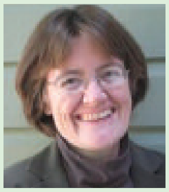
Helping Foundations
and Endowments
Align Investment
and Mission

[proxy preview]™

2011

ABOUT THE AUTHORS:



Heidi Welsh, the founding executive director of the Sustainable Investments Institute (Si2), has analyzed and written about corporate responsibility for more than 20 years. She oversees Si2's impartial, in-depth social and environmental research; Si2 was launched in 2010 and is supported by more than a dozen of the largest-endowed U. S. colleges and universities and a large pension fund. Welsh started her career at the Investor Responsibility Research Center in 1987. In addition to proxy season work, she monitored corporate compliance with the MacBride principles fair employment code in Northern Ireland for 16 years. She also co-authored the Carbon Disclosure Project's S&P 500 report in 2007, headed up sustainability research within a unit of RiskMetrics and served on the GRI's Electric Utility Sector Working Group in 2008-09. Welsh received her BA from Carleton College, cum laude, and holds an MS from the Institute for Conflict Analysis and Resolution at George Mason University.

Michael Passoff, CEO of Proxy Impact, has over 20 years of experience in corporate social responsibility, shareholder advocacy, philanthropy, and proxy research and education. For more than a decade Michael served as the Senior Program Director for As You Sow's Corporate Responsibility Program, and now serves as senior strategist on environmental health issues. From 2005 to 2010 Michael authored the annual *Proxy Preview* to alert foundations to upcoming shareholder resolutions that are relevant to their missions. The *Proxy Preview* is widely distributed and in 2008 the *Chicago Tribune* called the *Proxy Preview* the "bible for socially progressive foundations, religious groups, pension funds and other tax-exempt organizations." Michael has led and participated in more than 100 shareholder dialogues and resolutions and worked closely with shareholder advocates in the SRI, pension fund, labor, philanthropic, and faith-based communities. His shareholder advocacy work led him to be named as one of 2009's "100 Most Influential People in Business Ethics." He also received the 2009 Climate Change Business Journal award for a successful shareholder campaign to reduce greenhouse gas emissions. This included the first environmental resolution to receive a majority vote in more than 30 years of shareholder activism.

ACKNOWLEDGEMENTS:

Proxy Preview 2011 would be not possible without the generous cooperation from all of the following shareholder proponents: Adrian Dominican Sisters, AFL-CIO, As You Sow, AFSCME, Amalgamated Bank (LongView Funds), Boston Common Asset Management, Calvert Asset Management, Center for Political Accountability, CERES, Christian Brothers Investment Services, Christopher Reynolds Foundation, Christus Health, Clean Yield Asset Management, Community Reinvestment Association of North Carolina, Connecticut Retirement Plans, Domini Social Investments, General Board of Pensions United Methodist Church, Green Century Funds, Harrington Investments, Humane Society of the United States, Humanitarian China, Investors Environmental Health Network, Laborers International Union of North America, Miller/Howard Investments, Minnesota Board of Investment, Nathan Cummings Foundation, National Center for Public Policy Research, National Legal and Policy Center, New York City Comptroller's Office, New York State Common Retirement Fund, Newground Social Investment, NorthStar Asset Management, Open MIC, Pax World Funds, People for the Ethical Treatment of Animals, Physicians Committee for Responsible Medicine, Presbyterian Church USA, Pride Foundation, Service Employees Union, Sierra Club, Sinsinawa Dominicans, Sisters of Charity of St. Elizabeth, Sisters of Charity of the Blessed Virgin Mary, Sisters of Mercy, Sisters of St. Dominic (NJ), Sisters of St. Francis, Teamsters, Trillium Asset Management, Trinity Health, Unitarian Universalists, United for a Fair Economy/Responsible Wealth, and Walden Asset Management. Research and editorial support were provided by As You Sow staff members Andrew Behar, Kara Buchner, Larry Fahn, Amy Galland, Valentina Gurney, Melanie Hogan, Patricia Jurewicz, Steven Low, and Conrad MacKerron; board members Patricia Farrar-Rivas, Randy Hayes, and Tom Van Dyck; intern Rebecca Foges; and volunteer Kim Brewer as well as Si2 staff member Robin Young and board member Peter DeSimone.

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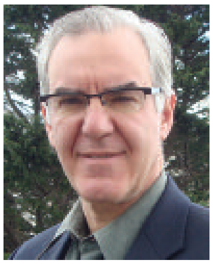
We hope that this publication will help foundations and endowments align their missions and investments by facilitating informed shareowner engagement. We also believe it will provide the broader investment community and the public at large with a publication of record about how and why shareholder advocates try to influence corporate behavior—and what happens when they do.

INTRODUCTION

Letter from the Publisher



Welcome to *Proxy Preview 2011™*, a compendium of shareholder resolutions that will be voted on this year. Collectively, these proposals represent a snapshot of history, documenting the specific concerns of shareholders to influence corporate decision making. It is our hope that when we look back years from now, we will see that many of these ideas have been integrated into the DNA of not only individual companies, but entire industries.

We believe that it is the responsibility of all shareowners to vote their proxies in an informed way. This publication provides context to enhance understanding about why these resolutions are critically important to today's world. *Proxy Preview* is particularly focused on enabling those institutional investors with a social mission—such as foundations, educational institutions, and non-governmental organizations—to better align their missions and investments.

Yet the information here is equally valuable to any investor looking for a comprehensive preview of upcoming social and environmental shareholder proposals. Experience has shown that the more informed investors are, the more they support these issues. As you will read, there has been a decade-long increase in favor of these resolutions which has clearly sent the message to management that investors expect financial performance and responsible environmental, social, and governance performance.

If you are a past reader of the *Proxy Preview*, this year you will find a new format. The resolutions are presented side by side with advocacy positions written by a stellar team of issue experts. In addition, we have included several case studies of past successes. The 2011 *Preview* is the result of a collaboration between As You Sow™, an environmental and social advocacy organization that has published the *Proxy Preview* since 2005; the Sustainable Investments Institute (Si2), which conducts impartial research on social and environmental shareholder proposals, and is responsible for compiling the resolution analysis; and Proxy Impact, a new proxy voting service designed specifically to meet the needs of foundations and socially responsible investors, and is responsible for editorial support for the advocacy positions.

