronger wage growth. This also implies stronger core-core inflation (CPI ex food & energy). We are bullish on all three factors and see CY17 core inflation running at an above-consensus 1.0% and 1.4% in CY18.

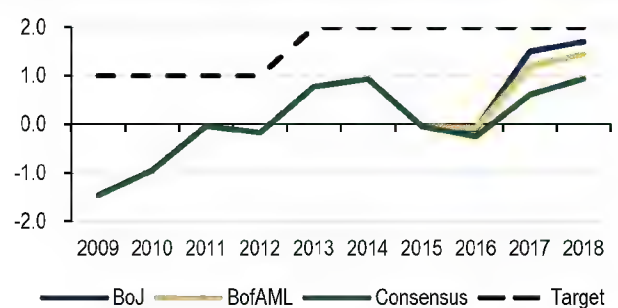
This is still short of the central bank's 2% target (Chart 7). But we believe there will be little pressure to lower rates further, especially against the backdrop of a weakening yen and rising global yields. More broadly, things are moving in the right direction for the BoJ. The private sector has been steadily re-leveraging, albeit gradually. Meanwhile, labor markets continue to tighten and wage growth is slowly improving: the 4-quarter moving average for hourly wages is now up to 1.2% y-o-y (Chart 8). With the labor market for lower-cost part-time workers nearing saturation, growth in higher-quality, full-time jobs is picking up (Chart 9). We expect a moderation in employment gains and faster wage growth ahead.

Chart 6: Produce and consumer price inflation (ex-tax effect)



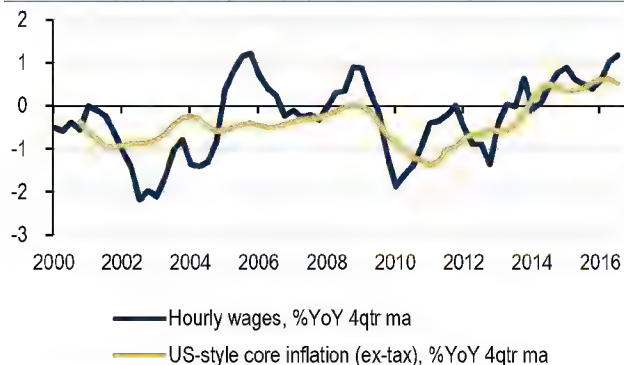
Source: BofA Merrill Lynch Global Research, MIA

Chart 7: Japan-style core inflation (CPI ex fresh food) forecasts (FY basis)



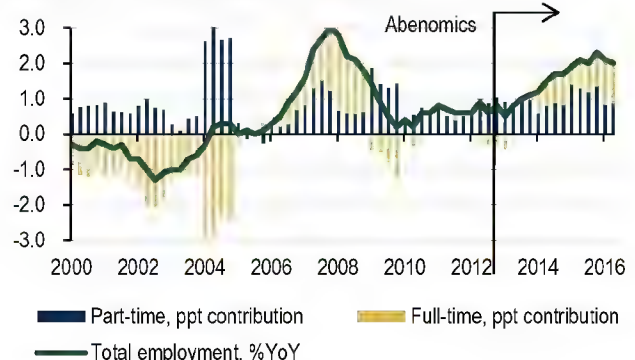
Source: BofA Merrill Lynch Global Research, BoJ, JICER *Consensus is JICER ESP survey

Chart 8: Wage growth is picking up on the back of tight labor markets



Source: BofA Merrill Lynch Global Research, MHLW, MIA

Chart 9: Full-time job growth is accelerating

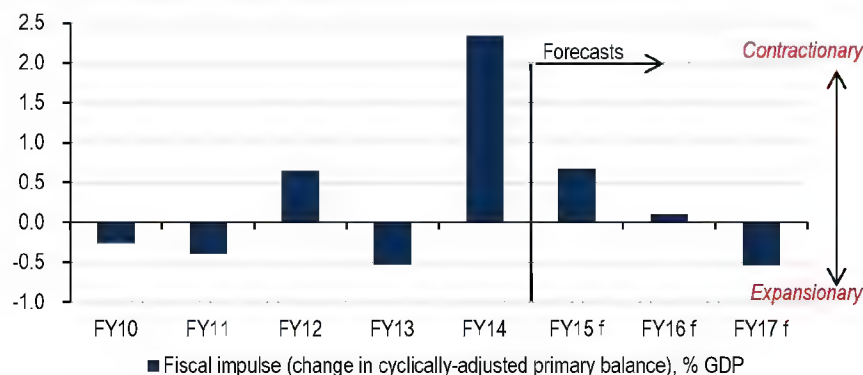


Source: BofA Merrill Lynch Global Research, MIA

Fiscal policy: turning looser in FY17

Fiscal policy is undergoing an equally important shift. In August, the Cabinet approved an economic stimulus package totaling JPY28trn (roughly 5.5% of GDP). Though “real water” government spending is a comparatively modest JPY7.5trn (1.5% of GDP), this is enough to put the fiscal impulse back in expansionary territory, after three years of tightening (Chart 10). The stimulus measures, which are centered on public investment and cash transfers to households, should boost CY2017 GDP by 0.5ppt. Public construction orders are already rebounding as the government front-loaded public infrastructure spending (Chart 11). Meanwhile, the next stage of the consumption tax increase has been postponed until October 2019.

Chart 10: After 3 years of tightening, fiscal policy to turn loose in FY17

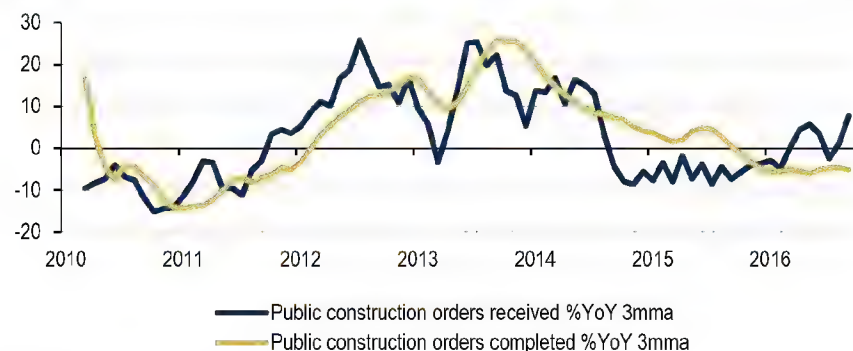


Source: BoFA Merrill Lynch Global Research, IMF, CAO

To be clear, we are not talking about massive shifts in the fiscal stance here—the Ministry of Finance remains very much opposed to expanding the deficit and Prime Minister Abe has yet to abandon the government’s long-standing goal of balancing the primary balance by FY2020.

However, there is a growing consensus among Japanese policymakers that premature fiscal tightening is counter-productive for reflation efforts, [especially when monetary policy is stretched](#). Even BoJ Governor Kuroda, who initially underplayed the risks from 2014 fiscal tightening, has recently acknowledged that loose monetary and fiscal policies will have a “synergistic effect.” The upshot is that the risk of another policy error is low, in our view. If anything, we see upside risks from greater fiscal stimulus in the form of a third supplementary budget or relatively aggressive FY17 ordinary budget. We would not rule out further delays to the October 2019 consumption tax hike, either.

Chart 11: Public investment is poised to pick up in the months ahead



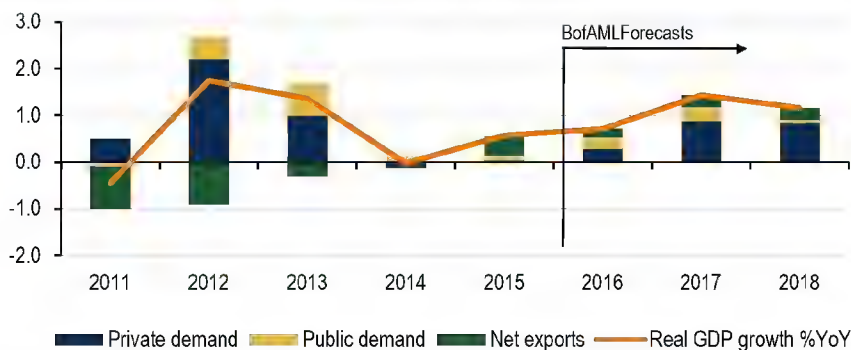
Source: BoFA Merrill Lynch Global Research, MITI

2017: a good year for domestic demand

Policy tailwinds are only one pillar of our call for Japan's outperformance in 2017. We also believe the stars are aligning for an organic improvement in domestic demand, which would support the current recovery: the economy is firing on all cylinders for the first time since 2013, and growth should accelerate to 1.4% in CY2017, followed by 1.2% expansion in CY2018 (Chart 12).

We see three catalysts: a consumer comeback, stronger capex, and a shift in income away from high-saving corporations in favour of higher-spending households and stockholders.

Chart 12: Steady improvement in growth, led by domestic demand



Source: BofA Merrill Lynch forecasts, CAO

1. Consumer comeback

Households have been the noticeable laggard in the current recovery and the main reason why Japan's economy has barely grown since the 2014 consumption tax hike. This is not for a lack of income growth: real employee compensation (wages + employment) has staged an impressive recovery of late, rising 1.2% in CY15, and an estimated 1.9% in CY16 (Chart 13).

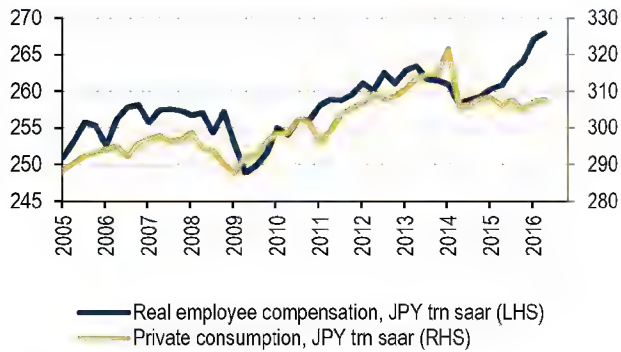
One explanation is that private consumption is simply being underestimated in demand-side GDP statistics: researchers at the Bank of Japan recently produced experimental supply-side estimates of GDP that were significantly higher than existing expenditure-side statistics.² We find the BoJ research interesting and agree that Japanese consumption statistics are beset by data quality issues. But this alone cannot account for the consumption slump. We think two factors are equally to blame for depressed household spending: 1) a squeeze on disposable income from higher taxes and social security contributions; and 2) a surge in the saving rate (Chart 14).

Calling Japan right in 2017 is largely about correctly forecasting whether these two trends will reverse. We see several reasons for optimism. First, we expect real employee compensation to accelerate further, driven by a continued pick-up in per capita wages. The call on the saving rate is admittedly trickier. But having surpassed the 2006 highs, we think it is unlikely to surge further, given that consumer confidence is improving and income growth is firming. FY17 tax reforms are also likely to support household sentiment at the margin: for example, discussions are underway about enlarging tax cuts for second-earners who work part-time. Overall, we expect private consumption to rise 1.0% in CY17, adding 0.6ppt to growth.

Should the saving rate stabilize, as we expect, consumption should again start rising in tandem with compensation. Investors should not have to wait long to get some visibility around these trends. We expect the saving rate to peak in Q4 CY16 and consumption to rise strongly from this quarter.

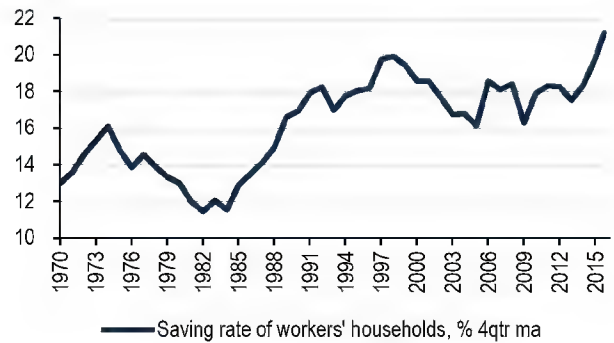
² Link to the research paper (in Japanese only): https://www.boj.or.jp/research/wps_rev/wps_2016/data/wp16j09.pdf

Chart 13: Real labor income and private consumption



Source: BofA Merrill Lynch Global Research, CAO

Chart 14: Workers' saving rate at all-time high



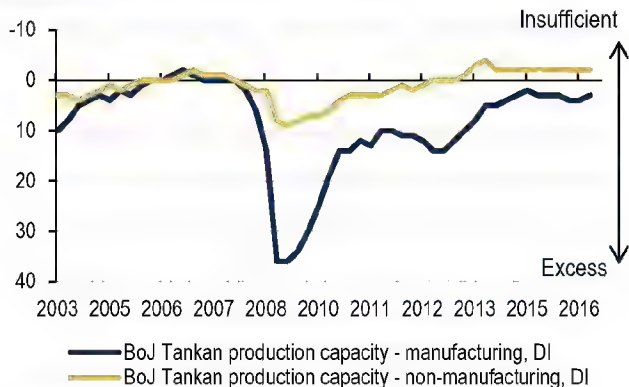
Source: BofA Merrill Lynch Global Research, MIA

2. Capex revival

We also see a fundamental case for higher capital spending. Borrowing rates are very low and will fall further in real terms as inflation rises. Stronger growth and improved confidence should also encourage higher capex. And deepening supply-side constraints offer a strong incentive for Japan Inc. to accelerate productivity-enhancing capex, ensuring that this expansion is durable.

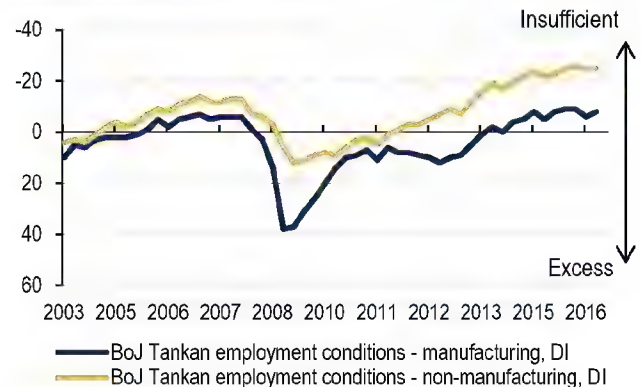
For these reasons, we think that the impulse of capital expenditures will likely be higher in the non-manufacturing sector, where capacity utilization rates are higher, and labor shortages (and hence wage pressures) are more acute (Chart 15 and Chart 16).

Chart 15: Capacity utilization rates by sector



Source: BofA Merrill Lynch Global Research, BoJ

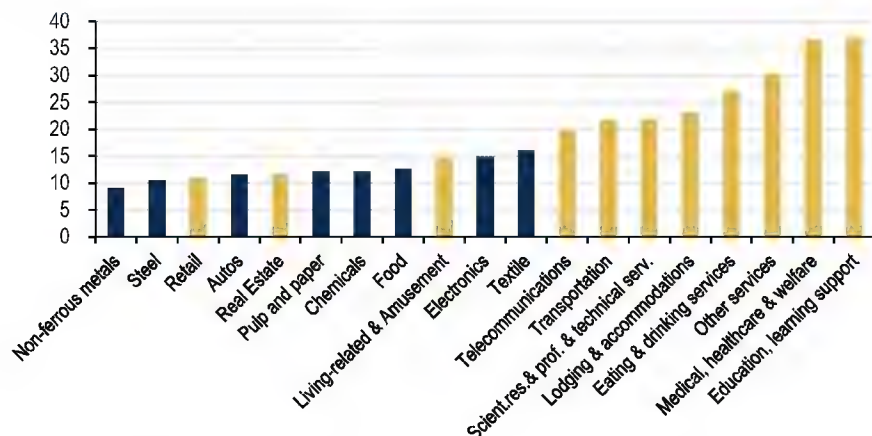
Chart 16: Labor shortages by sector



Source: BofA Merrill Lynch Global Research, BoJ

Chart 17 shows the ratio of personnel costs to sales, using MoF corporate survey data. The ratio is particularly high for lodging & accommodations (23%), eating & drinking services (27%), medical, healthcare & welfare (37%) and education & learning support (37%). Somewhat surprisingly, personnel expenses are fairly restrained in retail. But this is partly due to the relatively heavy reliance on lower-cost part-time workers. Given the rapid growth in part-timers' wages, such cost savings is likely to become increasingly difficult to maintain.

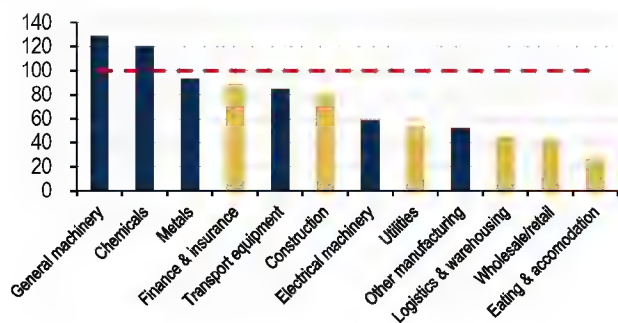
Chart 17: Personnel costs to sales, % ratio 4qtr ma (as of Apr-Jun 2016)



Source: BofA Merrill Lynch Global Research, MoF

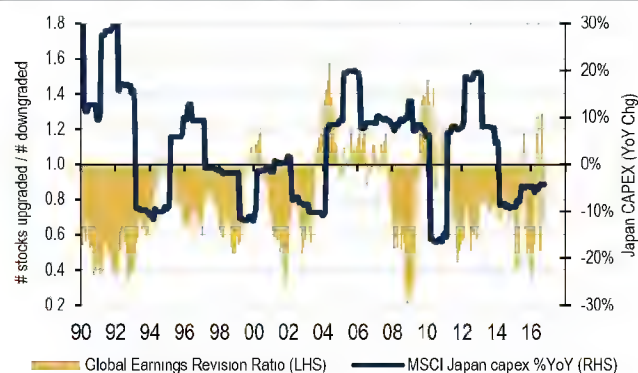
Analysis by METI suggests that many of these non-manufacturing industries have the scope to raise productivity. Wholesale/retail, utilities, and eating & accommodation have particularly low levels of productivity relative to the US (Chart 18). We think the solution is to boost capex, especially in ICT and automation. More broadly, an acceleration in capex is needed if we are to see a pick-up in productivity and sustained profits. Though we are by no means in the late stages of the profit cycle, the trend clearly points to higher wage costs going forward, requiring proactive efficiency-enhancing investment by corporates. Bottom-up data capex data for MSCI Japan also suggest that the investment cycle has troughed and will pick up next year as earnings momentum improves (Chart 19).

Chart 18: Japan's labor productivity relative to the US: services is low (2003-07)



Source: BofA Merrill Lynch Global Research, METI

Chart 19: Capex – YoY change in Japan vs Global Earnings Revisions



Source: BofA Merrill Lynch Global Quantitative Strategy

3. Policy priorities and redistribution

We think an increase in government pressure on corporations could speed up income redistribution at the margin, ensuring that money circulates to those sectors and agents with a higher propensity to consume. Elevated corporate savings remain a focal point for the government. Cabinet Office officials have used the concept of the “cash-out ratio”³ to highlight the creaky transmission from corporate profits to spending. Chart 20

³ The idea of the “cash-out” ratio was first raised by private sector representatives of the Council on Fiscal and Economic Policy. The measure is defined as cash out / cash and deposits. The numerator includes capex, personnel expenses, R&D, dividends, and changes in equity investments in related companies. The denominator includes cash and deposits, and securities, short-term lending, and investment securities classified under liquid assets. Since we are restricted to Ministry of Finance Corporate survey data, our version of the “cash-out ratio” is defined as capex + personnel costs - dividends / cash and liquid assets.

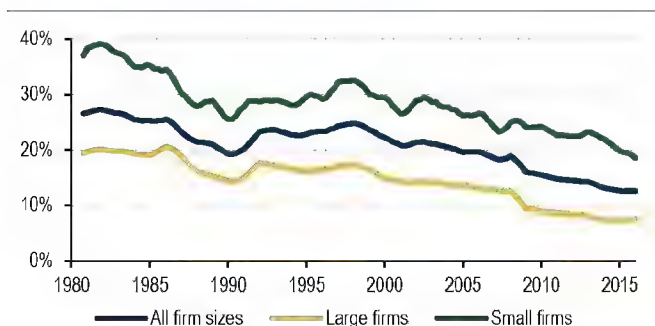
shows that this measure has been on a steady downtrend, with the numbers particularly low for large corporates.

So far, the government's approach has relied more on carrots than sticks, with Prime Minister Abe using a combination of moral suasion and sweeteners to encourage firms to disgorge profits. The pattern has continued as we approach FY2017. For example, local media have reported that the government is considering offering corporate tax breaks to SMEs that raise wages, in light of more modest wage growth at SMEs. Discussions are also underway in the Prime Minister's office about reforming working practices with the immediate focus on "Equal Pay for Equal work (EPEW)"—i.e. reducing the wage gap between regular and non-regular employees.

But the issue is contentious from both a capital and labour perspective. And considering the time it will likely take for related legislation to pass in the Diet, we think the lack of compliance mechanisms may mean that the immediate impact of EPEW will be limited. Instead, the debate seems to have shifted towards limiting excessive and unproductive overtime work. This is low-hanging fruit that does not address the issue of Japan's labour market rigidities, which are at the heart of the problem of suppressed wages and weak household spending power.

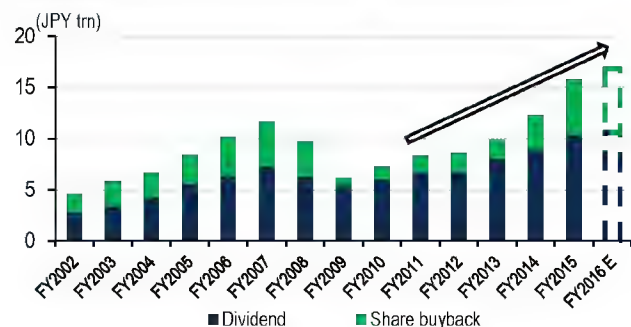
That said, there are signs that the government's patience is wearing thin and that the Prime Minister is increasingly leaning towards direct intervention. For example, the government has already delivered a minimum wage hike in FY2016 and plans to take the national average up to JPY1,000 by 2020 via yearly hikes of 3%. These policy changes should offer small tailwinds for the recovery in private consumption. We also think the debate over a possible retained earnings tax is unlikely to go away. We are sceptical it will be introduced in this year's tax reforms. However, the government's escalating war on corporates hoarding cash is likely to lead to a continued rise in dividend payouts and share buybacks (Chart 21).

Chart 20: Firms' cash-out ratio*, % 4qtr ma



Source: BofA Merrill Lynch Global Research, MoF *The cash-out ratio is defined as personnel expenses, capex, and dividend payouts as a share of cash and liquid asset balances

Chart 21: Dividends and share buybacks by Japanese firms (TSE 1st section listed)



Source: Nikkei Astra, BofA Merrill Lynch Global Research
Note: FY2016 dividend is companies' guidance. FY2016 share buyback is estimated by annualizing the YTD numbers as of November 2016.

Risk factors: largely from overseas

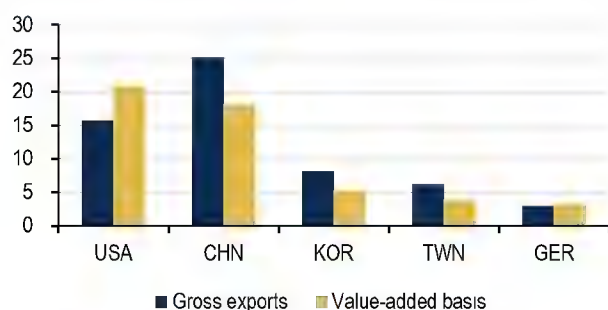
A key risk to our 2017 outlook on the domestic side may be weaker-than-expected growth in real labor income, or a continued surge in the household saving rate, which would constrain consumption.

However, we think the biggest risks in either direction stem from abroad. Specifically, we see higher uncertainty over global trade, risk sentiment, and FX as a result of political transitions in the US and Eurozone. We consider multiple policy scenarios under a Trump presidency.

Trump's campaign promises have mixed implications for Japan. On a positive note deregulation, tax cuts, and aggressive infrastructure spending could boost US aggregate

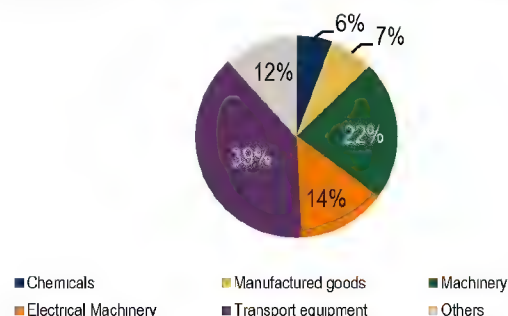
demand. Our US economics team expects the stimulus to [boost growth in H2 CY17 and likely CY18](#). Japan should be a big winner from stronger US growth, given its high exposure to the US economy in terms of exports and corporate profits (Chart 22 and Chart 23). On the negative side, aggressive protectionist trade measures, if implemented, would depress US growth and global trade further. If combined with a stronger yen, Japan's economy would be hit hard.

Chart 22: Japan's export exposure (% of total gross and value-added exports*)



Source: OECD

Chart 23: Breakdown of Japan exports to US by commodity, 2015



Source: BofA Merrill Lynch Global Research, MoF

Base case: "benign Trump" scenario

For the moment, we are assuming limited positive and negative policy changes. Our US team expects uncertainty to cause a modest slowing of growth in the first half of next year, but this will be more than offset by fiscal stimulus in the second half and into 2018. But the size of the fiscal expansion will likely be smaller than promised, and the introduction of modest protectionist measures means that the boost to global trade will essentially be zero. Table 1 shows the impact on growth under two scenarios, based on different assumptions for global trade and FX. Under the upside case, Japan's GDP could rebound towards 2%, as the economy benefits from a combination of stronger global trade and a weak currency. Under a downside "protectionist" scenario, 2017 growth would slow to around zero and would most likely tip Japan back into deflation.

