

Lessons from the 2019 Proxy Season

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Roadmap

- Significant developments related to the 2019 U.S. annual meeting proxy season (through H1 2019)
 - Rule 14a-8 Shareholder Proposals
 - ISS Negative Recommendations Against Directors
 - Say-on-Pay Votes and Equity Compensation Plan Approval

- Subsequent Developments
 - SEC Announcement Regarding Rule 14a-8 No-Action Requests
 - SEC clarification of investment advisor voting responsibilities and application of proxy rules to voting advice
 - Hedging policy disclosure
 - Business Roundtable issues Statement on the Purpose of a Corporation
 - ISS director compensation policy
 - Changes at Glass Lewis

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Rule 14a-8 Shareholder Proposals

Overview of Rule 14a-8 Shareholder Proposals

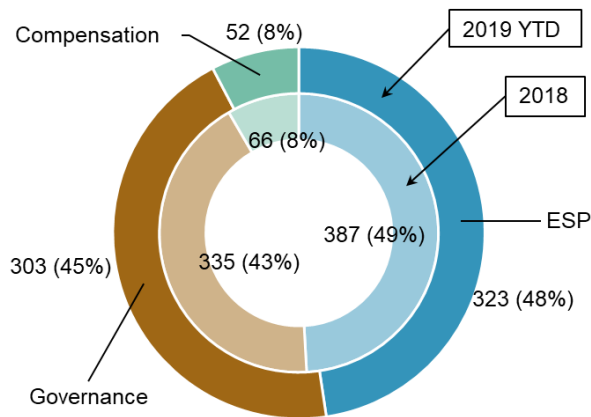
- Focus on environmental, social and political (ESP) proposals intensifies:
 - Although total submitted ESP proposals decreased, voted ESP proposals sharply increased as a percentage (to nearly half), received record level of support (over 30% average support) and passed in record number (nine)
 - Half of workplace diversity proposals reached a vote and shareholder support remains high (almost 40%)
 - Nine out of ten top submitters submitted double-digit ESP proposals
- Prior trends relating to governance proposals continue:
 - Governance proposals down from 2018, continuing a trajectory from 2015 (led by 66% reduction in special meeting-related proposals)
 - Although fewer in number, proposals to reduce special meeting thresholds continue to receive high support (averaging 44%), with four passing (the same as last year)
 - Independent chair is most common governance proposal, although none passed and ISS support decreased
- Growth in proposals against investing on the basis of ESP factors (so-called “anti-ESP” proposals) affects overall trends in both ESP and governance proposals

Overview of Rule 14a-8 Shareholder Proposals

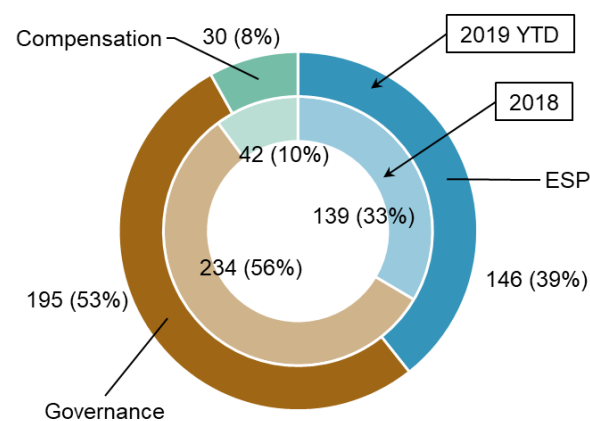
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- A total of 678 shareholder proposals have been submitted to-date in 2019, relative to 751 at this time last year, 788 for 2018 as a whole and 836 for 2017. The decline relative to this time last year is led by a 12.5% drop in ESP proposals, closely followed by compensation-related proposals (11.9% drop), with governance-related proposals declining by a smaller proportion (6.2% drop). The overall decline would have been steeper but for the increase in proposals against investing or managing on the basis of ESP factors (“anti-ESP” proposals)