The issue experts that have joined with As You Sow in this effort represent: AFL-CIO, Center for Political Accountability, Calvert Investments, Ceres, Harrington Investments, Humane Society of the United States (HSUS), Interfaith Council on Corporate Responsibility (ICCR), New York City Comptroller's Office, Northstar Asset Management, Order of St. Francis, Proxy Impact, Trillium Asset Management, and Walden Asset Management. We worked collaboratively to provide advocacy positions on shareholder resolutions about the environment (climate change, coal, electronic waste, hydraulic fracturing [fracking], toxic exposure, and water) and a range of social issues (animal welfare, health care, human rights, mortgage foreclosures, political spending, sexual orientation discrimination, and worker safety).

I extend special thanks to co-authors Heidi Welsh and Michael Passoff, our issue advocates, our sponsors, and everyone who contributed to make *Proxy Preview 2011* as informative and useful as possible. To our readers, thank you for your efforts to use the power of your proxy votes to ensure a safe, just, and sustainable world.

Best wishes,

Andrew Behar

CEO, As You Sow

EXECUTIVE SUMMARY

Shareholder advocates once again are offering up a diverse bouquet of resolutions that includes most current public policy controversies. After a record-setting year in 2010, when nearly one-fifth of all investors supported calls for more disclosure and action on social and environmental issues at US companies, the stage is set for more of the same in spring 2011. Nearly 290 proposals are now pending, out of about 360 that have been filed to date.

More than one-third of all resolutions –131 of them—invoke the environment either by itself or in conjunction with broad sustainability report requests. They ask companies how they are working to mitigate climate change, to reduce their natural resources impacts, and to limit product toxicity risks; the sustainability subcategory also includes new proposals seeking linkages between performance on sustainability issues and executive bonuses. Nearly another quarter of the pie—84 resolutions, up from last year—ask for greater oversight and data on how and where stockholder money is spent in the political arena. Two more approximately equal slices—each with about 45 resolutions—press for diversity reforms in the workplace and on corporate boards, as well as labor and human rights actions. Three smaller categories fill up most of the rest of the plate—resolutions on health care (18), animal welfare (16), and the foreclosure crisis (15).

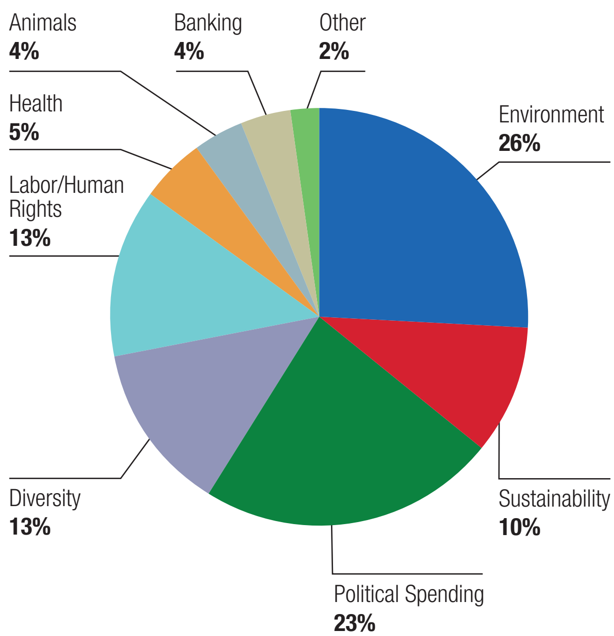
TYPES OF PROPOSALS

Experts who follow the ebb and flow of proxy season generally divide shareholder proposals into "governance" and "social" categories, with the latter including everything that is a non-traditional business issue.

Governance proposals focus on a range of issues related to how proponents think companies should be run. Alongside routine management proposals about the selection of directors and appointment of auditors, shareholder advocates present proposals about various types of executive compensation, separating the CEO from the board chair, repealing classified boards, takeover defenses such as poison pills, and supermajority provisions for voting—among many others. Corporate governance reform advocates file several hundred of these proposals each year and numerous sources of information on them exist, some of which are included in the Resources section of this report. The *Proxy Preview* only includes a small subset of governance proposals that overlap with social issues such as board diversity or linking executive compensation to social criteria.

Social proposals concern themselves with a company's societal obligations, relating to a range of public policy issues that often are highly contentious. These proposals relate most directly to the programmatic goals of foundations, and the issues debated by educational institutions contemplating proxy voting. Most foundations and many schools delegate proxy voting to investment managers who often automatically vote in accordance with company management recommendations. Given that management almost uniformly votes against social proposals, foundations can be supporting investment company actions contrary to their own missions.

Social and Environmental Shareholder Proposals Filed in 2011



Source: Sustainable Investments Institute (Si2) n=359. as of Feb. 11

Proposals listed in this publication are up to date as of February 14, 2011. About 360 proposals have been filed as of this writing and are discussed in this report. Some proposals described here will not appear on proxy statements because they will be withdrawn by the filers after agreements or because companies have changed their policies, and some will be left out of proxy statements, or *omitted*, because they do not conform to the Shareholder Proposal Rule (see box, p. 6, for more on company challenges to proposals.) The number of proposals *filed* indicates how broad a shareholder campaign is and/or a growing or waning shareholder interest in the different issue areas. *Pending* proposals are those that are still on the proxy but have yet to be voted on.