Table 1: Sensitivity of Japan's growth to global trade and foreign exchange rate

(Assumptions)	Baseline	Case 1 - Upside	Case 2 - Downside
Global trade	0.0%	3.0%	-10.0%
% JPY appreciation (*)	-7.0%	-10.0%	10.0%

(Simulation results)	Change	(Contribution) (**)	Change	(Contribution) (**)	Change	(Contribution) (**)
Real GDP impact	0.2ppt	—	0.9ppt	—	-1.4ppt	—
Consumption	0.0%	(0.02ppt)	0.3%	(0.15ppt)	-0.8%	(-0.44ppt)
Capex	1.9%	(0.26ppt)	2.9%	(0.40ppt)	-3.2%	(-0.44ppt)
Net Exports	—	(0.00ppt)	—	(0.30ppt)	—	(-0.23ppt)

Source: BofA Merrill Lynch Global Research, CAO, MoF, IMF

(*) Rate of appreciation of Japanese yen in terms of effective exchange rate

(**) Contributions to the change in real GDP

Political impact of a Trump administration

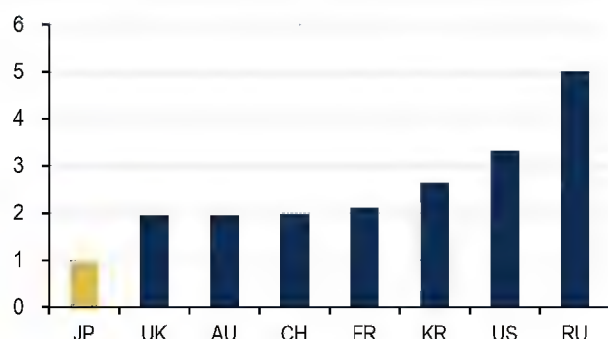
For Japan, the impact of Trump's election goes beyond economic issues. It also impacts defense spending and regional trade arrangements.

Military self-reliance and budget choices

Trump has made it clear that he wants allies of the US to shoulder a greater share of the defense burden. There is a lot of uncertainty as to how far Trump will go to re-define the US-Japan alliance. Despite his criticism, Japan already pays about 75% of US military hosting costs. However, it seems fair to assume that Japan will be expected to

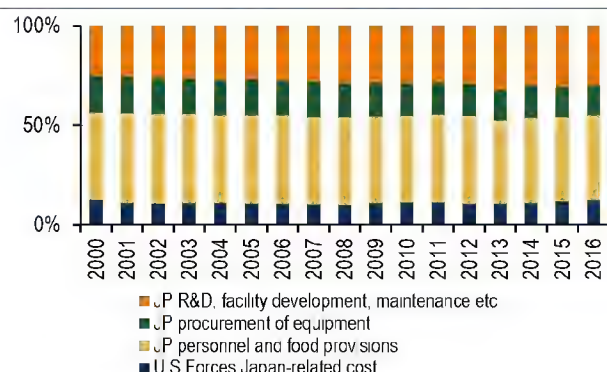
increase its defense spending. Under Prime Minister Abe, the defense budget has expanded by 7% but has been kept at roughly 1% of GDP, in keeping with historical guidelines. This is small by international standards and more likely than not will rise in the coming years (Chart 24). The composition of spending is also likely to shift from operating costs towards procurement, which is currently a very small part of the budget (Chart 25).

Chart 24: Military spending % of GDP as of 2015—Japan's is low by int'l standards



Source: BofA Merrill Lynch Global Research, World Bank

Chart 25: Breakdown of Japan's defense-related expenditures



Source: BofA Merrill Lynch Global Research, Ministry of Defense

TPP and trade policy: potential for linkages with other regional players

Trump and his aides have made it clear that they consider the Trans Pacific Partnership (TPP) to be a “bad deal.” Media have reported that President Obama is not considering pushing the deal through a lame duck Congress. This means the deal is likely dead in its current form.

While negative for Japan, the expected withdrawal of the US from TPP could spur new arrangements with regional partners. One potential positive is the prospect of improved economic and trade linkages with other key players in the region, including Russia and even China. Three upcoming events are worth monitoring closely (Table 2): first, the 19-20 November APEC Summit in Lima, Peru, where we are likely to see vigorous discussions on the future of the TPP as well as further progress on the Regional Comprehensive Economic Partnership (RCEP); second, the 15 December Abe-Putin Summit, in Yamaguchi prefecture; and third a potential trilateral summit between Japan, China, and Korea, which onshore media now say is being scheduled for 19-20 December, though it may not happen given the [unfolding leadership upheaval in Korea](#).

Bullish bottom line – don’t underestimate the recovery

We are optimistic on Japan and think the acceleration in GDP and inflation in 2017 will be much stronger than consensus expects. For the first time since 2013, fiscal and monetary policy will be lined up in the same expansionary direction. The global export cycle has turned and is now tracking modest expansion. Meanwhile, the headwinds to domestic demand are finally turning into tailwinds. Unlike in the past, we think the risks of a policy error are low. Assuming that external risks are kept at bay, we think Japan will surprise with the strength of its recovery.

Table 2: Calendar of political events

Date	Event
2016	
Sep 26 - Nov 30 (to be extended)	Extraordinary Diet session (supplementary budget, TPP, tax-hike delay, casino bill)
Nov 15	Japan-Russia trade officials meet (Tokyo)
Nov 17	Abe, Trump meet in New York
Nov 19-20	Abe, Putin meet at APEC (progress on territorial issue a key public concern)
Dec 8	Jul-Sep GDP 2nd preliminary (change to 2008SNA) Outline of FY2017 Tax Reform to be released
Dec 15-16	Russia's Putin to visit Abe in Yamaguchi prefecture
Dec 24	Cabinet to complete FY17 budget
2017	Ordinary Diet session (Jan) LDP annual convention (Mar 5) Tokyo parliamentary election (summer)
2018 and later	
2018	Governor Kuroda's term ends (Apr) Abe's second term as LDP President ends (Sep) Lower House election if no snap election before (Dec)
2019	Nationwide local elections (spring) Upper house election (summer) Consumption tax hike (Oct)
2020	Tokyo Olympics
2021	LDP Presidential term ends

Source: BoFA Merrill Lynch Global Research

Table 3: Economic forecast summary

		Calendar Year				Fiscal Year				Quarterly						
		2015	2016	2017	2018	2015	2016	2017	2018	3Q16	4Q16	1Q17	2Q17	3Q17	4Q17	1Q18
		(A)	(F)	(F)	(F)	(A)	(F)	(F)	(F)	(A)	(F)	(F)	(F)	(F)	(F)	(F)
Real GDP	(%,qoq ann.)	0.6	0.7	1.4	1.2	0.9	1.1	1.4	1.2	2.2	0.3	2.1	1.5	1.0	2.4	-0.1
Private Consumption	(%,qoq ann.)	-1.2	0.4	1.0	1.2	-0.1	0.6	1.1	1.3	0.2	1.0	1.2	1.0	1.4	1.4	0.8
Private Capex	(%,qoq ann.)	1.6	0.6	1.7	3.2	2.1	0.7	2.4	2.9	0.1	5.0	-0.8	1.4	2.5	7.0	3.1
Private Resid. investment	(%,qoq ann.)	-2.5	5.3	0.3	1.1	2.4	6.4	-1.3	1.7	9.6	-2.0	-2.0	-3.9	-5.9	6.1	1.6
Government Consumption	(%,qoq ann.)	1.2	1.6	0.8	1.0	1.6	1.1	0.9	1.1	1.7	0.8	0.6	1.2	0.8	0.8	0.8
Public Investment	(%,qoq ann.)	-2.5	-1.5	3.1	-2.1	-2.7	0.9	1.4	-0.7	-2.7	1.6	8.2	14.8	-11.5	-7.8	-3.9
Exports of Goods & Services	(%,qoq ann.)	2.8	-0.3	5.3	3.1	0.4	0.9	5.8	2.3	8.1	4.5	4.5	5.9	11.0	4.6	-3.0
Imports of Goods & Services	(%,qoq ann.)	0.4	-1.3	3.9	1.8	0.0	-0.4	4.3	1.4	-2.4	9.0	2.0	4.6	11.8	-1.9	-1.6
Contribution points																
Domestic Demand	(%,yoy)	0.2	0.5	1.2	0.9	0.8	0.8	1.1	1.0	0.2	1.1	1.7	1.2	1.1	1.3	0.2
Net Exports	(%,yoy)	0.4	0.2	0.3	0.2	0.1	0.2	0.3	0.2	2.0	-0.8	0.4	0.2	-0.1	1.1	-0.3
Industrial Production	(%,qoq)									1.4	0.7	-0.6	1.6	2.5	1.4	-0.9
	(%,yoy)	1.2	0.8	3.5	3.6	1.4	0.4	4.2	3.0	0.4	1.2	1.7	3.1	4.2	4.9	4.6
Nationwide BOJ-style Core CPI	(%,yoy)	0.5	-0.3	1.0	1.4	0.0	-0.1	1.2	1.4	-0.5	-0.1	0.7	0.7	1.3	1.4	1.4
Nationwide US-style Core CPI	(%,yoy)	1.0	0.4	0.4	1.1	0.6	0.3	0.6	1.3	0.2	0.1	0.2	0.2	0.5	0.7	0.9
Unemployment Rate	(%)	3.4	3.1	2.9	2.7	3.3	3.1	2.8	2.6	3.1	3.0	3.0	2.9	2.9	2.8	2.8
BoJ ST interest rate target	(End of period)	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1
BoJ LT interest rate target	(End of period)	n/a	0.0	0.0	0.0	n/a	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Yen/\$	(End of period)	120.2	108.0	120.0	115.0	112.6	112.0	115.0	115.0	101.4	108.0	112.0	115.0	117.0	120.0	115.0
Yen/Euro	(End of period)	130.6	116.6	126.0	121.0	128.1	117.6	124.0	121.0	113.9	116.6	117.6	117.3	119.3	126.0	124.0

Note: We may revise our forecasts once additional data become available.

Sources: BoJ, MoF, ESRI of Cabinet Office, EPA, MPMHAPT (MCA), METI (MITI), Ministry of Land, Infrastructure and Transport and BofA Merrill Lynch Global Research estimates

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USD/JPY: Buy-on-dip cycle to continue; 115-120 by end-2017

14 November 2016

Buy-on-dip cycle continues

While we had acknowledged the risk of the [“final JPY strength”](#) this autumn on the BoJ's limit and US elections, it has been our view that the [USD/JPY's dips was to be bought](#) as the 100-105 level was where medium-term directional risk was likely to reverse to the upside ([Dollar's 100 Yen risk 02 March 2016](#)). [In our view](#), a Republican sweep would first lead to JPY strength on risk aversion, but eventually be the most bullish outcome for the USD/JPY. The price action last week – a shallow dip – tells us two things about the USD/JPY. First, the view that a GOP sweep would boost the USD/JPY was probably more widely shared than we had thought, so a dip failed to stretch. Second, there may be more potential USD/JPY buyers than sellers, which is in stark contrast to last year, when there were many more potential USD/JPY sellers than buyers ([Case for a stronger yen in 2016 18 December 2015](#)). The “buy-on-dip” cycle in USD/JPY is likely to continue as we expect the pair to reach 115-120 by end-2017. We remain constructive about Japanese equities and see banks, insurance continue outperforming REITs near-term.

Higher US rates (esp. if steepening) to boost USD/JPY

[USD/JPY performs best](#) at the time of UST bear-steepening as better risk sentiment reduces the JPY's safe haven demand and a wider yield spread increases the USD demand from Japanese investors (Exhibit 2). For our US strategists, the clean sweep means fiscal easing and higher rates, supporting their higher real rate view ([A win for bond bears and USD bulls 09 November 2016](#)). The USD/JPY has recently tracked real yield spread closely (Chart 1), and the pair is gradually producing higher carry as monetary policy is diverging between the US and Japan (Chart 2). In Japan, fiscal easing is also a possibility in light of reduced odds of TPP implementation and a potential early snap election. Any positive impact of Japanese fiscal easing on growth is likely to manifest itself in higher inflation expectations under the BoJ's yield-targeting regime, which means Japanese real interest rates can actually fall.

Watch Abe-Trump meeting – coordination or conflict?

Given the high uncertainty, clarifications on Trump's policies on trade and currency will be important for the Japanese market going forward. A potential Abe-Trump meeting in New York this Thursday (17 Nov), as reported by Japanese media, warrants attention. [We suggested](#) that Trump presidency could potentially reduce flexibility of Abe's political and diplomatic strategy, reduce positive market risk from Japanese politics, and increase negative risk from Japan's national security. But this is not known until we see actual Trump presidency. If the President-elect shows an understanding for the existing Japan-US alliance and refrains from protectionist rhetoric, it could reduce concerns about deterioration of the bilateral relationship, supporting USD/JPY and potentially exporter shares (though reduced odds of TPP implementation is unlikely to change drastically).

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Timestamp: 13 November 2016 06:10PM EST

Investment Strategy
Japan

Shusuke Yamada, CFA >>
FX/Equity Strategist
Merrill Lynch (Japan)
+81 3 6225 8515
shusuke.yamada@baml.com

Paul Ciana, CMT
Technical Strategist
MLPF&S
+1 646 855 6007
paul.ciana@baml.com

Chart 1: USDJPY vs yield spread



Source: BofA Merrill Lynch Global Research, Bloomberg

Chart 2: USDJPY carry* gradually inching up



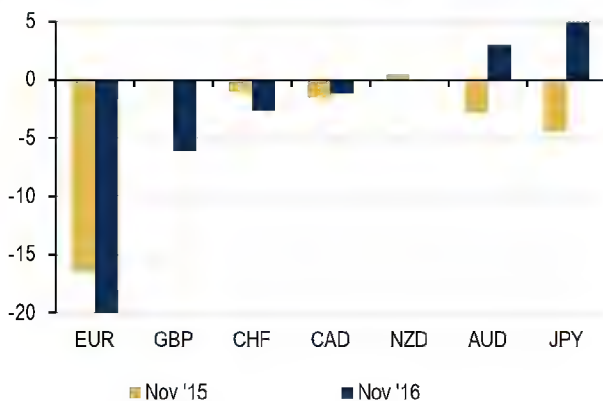
Source: BofA Merrill Lynch Global Research, Bloomberg

*Using 3m deposit rate

JPY sellers > JPY buyers

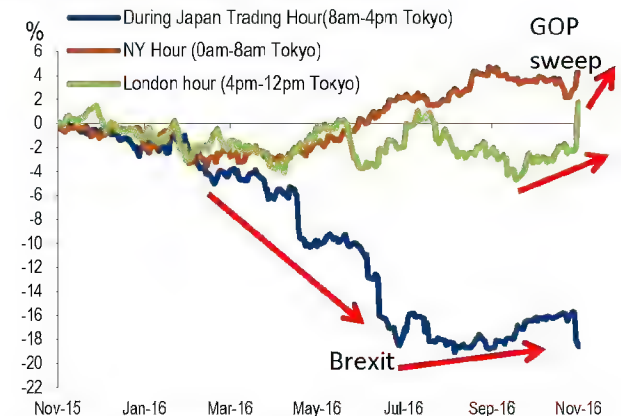
While uncertainty is high, what is more certain is that there are more potential sellers of JPY than its buyers. This is the opposite of the situation some months ago ([USD/JPY's downside risk to 110 – sell on rally 10 February 2016](#)). First, CFTC speculative position remains yen long though short-term traders are probably positioned for the upside already (Chart 3). Second, we believe domestic activity to raise hedge ratio has [run its course](#) as the USD/JPY swept through the sensitive level this year. As 2HFY16 (Oct '16-Mar '17) has started, most life insurance companies are reportedly inclined to increase exposure to unhedged foreign bonds though they generally remain price sensitive. In our view, this is reflected in the USD/JPY's consolidation during Tokyo trading hours after the pair hit 100 on the Brexit vote (Chart 4). The fact that USD/JPY has failed to break 100 multiple times since then suggests the market looking for USD/JPY's dip, light positioning, and the market's judgment that USD should be more expensive than 100 JPY. The market is probably more vulnerable to the USD/JPY's upside than downside.

Chart 3: CFTC non-commercial futures position (bln USD)



Source: BofA Merrill Lynch Global Research, Bloomberg

Chart 4: USD/JPY cumulative % change by trading zone



Source: BofA Merrill Lynch Global Research, Bloomberg

Technical: constructive

Daily overbought momentum (RSI) is overall a positive for USD/JPY's uptrend. Overbought conditions can persist longer in uptrends, but at some point this could

reverse. Fading high 106's could be a short-term profit-taking view, or area to enter countertrend short. A final thrust toward July highs of 107.49 is possible and an alternative profit-taking level. A pullback to 105.50 or 104.30 could certainly be bought for the broader uptrend targets of 108.47, and possibly 111.40, from the weekly chart pictured here.

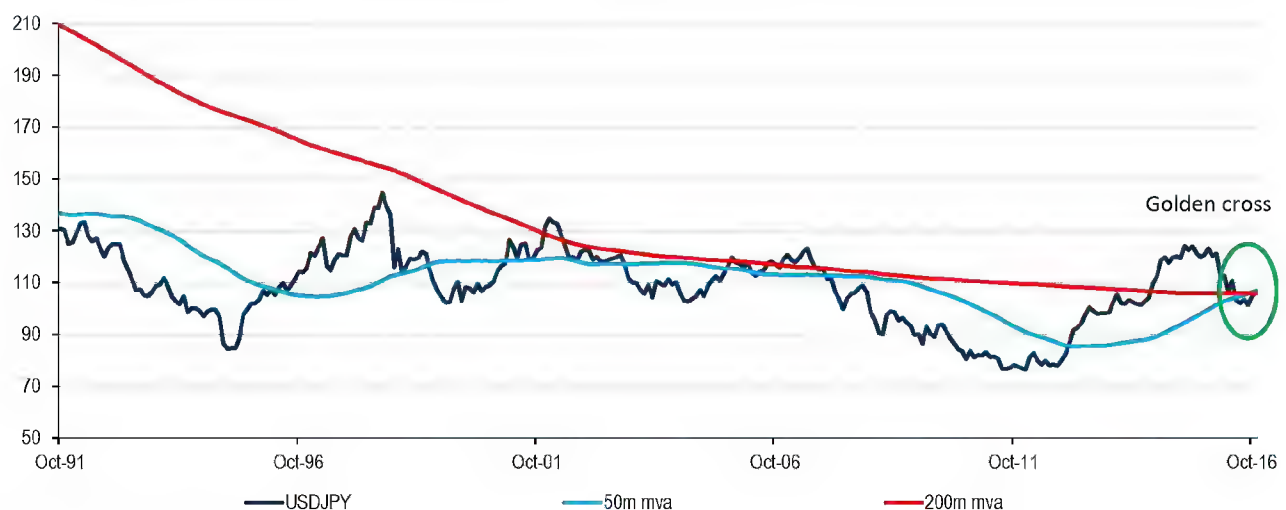
Exhibit 1: USD/JPY weekly chart



Source: BofA Merr I Lynch Global Research, Bloomberg

Long-term picture: 50m average crossing 200m average

Chart 5: USD/JPY monthly chart with 50m average and 200m average



Source: BofA Merr I Lynch Global Research, Bloomberg

Higher yields leading to bank, insurance outperformance over REITs

The Japanese equity market correction managed to last just for one day after the US election. [The insurance sector](#) has been the best performer since the US election on the back of a steeper US Treasury curve and higher rates. [Michael Hartnett observes](#) “violent rotation out of deflation to inflation plays”, including a move from REITs to US banks. This should apply to Japan, where banks and insurance have underperformed REITs amid relentless fall of the long-term yield and introduction of negative interest rate by the BoJ (Chart 5). The domestic policy condition has changed, however, as the BoJ is now reluctant to cut rate as it pays greater attention to the health of the financial institution. The BoJ now intends to prevent the yield curve from flattening excessively. While higher foreign yields may not lift yen rates as the BoJ controls the 10-year sector, reflationary environment outside Japan at least reduces the risk of a deeper cut at home. Outperformance of Japanese equities at the time of UST bear steepening has historically been led by cyclical, banks and insurance (Exhibit 2). David Gleeson is [cautious about REITs](#), while Futoshi Sasaki is [constructive on banks](#). The move can stretch further near-term.

Exhibit 2: US Treasury curve (2s10s) move and market performance (past 43 quarters simple average, %) – USD/JPY, Japan equity (local ccy term), and Japanese cyclical, bank, insurance tend to outperform at the time of UST bear-steepening

	USDJPY	Dollar index (DXY)	MSCI Japan	MSCI Japan / ex Japan*	Japan sector*									
					Discretionary	Financials	Materials	IT	Industrials	Energy	Telecom	Staples	Utilities	Health care
Bear steep	4.12	-0.60	8.58	3.32	11.68	9.97	9.96	9.46	8.58	5.88	3.27	2.86	2.83	1.89
Bear flat	1.90	0.31	3.88	0.58	3.49	-0.44	5.44	4.09	3.88	4.26	3.66	2.34	-0.06	5.21
Bull steep	-1.85	-0.35	-2.32	-2.76	-3.03	-2.44	-4.70	-4.22	-2.32	-3.46	2.44	1.44	-3.64	-0.47
Bull flat	-4.49	1.26	-7.31	-5.05	-8.91	-11.10	-9.94	-8.23	-7.31	-9.61	-0.37	-1.50	-4.16	-1.59

Source: BoFA Merr Il Lynch Global Research, Bloomberg

Used Bloomberg Treasury yield index

Curve movements defined based on 2yr move (up or down) and 2s10s move (up or down) so these include twist movements, but even if we exclude these, implications for USD/JPY and Japan equity do not change significantly.

11 quarters of bear steepening = average 16bps increase in 2yr yields and 33bps 2s10s steepening, 10 quarters of bear flattening = average 26bps increase in 2yr yields and 20bps 2s10s flattening, 10 quarters of bull steepening = average 48bps decline in 2yr yields and 28bps 2s10s steepening, 12 quarters of bull flattening = average 27bps decline in 2yr yields and 30bps 2s10s flattening

Japan / ex Japan = MSCI Japan - MSCI Kokusai ratio

Japanese sectors follow MSCI definition

Chart 6: If inflation, rates surprise to upside, Japanese banks likely to outperform REITs



Source: BoFA Merr Il Lynch Global Research, Bloomberg

3 risks – reality vs hope, higher yields, politics

The biggest risk to our view is that actual US fiscal easing turns out to be minimal. But we believe the USD/JPY's move will be quicker than whatever reality emerges in coming months. [China's unexpected RMB devaluation](#) or any explicit rhetoric to guide USD weakness by the new US administration [could eventually trigger significant JPY strength](#). The other risk is a rapid increase in US long-term yields triggers risk-off trade, supporting Japanese yen. However, we believe a potential correction in US equity is unlikely to reverse the medium-term direction of USD/JPY (though it could cause a short-term pullback as our technical analysis suggests) because higher yields and USD/JPY are backed by fundamentals for now –prospect for fiscal easing. Finally, politics is a significant concern. The President-elect has previously criticized the Japan-US security alliance. A shift away from the Japan-US security alliance could lead to higher geopolitical risk for Japan. It could also lead to more defense spending and expansion of Japanese military capability and could lift prospect for fiscal expansion. A combination of higher geopolitical risk and defense spending is probably less bearish USD/JPY than Japanese equities.

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The Trump inflection

Investment Strategy

30 November 2016 Corrected

Key takeaways

- Market response to Trump is logical but moves have been frontloaded. We now see USD & rates only modestly higher next year.
- We see higher growth and inflation, notably in Japan. **We go long NKY**, stay long EM AXJ & selective yield in equity/ credit.
- Risk is an overshoot so we stay long USD/ short rates, adding a CNH put and short 10Y real rates. CNH a hedge vs trade risk.

Investment strategy
Global

James Barty >>
Investment Strategist
MLI (UK)
+44 20 7996 3291
james.barty@bamll.com

See Team Page for Full List of Contributors

Trump extends some trends, starts others

In the three weeks since Donald Trump's election victory global markets have seen some dramatic moves. Some of those moves are extending trends that had already started – higher yields, higher USD, rotation from long to short duration. Others are new – JPY lower, NKY higher, EM lower. The key question is how much more they can go?

Growth/inflation higher in 17/18 – modest fiscal boost

Our economists think the fiscal impact of Trump will be modest at 0.5% on growth in H2 next year. Fiscal stimulus elsewhere also to be modest but it is taking the pressure off monetary policy. Growth was already improving so any fiscal stimulus helps. Our economists have both growth and inflation higher into 2017 and 2018.

Inflection point in markets but much discounted already

Market moves at turning points are often violent. The task of investors is to work out how much is already discounted. Our fixed income strategists have 10Y US yields at 2.65bp and bunds at 65bp at end 2017, also EUR/USD at 1.02 so moves look frontloaded to us. That suggests their implications for other markets should fade.

Evolution not revolution – long NKY, short 10Y real rates

If that is the case then we do not want to make wholesale changes to our strategy. We make two key changes today, adding long NKY (Japan strategist targets 20k) and short 10Y real rates trades. The former is part of our strategy to be pro-growth and we think it complements our long EM Asia trade being affected differently by USD strength.

The hunt for yield is dead, long live the hunt for yield

If yields only rise modestly next year then the hunt for yield will live on. We keep a yield basket in European equities, AT1s and spread in Euro/US credit. We go outright long European Healthcare by lifting our Food & Beverage short, which has dropped sharply.

Overshoot in rates, USD and trade key risks – add CNH put

The world would look very different if the US 10Y blew through 3% and the USD went on a tear, so we stay long USD and short rates. We add a CNH put vs USD as a hedge against an escalation of trade tensions under the new Trump administration.