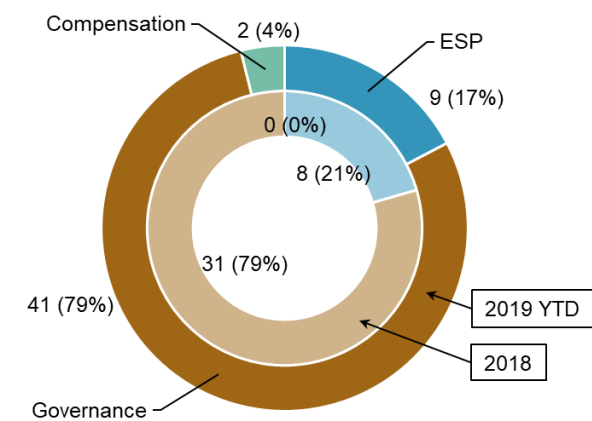
Proposals Submitted
2019 YTD vs. 2018



Proposals Voted On
2019 YTD vs. 2018



Proposals Passed
2019 YTD vs. 2018



Year of the ESP Proposal

Type of Proposal	Shareholder Proposals Submitted		Shareholder Proposals Voted On		Average % of Votes Cast in Favor		Shareholder Proposals Passed	
	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018
ESP-related	323	387	146	139	28%	26%	9	8
Governance-related	303	335	195	234	37%	37%	41	31
Compensation-related	52	66	30	42	24%	23%	2	0
Total	678	788	371	415				

- More ESP proposals were submitted than any other type of shareholder proposal for the third year in a row

Who Makes Shareholder Proposals?

- *Individuals.* Chevedden, McRitchie/Young and Kenneth Steiner and family members made over 200 unique proposals, close to 31% of all proposals submitted and vast majority of governance proposals
 - For the first time since S&C began tracking total submissions, Chevedden, Steiner and McRitchie/Young submitted a meaningful number of ESP proposals (20 in 2019 to date, compared to six in 2018), mostly related to political contributions
- *Public Pension Funds and Entities.* Nearly 80 (over 90 in 2018) proposals. Focus on environmental, political contributions and lobbying and management of human capital
 - Over half of all proposals submitted by NYC Comptroller have been ESP. One such proposal at Alliant, which passed, highlighted that many of the company's peers publicly disclose political spending
- *Labor Unions.* Over 30 proposals, primarily on ESP-, governance- and compensation-related issues

Who Makes Shareholder Proposals?

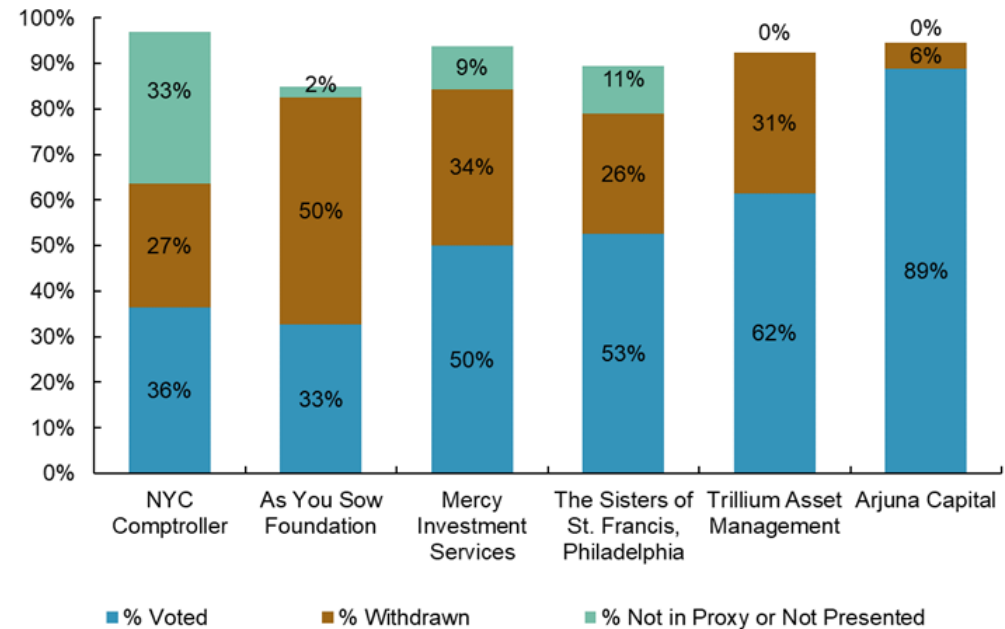
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- *Social Investment Entities.* Responsible for most social policy proposals. Most active include As You Sow (46), Mercy Investment Services (32), Arjuna Capital (18) and Trillium Asset Management (13)
 - This year, a meaningful number of proposals came from anti-ESP entities such as Burn More Coal, a special interest group supportive of the coal industry, and the Free Enterprise Project, the conservative shareholder activist arm of the National Center for Public Policy Research (NCPFR)
- *Religious Organizations.* Targeted companies in the pharmaceutical, healthcare and financial services sectors with a meaningful number of ESP proposals. Significant focus on opioid-related issues