UNDERSTANDING SHAREHOLDER VOTES

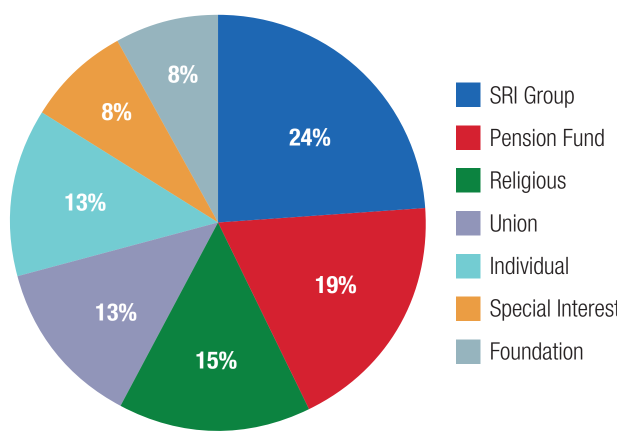
Almost no social or environmental resolutions receive support from a majority of shareholders, since most investors follow management recommendations to vote against them, and a few dozen large financial institutions (which often automatically vote with management) hold most of a company's shares. Recognizing this, the US Securities and Exchange Commission (SEC) requirement for a proposal to receive enough votes to be refiled for the following year is 3 percent for the first year, 6 percent the second year, and 10 percent thereafter. Even relatively modest votes can have a substantial influence on management. In most cases, an investor with 3 percent ownership of a company is one of the top shareholders and thus even single digit votes may gain considerable attention from a company. Social proposal votes ranging from 10 to 15 percent are hard to ignore and often result in some action by the company to address the shareholders area of concern. Overall support for social and environmental policy proposals has grown significantly in the last 10 years, and nearly half of the resolutions that went to votes in 2010 received more than 20 percent support—a sea change. (See the section on Shareholder Proposal Trends, p. 7).

MAJOR PLAYERS

Socially responsible investors (SRIs) evaluate a company's social, environmental, and governance performance as well as its financial returns when making investment decisions. Historically, these groups have done this through negative and positive investment screens, omitting or purchasing companies for their portfolios based on industry and/or company practices. Some firms also actively engage with companies on issues related to their screens. These groups have become much more likely to file proposals and in 2011 they were the primary filers for 24 percent of all the resolutions covered in this report. The most active are Calvert Investments (21 proposals), Trillium Asset Management (16 proposals) and Walden Asset Management (14 proposals), although others also are active.

Pension funds have been prominent shareholder advocates over the years both as proposal filers and in influencing companies behind the scenes. Pension funds are the primary filers for 19 percent of this year's proposals, or 68 resolutions. The New York State Common Retirement Fund this year has sponsored 33 proposals, followed by the New York City Pension funds – including public employees, firefighters, police, and teachers, represented by the New York City Comptroller, is the second most active, with 27 proposals. The California State Teachers Retirement System (CalSTRS) sponsored five and the Connecticut Retirement Funds three. The pension funds have led the fight against sexual orientation discrimination and also file proposals on board diversity, human and labor rights, political spending, sustainability, climate change, and hydraulic fracturing (fracking).

Primary Filer Distribution



Faith-based institutional investors, once the most prolific filers, remain an important category. Their work is coordinated by the Interfaith Center on Corporate Responsibility (ICCR), a membership organization comprised of over 275 religious organizations and non-faith-based associate members with combined assets of over $110 billion. ICCR was a pioneer of shareholder advocacy on social issues 30 years ago. Twenty-one of ICCR's faith-based members are the primary filers of 55 proposals this year, about 15 percent of the total. ICCR has been a leader on issues ranging from diversity to the environment, health, human rights, labor, violence, and militarization. The most active institutions are Mercy Investment, the Midwest Capuchins, the Sisters of Charity of St. Elizabeth, and the Unitarian Universalists. Religious groups are often co-filers on resolutions where other investors are the primary movers.

Labor unions were early adopters of shareholder advocacy and have frequently taken a leadership role in filing corporate governance proposals. They remain key players in the social advocacy space, as well. The AFL-CIO Office of Investment, the Laborer's International Union, the American Federation of State, County, and Municipal Employees (AFSCME), the Kansas City Firefighters, and Amalgamated Bank are the most active of the seven unions who are primary filers in 2011; in all, unions are the primary filers on 47 proposals. These groups account for 8 percent of the total.

Individual proponents are filing a growing number of proposals, although they often have difficulty navigating the shareholder resolution process and have their resolutions thrown out at the SEC. This year, 34 individuals have filed 45 proposals—13 percent of all those filed.

Special interest groups use shareholder advocacy to pursue their organizational goals. People for the Ethical Treatment of Animals, the animal rights advocacy group, is the most active in 2011, with 13 proposals. Conservative groups the National Center for Public Policy Research and the National Legal and Policy Center each have four proposals, followed by the Humane Society of the United States with three.

US foundations have more than $550 billion in investments. They are in a unique position to promote corporate responsibility both in their grantmaking activities and by leveraging their assets to further their missions. For more than a decade As You Sow has been a leader among foundations in utilizing proxy voting and shareholder advocacy. During that time As You Sow has filed more than 150 proposals, many in conjunction with the Educational Foundation of America. In 2011, five foundations are the primary filers on 29 resolutions. As You Sow has 15, the Nathan Cummings Foundation has 10, and other proposals are sponsored by the Needmore Fund, Tides Foundation, and the Christopher Reynolds Foundation. Additional foundations participate in the proxy voting process as co-filers and through proxy voting.

RECENT REGULATORY DEVELOPMENTS

Proxy plumbing: The 2011 proxy season gets underway as many of its key actors consider changes to the US proxy voting system. In July, the SEC issued a "concept release" on possible reforms to the system, the first in three decades. The deadline for comments on the release was October 20, 2010, and the SEC is now examining the 250 comment letters it received.

Possible reforms include the regulation of proxy advisory services, which can substantially affect the outcome of any vote with their recommendations that are used by many institutional investors. The proxy advisory industry is dominated by two players—the ISS division of MSCI (formerly RiskMetrics) and Glass Lewis; a third significant but substantially smaller player, Proxy Governance Inc., closed its doors at the end of 2010 and transferred its clients to Glass Lewis. Proxy Impact, a proxy voting service designed specifically to meet the needs of foundations and socially responsible investors, is a new entrant to the market in 2011.

The SEC also is looking at additional measures to 1) ensure that investors who receive benefit from the stock market can vote their shares—which they cannot do when investing in a variety of complex securities where they are not the registered owners of shares, 2) the ways in which companies communicate with their stockholders, and 3) how companies provide voting instructions to their investors. The SEC wants to encourage more voting by retail investors. (One way these individual shareholders can find out more about issues coming to votes is from newcomers such as Moxy Vote and ProxyDemocracy, which are experimenting with models where investors can emulate the decisions of well-known organizations they trust.)