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11691609

Timestamp: 30 November 2016 12:00AM EST

Current trade recommendations

Table 1: Current cross asset trades

Asset	Trade idea	Strategist
Equities	Long European Quality Yield Screen (yield)	James Barty
	Long SXDP Index	Ronan Carr
	Long Nikkei	Shusuke Yamada
	Long European index dividend futures	James Barty
	Long MSCI Asia ex-Japan	Ajay Kapur
Equity vol	Long RTY short SPX 2y variance swap	Nitin Saksena
	3000-2850 SX5E put spread Dec 16 expiry	James Barty
	Long NKY short SPX Dec 18 variance swap	Benjamin Bowler
	Long SX5E short SPX Dec 18 variance spread	Abhinandan Deb
	Eurostoxx 2y/3y put calendar	Abhinandan Deb
FX	Short EUR/SEK	Kamal Sharma
	Long USD/CNY call	Claudio Piron
	Short GBP/USD	Kamal Sharma
	Long USD/AUD	Ian Gordon
	Long RUB/ZAR	David Hauner
Fixed Income	2s-5s-10s fly	Shyam S Rajan
	Short US 10y real rates	Shyam S.Rajan
	Paying 5y GBP real rate swap	Mark Capleton
Credit	Buy 30y US IG Industrial spreads	Hans Mikkelsen
	Buy basket of Euro AT1s	Barnaby Martin
	Long Xover short Main	Ioannis Angelakis

Source: BofA Merrill Lynch Global Research. For the full methodology and reference pricing please see Appendices. **New trades in bold**

Themes

Long Cyclical

- Long Asia EM – recovering growth, earnings revisions and cheap valuation.
- Long Nikkei – growth picking up, JPY soft, 20k target.

Long Yield

- Long European dividend yield stocks – 5% yield, big pick up over IG credit.
- Long Dec 18 SX5E dividend future – implies 4% drop from 2016, we see 4% rise.
- Long basket of AT1s – high yield, equity cushion to rise.
- Long XOver short Main – investors' reach for yield to push them towards Crossover.
- Long basket of 30Y US industrial IG spreads – further spread compression.

Hedge the Fed/Trump

- 2-5-10 fly – 5Y part of the curve looks most vulnerable to Fed hiking.
- Short 10Y real yields – inflation breakevens have adjusted real rates have not.
- Long USD – long via USD/GBP and USD/AUD, we think policy divergence will drive USD stronger if the Fed tightens as our economists expect.
- Long USD/CNH 7.6 6 month call – hedge against trade tensions

Hedge the Rest

- We are long SX5E, NKY and RTY vs SPX variance. Carry positive, convex in a sell-off.
- Long Dec 17/18 SX5E put spread. Long 3000-2850 Dec 16 put spread.

Alpha Trades

- Long European Pharma. Sector discounting no pipeline, valuation back to cheapest since 2011. Solid yield too.
- Paying 5y UK real rates at -254bp. Implied inflation/rates inconsistent.
- Long RUB/ZAR (positive on oil, cautious on S African politics).
- Short EUR/SEK, strong Swedish growth, limiting room for Riksbank easing.

The Trump inflection

Changes today: Add NKY long, 10Y real rate short and CNH put, close forward

Kospi vol and Food & Beverage short. We are not making mass changes today. While some of our trades have worked better than others post-election we are broadly happy with the balance. We still want exposure to growth and to own yield where we can but also want to protect ourselves from a further surge in the USD and rates.

We diversify our equity long in EM and European yield with a long Nikkel position.

It is not the best entry point but we suspect it has further to run on a one year horizon. A stronger USD is good for Japanese equities where it is not for EM, so they complement one another. **We add a short US 10Y real rate trade** too to protect against rising US yields, as breakevens have already moved significantly. **We close our Kospi vol trade** (changed view from strategists) and **drop the short Food leg of our Pharma/Food trade**, reflecting the sharp sell-off in the long duration sectors of late.

Summary: Still be long growth and yield but hedge with USD and Rates

Year aheads are notoriously tricky to write and almost always wrong. Anyone who wanted to correctly predict the outcomes and how markets would react to them in 2016 did not need so much as crystal ball as a time machine. As investors and strategists we have to make calculations as to the most likely outcomes, where is the best upside to play them and how best to hedge the risks around them.

Donald Trump's election is in our view an inflection point for global markets, starting new trends in some asset classes and extending trends in others. It does not completely change the world though, as the disinflationary and weak growth pressures that have plagued the world since the GFC are structural rather than cyclical. But the shift to fiscal and populism is likely to boost growth and inflation, so it does change the picture to a significant degree. If we are to call it an earthquake it is perhaps a five rather than a nine on the Richter scale.

We have to adjust our way of thinking though. **The rise in rates and higher USD that we had hedged against now look like they are going to go further.** That is going to hurt longer duration assets. So we continue to run our long USD positions and add to our short rate positions (via 10Y real rates). There is risk around trade and geopolitics, which has to make us more nervous of our EM positions. So we diversify our risks by **pairing our long EM position with a long Japan position and add a CNH put.**

But the world is not completely changing. Even in the new order we only forecast 10Y Treasuries at 2.65% and Bund yields at 65bp end 2017. **So the hunt for yield will not disappear completely.** We still want to own yield, but as we have said of late it cannot be yield for yield's sake. Yield in equity markets has been safest in the shortest duration buckets, such as Banks and Cyclical since the summer. We changed our yield basket last month in this direction so we keep it. We stay long AT1's and in credit we keep our spread trades both in Europe and the US.

AND we remind investors of something we said at the start of 2016, be prepared to trade the ranges in markets. If there was one lesson of the last year it was that. When assets get very loved and overbought, sell them, when it is the opposite you have to buy them. Think of buying EM and commodities in February. Think of selling defensive equities and bonds and buying banks post-Brexit. None of us will get that right all of the time, but the Warren Buffet maxim "be greedy when others are fearful and fearful when others are greedy" is particularly useful in current markets.

Finally, as cross asset investors **think about what can go wrong with your positions and find asymmetric hedges** for them if you can. That should be the edge you have at looking across the range of asset classes compared to single asset class investors.

We would like to thank our BofAML colleagues who have supported our product this year by providing many such ideas and trust they will continue to do so through 2017.

X Asset Strategy: Long growth, short bonds, long USD but the hunt for yield lives on

Clearly markets are different and will continue to be so under President elect Trump BUT not everything will change. The disinflationary forces triggered by the GFC have not gone away but the decision to focus on fiscal stimulus, not just in the US but also Japan and to a lesser extent the UK, is a welcome shift taking some of the burden away from monetary policy. It means rates should be higher for any given amount of growth. But higher does not mean a return to pre GFC levels of rates, which we need to bear in mind when setting our strategy. Indeed, our strategists 10Y forecasts are US 2.65%, Euro 0.65% and Japan 0% for end 2017.

Similarly on trade, for all the rhetoric of the President-elect again we do not think he wants to trigger trade wars that would damage US growth. That means we should not necessarily drop our pro-EM bias.

So we think of it as an evolution rather than a revolution in the way our strategy is structured. We wanted to be exposed to growth, we tweak that by adding a NKY long to replace our [US energy long](#). We continue to have yield in the portfolio where we can find it, which is through a mixture of equities and credit (AT1's, European yield basket, Xover v Main and US long date industrial spreads).

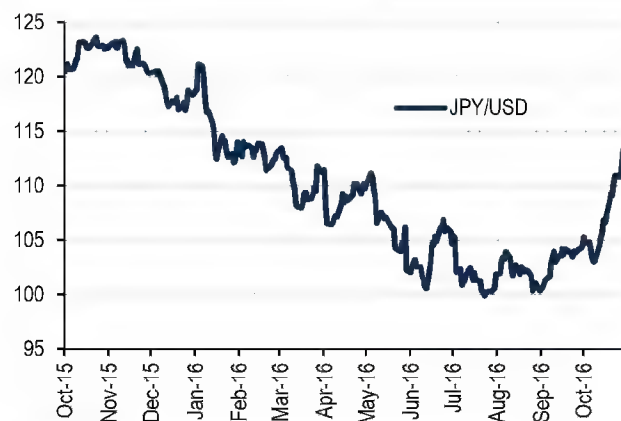
Even more than before we want to be protected against a stronger USD and higher rates, hence the addition of the 10Y real yield trade, and trade tensions which we have tried to cover through our CNH put.

Nov 8th accelerates some trends, starts other

Before the US election we said that [the tectonic plates were starting to shift](#), with bond yields having troughed and starting to head higher. We thought there were signs too that global growth might be shifting up a gear. So we wanted to have defensive positions in bond markets, be long the USD and be long growth where we could. The election of Donald Trump has arguably turned this gradual shifting of plates into a full blown earthquake for global financial markets.

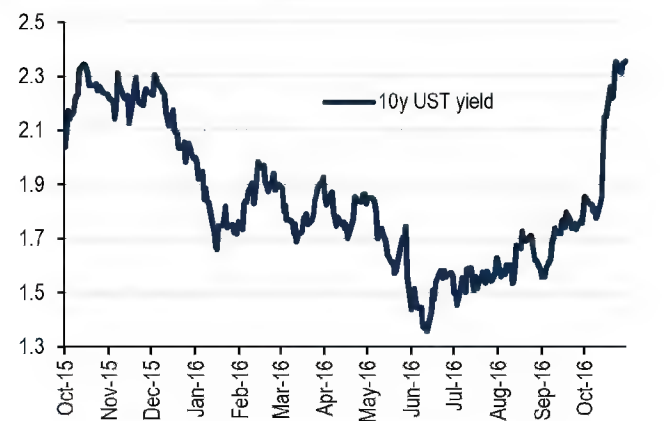
The key questions for investors as we look ahead to 2017 are how big an earthquake and how much the moves that have happened since November 8th are likely to be extended into next year vs how much we have frontloaded them already in 2016.

Chart 1: USD/JPY has surged post-Trump

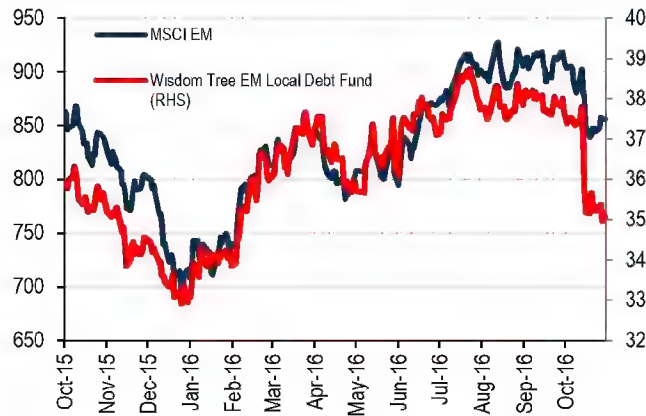


Source: Bloomberg

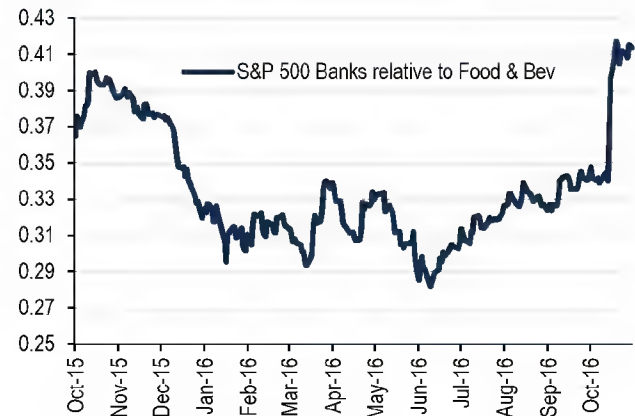
Chart 2: As have bond yields



Source: Bloomberg

Chart 3: EM debt and equity have been hit

Source Bloomberg

Chart 4: While Banks versus Staples has gone ballistic

Source Bloomberg

The moves since Nov 8th have certainly been violent in certain asset classes. USD/JPY stands out, but the sell-off in US treasuries has been very marked, the hit to EM fixed income equally big, while in equity markets the outperformance of the Russell, the surge in the US banks and the sell-off in long duration equities has been remarkable.

Some of these moves, such as stronger USD, higher yields, banks vs staples were extensions of moves that had already begun. Others, such as Russell vs S&P, JPY, Nikkei, were the start of new moves where 8 Nov marked a key turning point.

The moves that had already started are now getting quite stretched with US 10Y yields up 5 standard deviations from the July low, with US Banks up by a similar amount vs Staples. The USD/JPY move though is more like a 2 SD move, with the NKY similar (if we exclude the 7% drop on US election day).

Peak liquidity, deflation, inequality and globalisation – watch for Peak Trump

So what does a Trump presidency mean for the world? Michael Hartnett, our Chief Investment Strategist sums it up nicely with [four of his seven peaks](#). **Peak liquidity** – the era of excess liquidity is over; **Peak inequality** – with fiscal stimulus to address inequality; **Peak globalisation** – free movement of trade, labour and capital ending, FX wars starting; and **Peak deflation** – the secular low point in bond yields now behind us. We would add a peak to that which investors need to bear in mind – **Peak Trump**. What we mean by that is at what point do the policy changes of the Trump presidency get fully discounted in markets. We have moved pretty quickly to do that but we suspect there is more to go, even if the quick returns have probably already been made.

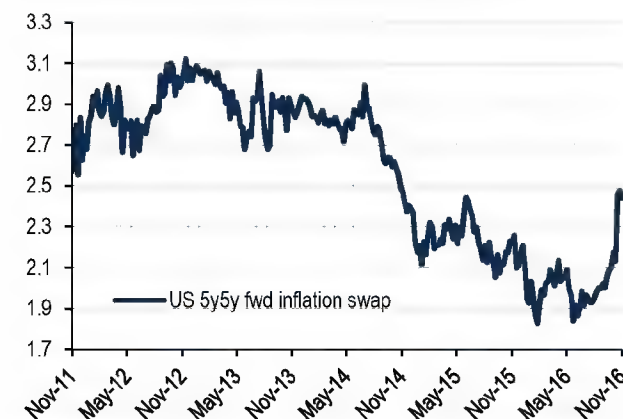
If we think about these peak questions, the two that stand out to use as obvious and not really open to challenge are Peak liquidity and Peak deflation. The Fed left its peak liquidity position behind ages ago, the BOJ has moved to yield rather than liquidity targeting, the BOE may extend its current programme of QE one more time but then is probably done and even the ECB is talking about tapering, even if they are unlikely to do it in December. The Peak deflation theme follows on from this with the secular low in bond yields surely behind us if the central banks are stepping away from flooding the world with ever more liquidity.

Peak liquidity/deflation means higher yields – Inflation expectations adjusting

The question then is how much yields will likely rise from here. Much of course depends on how quickly inflation picks up. Markets have already moved to price in a significant pick-up in expected inflation as the two charts below show. To our mind breakeven inflation rates had been too low for too long, which is one reason we wanted to be defensive in bond markets. It would seem to us that inflation expectations are now up with events. US headline CPI at 2.5% is consistent with the Fed modestly overshooting

its 2% core PCE target. Our economists think that the Fed may well aim a little high in the short term on inflation to ensure they have sufficient room to ease in the event of a downturn. However, it is unlikely that the Fed would tolerate a sustained overshoot of their inflation objective. That is particularly the case if the Fed under President Trump is made more hawkish as our economists think it probably will be (see [Liquid Insight: Trump's stamp on the FOMC](#)).

Chart 5: US 5Y5Y forward inflation back towards 2.5%



Source: Bloomberg

Chart 6: Euro 5Y5Y forward inflation up to 1.6%



Source: Bloomberg

Equally, our economists in Europe are sceptical on the ECB's ability to get inflation to rise significantly from current levels. Optically there is scope for European breakevens to head higher if the ECB were to be successful but investors are likely to want to see some evidence of rising inflation first before they price that in. We will return to this below. For now we agree with our fixed income strategists that the rise in inflation expectations is probably sufficient and that any rise in yields from here has to be one of higher real yields.

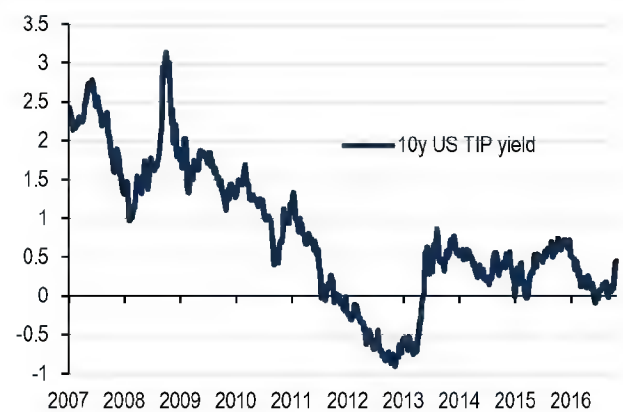
They think such a rise as a tightening of monetary conditions which may be self-limiting in the short term, particularly as the fiscal boost in the US is likely to be back loaded in terms of 2017. If rates move too quickly and the USD follows before the fiscal stimulus kicks in they could actually dampen growth. Indeed, our US economists have shaved their near term growth forecasts already to reflect the current moves. They do not expect the fiscal stimulus to start to boost growth before the 3rd quarter.

Fiscal + hawkish Trump Fed means we stay short 5Y US via 2-5-10 butterfly

Our fixed income team estimated how much fair values of the different parts of the curve would have to move were the market to move into line with the dot plot. Updating those estimates for the move since their publication we find 2Y rates can move another 11bp, 5Y 39bp and 10Y 33bp. They argue that given we are past the inflection point for rates, with fiscal policy being eased and now with a more hawkish Fed under Trump likely, the dot plot should form the floor not the ceiling for rate expectations. All of this translates into a view that 10Y yields can push to 2.65% by the second half of 2017. Given their views on the curve we continue to run the 2-5-10 butterfly. It has moved from around -10bp to +10bp since the election, and our fixed income strategists have moved their target to +20bp.

Chart 7: 5Y yields to continue to underperform

Source Bloomberg

Chart 8: Real rates likely to feel the pressure going forward

Source Bloomberg

Peak globalization/inequality means higher real rates – short 10Y US real rates

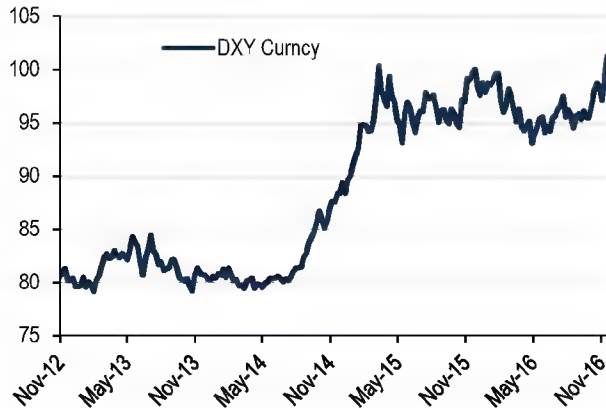
Our fixed income team make the point that globalization has been a driving force behind lower real rates as it has been good for EM growth and reserves. Those reserves then found their way back into the US holding real rates lower. They argue that as the global savings glut unwinds real rates have room to re-price. Peak inequality also means an unwind of globalization as politicians seek to protect workers from the depressing effect on wages coming from overseas. Donald Trump has already said he intends to charge China with being a currency manipulator. Whether he does or not and what action he takes to accompany it remains to be seen, but artificially low currencies generating high current account surpluses are unlikely to go down well with the new administration. That lends weight to the fixed income team's arguments.

Peak inequality may also mean less migration across the world – think Trump's arguments on illegal immigration from Mexico and Theresa May's desire to limit migration into the UK post Brexit. Less migration likely means more upward pressure on wages, which is the inflation expectations side of the argument. But Michael Hartnett also thinks it means more action on fiscal policy. The UK government have implemented a £24bn infrastructure fund in the Autumn statement. Donald Trump wants to trigger up to \$1tn of infrastructure spending in the US in addition to the tax cuts.

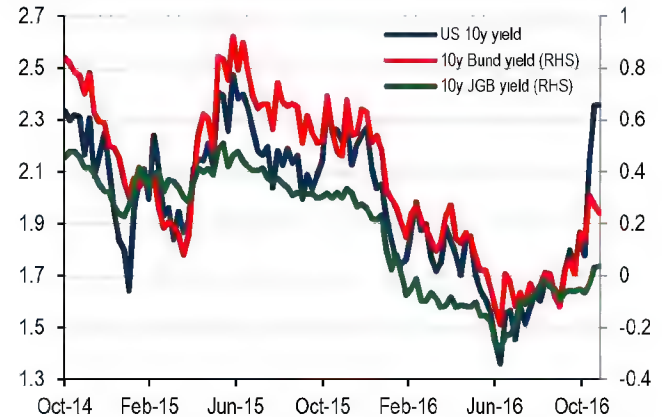
The fiscal boost should push real rates higher (at least in the short term). Some Fed members have acknowledged this suggesting that equilibrium interest rate might be moved higher by fiscal stimulus. The rates team also rightly says while they want to be bearish rates given the speed of the move so far it is also right not to be foolish. Given how much inflation expectations have moved they think there is better risk reward in real rates. They argue the 10Y real rate is the most vulnerable to further moves higher in rates. Although they have already risen from around zero in the summer to ~50bp now they think 10Y real rates can reach 1%. So we add that trade to our 2-5-10s position.

Implications for other asset classes: Stronger USD, weaker EM?

The forces impacting on markets from the Trump victory have not been confined to rates markets, although it is probably fair to say that most (although certainly not all) of the impact stems from the move in rates. Higher US rates have meant a stronger USD, an outperformance of short duration over long duration equities, a hit to EM debt and all forms of carry trades.

Chart 9: USD breaks to new highs

Source Bloomberg

Chart 10: As Treasury yields open big gaps with Europe and Japan

Source Bloomberg

The USD is a case in point, with the higher US rates creating a significant gap to equivalent Euro and JPY rates. With the ECB likely to extend QE by the full current amount (despite the debate over timing) and the BOJ committed to capping JGB yields at zero, a surge higher in the USD was the logical outcome. Given that the biggest gap in intentions was relative to Japan it is perhaps not surprising that the JPY has been the biggest victim, with the JPY falling some 10% against the USD since the election. The DXY has broken out of the top end of the trading range it has been in since early 2014.

The stronger USD is not just reliant on higher yields, but also other factors such as the likely repatriation of money into the US under a new proposal for US corporates to return funds at a concessionary tax rate, generally referred to as HIA2.

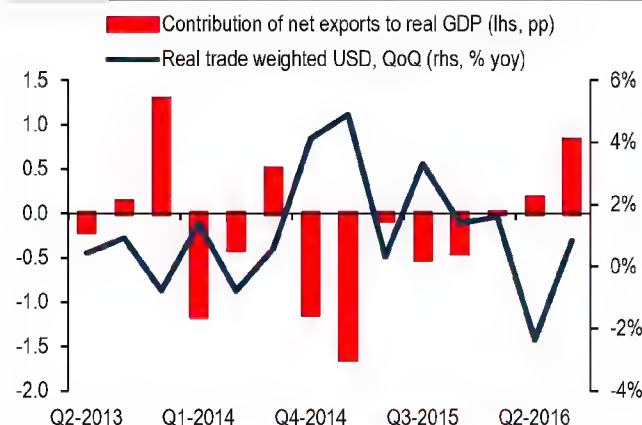
We had positioned long USD as well as short rates, not so much as an explicit play on a Trump victory but more against a more hawkish Fed in 2017. We were also of the view though that a Trump win would likely be positive for the USD and higher yields. Going back to our fixed income strategists' point that the dot plot should now perhaps be the base case for the markets that does imply higher yields which should continue to be dollar supportive. Like their bond yield forecasts though our strategists call for a modest further appreciation of the USD rather than a huge surge. They have the USD peaking at 1.02 vs the EUR, 120 against the JPY and 1.43 vs the CAD.

So the big violent move has likely happened even if we still see the USD strengthening further next year. Certainly our FX strategists are not calling for a surge in the USD similar to the one that happened in 2014/15.

The reaction of the US economy to "Trumponomics" is key

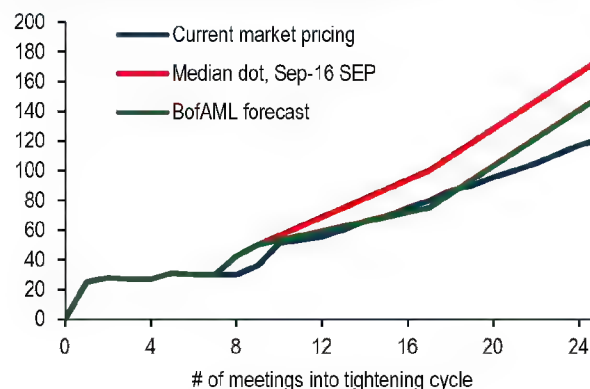
These two things are important for other asset classes. If we really thought 10Y Treasuries were heading to 3%, the Fed likely to tighten above the dot plot and the USD to surge another 10% in quick order, the impact on other asset classes would likely be more severe. That would undoubtedly exacerbate the trends we have seen out of EM and long duration equities. We also suspect it would make it much harder for commodities to perform. We see holding USD and short rates positions as necessary to hedge against such an outcome with limited downside risk if it does not happen.

Chart 11: Dollar strength leads to immediate trade drag (inverse relationship)



Source: Federal Reserve Board, Bureau of Economic Analysis

Chart 12: Expected path of fed hiking cycle (bp)



Source: BofA Merrill Lynch Global Research, Federal Reserve, Bloomberg

Nevertheless it is not our central scenario in part because there is a risk that much of a Trump surge could be bad for growth. As we noted above the fiscal stimulus is likely to be back loaded as far as 2017 is concerned. In the meantime the FX and Rates teams predict an 8-10% appreciation of the USD from pre-election levels and 10Y rates about 80bp higher. Our economists note that a 10% appreciation of the USD is estimated to slice around 0.5% off of US GDP growth over two years. Higher mortgage rates from higher bond yields would also likely dampen growth. As a result, they have actually lowered their forecast for US growth in the first half of next year to around 1.5% before seeing it rebound to around 2.3% in H2 and then 2.5% in 2018 as the fiscal stimulus feeds through.