Major Proponents of ESP Proposals and Withdrawal Rates

<u>Filers</u>	<u>ESP Proposals</u>
1. As You Sow Foundation	46
2. NYC Comptroller	33
3. Mercy Investment Services	32
4. NYS Common Retirement Fund	24
5. The Sisters of St. Francis, Philadelphia	19
6. Arjuna Capital	18
7. Walden Asset Management	16
8. James McRitchie/Myra Young	13
9. Trillium Asset Management	13
10. Harrington Investment or John Harrington	12

2019 YTD Withdrawal Rates for ESP Proposals (By Top ESP Proponents)



ESP Hot Topics

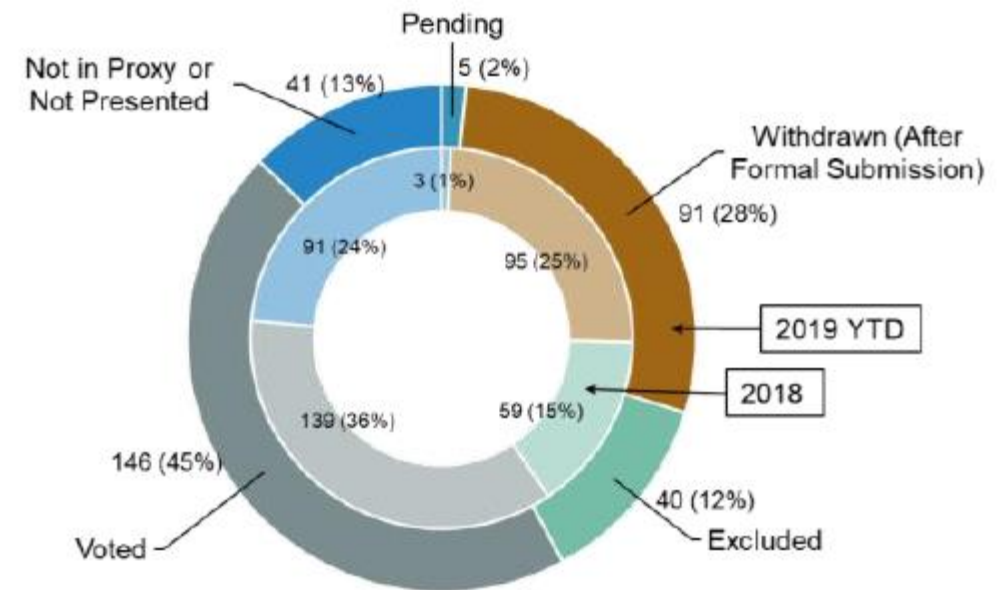
- Hot topics in ESP this year:
 - Political contributions and lobbying
 - Environmental
 - Human capital (*e.g.*, workplace diversity, gender pay equity and sexual harassment)
- Record nine ESP proposals passed in 2019 to date (including four political proposals and two human capital proposals)