Bloggers Gary Larkin of the Conference Board and Broc Romanek of TheCorporateCounsel.net and formerly an attorney in the SEC's Division of Corporation Finance both provide useful summations of the submitted comments. Another helpful review and commentary on the reform process, which is expected to be lengthy, appeared in the Harvard Law School's Forum on Corporate Governance and Financial Regulation in August.

New SEC disclosures: In December 2009, the SEC began requiring companies to disclose in their proxy statements more information about how they consider diversity when nominating candidates for the board of directors. Next, in January 2010, it issued interpretive guidance on what companies must disclose about the regulatory, commercial, and physical risks connected to climate change. These reforms hold the promise of giving investors more information with which to evaluate corporate performance in both areas.

Dodd-Frank: The new SEC requirements are being augmented by provisions of the massive financial reform package President Barack Obama signed into law in July 2010. The Dodd-Frank Wall Street Reform and Consumer Protection Act includes several disclosure requirements that shareholder advocates have sought for years. In addition to creating a Consumer Financial Protection Bureau to crack down on predatory lending and other consumer abuses in the marketplace, it also contains several corporate governance and sustainability disclosure reforms.

The SEC unveiled draft rules for a series of social impact disclosures on December 15, 2010 setting the stage for companies to begin reporting in the second quarter of 2011. Their pioneering nature is of considerable interest to investors and policy makers concerned with corporate sustainability reporting requirements and how social and environmental factors are being integrated into mainstream investment analysis. New requirements speak to issues raised in shareholder proposals and will cover:

- ***Pay disparity***—Section 953 of the Dodd-Frank Act requires companies to disclose the median annual total compensation of all employees, except the CEO; the CEO's total annual compensation; and the ratio of these two figures.

- ***Conflict minerals***—Section 1502 requires companies to vet their supply chains for links to the purchase of minerals from the Democratic Republic of the Congo (DRC) or surrounding countries and make efforts to ensure these purchasing activities are not funding groups fueling the conflict in this region.
- ***Mine safety***—Section 1503 mandates that mining firms disclose data surrounding health or safety standards that could significantly contribute to coal or other mine safety or health hazards, as well as information on work-related accidents, injuries, illnesses, and fatalities.
- ***Payments to governments by resource extraction companies***—Section 1504 requires companies to disclose payments to governments made for the commercial development of oil, natural gas, or minerals.

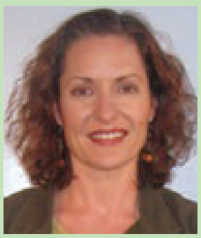
The SEC is poised to vote on final rules on these during the first half of 2011. See sidebar for more on transparency in supply chains.

US Environmental Protection Agency (EPA) greenhouse gas (GHG) emissions reporting: Companies also will be affected by new EPA regulations about their greenhouse gas emissions. The EPA issued a new Mandatory Reporting of Greenhouse Gases Rule in October 2009, requiring large emitters of greenhouse gases to submit annual reports to the agency about their emissions. But on December 17, 2010, the EPA announced it would postpone some of the requirements, "to further examine the likely business impact from the disclosure of certain data elements before those data elements are collected and potentially subject to public availability." Nonetheless, new plants and existing facilities that are being substantially upgraded still must report their emissions by the end of March 2011. Further regulations about GHG emissions are expected, with proposed standards for existing power plants planned for mid-2011 and for refineries at the end of the year.

The new regulations already are prompting intense battles between their supporters and skeptics, and cases are pending in the courts about whether the EPA has the authority to regulate GHG emissions under the Clean Air Act. A 2007 US Supreme Court ruling held that the EPA could do so if public health is threatened—which climate scientists and regulators believe is the case. Opposition to EPA regulation from Republican lawmakers and many businesses is strong, and the shape of the new regulations remains far from clear. Senator Jay Rockefeller (D-WV) proposed legislation in the last Congress to strip the EPA of its powers over regulating greenhouse gas emissions, and other legislators have voiced similar plans.

advocacyposition

MANDATED TRANSPARENCY IN SUPPLY CHAINS



PATRICIA JUREWICZ
Responsible Sourcing Network

Section 1502, the conflict minerals provision of the 2010 Dodd-Frank Wall Street Reform Act requires that companies provide transparency on where the raw materials in their supply chains originate. By the middle of 2012 companies will have to start reporting this information to the SEC, and will be vulnerable to scrutiny for egregious human rights abuses that their purchases may be causing.

The four "conflict minerals" are tin, tungsten, tantalum, and gold. Since tin is in solder, it shows up in a vast array of products such as cars, airplanes, computers, cell phones, and medical devices. Once the rules go into effect, investors will be able to track which companies are providing the SEC with the needed due diligence procedures to manufacture responsible products. For one of the first times ever, this provision is providing investors with detailed information into a company's environmental, social, and governance practices throughout its entire supply chain.

The Responsible Sourcing Network, a project of As You Sow, is coordinating a group of investors, corporations, and non-governmental organizations, to write a consensus response to the SEC's draft rules. This diverse group of stakeholders has drafted recommendations that strike a balance between being implementable, providing adequate disclosure, and actually making a difference on the ground. Improved transparency will result in better conditions for workers, increase supply chain efficiency, and reduce costs for companies.

OVERVIEW AND NEW ISSUES IN 2011

This section provides a brief overview of the upcoming proxy season, highlighting new issues and continuing campaigns. The main body of the report, starting on p. 12, gives a detailed analysis for each category listed here.

Animal Welfare: The total number of proposals concerned with animal welfare is down by half this year, with 16 resolutions split about evenly between those concerned with animals used in laboratories, mostly at big drug companies, and those consumed for food, mostly at restaurant firms.

Banking: A relatively small but notable group of 15 resolutions at the country's major banks address different aspects of the foreclosure crisis, with proponents from both the city and state pension funds in New York, labor unions, community groups, and religious investors. The SEC has yet to issue an opinion on whether it agrees with company contentions that the resolutions relate to ordinary business, and since there are so many duplicative proposals not all may go to votes. But the proposals serve as a barometer of investor concern about corporate risk-taking and lending practices. A few more new proposals that ask for the adoption of principles to combat money laundering will have to overcome SEC skepticism about the admissibility of this issue if they are to come to votes.