Various Fed members, notably Bill Dudley of the NY Fed, have said this year that a stronger USD would have an impact on monetary policy. So to some extent we see USD strength as self-limiting as it would start to lower the profile of likely Fed tightening.

Our economists are also cautious as to the extent of the impact of the Trump fiscal plans. Assuming that there is a compromise between the Trump administration and Congress our economists think the likely scale of tax cuts is \$2-3tn over 10 years, with \$200-300bn of this in 2017. Given the low estimated multiplier from any proposed tax cuts and a Congress likely to limit the amount of an increase in government spending, they look for a modest 0.5% boost to growth.

Upside risk to growth and rates if Trump does more on fiscal, less on trade

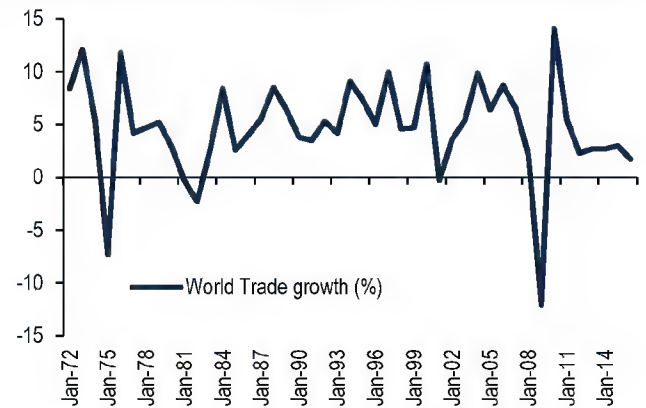
If Congress passes more of the Trump stimulus plan, particularly on the infrastructure side, and there are no significant changes to trade or immigration policies then our US economists think growth could potentially hit 3% in 2017 and 3.5% in 2018. That would likely be accompanied by a faster pace of Fed hikes than they currently assume (which is two hikes between now and end 2017 followed by 3 in 2018).

Trade policy and its impact vital

The other key factor of the new administration is going to be the direction on trade. President elect Trump has already said he will pull out of the TPP, TTIP looks likely to get the same treatment, while NAFTA is set to be renegotiated. Meantime Trump said he will label China a currency manipulator. This is the other side of the Peak Globalisation/Peak Inequality coin and none of it looks good for global trade. Combined with the stronger USD and higher rates, it is easy to understand the knee jerk reaction of investors to sell EM asset, particularly given the gains of earlier this year.

Chart 13: China could be named a currency manipulator

Source: Bloomberg

Chart 14: But world trade has slowed – would Trump make it worse?

Source: WTO, BofA Merrill Lynch Global Research

The question for investors is whether Trump the candidate or Trump the deal making businessman will eventually be the driver behind trade policy. It is not impossible to imagine the President-elect gaining some concessions from his hard line stance and then claiming victory. After all, since one of his aims is to get the US economy growing at 4% a year, a prosperous global economy to export into is probably preferable to one that is taking a hit from an aggressive US trade policy. That is the inclination of our EM strategists and economists, so they are expecting the reality to be softer than the rhetoric.

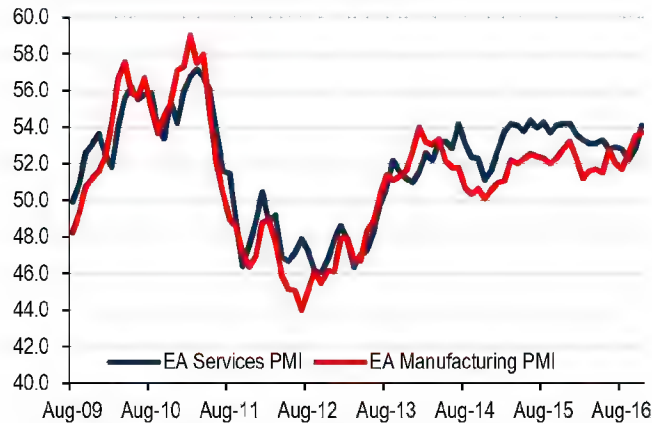
At this stage we have to acknowledge that it is little more than an educated guess. It makes us less certain of our long EM equity position than we were. Nevertheless, we had already switched it out of an MSCI position into an Asia ex Japan in part because of US election risks and our strategists are particularly upbeat about Asian markets. They think they are cheap, they are positive on China and they think growth and hence earnings will surprise on the upside.

What about the rest of the world? Growth has been improving

Growth indicators have been improving around the world of late. Data since the US election would seem to support that with the PMIs in the Euro Area improving again and their equivalent in the US sustaining the gains seen last month. Our EM indicators remain robust and our China ACT indicator continues to indicate steady growth there too.

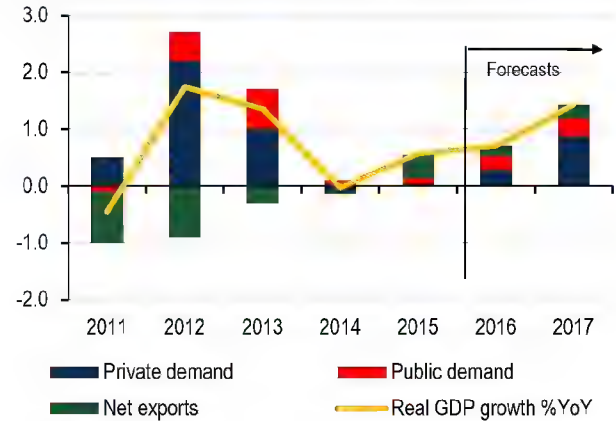
Our economists forecast 3.5% global GDP growth with EM growth around 4.7%. Our Euro Area growth numbers have been nudged back up towards 1 ½% with Brexit not proving to be as much of a drag as feared. We still expect the UK economy to see something of a slowdown in 2017 as the lagged effect of the fall in the pound hits consumer incomes. Perhaps our most optimistic view of the world, relative to consensus, comes from Japan where with fiscal policy turning more supportive (we put the package at 1.5% of GDP) we see growth at 1.4% in 2017.

Chart 15: Eurozone PMI's point to solid growth



Source: Markit

Chart 16: Japanese growth expected to accelerate in 2017

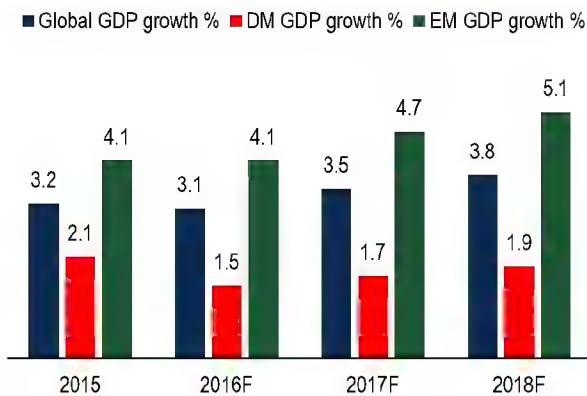


Source: BofA Merrill Lynch Global Research forecasts, CAO

It is a decent global growth picture and it is not impossible to imagine it being still better should the US surprise on the upside and the impact on trade from a Trump presidency prove to be modest.

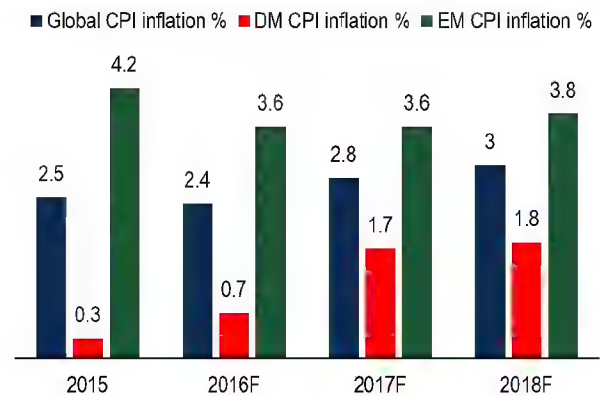
It certainly fits with the Peak Deflation theme since this stronger growth is expected to be accompanied by a pick-up in inflation. We have core PCE in the US reaching 1.9% next year in our core scenario. Our headline inflation numbers are higher because of the expected increase in the oil price from our commodity strategists. Indeed with oil expected to reach \$60pb (OPEC permitting) headline CPI inflation in the US could push 3%. In the Euro Area we see headline inflation rising to 1.2%, albeit with core inflation only nudging modestly higher. UK inflation is expected to move markedly higher care of the lower pound, again with headline inflation pushing towards 3%. In Japan driven by our more optimistic view of the economy we project core CPI at 1%.

Chart 17: BofAML sees GDP accelerating into 2018...



Source: BofA Merrill Lynch Global Research

Chart 18: ...with inflation picking up too



Source: BofA Merrill Lynch Global Research

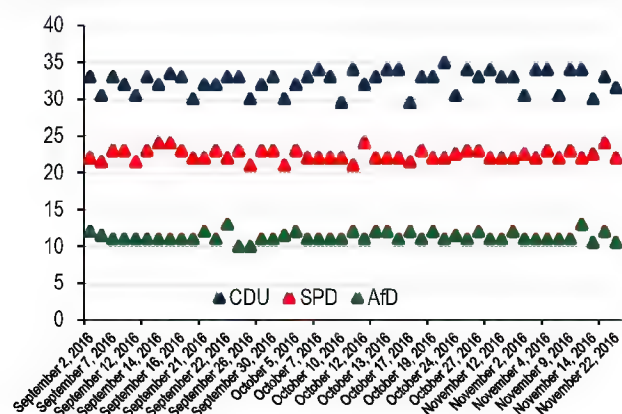
Politics – does populism strike again, this time in Europe?

Few would have predicted both Brexit and a Trump win in 2016. Both had something to do with the Peak Inequality and Peak Globalisation themes. Politicians on both sides of the Atlantic tapped into a deep disquiet, particularly amongst white male blue collar voters that they were not benefitting from this new globalised world. If opinion polls are to be believed (something which we have all learnt to question) then Italy may well end the year with another vote against the governing party - although that one is perhaps a little more complicated to dissect. We recently added a put spread on the eurostoxx to hedge against such a bad outcome here, which would be the case if it is perceived to be

supportive of the 5 star movement or threatened the recapitalisation of the Italian banks (see [Strategy Insights: Italy risks elevated](#)).

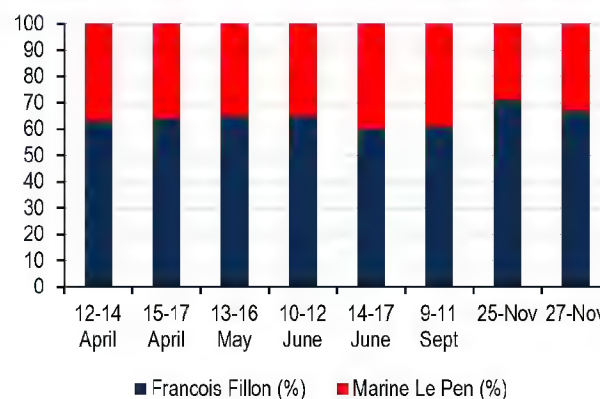
In 2017 the focus turns to core Europe, especially France and Germany. Because of the winner takes all system in France we find investors are more concerned with the situation there. Marine Le Pen and the Front National look likely to make it to the second round of voting (again according to polls) and until the vote comes in we suspect investors will be cautious about European markets. A Le Pen victory could likely bring the future of the EU and the Euro into question as she has talked about France withdrawing from both. That in turn has arguably the potential to be even more of an earthquake for the world's financial markets. Our central case is that centre right President is elected in France (with Francois Fillon now the official Republican candidate) and Merkel is returned at the head of a coalition government in Germany.

Chart 19: German polls show a consistent lead for Merkel's CDU party



Source: Allensbach (15 Sept, 13 Oct), Emnid (7 Sept, 14 Sept, 21 Sept, 28 Sept, 5 Oct, 12 Oct, 19 Oct, 26 Oct, 2 Nov, 9 Nov, 19 Nov), Forsa (2 Sept, 9 Sept, 16 Sept, 23 Sept, 30 Sept, 7 Oct, 14 Oct, 21 Oct, 28 Oct, 4 Nov), Forschungsgruppe Wahlen (22 Sept, 13 Oct, 27 Oct, 10 Nov), GMS (14 Sept, 12 Oct, 12 Nov), Infratest dimap (21 Sept, 5 Oct, 19 Oct, 2 Nov), INSA (5 Sept, 12 Sept, 19 Sept, 26 Sept, 3 Oct, 10 Oct, 17 Oct, 24 Oct, 2 Nov, 7 Nov, 14 Nov, 22 Nov), Ipsos (10 Oct).

Chart 20: Fillon well ahead of Le Pen in polls showing a potential run-off



Source: Ifop (12-14 Apr, 14-17 Jun), BVA (15-17 Apr, 13-16 May, 10-12 Jun, 9-11 Sept), Odoxa (25 Nov), Harris Interactive (27 Nov). Note: all 2016.

Were this to be the case then we think there may well be room for a significant relief rally in European assets. Until then we think it likely investors will demand a higher risk premium.

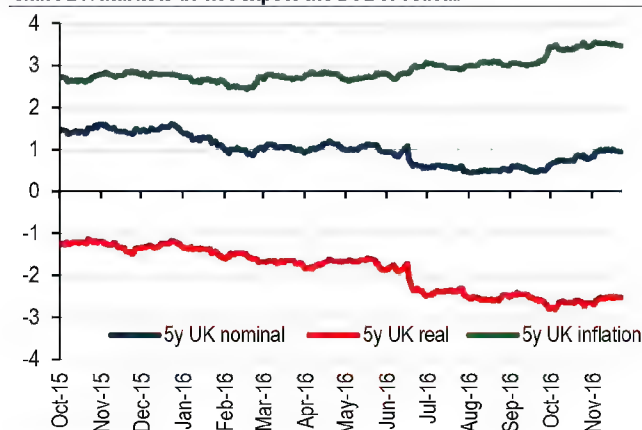
Brexit was the big political topic for Europe going into 2016. Going forward we see it as an ongoing issue but mostly for the UK. The political uncertainty is likely to be extended, even after Article 50 is triggered as any significant negotiations probably need to await the outcome of the French and German elections. We expect the UK economy to struggle as the lagged effect of the fall in the currency hurts consumers and while there may be contrarian trades available in the GBP during 2017, our strategists think it goes lower first on the triggering of Article 50.

X Asset Trade Ideas

Rates – short 5Y US nominal and 10Y real rates, short 5Y UK real rates

As discussed above on the rates side we keep our 2-5-10's butterfly but add a 10Y short real rates trade, to reflect the view of our fixed strategists that if yields are to go higher then real rates will need to move. So we will not repeat the analysis here.

Chart 21: Markets do not expect the BOE to react...



Source: Bloomberg

Chart 22: ...to a sustained overshoot of its inflation target



Source: Bloomberg

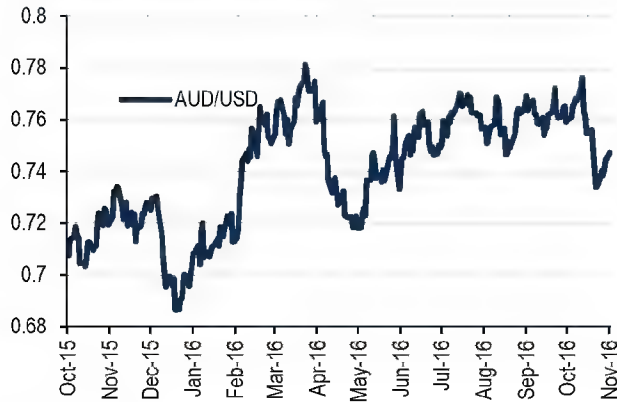
The other fixed income trade we continue to like is short 5Y UK real rates. The market continues to discount the Bank of England consistently overshooting its inflation target without a response on monetary policy. Yet Governor Carney and other members of the BOE's MPC have said that while they are willing to look through a short term inflation shock they would not tolerate a sustained overshoot.

The market therefore is pricing something which suggests that the BOE will sacrifice its credibility on the inflation side to (presumably) support growth. We would rather take the side of the Bank in this situation. It is worth bearing in mind too that those on the right of the Conservative party who have been critical of Governor Carney and the BOE have tended to want higher not lower short rates. When the PM and Chancellor have to replace the Governor at the end of 2018 it is unlikely that they are going to choose someone more dovish.

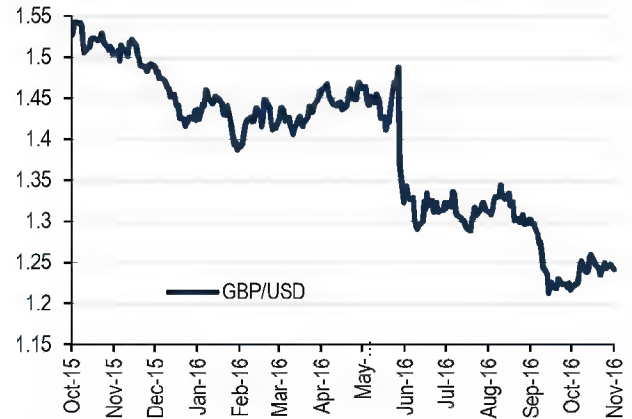
FX – long USD, short GBP, AUD, CNH

We have been long USD since August believing the risk reward to be skewed in favour of a stronger currency because we saw more room for the Fed to tighten than other central banks. Given the fiscal stimulus expected from the new administration the risks on that tightening profile have been skewed to the upside. We think the FX and Fixed Income strategists are right to think of the dot plot as a floor now for markets. With yields still needing to move higher to get there that should put further upward pressure on the USD. The scope for gains though depends on the currency. The Euro is already just 3.5% from the target for next year whereas both the GBP and the JPY have about 7-8% to fall to our FX team's targets. The team also continue to like short AUD positions as they think this also captures risk off in the event of concerns over China.

Whilst the short GBP has only worked modestly since the US election, we continue to think Brexit uncertainties will weigh on the currency into 2017 and our FX strategists target 1.15 in the aftermath of the article 50 decision.

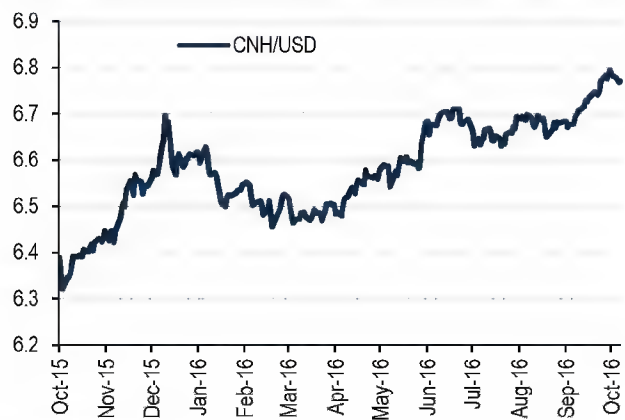
Chart 23: AUD fell post US elections...

Source: Bloomberg

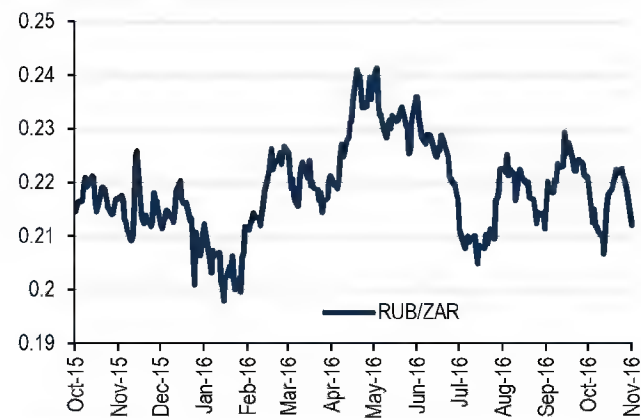
Chart 24: ...GBP has held up so far but article 50 looms in Q1

Source: Bloomberg

Today we add a CNH put (expressed as a USD/CNH call at 7.6 strike) partly because it fits with our positive USD call but also because it is a potential hedge against the trade rhetoric of the new administration descending into something more meaningful. Given the stated intent to declare the Chinese as currency manipulators and the concern that our currency strategists already have about the amount of reserves the Chinese hold, it is not impossible to imagine a much weaker CNY/CNH should the Chinese authorities allow a free float. We see this as a sensible hedge against our long EM equity position.

Chart 25: CNH continues to weaken, risk of more on trade tensions?

Source: Bloomberg

Chart 26: RUB/ZAR choppy on oil and SA politics

Source: Bloomberg

We have two other standalone currency trades, short EUR/SEK and long RUB/ZAR. The former has dropped as the EUR has weakened against the USD. We continue to think that the Swedish economy is more robust than the Eurozone and that the Riksbank will sooner or later have to adjust monetary policy accordingly. We see a lot more room for this pair to move in 2017, particularly if there are political concerns ahead of the French presidential elections as these will likely weigh on the EUR.

RUB/ZAR has been quite erratic since we re-established the trade, reflecting both volatility in the oil price and developments in South African politics. The latest no confidence vote against President Zuma underlines how tricky South African politics are at the moment. Concerns will remain on the economic progress of the country until the political situation becomes clearer. In the meantime we expect a higher risk premium to be associated with the currency.

Equities: Add long Nikkei to EM Asia

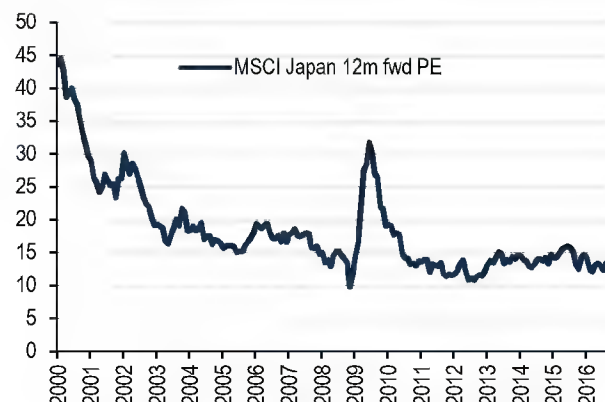
Global equity markets have gone in very different directions post the US election. EM have fared worst, Europe little changed, S&P at new all-time highs, the Russell and Nikkei on a tear higher. This is not how we were positioned so we need to ask the question of whether and what we need to change.

Table 2: MSCI EM Asia at a 2PE point discount to other equity markets

	MSCI EM Asia 12m fwd PE	MSCI Japan 12m fwd PE	MSCI Europe 12m fwd PE	MSCI US 12m fwd PE
Latest	11.9	14.1	14.3	17.0
Min	7.6	9.7	7.4	10.4
Max	18.5	44.5	23.9	25.2
Av	11.5	18.2	14.0	15.9
SD	1.8	6.8	3.4	3.2
Z-score	0.2	-0.6	0.1	0.3
%ile	68%	31%	60%	73%

Source: BofA Merrill Lynch Global Research, MSCI, IBES

Chart 27: Japan relatively cheap at 14.1x fwd earnings



Source: BofA Merrill Lynch Global Research, MSCI, IBES

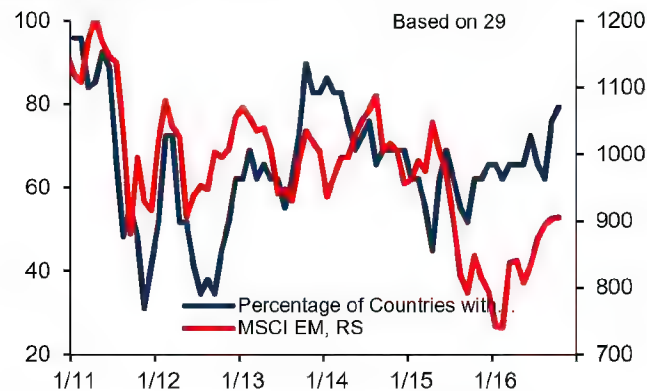
If we stand back from the noise and just look at the valuations, the US is the most expensive, MSCI Asia ex the cheapest in absolute terms. Our strategists see decent earnings growth likely to come through in EM Asia, and while there is upside to US earnings estimates from potential corporate tax cuts at least part of it is priced in. Savita Subrahmanian has a target for the US of 2300 in her year ahead [Euphoria or fiscal fizzle?](#), an upside of a less than 5%. Our European strategists have an upside of around 6%. So that leaves EM Asia and Japan (given our 20k target) as the stand outs according to our equity strategists. Indeed, the PE of Japan is towards the bottom end of the range since 2000.

Sticking with EM Asia

One of our concerns on EM was a more hawkish Fed and therefore a stronger USD. So we regarded our positions in those asset classes as something of a hedge to our EM positions. As we explained above we are keeping that stance as on our central scenario there is more to go and on a risk scenario where bond markets overshoot the USD is likely to follow.

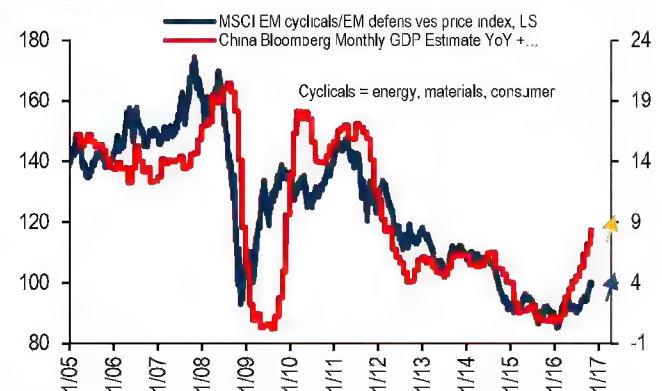
In the equity world, if our fixed income and FX forecasts are right, then we do not see them as being an impediment to our EM Asia position working again. Our EM strategists remain upbeat and Ajay Kapur actually upgraded his call to buy from a tactical pause post the election ([A Call to Action: Time to BUY Asia/EMs](#)). They think the right focus is one on growth rather than the USD and we continue to be upbeat on the prospects for EM growth, particularly in Asia. Ajay in particular makes the point that Chinese nominal GDP growth has been accelerating and that tends to be very good for Asian equity markets. Nigel Tupper's global wave has continued to improve and he argues that remains consistent with strong performance from Asia ex Japan equities.