	ESP PROPOSALS							
	Shareholder Proposals Submitted		Shareholder Proposals Voted On		Average % of Votes Cast in Favor		Shareholder Proposals Passed	
	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018
Political issues	93	93	59	55	34%	29%	4	0
Environmental issues	64	110	20	34	24%	31%	0	5
Human capital issues	54	59	30	13	24%	28%	2	0
Human rights issues	40	35	14	11	25%	8%	1	0
Sustainability report	24	21	4	6	30%	34%	0	1
Health and safety	11	10	4	4	6%	23%	0	0
Animal rights	8	8	1	1	7%	3%	0	0
Other social policy issues	29	51	14	15	30%	18%	2	2

Companies Continue Robust Engagement on ESP

- Continued trend of high withdrawal rates, though percent of proposals voted increased
- Successful results from engagement vary much more widely than with governance proposals
 - Engagement to continue
 - Board to study proposal
 - Board to generate report addressing elements of proposal – may or may not be public
 - Company to increase disclosure on subject addressed by proposal
 - Board to enact proposal or certain elements of proposal

ESP Proposals Submitted
2019 YTD vs. 2018



Political Proposals

- Political contributions and lobbying became the most common ESP topic in 2019, representing 28.8% of ESP proposals in 2019, increasing from 24.0% in 2018
- The majority of proposals were requests for companies to disclose their political spending (expenses and/or policies), including contributions to candidates, trade organizations and political non-profits, lobbying expenditures and related policies
- There was a proposal at Intel to allow annual advisory votes on political contributions, which received only 6% of votes cast. Many of the companies that received a political proposal this year were high-profile American brands (such as Macy's, Disney, Ford and UPS) or companies in sectors that attract public attention every election year or due to recent sociopolitical events (such as the banking, healthcare, pharmaceutical, insurance, energy and steel sectors)
- Political proposals had the highest number of passed proposals (four – Mallinckrodt, Alliant, Cognizant and Macy's); no political proposal had passed since 2016

Environmental Proposals

- This year, there was a significant drop in the number of environmental proposals, but the percentage of proposals that went to a vote was level with 2018.
- For the first time since 2015, no environmental proposal passed (compared to five in 2018)
- Environmental proposals had been the most common ESP topic in both 2017 and 2018 in part due to the U.S.'s withdrawal from the Paris Agreement in 2017
- Average shareholder and ISS support meaningfully decreased, in part due to generally low support of anti-ESP proposals
 - ISS recommended against two voted anti-ESP proposals to report on the cost of taking voluntary environmental actions (Duke Energy and Exelon)
 - ISS also recommended against two environmental proposals that called for greater board oversight of environmental issues/establishment of new environmental committee (Exxon and Chevron)

Human Capital Proposals

- Proposals related to human capital (*e.g.*, gender pay gap, workplace diversity, sexual harassment) had significantly reduced withdrawal rate – 55.6% went to a vote in 2019, versus 22% in 2018
- The increase in the percentage of voted-on proposals is due in part to proposals requesting additional disclosure from companies already providing some disclosures on the relevant topic (particularly with respect to gender pay gap), either proactively or in response to a prior shareholder proposal
- More companies are likely to adopt or expand public disclosure on human capital management in response to growing pressure from investors and regulators

Gender Pay Gap

GENDER PAY GAP							
Shareholder Proposals Submitted		Shareholder Proposals Voted On		Average % of Votes Cast in Favor		Shareholder Proposals Passed	
2019 YTD	2018	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018
26	30	13	6	32%	19%	0	0