Diversity: The successful campaign to get companies to adopt sexual orientation non-discrimination policies continues, along with equally well-received proposals about board diversity—with a total of 46 filings, many of which are likely to be withdrawn after companies accede to the requests. New this year is a novel proposal from Northstar Asset Management about the strict anti-immigration law in Arizona at **First Solar**, based in Tempe. An effort from the New York City pension funds to encourage more minority ad placements looks set to fizzle at the SEC, given company challenges, but raises a key concern of the city's new comptroller, John C. Liu.

Environment: Environmental proposals this year fall into three major categories—climate change, natural resource management, and toxics. There is a separate section on sustainability since those proposals invoke issues beyond the environment.

Climate change—Forty-one climate change proposals reiterate ongoing investor views about what they see as a pressing need to disclose greenhouse gas emissions, to set goals to cut these emissions, and to reveal more about related risk and impact assessments. A handful of new proposals raise renewable energy issues at utilities, but may not go to votes given SEC challenges. Two palm oil proposals have been withdrawn after companies agreed to sourcing restrictions, in a victory for shareholders. All the resolutions come in the context of the new SEC climate risk disclosure requirements, noted in the sidebar, and as companies are starting to grapple with the new EPA emissions monitoring regulations. Oil and gas, construction and real estate, and utility companies remain the primary targets of these proposals.

Natural resource management—Coal and fracking dominate the group of 44 natural resource management proposals, with several new resolutions about the financial risks of relying on coal-based energy, coal pollution, and a reprise of 2010 concerns about coal combustion waste. The disclosure campaign about fracking continues, with nine proposals to companies including **Chevron**, which in November announced the $3 billion acquisition of Atlas Energy, one of the firms drilling in the Marcellus Shale region, which straddles parts of New York, Ohio, Pennsylvania, and West Virginia, where controversies about water contamination and other environmental issues abound. There are new proposals about water use by utilities and water risk in the supply chain, as well, along with another to **Chevron** on offshore oil well risks.

Toxics—In the toxics category, new proposals about Bisphenol A (BPA) are on tap at two companies, noting the chemical's use in dental sealants (at **Dentsply International**) and in cash register receipts (at **Yum! Brands**). A new proposal on electronic waste is pending at **Target**.

Health: As national health care reform continues to roil the national psyche, religious investors remain worried that insurance and drugs are too expensive for many Americans. They have filed a new proposal on insurance premiums at five companies that are being challenged at the SEC, along with a proposal about prescription affordability at five drug companies, a resolution they used 10 years ago during the first round of health care reform. Rounding out the mix is a pending proposal to **McDonald's** on fast food and childhood obesity.

Labor and human rights: Around 30 proposals, mostly to defense contractors, stress the risks companies face while operating in conflict ridden areas of the world; these have taken the place of previous religious group resolutions about military contracting and foreign military sales, which are absent for the first time in many years. New proposals raise concerns about the conduct of a prison management company, **Geo Group**, and the sourcing of cobalt from the Democratic Republic of Congo (DRC), at **OM Group**. These proposals have special relevance giving the pending requirements for publicly traded companies in the United States to disclose links to conflict minerals in the DRC and surrounding countries.

Contesting Proposals at the SEC

All shareholder proposals must conform to the Shareholder Proposal Rule of the Securities and Exchange Act of 1934, which sets procedural as well as substantive standards for admissibility. When a company believes a proposal does not meet these standards, it informs the SEC of its intention to omit the proposal and cites specific provisions of the rule. SEC staff attorneys in the Division of Corporate Finance consider company arguments and any countervailing responses from the proponents before issuing a "no-action" letter. These letters indicate the SEC will take no action if the company leaves the proposal out of the proxy statement, or say the staff does not agree with the company's arguments and thinks the proposal must be included. Decisions can be appealed to the full commission and also challenged in the courts, but generally the staff decision is not contested. (See p. 49 for a summary list of the grounds for omission.) Both challenges and decisions since 2007 are available on the SEC website; earlier correspondence is available only in paper form at the commission.

In addition, the human right to water is invoked by proposals at four companies, continuing a campaign from 2010. Proposals on net neutrality look likely to fall again to SEC challenges, however. Finally, inspired by the Gulf of Mexico oil spill last year, the AFL-CIO has a new proposal on process safety management that it has submitted, with support from the United Steelworkers, at seven oil refinery companies; the proponents and **Sunoco** have reached an agreement already, as noted on p. 41.

Political spending: Continued national attention on political campaign spending is reflected in the 84 proposals filed about corporate political spending. New angles abound as investor attention broadens to eight requests about advisory votes on spending and lobbying—which has been newly approved as a proxy issue by the SEC and is pending at nine companies. Another fresh twist is a campaign led by Walden Asset Management to target companies with representatives on the board of the Chamber of Commerce, firms that supported the failed effort to overturn California's climate change law, and those caught up in the indirect political spending controversy about an anti-gay Minnesota gubernatorial candidate last summer. Proposals for more oversight and disclosure in resolutions coordinated by the Center for Political Accountability are unabated, with about 50 filings. On the other side of the political fence, two Washington-based conservative groups are coordinating a handful of proposals that question companies' public support for gay rights and national climate change legislation.

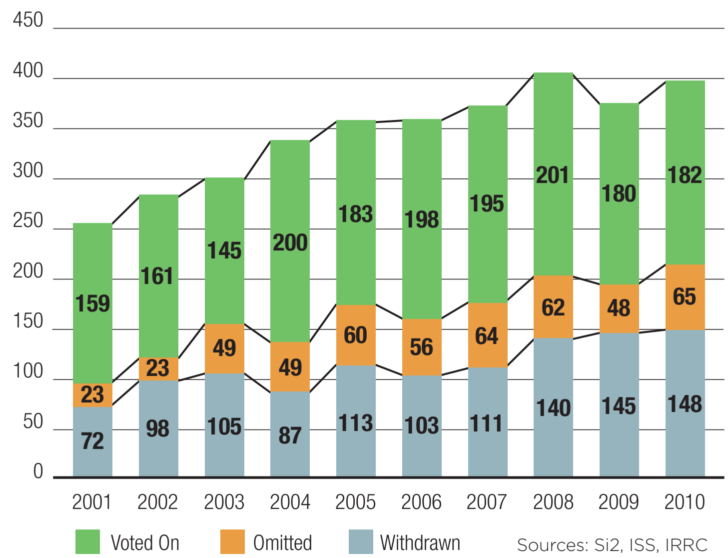
Sustainability: The total number of requests for corporate sustainability reports is down a little this year, with about two dozen filings; the vast majority of which ask for data on greenhouse gas emissions and their management, alongside other environmental and social information. A new proposal from the New York City pension funds wants **Walmart** to compel companies in its vast supply chain to issue sustainability reports, as well. In addition, two unions are asking a mix of eight companies to incorporate sustainability factors into incentive compensation for executives.