Chart 28: The world economy is improving – broad-based recovery – good for Asia/EMs



Source: BofA Merrill Lynch Global Research, Haver, Bloomberg

Chart 29: EM cyclicals outperform as China's NOMINAL GDP recovers. More to go.



Source: BofA Merrill Lynch Global Research, Bloomberg. Assumed GDP estimate for October 16 to be similar to that for September 16

The question then is whether the strong USD or trade tensions from the new Trump administration can outweigh the more positive macro backdrop. We are inclined to back the view of our strategists and think that it will, so we are sticking with our long EM Asia position. We are doing so with hedges via a long USD and a CNH put.

Long Nikkei: target 20,000

We had previously paired our long EM position with a long US oil equity position, but with our US strategists downgrading the sector ahead of OPEC we removed it earlier this week. We were therefore looking for another pro-growth trade to run alongside our EM position. Long Japanese equities seemed the logical place to look. While we acknowledge we have missed the lows and that today's entry point may not be ideal, we suspect investors are not particularly long Japan yet since it was still showing as modestly underweight in the last Fund Manager Survey.

Chart 30: Net % AA say they are overweight Japanese equities

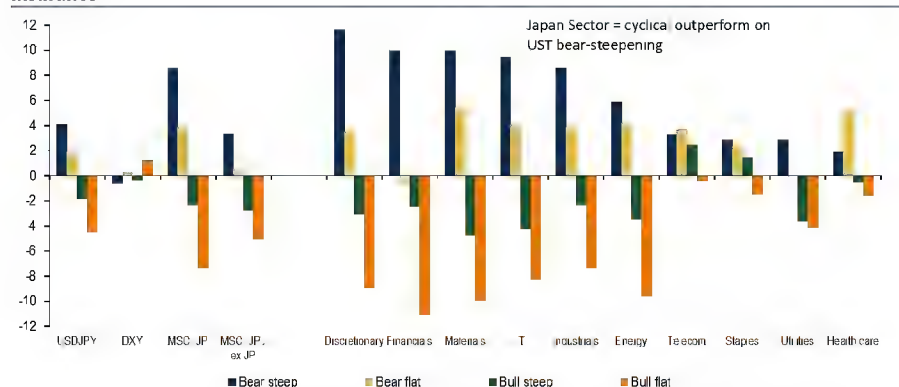


Source: BofA Merrill Lynch Global Fund Manager Survey

Our Japanese equity and FX strategist Shusuke Yamada has been arguing for a while that we would see both a weaker JPY and a rebound in Japanese equities. While arguably the JPY had turned beforehand, the Trump victory turbo charged the move. As the chart shows below Japanese equities do well historically during a period of bear steepening of the US yield curve. Our economists are also more upbeat on Japan thinking the weaker USD, the new policy stance of the BOJ and the fiscal stimulus will push growth and inflation higher next year.

The combination of these factors suggest Japanese equities have further to run. We also see the position as being complementary to our EM position since whereas a stronger USD is a drag on EM performance, it is beneficial for the NKY position.

Chart 31: Japan equities have outperformed during US bear-steepening led by cyclical, banks and insurance



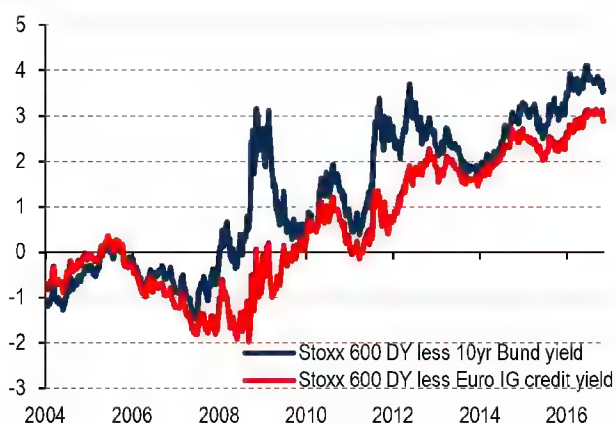
Source: BofA Merrill Lynch Global Research, Bloomberg

Curve movements based on 2yr move and 2s10s move. Bloomberg US Treasury yield index so includes twist movements, but even if we exclude these implications do not materially change. Bear steepening: 2yr +16bps, 2s10s +3bps = 11 quarters; bear flattening: 2yr +26bps, 2s10s -20bps = 10 quarters; bull steepening: 2yr -48bps, 2s10s +28bps = 10 quarters; bull flattening: 2yr -27bps, 2s10s -30bps = 12 quarters.

Long Europe equities via yield stocks & index dividends

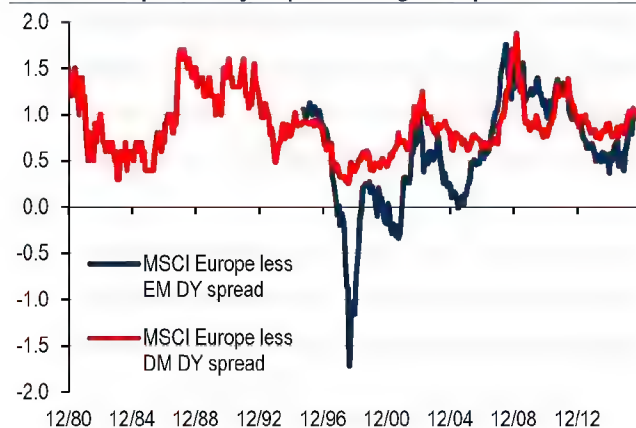
We continue to run two yield related trades in European equities. First, we remain long a broad selection of high yielding European equities. The dividend yield on offer in European equities is one of the asset class's key attractions. Europe offers a higher dividend yield than the other regions, with a 1.1% yield pick-up versus the DM average and 0.9% against EM equities. Those also look attractive relative to history: Europe's yield spread to DM ranks at the 87th percentile of the 20-year range. Europe's DY also looks attractive relative to sovereign and corporate bonds despite the recent sell off in fixed income markets: the yield pick-up relative to investment grade corporates is still 289bp. Given the concerns over European politics we prefer yield based strategies in Europe to those looking for capital appreciation at least in the short term.

Chart 32: Equity DYs remain attractive relative to credit & sov bond yields



Source: BofA Merrill Lynch Global Research, Bloomberg, Datastream

Chart 33: Europe offers a yield premium vs global equities too



Source: BofA Merrill Lynch Global Research, MSCI, Datastream

European Yield Screen

The rising rates backdrop has left yield not quite as scarce as it has been, but we continue to think investors should own yield where they can get it at decent value, such as in European equities. Last month we recommended investors rotate out of lower risk

defensive dividend stocks to take advantage of the improving cyclical backdrop and rising bond yields. That meant our November screen included a high proportion of Financials. This somewhat remains the case but we note the addition of several industrial companies in our latest screen. As a reminder, to qualify the stock must be SXXP listed stocks with at least €2bn market cap, 4% DY, 1.2x DPS cover, 0% DPS 2YR CAGR and qualifying stocks must be on a Buy rating from our fundamental analysts. The yield on the basket is 5% with an average DPS CAGR of 7% and 1.8x covered.

Table 3: European Yield Screen – December 2016

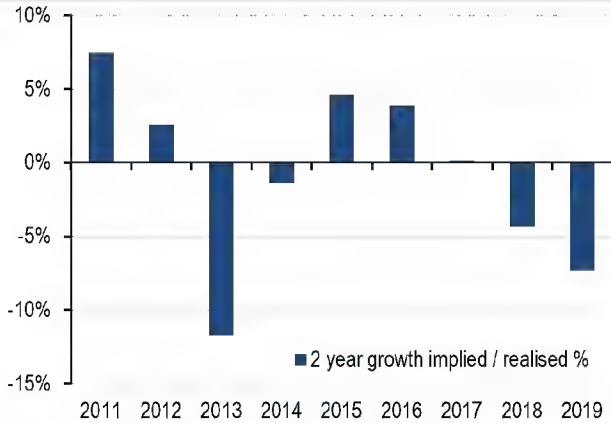
Sedol	BofAML ticker	Company name	Sector	Divi Yield (>4%)	DPS 2Y CAGR	Div'd Cover
426330	DNBHF	DNB ASA	Banks	4.2	23.9	2.0
B545MG	XERSF	SWISS RE AG	Insurance	5.4	5.2	2.1
457481	MDIBF	MEDIOBANCA SPA	Banks	4.9	8.0	2.4
B1LB9P	SZCRF	SCOR SE	Insurance	5.3	4.3	1.9
BZ5739	ING	ING GROEP N.V.	Banks	5.3	4.6	1.7
538003	NRDEF	NORDEA BANK AB	Banks	6.6	2.1	1.3
BDVZY2	ROYMF	ROYAL MAIL PLC	Industrial Goods & Services	5.0	4.2	1.8
458882	DNSKF	DANSKE BANK A/S	Banks	4.4	5.5	2.0
596651	SCGLF	SOCIETE GENERALE	Banks	5.6	0.6	2.0
021623	AIVAF	AVIVA	Insurance	5.1	9.9	1.8
B23K0M	CTAGF	CAPITA PLC	Industrial Goods & Services	5.7	2.5	2.1
522603	SAXPF	SAMPO PLC	Insurance	5.4	4.6	1.2
481334	SVKEF	SKAND ENSKILDA BKN	Banks	5.8	3.7	1.4
B17BBQ	IVTJF	INVESTEC	Financial Services	4.4	10.0	1.9
528983	EBKOF	ERSTE GROUP BK AG	Banks	3.6	12.5	3.1
766716	ATASF	ATLANTIA SPA	Industrial Goods & Services	4.9	11.2	1.3
B83VD9	MNGPF	MAN GROUP PLC	Financial Services	5.8	15.1	1.2
B5ZQ9D	EVKIF	EVONIK INDUSTRIES	Chemicals	4.4	2.9	1.7
B01FLG	GFSZF	G4S	Industrial Goods & Services	3.9	5.6	1.6
BGLP8L	IMIAF	IMI	Industrial Goods & Services	4.0	4.0	1.5

Source: BofA Merrill Lynch Global Research, Factset. The European Quality Yield Screen identified as a screen above is intended to be an indicative metric only and may not be used for reference purposes or as a measure of performance for any financial instrument or contract, or otherwise relied upon by third parties for any other purpose, without the prior written consent of BofA Merrill Lynch Global Research. This screen was not created to act as a benchmark.

Long SX5E 2018 Index dividend futures

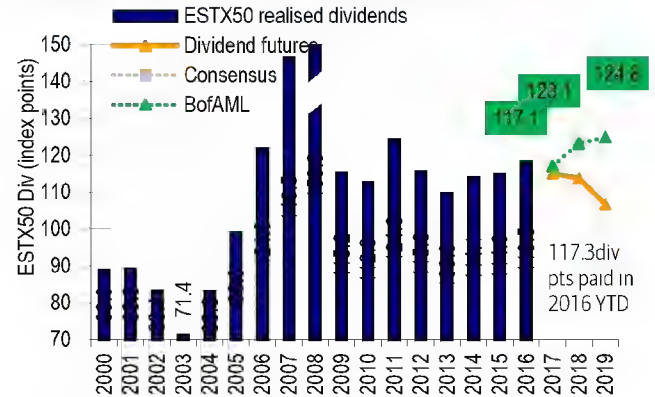
With our second dividend related trade, we remain long SX5E 2018 index dividend futures (DEDZ8), a trade where we continue to see value even with the future price trading close to the high for the year. The 2018 contract implies a 4% decline in dividends paid from the 2016 level. In the absence of a recession, we think that is too pessimistic – 2013 was the last year to see a material 2-year decline in dividends (in the wake of the sovereign crisis and recession). The 2018 contract also still trades at a discount to the level implied by our stock analysts' DPS forecasts. Our derivative strategists using BofAML forecasts for 2018 estimate 8% upside from current prices. Although the upside is now more limited the risk around this trade is also much lower now. The pull to par effect will become the dominant driver over the coming months and the full year results should provide clarity on where the 2018 contract will settle.

Chart 34: SX5E dividends: 2-yr implied growth in 2018 still looks cautious



Source: BofA Merrill Lynch Global Research, Bloomberg

Chart 35: BofAML's SX5E Dec18 div forecast implies 8% upside



Source: BofA Merrill Lynch Global Research, Bloomberg

European equities: switch to outright long Healthcare

We switch our European sector pair trade preferring Healthcare over Food & Beverage into an outright long in Healthcare. Both sectors have suffered versus the market from the rotation out of defensives and bond proxies. That has reduced the valuation of the Food & Beverage sector to less extreme levels. Meanwhile Healthcare looks very attractively valued and we see compelling risk reward in the sector on an outright basis at current levels.

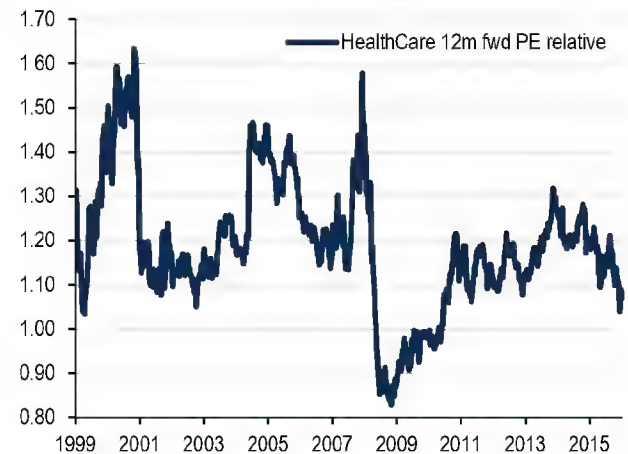
The fundamental bull case for Health rests on the strong pipeline of new products for the big cap pharma universe. Our [sector analysts forecast EU Pharma](#) to deliver a 2018-21E EPS CAGR of 11%, up from mid-single digit levels in recent years. Historically that would justify a PE re-rating and a multiple for the pharma sub-sector nearer 17-18x than the current 13x 2018 PE.

Chart 36: Extreme overvaluation in Food & Bev has moderated



Source: BofA Merrill Lynch Global Research, Datastream, IBES, Bloomberg

Chart 37: Healthcare PE – back near market multiple and patent cliff lows



Source: BofA Merrill Lynch Global Research, Datastream, IBES, Bloomberg

We believe the Republican clean sweep in the US elections represents a positive catalyst as it significantly decreases the potential for legislative initiatives to aggressively control drug pricing in the US. The catalyst for the sector to re-rate will come progressively from newsflow around new products. The next 12 months should see progress on this front with several of the European large caps expected to announce key data on important drugs in 2017.

Healthcare's forward PE is now down to just a 7% premium relative to the market and nearing the valuation lows recorded in 2010-12 when the patent cliff was at its worst and pipelines were very weak. Today pipelines are twice the size they were in 2011 and innovation is the key to growth in the sector - pricing power remains strong in drug categories with differentiated products.

Credit: Long Spreads in Europe and US

Europe: Long Xover short Main

Rate cuts are off the table it seems, as central banks are starting to recognise the side effects of NIRP. This reinforces our view that a continuation of CSPP, entails that the reach for yield will extend to those assets that have not seen it yet; long Crossover vs iTraxx Main.

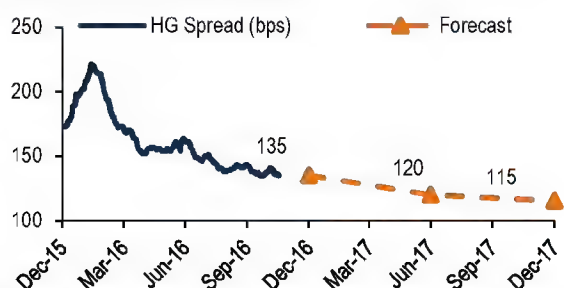
The beta outperformance has already started in the cash market. We look at synthetics and we see that Crossover has not mirrored that performance. Even though XO has outperformed recently, it still has further to go to close the gap vs cash market's performance.

Ioannis Angelakis thinks that rising political risks in the following twelve months are more likely to weigh on iTraxx Main performance than Crossover, as Main has higher concentration vs XO on names domiciled in countries with elections.

Buy 30y US IG Industrial spreads

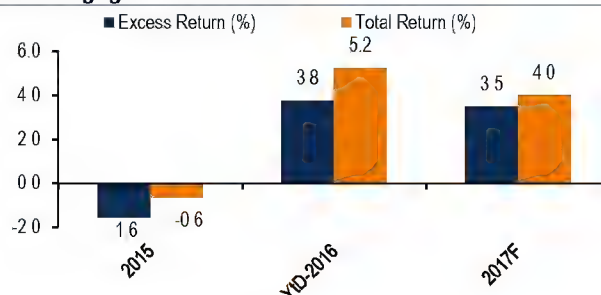
[US high-grade is the market our colleagues in Credit Strategy are most bullish into 2017](#). Hans Mikkelsen thinks IG corporate spread maturity curves super-flatten as global credit investors do the twist - i.e. sell shorter maturities and buy the long end. Foreign inflows are now concentrated in the back-end, as credit spreads have rallied while the cost of currency hedging increased. That means that only the back end of the steep US corporate spread curve offers enough spread to overcome the high cost of currency hedging. The flip side is that the front end of the US credit spread curve is very unattractive and we expect domestic and foreign investors to accelerate their selling of shorter maturity US corporate bonds. Overall, Hans expects the 30yr corporate bond part of the market to generate 8%-9% total returns next year.

Chart 38: High grade spread forecast



Source: BofA Merrill Lynch Global Research

Chart 39: High grade returns forecast

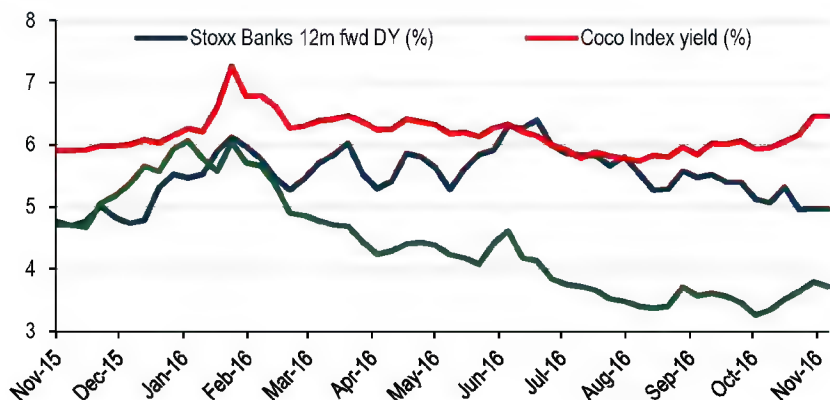


Source: BofA Merrill Lynch Global Research

Long AT1s basket

Contingent capital continues to offer a compelling premium to European HY and lower volatility than bank equity. The asset class also received a boost last week when the European Commission submitted a proposal for AT1 coupons to be prioritized over common dividends and bonuses [if the bank breaches its combined buffer](#). This placates one of the main concerns investors have, i.e. that banks could decide to skip a coupon payment but maintain their dividend. The confirmation of the role of AT1s in Pillar 2 capital is another example of regulators providing clarity on how contingent capital fits within the overall capital structure. The main short term risk for the trade is the fate of the Italian banks recap, so we will be watching closely to see how that develops.

Chart 40: European AT1s offer a compelling yield for total return investors

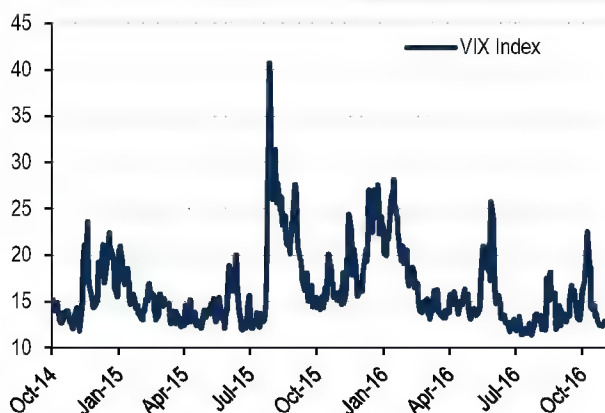


Source: BofA Merrill Lynch Global Research, Bloomberg, Datastream, IBES

Volatility: Sticking with Relative trades

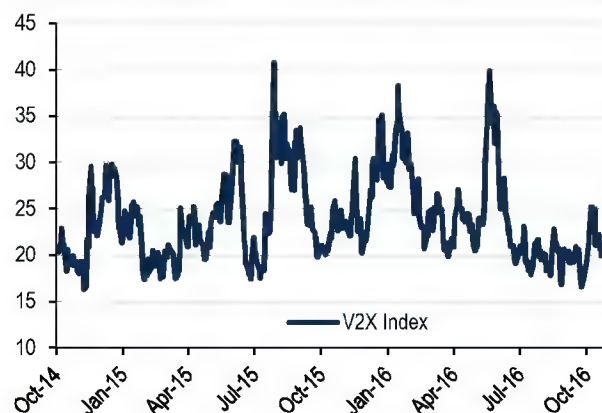
While 2016 started off with a bang volatility wise it has ended with a whimper. Neither Brexit nor the US presidential election proved to be anything more than a blip. Realised vol in the S&P 500 over the last 100 days is just 9.5%. That compares to 13.6% for the Eurostoxx 15.1% for the Russell and 21.8% for the NKY.

Chart 41: Neither the Trump election...



Source: Bloomberg

Chart 42: ...nor Brexit led to a sustained period of higher volatility



Source: Bloomberg

That is why we prefer relative variance trades. They tend to carry flat to positive but have convexity to the downside. We are happy to continue to run these trades into 2017 and then use shorter term instruments to hedge specific events.

We did this around Brexit and have recently bought a 3000-2850 Eurostoxx put spread to hedge our European exposure around the Italian referendum. While a No vote is expected we are not sure what the aftermath will look like and there is considerable uncertainty over the bank recapitalization of the banks afterwards.

We also have a calendar put spread in eurostoxx which tends to pay off best around the 2500-2600 levels so that remains something that we will look to keep for now given downside risks in Europe over the first half of next year.

One trade we are taking off today is our Kospi forward vol position. We had held that as a hedge against a China hard landing. Our derivative strategists no longer like it and we have no opted for a currency hedge for our China risk, as discussed above.

Risks to trades

Equity trades

- The risks to long divi basket & Pharma trades are a steepening of rates curves and better than expected growth outside of Europe causing investors to rotate out of bond proxies. Plus our analysts' expectations of improved earnings from the healthcare pipeline not coming through.
- The risks to trade dividend future trade is lower than expected profits for major European sectors, e.g. Banks, Oils, causing a correction in dividend expectations.
- The risk to EM Asia ex-Japan is from a stronger USD and faster than expected US rates hiking cycle. Trade tensions with the new US administration an additional risk now.
- Risk to long Nikkei trade is a reversal of JPY weakness or a change in policy by the BOJ.

Fixed income trades

- The risks to the US rates trades are a dovish Fed responding to a tightening of monetary conditions before the fiscal boost kicks in. Disappointment on the fiscal stimulus also a risk. The risk to the UK inflation trade is that the BoE doesn't respond to expected rising inflation by raising rates faster.
- The risks to the Industrial spreads trade is a deterioration of US industrial growth and step away from credit purchasing by ECB/ BoE.
- The risks the AT1 trade are the ECB pulling out of the credit markets causing a correction in the riskier portion of the market and bank profitability deteriorating raising concerns about default.
- The risks to our XOVER trade are Eurozone growth disappointing and a risk-off event in markets causing a flight to quality amongst credit investors.

Volatility trades

- Our equity vol trades are hedges, the risks are that they expire worthless due to the lack of a financial event in China and persistent low vol spread in equity markets supported by higher growth.

FX trades

- The main risk to our FX trades is of a more dovish than expected Fed, a more hawkish than expected BOE, improved politics in South Africa/weaker oil price and a more dovish Riksbank.

Appendix 1: Methodology

This publication is aimed at multi-asset institutional investors who tend to have a longer term time horizon for their investments. As such, we will be looking to come up with ideas that will have a minimum six month horizon and ideally longer than a year. The individual trade ideas will be sourced from our strategists across BofA Merrill Lynch Global Research.

This publication is not meant to be an agglomeration of all the trade ideas published by BofAML Global Research strategists, but instead represents those that fit with our longer term themes (as opposed to shorter term tactical trades). In addition, there may be several different trade ideas published by BofAML Global Research strategists across different asset classes that seek to leverage off of the same theme. In most cases we will seek merely to take the trades that have the best risk adjusted return. By risk adjusted we mean the risk undertaken in a trade vs the likely return on that trade. In considering that we will look at the underlying volatility in the individual asset class. This will be combined with our own view of what the likely downside is in an adverse scenario vs the payoff in the expected scenario and our own assessment of the likelihoods of such scenarios.

Once selected it is assumed that the trade would likely be retained for a minimum of six months (as per the selection rationale). Should any analyst change their view on the trade and cease to recommend it, then it will be immediately removed from our list¹. Equally should our target be met for a trade and the relevant strategist feels it has run its course then it will also be removed (see footnote). Otherwise we will review our trades on a monthly basis in this publication. If we feel a new trade idea has a better risk adjusted return than an existing one in the same asset class then we would replace it.

The objective of the trades is that they would be suitable for a typical objective of the multi-asset fund managers, which is typically framed in terms of a Libor+ benchmark (this can be anything from Libor +300bp to Libor +700bp). That return is also coupled with a target volatility, for example half MSCI ACWI volatility. The volatility target will, of course, be a function of the expected return, but there is a general focus on producing lower volatility returns. Our set of trades should not be regarded as a portfolio but a collection of ideas to implement in a multi-asset portfolio.