- Companies facing increasing shareholder and political pressure to address gender pay gap
- Shareholder proposals related to gender pay gap reporting represented half of all human capital proposals in 2019; all but two of the voted proposals on pay gap disclosure came from Arjuna Capital
- Several states (*i.e.*, NY, DE, OR, CA, MA) have adopted laws that increase pay-equity protections while others are considering similar steps. The national wage gap also figures to receive significant attention during the 2020 presidential election cycle amid growing popular support for legislation that would require companies to disclose gender pay gap data
- Citigroup became first U.S. company to disclose unadjusted global median pay gap, showing a 29% gap between male and female employees

Workplace Diversity

INCREASE WORKPLACE DIVERSITY							
Shareholder Proposals Submitted		Shareholder Proposals Voted On		Average % of Votes Cast in Favor		Shareholder Proposals Passed	
2019 YTD	2018	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018
17	25	8	6	35%	41%	2	0

- While the total number of proposals related to general workplace diversity fell relative to 2018, 47.1% of 2019 proposals reached a vote (compared to 24% in 2018)
- Voted on proposals received significant shareholder support, with two proposals passing (none passed in 2018)
 - The other voted workplace diversity proposals also received substantial shareholder support
- The proposals submitted, which requested companies to report on workplace diversity metrics and policies, were predominantly sponsored by Trillium Asset Management
- Trillium stated that its goal is for companies to assess diversity in senior leadership ranks and clear plans to increase diversity, inclusive of gender, race and ethnicity; also hinted it may submit proposals linking workplace diversity metrics to senior executive compensation

ESP-Related Governance/Compensation Proposals: Board Diversity

- Some of the hottest topics in both compensation and governance were also linked to ESP
- Board diversity / disclosure of director qualifications was the second most prevalent topic among governance proposals:

INCREASE BOARD DIVERSITY							
Shareholder Proposals Submitted		Shareholder Proposals Voted On		Average % of Votes Cast in Favor		Shareholder Proposals Passed	
2019 YTD	2018	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018
32	27	9	3	8%	17%	0	0

- Large institutional investors (State Street, BlackRock, Vanguard), as well as ISS and Glass Lewis, have updated guidance in favor of increasing female representation on boards
- California became first state to mandate thresholds for female directors on public company boards. Other states (NJ, WA, IL) have introduced similar legislation
- NCPPR made proposals related to promoting “true board diversity”, which is defined by skills, experience and perspectives rather than race, gender or other demographic characteristics
- The most prevalent topic in compensation proposals was to link executive compensation to social issues, such as sustainability, human rights, human capital or environmental impact

Fewer Governance Proposals Come to a Vote

- **Increase in proposals on board composition**
 - Independent chair (62 submitted)
 - Board diversity / director qualifications (39 submitted)
- **Decrease in emphasis on structural governance issues**
 - Significant decrease in special meeting-related proposals, from 77 in 2018 to 26 in 2019
 - Significant decrease in proposals on proxy access, from 47 in 2018 to 33 in 2019
 - Proposals on written consent and supermajority voting requirements are the most frequently submitted (38 and 37 submitted, respectively)

Independent Board Chair

INDEPENDENT CHAIR							
Shareholder Proposals Submitted		Total Shareholder Proposals Voted On		Average % of Votes Cast		Shareholder Proposals Passed	
2019 YTD	2018	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018
62	54	54	47	29%	32%	0	0

- Proposals requesting an independent board chair were most common type of governance proposal; continuing trend of slight year-over-year increase
- Half of all independent chair proposals submitted by John Chevedden; religious organizations submitted meaningful amount of proposals in connection with opioid crisis
 - Often referenced recent public controversies at Abbott, Anthem, UnitedHealth and others
- No independent board chair proposals have passed since 2015, but continue to receive meaningful shareholder support (generally 25% to 40%)