Shareholder Proposal Trends

Investors now file about 50 percent more shareholder proposals on social and environmental issues than they did a decade ago, with just over 400 in 2010. But investors have not seen as dramatic an increase in the number of proposals that they vote on because of a substantial increase in the number of withdrawn proposals. Withdrawals generally occur when the proponents and management reach an agreement. Since 2003, the proportion of proposals that get omitted because the SEC issues an opinion that a proposal does not conform to the Shareholder Proposal Rule has stayed about the same overall, although there have been important changes in the SEC's interpretation of the rule.

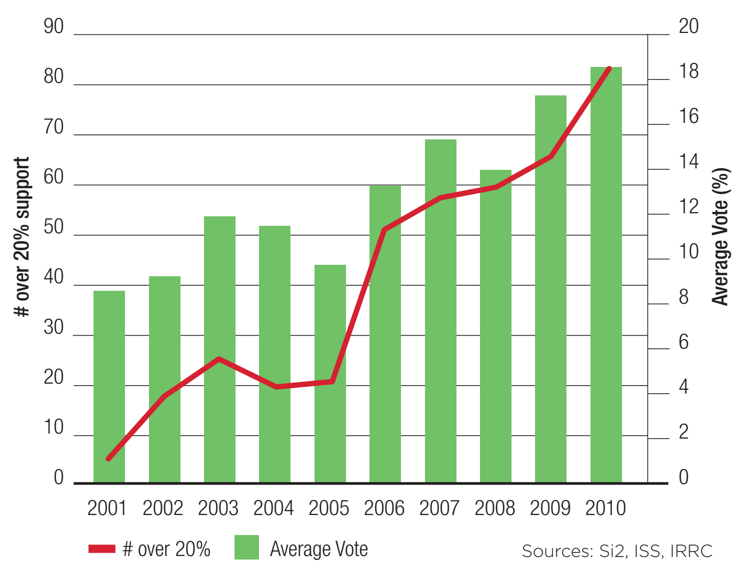
There has been a dramatic increase in the overall level of support investors give to social and environmental proposals. The overall average vote climbed to more than 18 percent in 2010, about double the support resolutions received in 2001. Of particular note is the number of resolutions that receive more than 20 percent of the vote; only five proposals in 2001 reached this threshold, while 82 did so in 2010—nearly half of all those that went to votes.

US Social and Environmental Shareholder Proposals Filed, 2001-2010



Sources: Si2, ISS, IRRC

Support Trends for US Shareholder Proposals, 2001-2010



Sources: Si2, ISS, IRRC

2010 Proxy Season Results

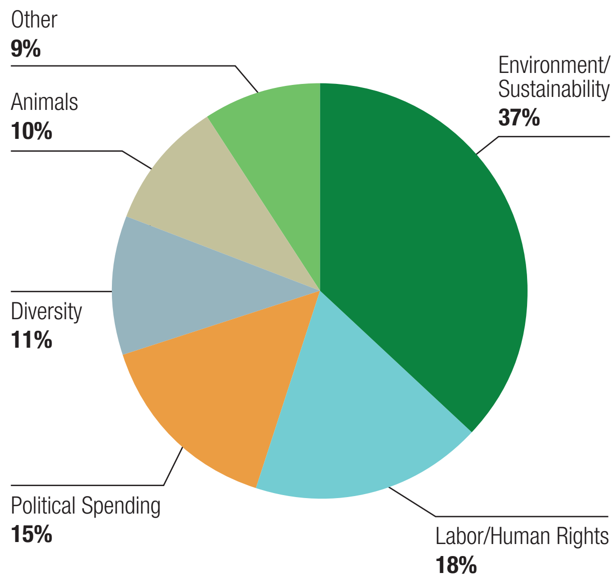
In an unprecedented show of support, investors in 2010 voted 'yes' more often than ever before on a wide range of social and environmental shareholder proposals. The season produced the highest votes ever recorded on these types of resolutions, with an overall average of more than 18 percent. Two proposals received majority support, at **Layne Christensen** and **Massey Energy**. Fifteen more received greater than 40 percent. The season was marked by record-breaking investor approval for corporate policies that protect lesbian, gay, bisexual, and transgendered (LGBT) rights, more reporting on sustainability in general and the environment in particular, and increased disclosure of political spending. A total of 404 proposals were filed on social and environmental issues; 182 went to votes.

Topics: Environmental concerns continued to be the biggest single issue category, accounting for 25 percent of the total proposals filed; when broader sustainability reporting proposals which mentioned environmental issues are included, this category accounted for 37 percent of the total. The resolutions asked for corporate policy changes or disclosure on climate change, natural resource impacts including fracking, or toxics. A broad swath of labor and human rights issues accounted for another 18 percent of the total filed, with subjects ranging widely from pay equity to human rights reporting and the internet. Corporate political activity resolutions, which in large part asked for political spending disclosure, made up another 15 percent of the total.

Other important topics addressed were equal employment and diversity (11 percent of the total) and industrial agriculture and other animal welfare issues (10 percent). Only a few proposals dealt with finance and banking issues, something that has changed significantly in the 2011 season. Conservative groups proffered about a dozen resolutions, just 4 percent of all proposals, and continued to fare poorly as they have in the past; they asked about political and charitable giving and questioned corporate policies on climate change and illegal immigrants.