Appendix 2 – Recommended COCO bonds

Table 4: COCO basket

ISIN	Bond	Issuing entity	Price	Mid YtM
XS1055037177	ACAF 6 5% EUR Perp-21	CREDIT AGRICOLE SA	100.5	5.4
XS1002801758	BACR 8% EUR Perp-20	BARCLAYS PLC	100.9	7.1
XS1033661866	BBVASM 7% EUR Perp-19	BANCO BILBAO VIZCAYA ARG	91.1	7.1
XS1073143932	NYKRE 4% EUR 2036-21	NYKREDIT REALKREDIT AS	102.4	2.7
XS0972523947	CS 5 75% EUR 2025-20	CREDIT SUISSE	107.6	3.6
DE000DB7XHP3	DB 6% EUR Perp-22	DEUTSCHE BANK AG	78.3	6.7
XS1043545059	LLOYDS 6 3/5% EUR Perp-20	LLOYDS BANKING GROUP PLC	97.5	5.7
XS1171914515	RABOBK 5 5% EUR Perp-20	COOPERATIEVE RABOBANK UA	98.5	5.5
XS0867620725	SOCGEN 6 75% EUR Perp-21	SOCIETE GENERALE	98.8	5.9
XS1107890847	UCGIM 6 75% EUR Perp-21	UNICREDIT SPA	84.5	7.7

Source: BofA Merrill Lynch Global Research *As of 28.11.2016 close

¹ Under these circumstances, we will publish a note immediately.

Appendix 3 – Indicative pricing/ levels

Table 5: Latest indicative pricing/ levels for cross asset trades

Asset	Trade idea	Indicative price / level
Equities	Long European Quality Yield Screen (yie d)	5%
	Long SXDP Index	681.6
	Long Nikkei	18307
	Long European index dividend futures	113.4
	Long MSCI Asia ex-Japan	525.7
Equity vol	Long RTY short SPX 2y variance swap	3.7**
	3000-2850 SX5E put spread Dec 16 expiry	1.20%
	Long NKY short SPX Dec 18 variance swap	6vols
	Long SX5E short SPX Dec 18 variance spread	6vols
	Eurostoxx 2y/3y put calendar	1.99
FX	Short EUR/SEK	9.762
	Long USD/CNH call	0.56%USD
	Short GBP/USD	1.250
	Long USD/AUD	1.342
	Long RUB/ZAR	0.213
Fixed Income	2s-5s-10s fly (bp)	11
	Short US 10y real rates (bp)	50
	Paying 5y GBP real rate swap (bp)	-254
Credit	Buy 30y US IG Industrial spreads (bp)	187
	Buy basket of Euro AT1s	5.80%
	Long Xover short Main (ratio)	4.22x

Source: BofA Merrill Lynch Global Research, Bloomberg. Note: *all levels and prices as of 29/11/2016 at ~3pm or most recent local market close. **This is a theoretical level which may differ from actual tradable prices. ***This level is obtained by bootstrapping At the money forward volatility levels, does not represent a tradable instrument. The tradable strike of an FVA will likely differ considerably.

Appendix 4 – Closed trades

Table 6: Closed trades

Asset	Trade idea	Strategist	Open date	Closed date
Equities	Long Nikkei	Kenji Abe	22/01/2016	01/04/2016
	Long MSCI EM 1x 1x call ratio	Ajay Kapur	01/03/2016	18/04/2016
	Long MSCI EM 1x 1x call ratio	Ajay Kapur	01/03/2016	18/04/2016
	Long US Energy	Savita Subramanian	07/09/2016	28/11/2016
	Long MSC EM	Ajay Kapur	19/04/2016	30/09/2016
	Long SXDP Index vs Short SX3P Index	Ronan Carr	22/01/2016	28/11/2016
Equity vol	Long June V2X call spread collar	Abhinandan Deb	01/04/2016	18/04/2016
	Long Kospi fwd vol 6M/18M	William Chan	22/01/2016	28/11/2016
	Short June V2X put	Abhinandan Deb	01/04/2016	Expired
	Long (30-35) V2X Jul call spreads	Abhinandan Deb	18/06/2016	Expired
	Long 2050-1950 S&P 500 Jul put spread	Abhinandan Deb	18/06/2016	Expired
FX	Long NOK/USD	Kamal Sharma	01/03/2016	04/05/2016
	Long RUB/ZAR	David Hauner	22/01/2016	17/05/2016
	Short EUR/SEK	Kamal Sharma	22/01/2016	08/07/2016
	Long JPY/KRW	Adarsh Sinha	22/01/2016	31/03/2016
	Long USD/CAD	Ian Gordon	28/07/2016	07/07/2016
	Short EUR/JPY	Athanasios Vamvakidis	21/01/2016	30/09/2016
	Short EUR/USD	Athanasios Vamvakidis	08/07/2016	04/11/2016
Fixed Income	Short EUR 5Y5Y inflation breakevens	Ralf Preusser	22/01/2016	23/01/2016
	Buy 30y real rates (bp)	Ralf Preusser	22/01/2016	24/05/2016
	Receive EUR pay US 5y5y fwd (bp)	Ralf Preusser	22/01/2016	27/05/2016
	Sell 6m 2s-5s-10s OTM receiver fly	Shyam R. Rajan	07/09/2016	08/09/2016
	US +15y IG credit (total return)	Hans Mikkelsen	22/01/2016	04/05/2016
	US +15y IG credit (Govt OAS)	Hans Mikkelsen	04/05/2016	28/07/2016
	Paying 2y3y GBP real rate swap	Mark Capleton	02/09/2016	12/10/2016
	3y 2s-10s US flattener	Shyam R. Rajan	27/05/2016	10/10/2016

Source: BofA Merrill Lynch Global Research. Trades closed in this report (or recently) in bold.

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Research Analysts

James Barty >>

Investment Strategist
MLI (UK)
+44 20 7996 3291
james.barty@baml.com

Ronan Carr, CFA >>

European Equity Strategist
MLI (UK)
+44 20 7996 3292
ronan.carr@baml.com

Tommy Ricketts >>

European Equity Strategist
MLI (UK)
+44 20 7996 3294
tommy.ricketts@baml.com

Barnaby Martin

Credit Strategist
MLI (UK)
+44 20 7995 0458
barnaby.martin@baml.com

Ioannis Angelakis

Credit Derivatives Strategist
MLI (UK)
+44 20 7996 0059
ioannis.angelakis@baml.com

Hans Mikkelsen

Credit Strategist
MLPF&S
+1 646 855 6468
hans.mikkelsen@baml.com

Abhinandan Deb >>

Equity-Linked Analyst
MLI (UK)
+44 20 7995 7148
abhinandan.deb@baml.com

Nitin Saxena

Equity-Linked Analyst
MLPF&S
+1 646 855 5480
nitin.saxena@baml.com

Benjamin Bowler

Equity-Linked Analyst
MLPF&S
+1 415 676 3595
benjamin.bowler@baml.com

Ian Gordon

FX Strategist
MLPF&S
+1 646 855 8749
ian.gordon@baml.com

Kamal Sharma

FX Strategist
MLI (UK)
+44 20 7996 4855
ksharma32@baml.com

Claudio Piron

Emerging Asia FI/FX Strategist
Merrill Lynch (Singapore)
+65 6591 0401
claudio.piron@baml.com

David Hauner, CFA

EEMEA Cross Asset Strategist
MLI (UK)
+44 20 7996 1241
david.hauner@baml.com

Shyam S.Rajan

Rates Strategist
MLPF&S
+1 646 855 9808
shyam.rajan@baml.com

Mark Capleton

Rates Strategist
MLI (UK)
+44 20 7995 6118
mark.capleton@baml.com

Ajay Singh Kapur, CFA >>

Equity Strategist
Merrill Lynch (Hong Kong)
+852 3508 7753
ajay.s.kapur@baml.com

Shusuke Yamada, CFA >>

FX/Equity Strategist
Merrill Lynch (Japan)
+81 3 6225 8515
shusuke.yamada@baml.com

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2017 year ahead – Refining the reflation rotation

01 December 2016

Key takeaways

- 2017 - Reflation, Reversal, Rotation, Relief or Revolt. EPS to turn +ve but politics to remain a valuation overhang in H1.
- Defensive vs Cyclical rotation at extreme levels. More balanced approach needed but look for another leg to cyclical trades.
- O/w Media as quality cyclical and Oil. Stay cautious on UK domestic (Retail, Travel). Health, Utilities over Food & Bev.

2017 – A year of cross currents, nimble investors required

Recovery (positive but moderate in our view) and Rotation go hand in hand - we think that the pace of the rotation has to moderate. ECB reversal on QE is a risk and tapering because the ability or willingness to do QE fades would likely cause a setback. Investors will demand a premium for political risk until we get clarity on populist Revolt or policy Relief in France and elsewhere. Like 2016 investors will need to trade the ranges.

High single digit upside - politics likely to weigh near term

A valuation overhang remains in Europe vs other DM. We see a return to positive EPS growth (+7%) in Europe for the first time since 2014, driven by higher global GDP growth Resources recovery, capex discipline and FX. +7% growth implies less downgrades than usual (10% is the average). Base case upside in high single digits (c9% total return) but politics may mean market highs are more likely achieved in H2.

Modestly higher yields and higher equities compatible

Equities can continue to perform with rising rates – the key is that inflation breakevens are not falling. However, a more aggressive bond sell-off taking Treasury yields to 3% or higher would undermine EM, the growth outlook, peripheral spreads and risky assets.

Reflation rotation stretched – refining our approach

Rotation has been extreme (>6SD move in Def vs Cyclical). Argues for a moderation in returns and a more balanced approach to sector allocation. Look for another leg to cyclical trades in the New Year. Sector valuations have also moved a long way already.

Cautious on domestic UK exposure – Brexit still to bite

The full impact of sterling weakness on the UK consumer environment is yet to be felt and Brexit negotiations are likely to drive further uncertainty and FX volatility. Structural issues add to our concerns in Retail and Travel & Leisure (both underweight).

O/w Oil, Health, Utilities, Media; u/w Food & Beverage

An OPEC cut and higher oil would make Oil's high DY sustainable. Healthcare is too cheap vs an improving sector growth outlook and 2017 is a key year for pipeline news. Food & Beverage still seems the least attractive Defensive on valuation, positioning. We move overweight Media, a quality cyclical that has lagged and seen valuations de-rate.

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Refer to important disclosures on page 37 to 38. Analyst Certification on page 36.

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Equity Strategy
Europe

Ronan Carr, CFA >>
European Equity Strategist
MLI (UK)
+44 20 7996 3292
ronan.carr@baml.com

James Barty >>
Investment Strategist
MLI (UK)
+44 20 7996 3291
james.barty@baml.com

Tommy Ricketts >>
European Equity Strategist
MLI (UK)
+44 20 7996 3294
tommy.ricketts@baml.com

Refining the reflation rotation

2017 is likely to have a number of cross currents as themes. Recovery (we look a modest acceleration in both growth and inflation) and **Rotation** go hand in hand. On the basis of our central forecasts for growth, inflation and rates and given the moves in the market already we think that the pace of the rotation has to moderate. (In-line with that we recently downgraded of banks and miners).

Reversal refers to the ECB. Our economists are not yet convinced that the ECB will start to unwind loose policy 2017 but the probability is increasing. An ECB that tapers because growth and inflation are improving would be supportive for markets, notably banks. But tapering because the ability or willingness to do QE fades would likely cause a setback. **Relief or Revolt** relates to European politics. Will Europe follow the route to populism (revolt from the voters) or will we find relief for the markets by the end of 2017 from a Fillon/Merkel duo being in charge of the Euro area's two largest economies. We think investors will demand a higher risk premium until the French Elections in May 2017

Valuation are reasonable at 14x PE but Europe is cheap on a relative basis and the **valuation overhang remains evident in the region's equity risk premium**, which implies 11% upside to get back to 5-year average levels. We see a **return to positive EPS growth (+7%)** in Europe for the first time since 2014, as 3.5% global GDP growth should deliver positive earnings growth (supported by Resources recovery, capex discipline and FX. +7% growth implies less downgrades than usual (10% is the average).

Bond yields and equities – stable/higher inflation breakevens are key. Equities can continue to perform in an environment of higher rates – the key is that inflation breakevens are not falling. However, a more aggressive bond sell-off taking Treasury yields to 3% or higher would undermine EM, the growth outlook and risky assets.

The **rotation out of bond proxies and Defensives into Financials and Cyclical** has **moved to extreme levels**: relative performance of Financials / Cyclical versus Defensives rose over 6SD in 10-14 months. Technical metrics are at historical extremes, arguing for a moderation in relative returns and a more balanced approach to sector allocation is justified right now. Look for another leg to cyclical trades in the New Year.

Sectors have also moved a long way already from a valuation perspective.

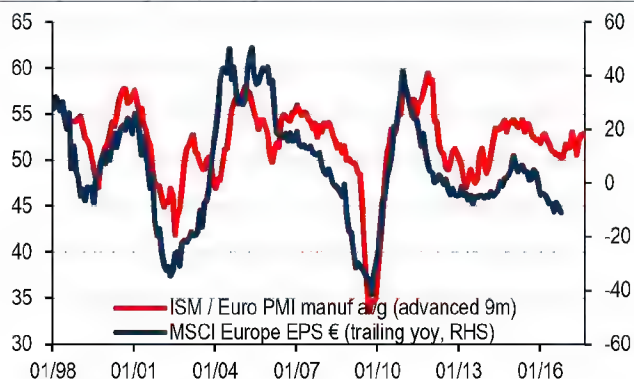
Financials are now trading around median relative valuation levels. Healthcare PE relative is at the bottom of the historical range and Utilities relative PE is also close to the prior low hit in 2013. Food & Beverage still commands a large premium and PE-relative is 6-10% above the 2010 / 2014 lows.

We remain cautious on domestic UK exposure. The full impact of sterling weakness on the UK consumer environment is yet to be felt and Brexit negotiations are likely to drive further uncertainty and FX volatility in our view. Structural issues add to our concerns in Retail and Travel & Leisure (both underweight).

Overweight Oil, Healthcare, Utilities, Media; underweight Food & Beverage. If OPEC cuts production and oil recovers up to the high \$50s per barrel, Oil sector EPS and cash flows can recover significantly and make the highest DY in market (6%) look sustainable. Healthcare we believe is too cheap relative to an improving sector growth outlook. 2017 will be an important year for newsflow on key pipeline drugs. Evidence of success can drive a re-rating independent of macro. Despite the recent sell-off, among defensives and bond proxies Food & Beverage still seems the least attractive. Valuations are among the most expensive in the market and overweight positioning has not corrected materially yet. We move overweight Media, a quality cyclical that has lagged badly and seen valuations de-rate.

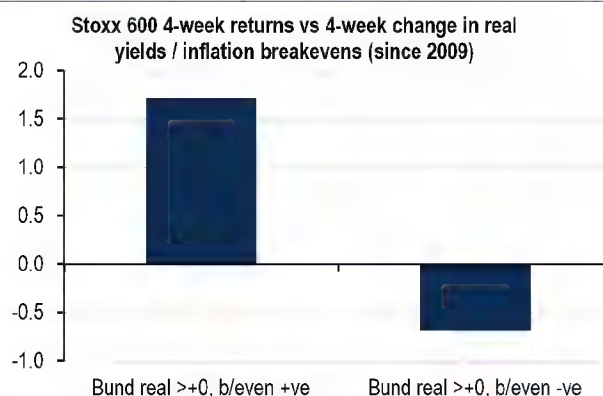
Key charts

Chart 1: Synchronised rise in leading indicators globally augurs well for earnings recovery – especially if PMIs kick on to or above mid-50s



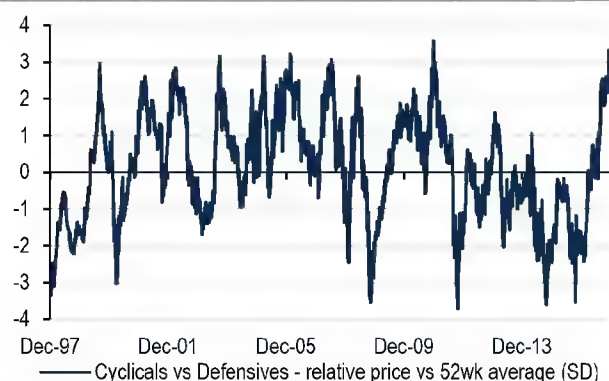
Source: BofA Merrill Lynch Global Research, Datastream, IBES

Chart 2: Modestly higher yields and higher equities compatible – Rising inflation breakevens the key for equities



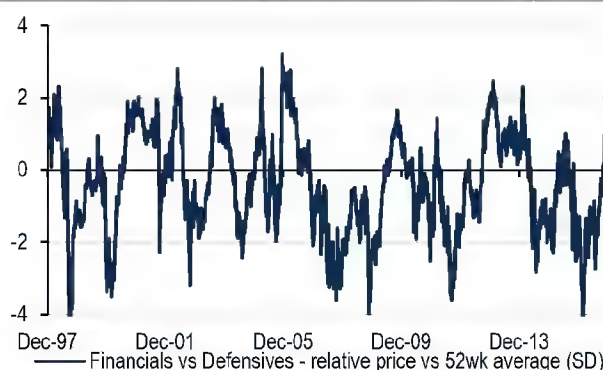
Source: BofA Merrill Lynch Global Research, Bloomberg

Chart 3: Cyclical vs Defensives trade now looks very stretched



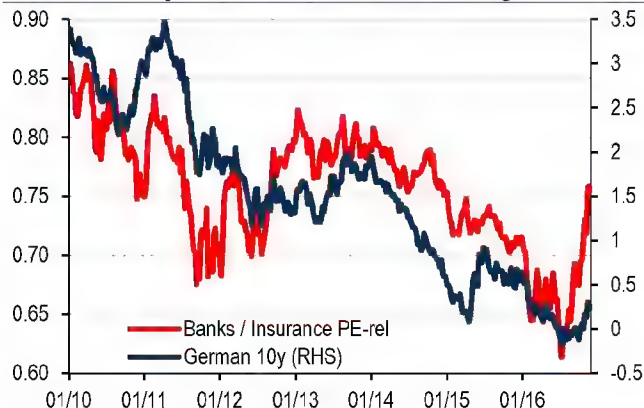
Source: BofA Merrill Lynch Global Research, Bloomberg

Chart 4: Likewise Financials vs Defensives: -2.5SD to +2.5SD post-Brexit



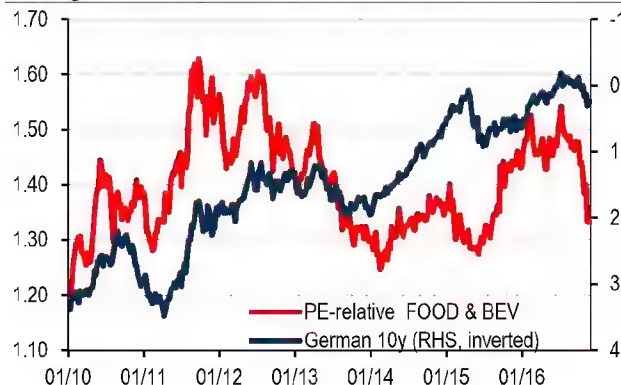
Source: Re BofA Merrill Lynch Global Research, Bloomberg place this text

Chart 5: Financials valuations have recovered significantly relative to the move in bond yields – relative PE back around average levels



Source: BofA Merrill Lynch Global Research, Datastream, IBES

Chart 6: Rapid relative de-rating for Staples – relative PE for Food & Beverage still 6-10% above 2010 / 2014 levels

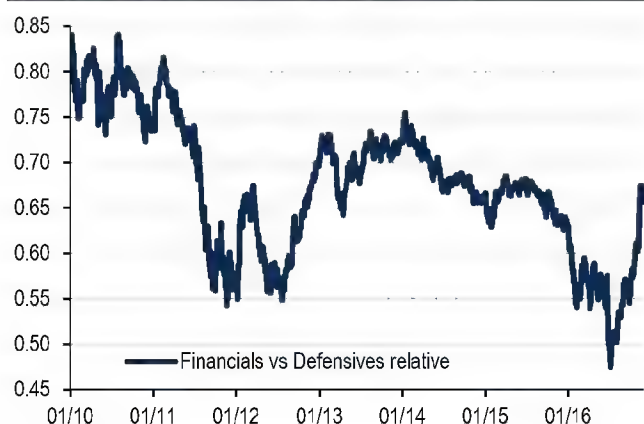


Source: BofA Merrill Lynch Global Research, Datastream, IBES

Lessons from 2016

The old joke is that Year Aheads are frequently out of date by the end of year they are written in. There is a real danger of that this year given the speed which things have moved since Brexit and more recently the US election. The two charts below show that Financials and Cyclical have clawed back around 2/3 of their underperformance vs Defensives. Of course it depends how you frame the question since we have included Utilities and Telecoms in the defensive basket. But when we [downgraded Banks](#) 10 days or so ago they had outperformed Food and Beverage by ~50% since the lows of early July. Whichever way you cut it some of these moves have been extreme.

Chart 7: The moves since Brexit in both Financials...



Source: Bloomberg

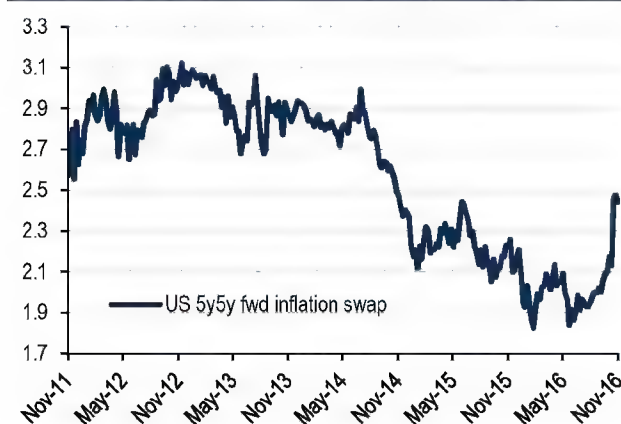
Chart 8: ...and Cyclical relative to Defensives has been dramatic



Source: Bloomberg

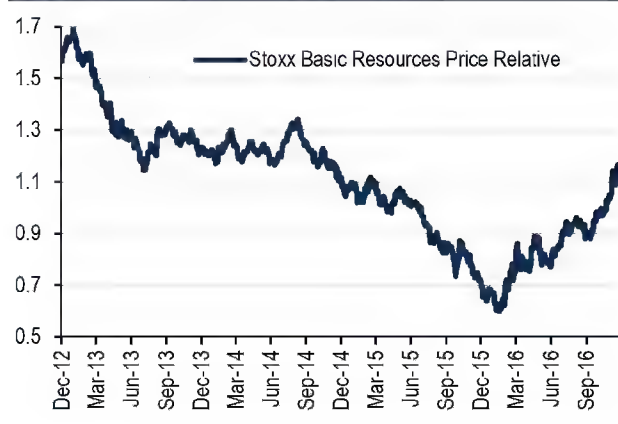
Moreover, in 2016 we doubt that even if investors had known the results of key events that they would necessarily have got the reaction in markets right. As we joked in our [Cross Asset year ahead](#) you needed not so much a crystal ball as a time machine to have got things completely right this year. Aside from Brexit and Donald Trump winning the US election it is easy to forget that in February we were worrying about a US recession and deflation. US 5Y5Y forward breakeven inflation rates actually troughed at 1.8% at that point. Four months later we were worrying about the deflationary impact of Brexit. Now we are thinking about the reflation under a Trump Presidency.

Chart 9: US 5Y5Y forward inflation troughed in February



Source: Bloomberg

Chart 10: At the same time as Basic Resources

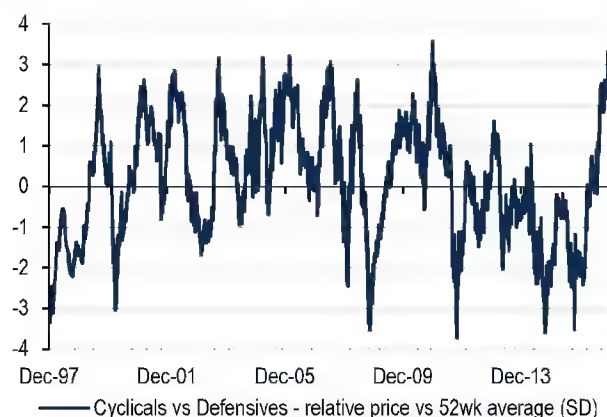


Source: Bloomberg

The panic in markets in early February actually presented a perfect buying opportunity for reflationary assets. Miners was a sector truly loathed by investors of all colours at the start of the year with many thinking that some of the big players might even go bust. If there is one key conclusion from all of this it is do not tie yourself to a view. We

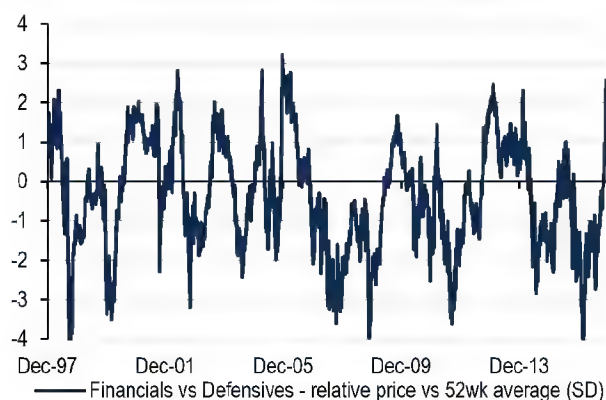
were underweight at the start of the year too and missed the lows. We recognized we were wrong and closed our underweight and while it took us a while but we eventually managed to go overweight in September. The lesson of that is that themes are great, but when the facts change strategists and investors have to change their minds.

Chart 11: Cyclical vs Defensives: from -3.5SD to +3.2SD in 14 months



Source: BofA Merrill Lynch Global Research, Bloomberg

Chart 12: Financials vs Defensives: -2.5SD to +2.5SD post Brexit



Source: Re BofA Merrill Lynch Global Research, Bloomberg place this text.