Shareholder Right to Call Special Meetings

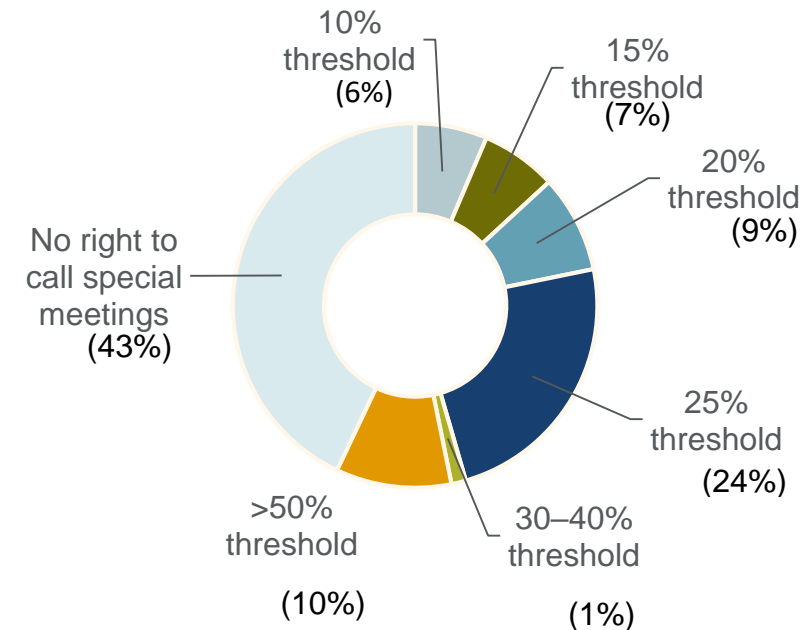
- Proxy advisory firms and shareholders support the right of shareholders to call a special meeting
- Enables shareholders to act on matters that arise between annual meetings

	RIGHT TO CALL SPECIAL MEETINGS							
	Shareholder Proposals Submitted		Shareholder Proposals Voted On		Average % of Votes Cast in Favor		Shareholder Proposals Passed	
	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018
Adopt new right	1	18	1	8	53%	43%	3	3
Lower % on existing rights	25	59	20	53	29%	28%	0	0

Special Meetings – Ownership Threshold

- Proposals to reduce the ownership threshold to call a special meeting are significantly more common than proposals to add a special meeting right
 - Nearly 2/3 of S&C 500 companies provide shareholders with some right to call a special meeting
- 25% threshold has historically been the most common
- BlackRock recommends a threshold between 15-25%

Thresholds to Call Special Meetings at Delaware S&P 500 Companies*



* Percentage of S&P 500 companies with relevant threshold shown in parentheses.

Special Meetings – Other Terms to Consider

- Definition of ownership
 - Many companies require “record” ownership of shares. Others have introduced a “net long ownership” concept, essentially reducing the shareholders’ actual ownership level by any short positions
- Blackout periods
 - No meeting request is valid unless received during a specified period
- Limitations of matters covered
 - Meeting request must specify the matter to be voted on, which must be a proper subject for shareholder action
- Timing of meeting and holding period
- Inclusion in charter versus bylaws

Proxy Access

- Continued trend of decreasing number of proxy access proposals voted on
- Widespread and continued adoption of proxy access at public companies with roughly 73% of S&P 500 companies providing proxy access rights

	PROXY ACCESS							
	Shareholder Proposals Submitted		Shareholder Proposals Voted On		Average % of Votes Cast in Favor		Shareholder Proposals Passed	
	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018
Adopt new right	11	18	5	10	53%	43%	3	3
Amend existing right	22	29	22	25	29%	28%	0	0

Written Consent Proposals

RIGHT TO ACT BY WRITTEN CONSENT							
Shareholder Proposals Submitted		Shareholder Proposals Voted On		Average % of Votes Cast in Favor		Shareholder Proposals Passed	
2019 YTD	2018	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018
38	41	33	36	39%	42%	6	6

- The vast majority of these proposals (87%) went to a vote. ISS recommended in favor of about 88% of the written consent proposals voted on in 2019, which received relatively strong support levels
- In 2019, all but one company that had written consent proposals up for a vote already provided shareholders with the right to call a special meeting