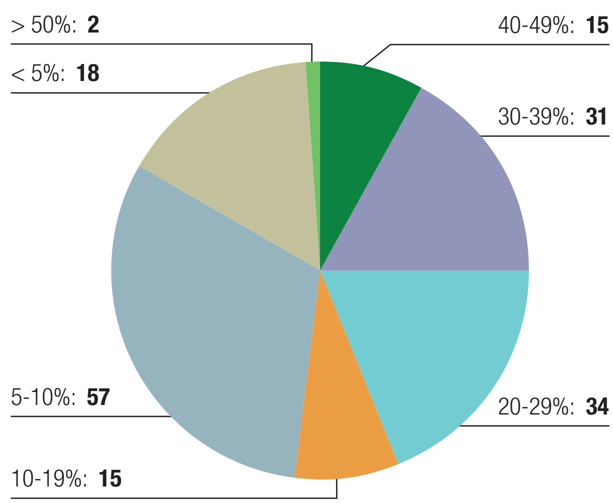
Unprecedented support: The 2010 spring proxy season was a watershed year, with the highest individual votes ever recorded and overall average support of more than 18 percent. Two proposals received majority support, at **Layne Christensen** and **Massey Energy**, with a total of 17 receiving more than 40 percent of the shares cast for and against. Nearly half—82 resolutions—earned more than 20 percent support, up from only 66 that did so in 2009.

Proposals Filed in 2010



Source: Sustainable Investments Institute (Si2) n=404

Support Distribution in 2010



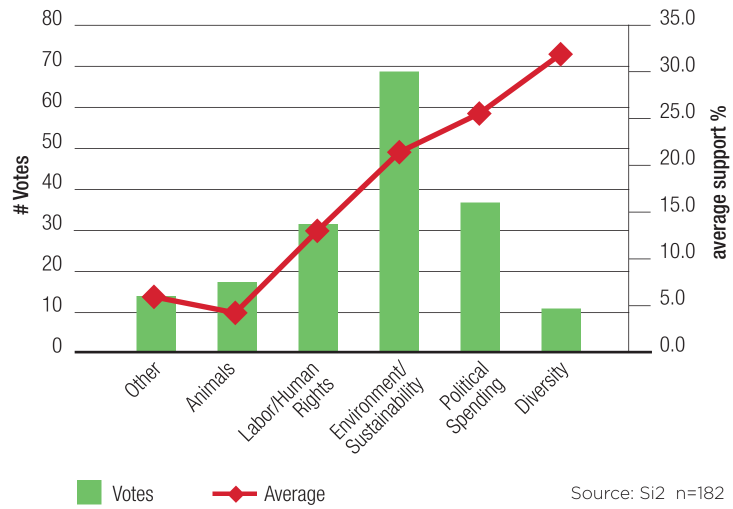
Source: Sustainable Investments Institute (Si2) n=182

Top scoring proposals: Mirroring the overall trends, half of the 17 top scorers dealt with the environment and sustainability reporting, while LGBT non-discrimination policy requests and political contributions each had three proposals. Only one resolution on human rights was in the highest scoring group—a Mercy Investment resolution to **KBR**, which continues to deal with the legacy of controversies about its operations in Iraq and elsewhere.

Withdrawals and omissions: Proposals that receive high levels of support are the most amenable to negotiated withdrawal agreements between shareholders and companies. Nearly three-quarters of the 45 resolutions filed on equal opportunity and board diversity were withdrawn, as were just under two-thirds of the 41 requests for sustainability reports.

Top scoring proposals also are much less likely to be omitted, while resolutions from neophytes tend to get thrown out more frequently at the SEC. Seven of the 16 proposals from conservatives did not make it past the SEC, and half of the sometimes eclectic collection of 20 other miscellaneous requests also failed to pass muster with the SEC staff. Animal welfare groups also were less successful at the SEC than most others, with about one-quarter of their proposals getting thrown out on substantive grounds.

2010 Votes and Category Averages



Source: Si2 n=182

2010 Resolutions With More Than 40 Percent Support

Company	Proposal	Proponent	Vote (%)
Layne Christensen	publish sustainability report (incl. climate change)	Walden Asset Mgt.	60.3
Massey Energy	report on climate change impact assessment	NYSCRF	53.1
Gardner Denver	adopt GLBT non-discrimination policy	Calvert	49.1
KBR	adopt GLBT non-discrimination policy	NYC pension funds	48.7
Coventry Health Care	report on political contributions	NYC pension funds	46.0
Federal Realty Investment Trust	publish sustainability report (incl. climate change)	LiUNA	44.6
Boston Properties	publish sustainability report (incl. climate change)	NYC pension funds	44.1
CMS Energy	report on coal combustion waste and risks	As You Sow	43.1
St. Jude Medical	publish sustainability report	Walden Asset Mgt.	42.8
KBR	report on human rights policy	Mercy Investment	42.2
Express Scripts	report on political contributions	Miami Firefighters	42.0
Williams Companies	report on hydraulic fracturing	Green Century	41.8
Kroger	report on climate change impact assessment	NYC pension funds	40.7
CVS Caremark	report on political contributions	Pax World Funds	41.4
Sprint Nextel	report on political contributions	NYC pension funds	41.2
MDU Resources Group	report on coal combustion waste and risks	As You Sow	40.5
Leggett & Platt	adopt GLBT non-discrimination policy	NYC pension funds	40.4

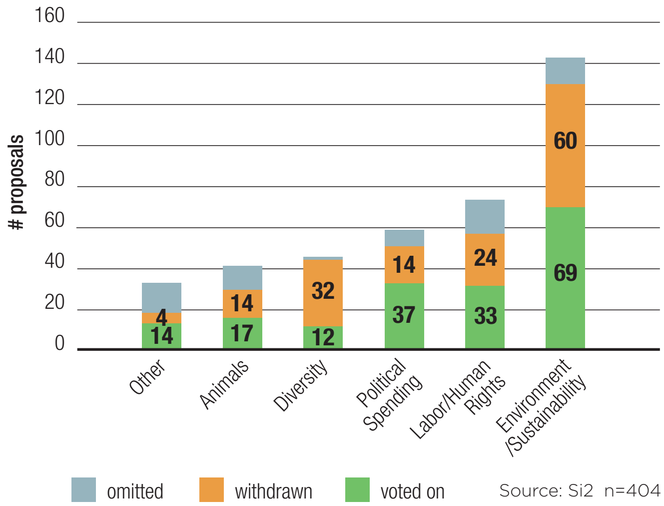
SEASON HIGHLIGHTS

Animal and agriculture: The treatment of animals in industrial agricultural production has been a longstanding concern of animal rights activists, but investors remain wary of proposals that ask firms to alter their slaughter and egg production practices both in-house and at suppliers. Shareholders are equally skeptical of proposals about laboratory animal welfare. In addition, three resolutions to **Tyson Foods** from religious investors connected with ICCR about its production practices got very low votes, although proposals at **Tyson** are never high because the company is very closely held. Each of the animal-related resolutions received much less than 10 percent support, with an average of less than 5 percent. No affiliates of ICCR have filed similar proposals for 2011.