In fact your best guide to this year was to buy something when it has oversold, underowned and unloved, like Miners and Emerging Markets in February, Banks in July, the Nikkei the day of the US election and sell when the opposite e.g. bonds and defensive equities shortly after Brexit. Our CTI models did actually pick up a number of those events as the table below shows. It also got picked up by our standard deviation analysis. We acted on some but not all of these readings. The lesson, with the benefit of hindsight, is to pay more attention to them. Indeed, our recent decision to downgrade both Banks and Basic Resources reflected very high readings on our models.

Table 1: Reflation rotation very stretched on our CTIs post-Trump

Asset	11/11/2016	10/11/2016	09/11/2016
EUR/GBP	-46	-44	-12
German 10y Bonds	66	61	24
US 10y Bonds	96	96	93
Stoxx Banks	80	71	0
Stoxx Basic Resources	92	93	92
Stoxx Food & Beverages	-84	-96	-54
Stoxx Insurance	67	64	23
Stoxx Personal & Household Goods	-34	-75	-7
Stoxx Utilities	-92	-94	-19
Relative CTI			
Relative Stoxx Banks	86	87	50
Relative Stoxx Basic Resources	100	100	99
Relative Stoxx Food & Beverages	-93	-93	-89
Relative Stoxx Insurance	92	91	76
Relative Stoxx Media	-34	-77	-87
Relative Stoxx Pers&Hhold Goods	-92	-94	-75
Relative Stoxx Technology	-80	-74	-55
Relative Stoxx Telecom	-91	92	28
Relative Stoxx Utilities	-82	-92	-59

Source: BofA Merrill Lynch Global Research, Bloomberg

Table 2: While opposite true immediately post-Brexit

Asset	29/06/2016	28/06/2016	27/06/2016
Relative Stoxx Autos	-95	-39	-9
Relative Stoxx Banks	-80	-83	-86
Relative Stoxx Basic Resources	21	3	0
Relative Stoxx Chemicals	2	19	40
Relative Stoxx Construction & Materials	-10	-36	-71
Relative Stoxx Financial Services	-91	-91	-92
Relative Stoxx Food & Beverages	60	78	82
Relative Stoxx Healthcare	88	88	88
Relative Stoxx Industrial Goods & Services	-47	-35	-44
Relative Stoxx Insurance	-87	-94	-94
Relative Stoxx Media	-6	-13	-35
Relative Stoxx Oil & Gas	93	86	91
Relative Stoxx Personal & Household Goods	57	58	70
Relative Stoxx Retail	-63	-81	-75
Relative Stoxx Technology	0	0	0
Relative Stoxx Telecom	3	0	-16
Relative Stoxx Travel & Leisure	-98	-100	-100
Relative Stoxx Utilities	65	6	2

Source: BofA Merrill Lynch Global Research, Bloomberg

We think 2017 is another year where investors will need to be nimble. Markets have responded enthusiastically to a prospective Trump Presidency but as the above charts suggest we may well have discounted much of it. That is also supported by our fixed income and FX forecasts, which suggest much has already been priced in. In addition we have political risk starting with next weekend's Italian referendum stretching to the German elections in Autumn 2017. In the middle we have the crucial French elections. A

Marine Le Pen victory could bring into question both the future of the EU and also the euro, should the polls be close it could make the uncertainty and market moves around Brexit look like a walk in the park.

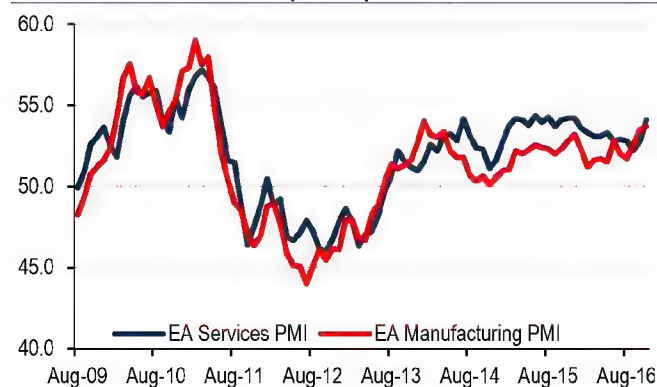
2017 – Reflation, Reversal, Rotation, Relief or Revolt?

2017 is likely to have a number of cross currents as themes. **Recovery and Rotation** go hand in hand. The stronger the recovery the more yields can rise the more we can see the rotation extend. Should investors become concerned that the recovery is stalling or that yields are peaking the rotation would likely stall potentially even reverse. **Reversal** refers to the ECB. Our economists are not yet convinced that the ECB will start to unravel some of its easing measures in 2017 but they do expect the debate to be a vigorous one within the ECB. For the first time Gilles Moec thinks there is a chance that the ECB will indeed choose to taper. **Relief or Revolt** relates to the French election. Will Europe follow the UK and US lead of 2016 and go down the route of populism (revolt from the voters) or will we find relief for the markets if by the end of 2017 from a Fillon/Merkel duo being in charge of the two largest economies in the Euro Area.

Recovery – the world looks a better place going into 2017

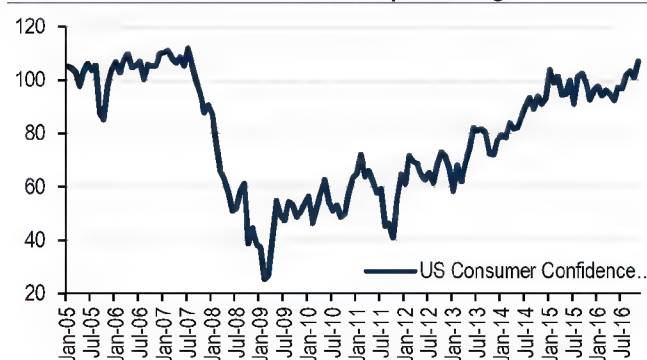
Reflation has been the big theme of the second half of the year. As we had noted in previous publications there had been something of an improvement in the global growth picture emerging even before the US election. It started with Emerging Market growth, which our GEMScycle has been showing to be accelerating for some months, but seems to have spread to other parts of the developing world. US GDP for Q3 has just printed a revised 3.2%, with a number of indicators, such as ISM's, PMI's and consumer confidence pointing to a solid Q4 to follow. That quarter is currently tracking at 3.6% according to the Atlanta Fed.

Chart 13: Eurozone PMI's have picked up of late...



Source: Markit

Chart 14: US Consumer Confidence now at post-GFC highs



Source: Bloomberg

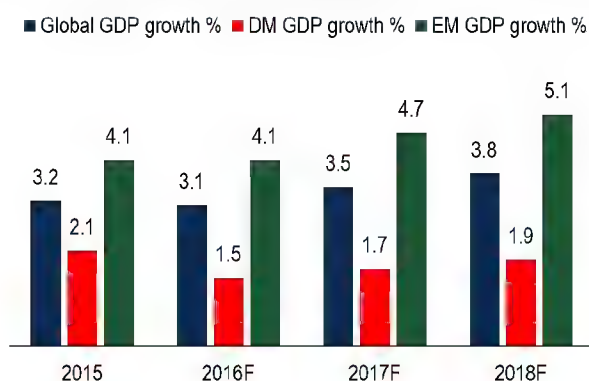
The Euro Area too is showing signs of improvement with the latest manufacturing PMIs back to their best since early 2014 with other national surveys, such as Ifo pointing in the same direction. The composite PMI is back close to the year highs too. The UK numbers continue to surprise on the upside too for the moment. Our economists are also upbeat on Japan with growth expected to accelerate next year as the fiscal stimulus kicks in.

Accordingly our economists expect growth to rise from 3% this year to 3.5% in 2017 and 3.8% in 2018. That acceleration in growth is despite a slightly slower US economy in the first half of the year as a higher USD and interest rates dampen growth before the fiscal stimulus kicks in. With growth firming and oil prices expected to be higher inflation is also expected to pick up through 2017 and 2018 to 2.8% and 3% respectively. At this stage it is worth noting that this is a modest acceleration in both growth and inflation.

The Fed is accordingly expected to proceed cautiously at least initially. In part for that reason our fixed income and FX strategists have only a modest further increase in bond yields and the USD in their forecasts for next year. They project 10Y US Treasuries rising to 2.65% and the USD to 1.02 vs the EUR. The dollar is expected to strengthen more aggressively against both the GBP and the JPY, but even so the gain in the currency overall has been frontloaded into 2016.

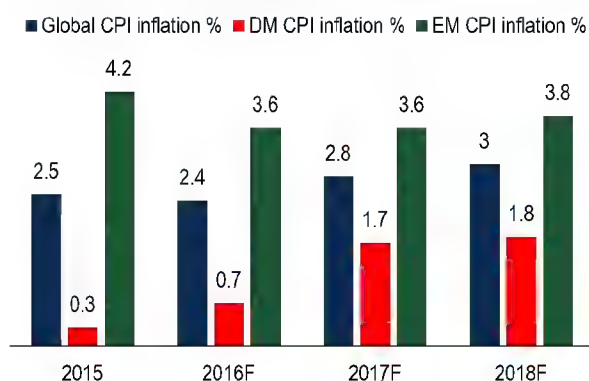
Our economists and strategists are cautious partly because the fiscal stimulus is expected to have only a modest impact on growth, at around 0.5% of GDP. That is based on the assumption that some of the proposals will get watered down and that the tax cuts have a relatively low fiscal multiplier. Our US economists think that should the fiscal stimulus be larger and more effective (for which read more infrastructure) then US growth could surprise on the upside to around 3% in 2017 and 3.5% in 2018. That in turn would mean a more aggressive Fed and in all likelihood a bigger rise in yields and the USD.

Chart 15: BofAML sees GDP accelerating into 2018...



Source: BofA Merrill Lynch Global Research

Chart 16: ...with inflation picking up too



Source: BofA Merrill Lynch Global Research

Reversal: There is good taper and bad taper

The outcome of that would likely affect ECB behaviour too. Our central expectation is for Euro Area growth of around 1 ½% and inflation nudging only modestly higher. A much more robust global economy and a stronger USD (presumably weaker EUR) would likely put upward pressure on both of those. Indeed, in such an environment it is not impossible to think of 10Y Treasuries pushing through 3% and the USD breaking parity against the EUR.

That in turn would increase the pressure on the ECB to start to reverse its very loose monetary policy stance. Tapering would then become much more likely. It would likely push European bond yields higher too, certainly above the 65bp forecast for Bund yields at the end of 2017.

An ECB that tapers because growth and inflation are improving would not be a bad thing for markets. Frankly for some parts of the market, notably banks, anything which gets the ECB away from its current policy stance back towards normality is a positive. Indeed, the prospect of negative interest rates being reversed is the kind of thing which Alastair Ryan (our banks strategist) lies awake at night dreaming of (see [European Banks Strategy: repressed](#)).

But and it is a big but, if the ECB chooses to taper because it is running out of options or the ability to do QE that is not a good thing. Some of the hawks on the ECB would choose to taper at the first opportunity because they never really liked the idea of QE in the first place. A tapering at next week's meeting even if it is couched in terms of doing less for longer would not be good news for equity markets.

Rotation – more to go but it has to be more gradual

On the basis of our central forecasts for growth, inflation and rates and given the moves in the market already we think that the pace of the rotation has to moderate. After all if we are to see another 30-40 bp of yield increase in the US between now and H2 2017 having already seen more than 90bp since the summer, it has to slow.

That view combined with the readings from our models lay behind our recent downgrades of banks and miners. That is not to say that the rotation is finished. If bond yields truly have turned then some of the more expensive defensives likely have to de-rate further. The bull market in those stocks has simply lasted too long for that not to be the case.

In addition while there have been significant moves in positioning in terms of cutting underweights in areas like Banks and Basic Resources and hedge fund positioning has probably moved faster still, we do not believe that positioning has completely turned around. Looking at both the Fund Manager Survey and our own internal data we think there are still legacy underweights in cyclical areas and legacy overweights in defensives, particularly quality defensives. That argues for another leg in the rotation trade.

Nevertheless, it suggests to us that a more balanced approach is justified right now. We are still overweight oil, but little else in the cyclical space, so today we add Media. We are still underweight Food & Beverage but against that we are overweight Healthcare and Utilities.

Relief or revolt – Eurozone politics in focus in 2017

We think it likely investors will demand a higher risk premium until the French Elections in May 2017 given the likelihood that Marine Le Pen will make to the second round of voting (according to polls). A Le Pen victory could likely bring the future of the EU and the Euro into question as she has talked about France withdrawing from both. That in turn has arguably the potential to be even more of an earthquake for the world's financial markets. Our central case is that centre right President is elected in France (with Francois Fillon now the official Republican candidate) and Merkel is returned at the head of a coalition government in Germany now that she has indicated she will stand for re-election. Until the French vote though we suspect investors will be cautious about European markets. Were this to be the case then we think there may well be room for a significant relief rally in European assets. We have more on this, including a calendar, in our section on Eurozone politics.

Decent valuations but not compelling

Headline PE multiples do not screen as particularly cheap for European equities but are also not excessively expensive. In fact the current forward PE on MSCI Europe at 14.1x is right in-line with the average since 1987. The most recent high in PE multiples was over 16.5x at the April 2015 market highs. However, more recently the market has traded in a fairly tight range around 14-15.5x PE, with some fleeting falls to 13x around the market lows in February 2016 and at the time of the Brexit referendum. At the current multiple we see valuations as quite reasonable therefore. Our index target assumes some multiple expansion back to 15x, which we think is quite achievable under our base case assumptions.

Chart 17: MSCI Europe forward PE in-line with 30-year average at 14.1x...



Source: BofA Merrill Lynch Global Research, Datastream, IBES

Chart 18: ...but at lower end of 13-15.5x PE range of last 15 months



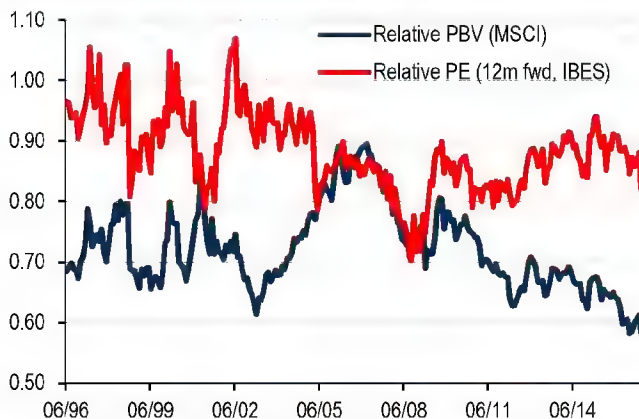
Source: BofA Merrill Lynch Global Research, Datastream, IBES

Relative attractiveness of Europe depends on EPS recovery in medium-term.

Moving to relative valuations, European equities screen somewhat cheap vs their DM peers. However, the medium-term bull case for Europe is far more a function of potential earnings and ROE recovery rather than significant undervaluation. Europe's valuation discount to the US is at multi decade wides on PBV (over 40%) but that in turn reflects Europe's significant underperformance on EPS growth and ROE. Trailing ROE for MSCI Europe is just 8% (at historical trough levels). That is nearly 5pp below MSCI USA compared to a 3pp gap on average historically and close to the widest spreads since the mid-1990s.

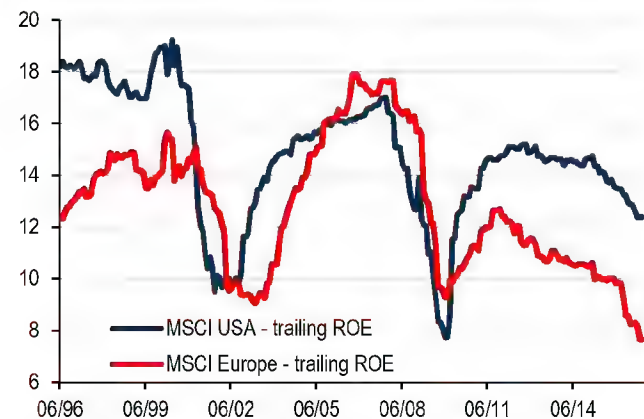
Europe vs US relative PE 7% below average. Based on PE, Europe nevertheless trades cheap relative to the US. The PE discount at 18% is 7% wider than the 20 year average and relative PE is at the lowest level since 2012. So while a sustained reversal in the underperformance of Europe versus the US would over time have to be driven by a recovery in relative profitability we do see current valuations reflecting a discount perhaps for political reasons (Brexit, upcoming elections).

Chart 19: Europe vs US: modest PE discount but cheap on rel. PBV



Source: BofA Merrill Lynch Global Research, Datastream, MSCI, IBES

Chart 20: European earnings and profitability significantly lag the US



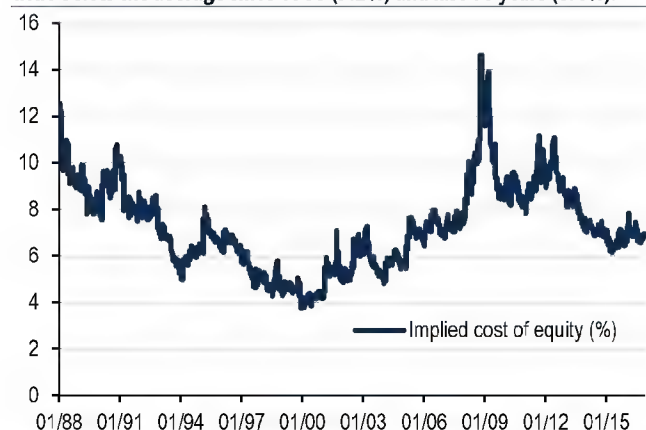
Source: BofA Merrill Lynch Global Research, Datastream, MSCI

The other metric that illustrates the valuation overhang in Europe is the risk premium. Our model calculates an implied cost of equity (CoE) for Europe as 6.8%, a little below the average since 1988 (7.2%) and last 10 years (8.4%). The model assumes the cost of equity is simply the cyclically adjusted earnings yield (calculated using a 5 year centred average EPS). We then compare this number to the German bund yield to estimate the implied equity risk premium (ERP).

Europe's ERP on our model is 6.9% – down from the post-Brexit highs at 7.5% but still at a 70bp premium to the 3 and 5 year average for the ERP. That in turn implies a ~11% valuation haircut relative to 5-year average levels.

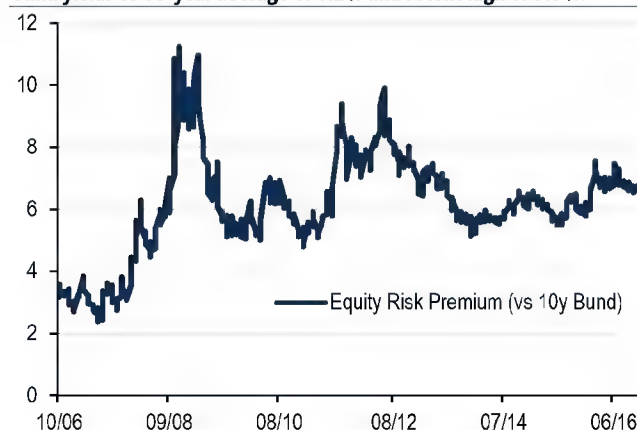
These numbers also show that the recent rise in bond yields is modest relative to where cost of equity or ERP sits. We're quite far away from the level that bond yields would make ERP look expensive. Even with bund yields at 75bp (ie +50bp from here) it would only shift the ERP back to average levels (all else equal). Bond yields need to rise 150-200bp to get to the expensive end of the range of last 6 years on ERP.

Chart 21: Implied cost of equity (CoE) on our model in Europe is 6.9%, a little below the average since 1988 (7.2%) and last 10 years (8.4%).



Source: BofA Merrill Lynch Global Research, Datastream, MSCI, IBES

Chart 22: Implied equity risk premium remains elevated: 6.7% ERP to bund yields vs 10-year average of 6.2% and recent high of 7.3%.



Source: BofA Merrill Lynch Global Research, Datastream, MSCI, IBES

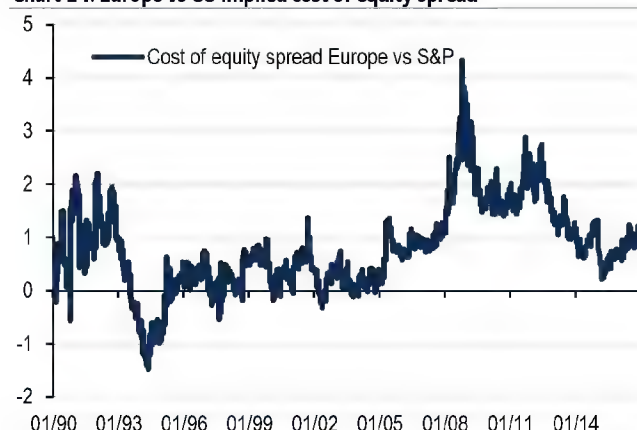
Europe cost of equity higher than long-run average compared to US. Europe also compares favourably on a relative basis against the US equity market in this framework. The implied CoE for the S&P500 on an equivalent model is 5.64%, which is now at an 11-year low and 130bp below the 10-year average. The implied ERP on that basis at 3.3% is also below average and not far off the lows from the past 10 years. Admittedly Europe did get significantly cheaper relative to the US during the GFC and the sovereign debt crisis. The cost of equity premium for MSCI Europe vs the S&P is 1.21%. That is a premium to the 30-year average of 0.72%. However it is below the average of the past 10 years – the spread peaked at over 4% in 2008 and at 2.7% in 2011 / 2012.

Chart 23: Implied equity risk premium near 9-year lows in the US



Source: BofA Merrill Lynch Global Research, Datastream, MSCI, IBES

Chart 24: Europe vs US implied cost of equity spread



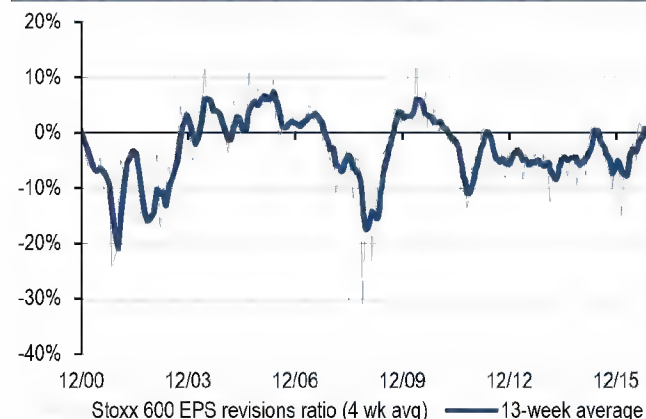
Source: BofA Merrill Lynch Global Research, Datastream, MSCI, IBES

Earnings – a return to positive EPS growth in 2017

7% EPS growth in 2017 as global growth improves and Resources EPS recovers

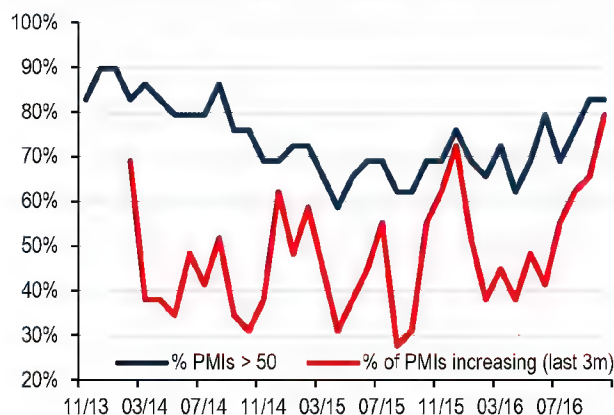
We think the earnings backdrop will be supportive in 2017 with a return to positive EPS growth in Europe for the first time since 2014 and with downside to consensus forecasts for the year ahead that are well below average. Our base case assumes +7% EPS growth in 2017 and 2018. With EPS broadly stagnant over the last 6 years, investors might justifiably ask what is different this time. We see several reasons to think mid to high single digit EPS growth is achievable next year.

Chart 25: Earnings revisions are currently modestly positive



Source: BofA Merrill Lynch Global Research, Datastream, IBES

Chart 26: Broad based recovery in global growth (based on 29 PMIs)



Source: BofA Merrill Lynch Global Research, Markit, Bloomberg

Return to positive EPS growth feasible with global GDP at 3.5%... First, global growth is accelerating and on our economists' base case forecasts global GDP growth will be 3.5%, the first materially above trend growth year since 2010. That is significant for European earnings given a reasonably tight relationship to global GDP growth. 3% represents the tipping point around which earnings growth tends to turn positive according to our regression model. At the BofAML forecast of 3.5% global GDP growth, 7% EPS growth is implied as likely by the same model.

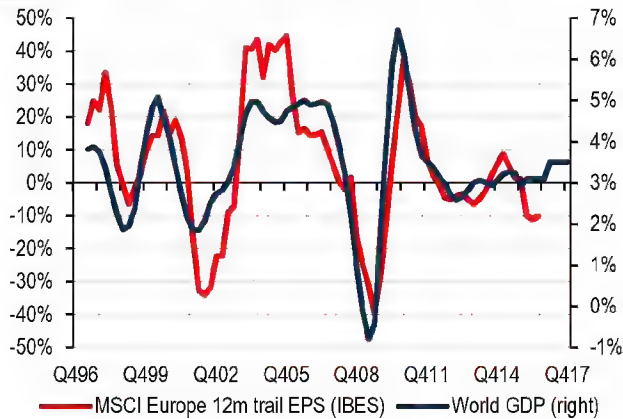
...as leading indicators point to a synchronized global recovery. What gives us confidence in this putative earnings recovery is the more synchronized nature of the current recovery. All major regions of the world are showing momentum in growth indicators for the first time in several years. One measure of the broad nature of the improvement is manufacturing PMI surveys. Of 29 Markit PMIs 83% are currently above 50, highest since August 2014. More importantly, 79% have improved over the last 3 months – higher than at any point in the last three years.

Bull case of global GDP towards 4% would signal double digit EPS growth. To see a more bullish outcome for EPS we would need to see global GDP accelerating further. Based on our regression model, double digit EPS growth historically was consistent with global GDP growth above 3.8%. Under our bull case scenario for 2017, with say 4.0% global GDP growth, consensus EPS growth forecasts for +14% in Europe would become realistic.