Structural Governance Proposals

	MOST SUCCESSFUL GOVERNANCE PROPOSALS							
	Shareholder Proposals Submitted		Shareholder Proposals Voted On		Average % of Votes Cast in Favor		Shareholder Proposals Passed	
	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018	2019 YTD	2018
Eliminate Supermajority Thresholds	37	26	19	11	68%	65%	16	9
Majority Voting in Uncontested Elections	12	7	7	3	58%	67%	4	2
Declassify Board	7	8	4	5	76%	85%	4	5

- Three structural governance proposals that pass on a consistent basis are the elimination of supermajority thresholds, majority voting in uncontested elections and declassification of the board
 - Smaller companies tend to adopt these provisions upon receipt of a proposal, due to high success rate if they come to a vote
 - Only proposals on elimination of supermajority voting reached a vote a meaningful number of times this year
- Continued decreases in governance proposals coming to a vote
 - Approximately 90% of S&P 500 companies and 47% of Russell 3000 companies have adopted some form of majority voting in uncontested director elections.
 - Majority voting is a common proposal at mid-cap companies



ISS Negative Recommendations Against Directors

Overview of ISS Negative Recommendations Against Directors

- ISS recommendations continue to correlate with lower director support levels:
 - Directors average 97% shareholder support with ISS in favor and 79% if not (level with 2018), although almost all directors win over 50% shareholder support
 - S&P 500 directors identified for excessive non-audit fees or poor attendance receive the lowest average shareholder support (55% and 63%, respectively)
 - Outside of the S&P 500, Russell 3000 directors receive the lowest average shareholder support for non-responsiveness to shareholder concerns or excessive non-audit fees (58% and 60%, respectively)
- ISS focus areas diverge between S&P 500 and broader Russell 3000:
 - No S&P 500 directors identified for non-responsiveness (either to low say-on-pay vote or other shareholder concerns), poison pill or unilateral action, although a meaningful number of Russell 3000 directors was cited for each, as broader Russell 3000 falls behind in adopting some corporate standards
 - Most common negative recommendation among Russell 3000 relates to adverse governance provisions at newly public companies (369 outside S&P 500, compared to three within)
- ISS launches 2019 policy survey, including questions regarding overboarding, independent chair, board diversity and climate disclosure

ISS Recommendations Against Directors

	2019 ISS DIRECTOR "WITHHOLD" OR "AGAINST" RECOMMENDATIONS (U.S. RUSSELL 3000 COMPANIES)			2019 ISS DIRECTOR "WITHHOLD" OR "AGAINST" RECOMMENDATIONS (U.S. S&P 500 COMPANIES)		
	Number of Directors	Average Shareholder Vote (% of Votes Cast)	Directors Receiving <50% of Votes Cast	Number of Directors	Average Shareholder Vote (% of Votes Cast)	Directors Receiving <50% of Votes Cast
Newly public company with adverse governance provisions not subject to a sunset	369	84%	4	3	65%	0
Board independence (non-independent directors on key committees or failure to maintain a majority independent board)	253	87%	3	15	83%	0
Shareholder inability to amend bylaws	125	75%	3	15	77%	0
Lack of formal nominating committee	114	90%	1	2	90%	0
Poor attendance at board and committee meetings (<75%)	63	78%	4	3	63%	1

- Impact of an ISS recommendation against a director depends on the reason for it

ISS Recommendations Against Directors

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	2019 ISS DIRECTOR “WITHHOLD” OR “AGAINST” RECOMMENDATIONS (U.S. RUSSELL 3000 COMPANIES)			2019 ISS DIRECTOR “WITHHOLD” OR “AGAINST” RECOMMENDATIONS (U.S. S&P 500 COMPANIES)		
	Number of Directors	Average Shareholder Vote (% of Votes Cast)	Directors Receiving <50% of Votes Cast	Number of Directors	Average Shareholder Vote (% of Votes Cast)	Directors Receiving <50% of Votes Cast
Overboarding	26	69%	0	4	70%	0
Unilateral action by the board that reduces shareholder rights	12	71%	1	0	-	-
Failure to address material weakness in internal controls	4	80%	0	1	70%	0
Excessive non-audit fees paid to auditors, or failure to disclose a breakdown of fees	4	60%	0	1	55%	0
Failure to opt out of amendment to Indiana law resulting in classified board	3	80%	0	3	77%	0
General performance or oversight concern	12	83%	0	4	71%	0



Say-on-Pay Votes and Equity Compensation Plan Approval

Overview of Say-on-Pay Votes and Equity Compensation Plan Approval

- **Continued strength on say-on-pay:**
 - Public companies continued to perform strongly on say-on-pay, with support levels averaging over 90% and less than 3% of companies receiving less-than-majority support
 - Fewer than half of the companies who received less-than-majority support last year achieved over 70% support this year, suggesting low say-on-pay votes have become stickier
 - ISS negative recommendations on say-on-pay highlight the continued importance of the pay-for-performance assessment category, with the most important factor continuing to be the alignment of CEO pay with Total Shareholder Return (or TSR) in relation to the ISS-determined peer group
 - The most important qualitative factor was performance standards that are not deemed sufficiently rigorous by ISS or clearly explained
- **Broad shareholder support for equity compensation plans, with only two Russell 3000 companies failing to obtain shareholder approval for an equity compensation plan and overall support levels continuing to average around 90%**

Drivers of 2019 Say-on-Pay Results

	RUSSELL 3000		S&P 500	
	2019 YTD	2018	2019 YTD	2018
Percentage passed (majority support)	97%	97%	99%	98%
Percentage with >70% support	91%	91%	93%	93%
Percentage with ISS “Against” recommendations	13%	13%	11%	9%
Average support with ISS “For” recommendations	95%	95%	93%	94%
Average support with ISS “Against” recommendations	65%	66%	65%	63%

- Overall, U.S. companies had similar say-on-pay results in 2019 to 2018
- Of the 54 companies that had failed say-on-pay votes in 2018 and have had their 2019 meeting, 35 received majority support in 2019, with only 25 getting >70% support
- Results reflect companies’ continued efforts to engage with shareholders and proxy advisors, as well as clearer compensation disclosure
- Past success no guarantee of continued success
 - Of the 51 companies in Russell 3000 that failed say-on-pay in 2019, only 10 failed their 2018 vote and 21 had <70% support in 2017
 - Of the six S&P 500 companies that failed in 2019, four had support levels below 70% in 2018, with two failing

ISS Say-on-Pay Analysis

– continued

- ISS recommendations continue to be driven by pay-for-performance analysis, which is focused on stock price – most important factor is alignment of CEO pay to Total Shareholder Return

2019 Results of ISS Quantitative Analysis Factor

	U.S. S&P Companies with Negative ISS Recommendations
Total with negative recommendations	46
Number that had “high concern” on:	
■ Pay-for-Performance	41
■ Compensation Committee Communication and Responsiveness	8
■ Severance/Change-in-Control Arrangements	6
■ Peer Group Benchmarking	0
■ Non-Performance-Based Pay Elements	3

ISS Pay-for-Performance Analysis

- Relative alignment of CEO pay and total shareholder return over three years
- Relative CEO pay to peer group median over one year
- Absolute alignment of CEO pay and TSR over five years
- Relative alignment of CEO pay and financial performance over three years

S&P 500 Companies with Concern Level	2019			2018		
	High	Medium	Low	High	Medium	Low
Overall pay-for-performance concern level (quantitative + qualitative)	26	1	3	30	1	2
Overall concern level on quantitative screen only	27	11	8	30	12	4
<i>Number that had "high concern" on each quantitative test:</i>						
• RDA – Relative Alignment of CEO Pay and TSR (3-year)	20	6	20	25	9	12
• MOM – Relative CEO Pay to Peer Group Median (1-year)	8	5	33	7	10	29
• PTA – Absolute Alignment of CEO Pay and TSR (5-year)	2	5	39	3	3	40



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