PMIs beyond 55 would suggest upside to base case. Significant further gains in leading indicators would be a signal that earnings growth could exceed our base case. Over the longer term EPS growth has followed manufacturing PMI surveys with a 9-month lag approximately (using an average of US and Eurozone). Historically readings above 55 were consistent with mid-teens EPS growth. The relationship has weakened in recent years as low interest rates and weaker commodity prices weighed on earnings in Financials and Resources. Nevertheless, in the last year of decent EPS growth in Europe in 2014 the PMIs peaked at 54 so we would look for upside to our base case EPS forecast should PMIs improve to the mid-50s level or beyond.

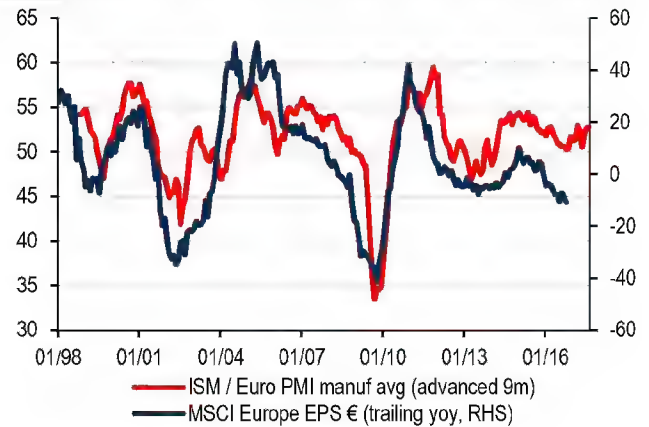
Chart 27: 3% Global GDP growth the tipping point for EPS

Europe trailing EPS growth vs World GDP



Source: BofA Merrill Lynch Global Research, Datastream, IBES

Chart 28: Synchronised rise in leading indicators globally augurs well for earnings recovery – especially if PMIs kick on to or above mid-50s

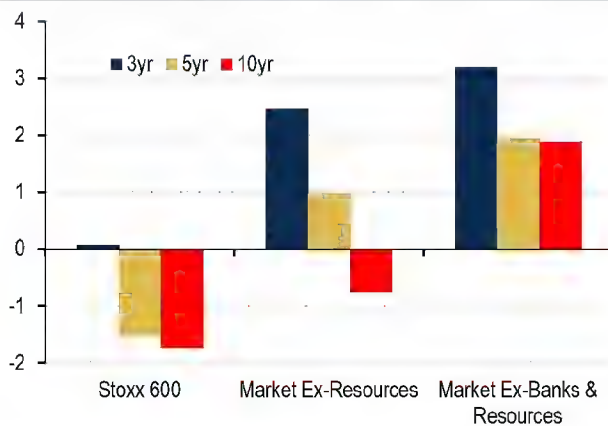


Source: BofA Merrill Lynch Global Research, Datastream, IBES

Removal of the 3pp p.a. drag from Resources supports EPS outlook. Second, the Resources sectors in 2017 will likely provide a (strongly) positive contribution to market EPS, in turn reversing what has been the biggest headwind for several years. Over the last 3-5 years the Resources sectors provided a 2.5 percentage point drag on annualized market EPS growth. In 2016 Banks have been the other big drag on market earnings. While structural headwinds to profitability mean the contribution of Banks remains open to debate, consensus forecasts nevertheless imply a strong recovery in 2017 (driven in part by one-offs reversing). The important point is that the market ex-Banks and Resources has delivered modest but positive EPS growth – estimated at +5.5% for 2016. Hence, removing the drag from Oil and Mining makes high single digit growth achievable in our view.

Chart 29: Resources a 2.5pp drag on market EPS growth in recent years

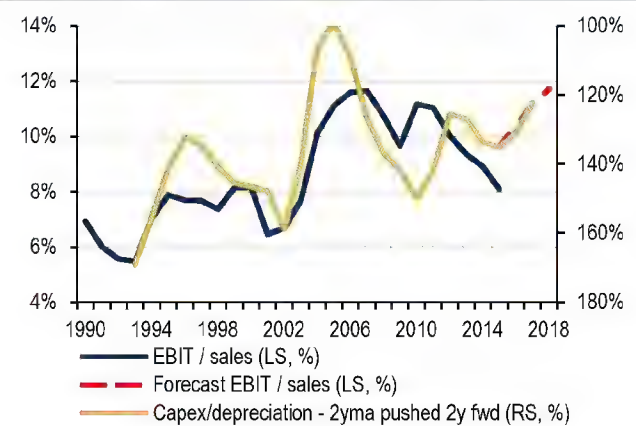
Annualized EPS growth



Source: BofA Merrill Lynch Global Research, Datastream, IBES

Chart 30: Capex discipline supportive to margin outlook

Europe Ex Financials: EBIT margins vs capex/depreciation

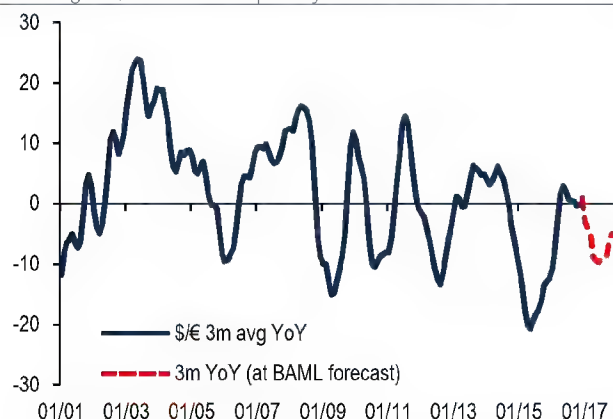


Source: BofA Merrill Lynch Global Research, Factset

Margin upside, capex discipline and FX tailwind provide additional support. Third, profit margins in Europe are not elevated: in the bottom third of the historical range (since 2004) at the EBITDA level and about average at the net level. With some acceleration in the top-line as global growth and inflation pick up, there is scope for margins to improve. In addition, several years of relative capex discipline provide potential support for margin improvement over the next 1-2 years in corporate Europe. Over the longer term, we find that operating margins have tended to improve with a lag of one to two years, following a period of declining capex ratios. That is encouraging for

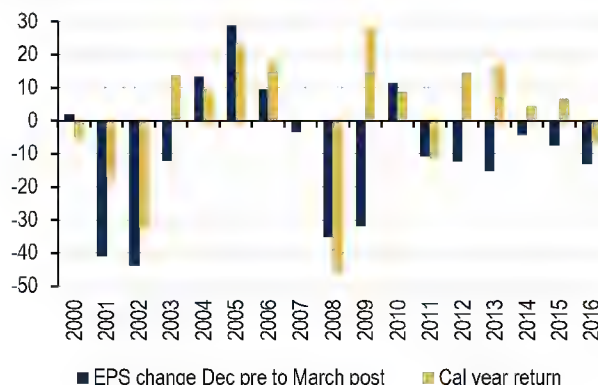
the margin outlook into 2017-18, given Capex to depreciation for the Market Ex-Financials in 2015 hit its lowest level since 2003 and had been declining for 3-years. Finally, we note that FX may provide a modest tailwind to European EPS again in 2017. Our FX team's \$/€ forecasts trough at \$1.02 in mid-2017, implying a rate of depreciation for the euro that peaks at 10%.

Chart 31: Stronger dollar would be a tailwind for EPS
YoY change in \$/€ actual and implied by BofAML FX forecasts



Source: BofA Merrill Lynch Global Research, Datastream

Chart 32: Change in consensus EPS (%) vs annual market returns: downgrades are the norm and average -10%



Source: BofA Merrill Lynch Global Research, Datastream IBES

Consensus downgrades in our base case – but less than average

Our base case 7% EPS growth assumption is below the current bottom up consensus of +14%. Hence, for now we don't see the prospect of a sustained upgrade cycle. Consensus downgrades are the norm however. 2010 was the last year that consensus forecasts started the year too low. In fact, consensus was too high in 12 of the last 17 years. Moreover, our estimate of 7% EPS growth in 2017 implies less downgrades than usual (10% is the average). It's also worth noting that over the past 17 years annual consensus downgrades of less than 10% have never been accompanied by negative equity returns for the same calendar year.

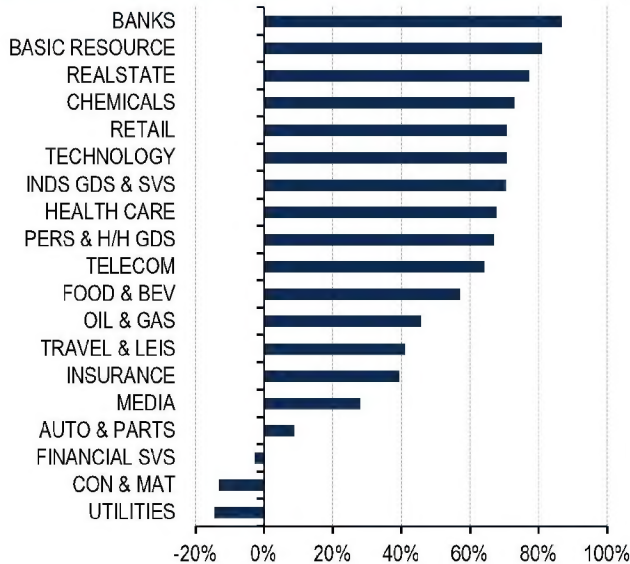
Sector EPS growth prospects

Correlation analysis of sector earnings growth against global GDP suggests that Banks are the sector that may be most sensitive to improvements in global economy. Interest rate developments are likely the key to earnings but they in turn should reflect the nominal growth environment. Real economic growth would also have some effect on credit volumes and collateral valuations though, reinforcing the link from the economy to Bank earnings.

Cyclicals unsurprisingly dominate the other sectors with EPS growth geared to global growth. Basic Resources, Chemicals, Tech and Industrials all exhibit a correlation above 70%. Some other cyclicals including Autos and Construction have been had much less correlated EPS growth to global GDP in recent years. In part that reflects that significant earnings volatility in the period analysed. What's notable for both groups is that expectations already look high for both sectors. Consensus estimates also factor in a rebound in Resources sector EPS growth – but both these sectors have seen the largest earnings declines over the past five years. Forecasts look more restrained in Industrials, Chemicals, Tech – implying mid to high single digit growth in the coming three years.

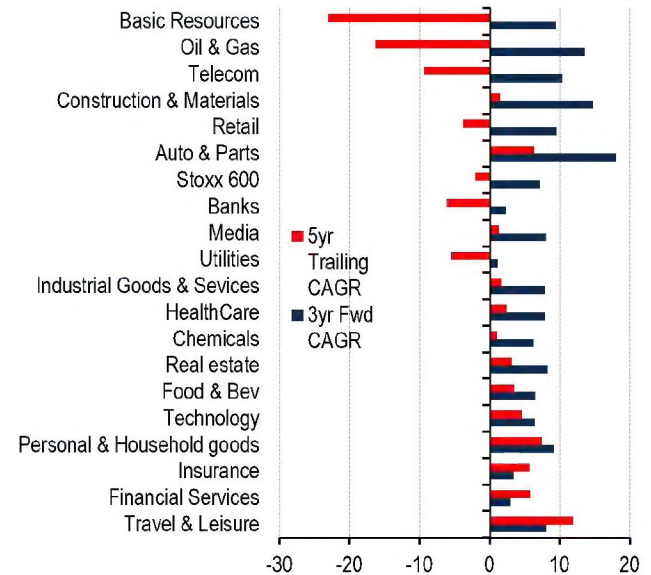
Among Defensives expectations look highest in Telecoms – suggesting 10% average EPS growth in 2016-18 despite the weak trend rate for sector earnings in recent years. Consensus forecasts imply a more modest improvement for Utilities – with just 1% EPS CAGR for 2016-18. Staples and Healthcare are forecast to have high single digit EPS growth in the coming 3 years, implying 2-3pp improvements in the annual growth rate relative the trailing 5-year average for Staples and +6pp for Healthcare.

Chart 33: Correlation of sector EPS to global GDP since 2010



Source: BofA Merrill Lynch Global Research, Datastream, IBES

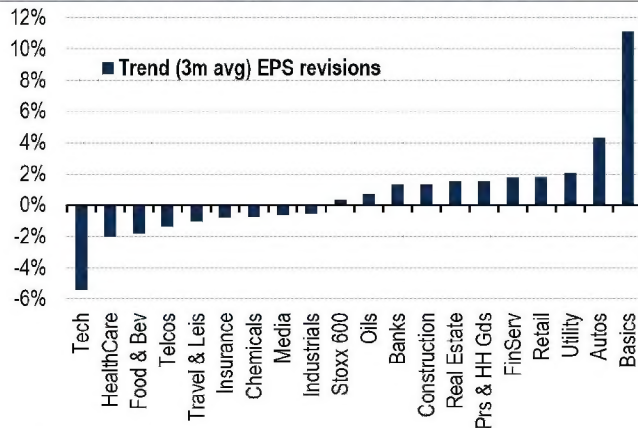
Chart 34: Trailing vs forward EPS CAGR – ranked by difference



Source: BofA Merrill Lynch Global Research, Datastream, IBES

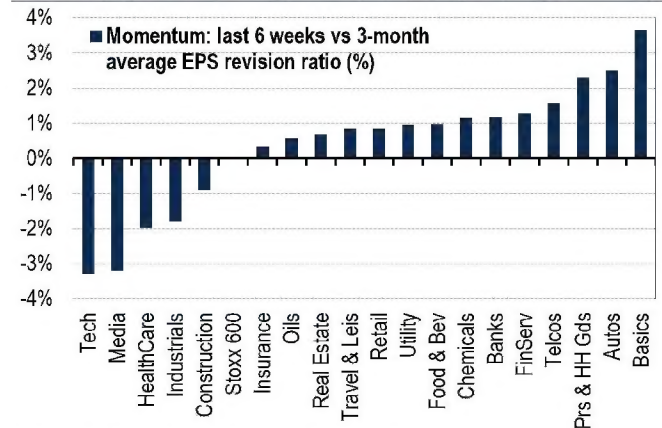
Earnings revisions trends. Basic Resources show strongest revisions trends and revisions are still improving relative to trend, in light of the strong upside recently for many metals prices. Autos revisions are next strongest and also show some positive momentum. More broadly most sectors are not showing an improvement in the trend on earnings revisions. Revisions are weakest in Tech having deteriorated more than other sectors over the past six weeks. The improvement in Financials revisions continues and Banks and Financial Services are now in positive territory.

Chart 35: 3-month average EPS revisions ratios (ERR) by sector



Source: BofA Merrill Lynch Global Research, Datastream, IBES

Chart 36: Revisions improving in most sectors (ERR 6wk avg vs 3m avg)



Source: BofA Merrill Lynch Global Research, Datastream, IBES

Eurozone political calendar 2017

4 December: Italian constitutional referendum

Our base case is a [close “No” vote where Renzi stays](#) and no snap election, given current polls and the outstanding electoral reform court case. BTPs and the banks recaps remain a tail risks for the Italian economy, although the ECB extending QE should help. A big “No” vote would boost Five Star and undermine Renzi into 2018 elections, in our view.

4 December: Austrian presidential election

Polls by public broadcaster ORF show the result as very close. Norbert Hofer is standing on an anti-immigrant platform against the moderate former Green leader Alexander Van der Bellen in a rerun of the May vote. The election of Freedom party candidate Norbert Hofer would make Austria the first nation to elect a head of state running on a far right platform since the EU began.

22/ 29 Jan: French Socialist Party presidential nominee elections

If President François Hollande decides to run for re-election as the Socialist Party candidate (decision expected Dec 10th) he could be challenged by former Prime Minister Manuel Valls and Economy Minister Arnaud Montebourg. Current second round polls for any combination of these candidates suggest likely Socialist nominee too close to call.

15 March 2017: Dutch elections

Prime Minister Mark Rutte currently leads a “purple” coalition with the Dutch Labour party as main second party. But the latest polls suggest both parties could win fewer seats than they have now in 2017. That could make it more challenging to build a government given the need to secure at least 76/150 seats. In terms of who could lead that coalition, polls have Rutte’s People’s Party neck and neck with the anti-immigrant Freedom party led by populist Geert Wilders. Wilders has called for the Netherlands to leave the EU indicated he would call a referendum if elected. A Wilder-Rutte coalition also hasn’t been ruled out according to press reports.

23 April: French first round presidential elections

The first round of voting for the next French president will be on 23 April. First round polling suggests the leader of the anti-EU Front National Marine Le Pen is expected to progress to the decisive runoff. At present Republican Candidate Francois Fillon is also expected to make it through.

7 May 2017: French second round presidential elections

Current polls, albeit their validity has been called into question by events in 2016, show Fillon securing 65-70% of the vote vs Le Pen in a runoff (see chart below). We note that when her father, Jean-Marie Le Pen, faced Jacques Chirac in the 2002 Presidential elections the FN candidate only received 18% of the vote. Nevertheless, we see a potential Le Pen win as the biggest political risk event for European (and possibly global) equity markets in 2017.

By 22 October 2017: German Federal elections

Current Chancellor Angela Merkel has announced that she intends to stand for re-election. Current polls have Merkel’s CDU ahead followed by SPD with the euro-sceptic Alternative für Deutschland, Greens and Die Linke competing for third spot. While it may be necessary for Merkel to maintain the grand coalition with the SPD, our central case is that we see a continuation of the current German administration and that German elections carry less risk than the earlier French presidential elections.

Politics – populism in the Eurozone?

Few predicted that the UK would vote to leave the EU and Donald Trump would win the US presidential election in 2016, least of all pollsters (and many in markets). As Michael Hartnett [argues](#), the rise of populism can be linked to what he refers to as Peak Inequality and Peak Globalisation. Trump and the Brexit campaign tapped into deep apathy with the socio-economic order that for them remains unreformed post-GFC. That's why the poster boy for this dislocation is often the blue collar voter whose standards of living have not been rising in the increasingly globalised world. The crucial question for investors as we enter a busy year for European politics (see table opposite) is whether the populism train will gather pace or terminate at the Eurozone.

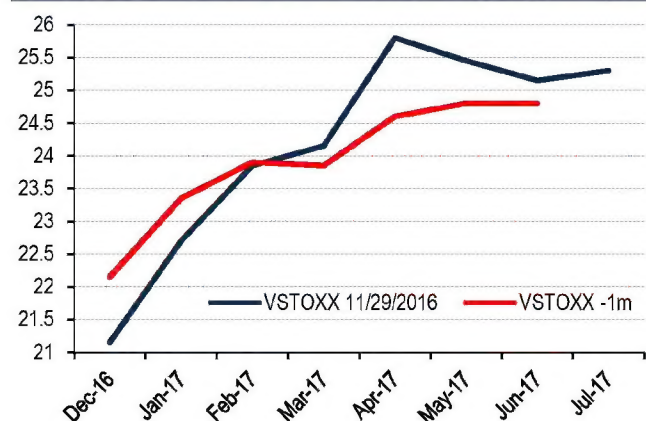
Italy risks elevated, but risks two way and banks the bigger issue

Although Italy goes to the polls this year, it is worthwhile starting with this Sunday's vote. In [Strategy Insights: Italy risks elevated](#) we argue that our base case is a narrow rejection of the proposed constitutional reform, which is another vote against governing party on Dec 4. But unlike UK/ US, this would be expected and Renzi is likely to stay on so the outcome should not carry the same surprise or uncertainty factor for markets. The tail risk are also two way. A large "No" vote could be perceived as supportive of the 5 star movement but a "Yes" vote would be bullish Italy and risk assets more generally. The bigger issue is likely recapitalisation of the Italian banks. This remains a significant tail risk for banks and was part of why we downgraded the sector.

A Le Pen victory could prove the biggest risk to European markets in 2017

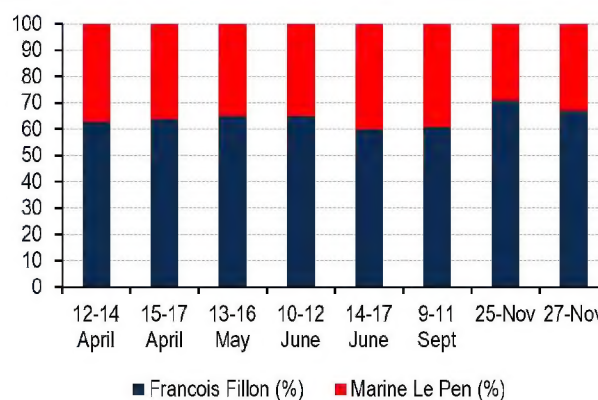
Probably the most natural fit for the populism theme in 2017 is the French presidential election. Although polls have been somewhat discredited by events this year they remain useful as an indication of where the public mood lies. With that caveat in mind, current voting intentions suggests Front National leader Marine Le Pen will receive enough votes to progress to the second round and is likely to be joined by Republican candidate Francois Fillon. Although when Fillon and Le Pen are polled together in a second round runoff Fillon is ahead by ~65%-35%, Le Pen is seen as capable of appealing to the same anti-establishment / blue collar voters as Trump/ Brexit.

Chart 37: Vol already picking up around the French primaries next year



Source: Bloomberg

Chart 38: Yet Fillon still well ahead of Le Pen in polls of a potential runoff



Source: Ifop (12-14 Apr, 14-17 Jun), BVA (15-17 Apr, 13-16 Mar, 10-12 Jun, 9-11 Sept), Odexa (25 Nov), Harris Interactive (27 Nov). Note: all 2016.

Investors' biggest concerns are that we could see the same narrowing of polls in favour of Le Pen into the election months as we saw in the UK/US. We think this could mean French political risk becomes a major overhang for European equities in H1 2017. The worry is that a Le Pen Presidency could bring the future of the EU and the Euro into question as she has talked about France withdrawing from both and is especially an issue because of the winner takes it all nature of French presidential elections. As James

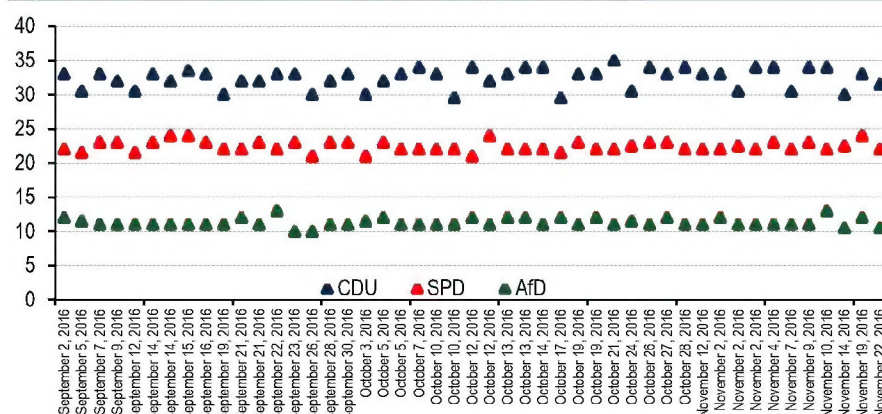
Barty argued in [The Trump Inflection](#), Le Pen's victory has the potential to be even more of an earthquake for the world's financial markets. Indeed, we have already seen a 1vol move in April 2017 V2X futures since last month.

So our central case is French political risk caps markets to the upside for Q1 and most of Q2 but that the centre right candidate Fillon is elected President. As Gilles Moec argues, his [pro-market reformist agenda could unlock French growth](#) and we think it could prove a significant positive catalyst for European equities more broadly if the political risk premium is priced out against a solid European and global growth backdrop.

More of the same expected in Germany

We think Germany carries less political risk than the French election now that Merkel has formally announced she will run again to be Chancellor. As a result, our central case is that Merkel will continue to head a coalition government. We could see the populist AfD win more votes than in 2012, but polls show a clear and decisive margin in favour of the CDU and the existing coalition with the SPD suggests that an extension of their partnership is the most likely eventuality.

Chart 39: German polls show a consistent lead for Merkel's CDU party



Source: Allensbach (15-Sept, 13-Oct), Emnid (7-Sept, 14-Sept, 21-Sept, 28-Sept, 5-Oct, 12-Oct, 19-Oct, 26-Oct, 2-Nov, 9-Nov, 19-Nov), Forsa (2-Sept, 9-Sept, 16-Sept, 23-Sept, 30-Sept, 7-Oct, 14-Oct, 21-Oct, 28-Oct, 4-Nov), Forschungsgruppe Wahlen (22-Sept, 13-Oct, 27-Oct, 10-Nov), GMS (14-Sept, 12-Oct, 12-Nov), Infratest dimap (21-Sept, 5-Oct, 19-Oct, 2-Nov), INSA (5-Sept, 12-Sept, 19-Sept, 26-Sept, 3-Oct, 10-Oct, 17-Oct, 24-Oct, 2-Nov, 7-Nov, 14-Nov, 22-Nov), Ipsos (10-Oct)

Brexit was the big political topic for Europe going into 2016. Going forward we see it as an ongoing issue but mostly for the UK (see UK – Waiting for Brexit for more details).

Rising bond yields & equities

With the market focus on the sharp bond market sell-off it is worth re-visiting the links between equities and bonds as many investors question whether the effect on equities will become negative the more yields rise. An environment of rising bond yields is not inherently problematic. Over time correlations between bond yields and equities have varied and on average have been very weak (if slightly positive) over the last twenty years. Typically when rising yields reflect improving growth conditions and/or rising risk appetite equities have naturally benefitted. Certainly since 2010 for the most part higher yields were accompanied by higher equity prices.

Track record mixed for stocks following bond yield spike. Does an exceptionally sharp back up in bond yields represent a downside risk for equities? The historical evidence is inconclusive. We looked at equity market returns in the months following 2.5SD moves in German bond yields (based on a comparison of rolling 3-month yield changes to the 52-week average). The recent spike in German yields peaked at +2.9SD on the same basis. We found 11 comparable episodes since 1980. Equity market returns subsequent to the peak rate of change in bonds were moderately positive – a median