Diversity: Investors gave the highest average level of support to 12 resolutions that asked companies to ensure their LGBT employees' rights are protected, giving these proposals 32 percent support on average, and nearly cracking the 50 percent mark with a resolution from Calvert Investments at **Gardner Denver**. NYC funds resolutions won 48.7 percent at **KBR** and 40.4 percent at **Leggett & Platt**. In related proposals, just one of the 16 resolutions asking companies to adopt board diversity policies went to a vote, at **Exco Resources**; the others were withdrawn, generally after accords between the proponents and companies.

Environment: Environmental proposals accounted for the largest share of proposals filed and voted on, addressing climate change, the politically incandescent topic of fracking, and a wide range of other concerns. The May 19 annual meeting of **Massey Energy** came just a few weeks after the Upper Big Branch mine disaster, which claimed the lives of more than two dozen miners; investors reacted by giving 53.1 percent support to a request for a climate change impact assessment. The resolution did not pass, however, because **Massey's** charter, written under Delaware law, provides for it to count abstentions as votes 'against' shareholder proposals; when figured this way, the proposal got just 36.8 percent. (Concerns about how companies tally their votes are being raised in several 2011 proposals, see p. 23.) Other high scorers were a resolution from As You Sow to **CMS Energy** requesting a report on disposal of coal combustion waste (43.1 percent), a Green Century Funds request for a report on fracking at the **Williams Companies** (41.8 percent) and another As You Sow proposal on disposal of coal waste to **MDU Resources Group** (40.5 percent).

Final Status of 2010 Proposals



Labor and human rights: A significant proportion of **KBR** investors remain concerned about the company's human rights record; shareholders gave a disclosure resolution on this subject from Mercy Investment 42.2 percent support. A similar resolution to **Halliburton**, which also raised concerns about incidents at the company's operations in Iraq, earned nearly 37 percent.

Other human and labor rights proposals addressed internet privacy and net neutrality (most of these were turned back at the SEC on the grounds that they raised "ordinary business" issues) and the ways in which companies can or should ensure human rights protection in the conflict ridden areas where they do business. A new proposal about payments to host governments from Oxfam America to **Chevron** earned just 7.1 percent support, and resolutions about the human right to water earned equally modest levels of support (just under 7 percent) at **Ecolab** and **ExxonMobil**. Only a few resolutions directly addressed supplier codes of conduct, in contrast to the recent past when sweatshop concerns prompted dozens of such proposals. Investors at **Reynolds American** gave moderate support to a resolution about child labor concerns in Malawi from Trinity Health—10.5 percent compared with 20.4 percent at **Altria** shareholders for the same proposal.

Half a dozen pay equity proposals from ICCR members came to votes at **Goldman Sachs**, **General Electric**, **State Street**, **Allstate**, and **Coventry Health Care**, but all earned less than 10 percent support. Half of these two-dozen new proposals were withdrawn after discussions with companies and there are almost no proposals on the subject for 2011, although investor concern about high levels of executive pay continues to run high. With the introduction of required advisory votes on pay, pay critics have time to take a breather and see how much traction they get at companies in general when investors vote, as is newly required, during the 2011 proxy season. (For more on Walden Asset Management's view on the say-on-pay campaign, see p. 11.)

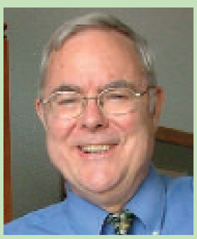
Political spending: More than one-quarter of investors, on average, voted in favor of resolutions that asked companies to disclose how and what they spend in the political arena. Three-quarters of the 60 resolutions in this category were coordinated by the Center for Political Accountability, but a range of additional proposals addressed corporate political activity from different angles. A few made it under the SEC radar to ask for more general lobbying disclosure, although requests about grassroots lobbying disclosure from Domini Social Investments did not pass muster at the SEC, which has long been skeptical about lobbying resolutions. Proponents raising lobbying concerns have managed to find a formulation that has made it past the SEC arbiters in 2011, however, as noted in this report. One other proposal to **American International Group** asked for shareholder approval of political spending, although this new proposal from the New York State Common Retirement Fund earned less than one percent at the company, whose stock is controlled by the US government. The "say-on-spending" issue is being raised again at a few companies in 2011.

The highest scoring political spending proposals were at health care and telecommunications companies—46 percent at **Coventry Health Care** (from the NYC pension funds), 42 percent at **Express Scripts** (from the Miami Firefighters), 41.4 percent at **CVS Caremark** (from Pax World Funds) and 41.2 percent at **Sprint Nextel** (from the NYC pension funds). These types of resolutions were less likely to be withdrawn than those in the other top-scoring categories, but about one-quarter of companies that received the proposals acceded to the requests, prompting withdrawals.

Sustainability: Affirming a longstanding trend, proposals that asked companies to publish sustainability reports averaged 31 percent support. The proposals often had specific requests for climate change information and greenhouse gas emissions data and came to votes at 14 companies. Walden Asset Management scored a major victory and the highest vote ever recorded on a shareholder proposal about social or environmental issues at **Layne Christensen**, which provides drilling and construction services, earning 60.3 percent support. The vote prompted no deal, however, and the resolution is pending again in 2011. Other high scoring proposals were at **Federal Realty Investment Trust**, where a proposal from the Laborers' International Union (LiUNA) received 44.6 percent; at **Boston Properties**, where an NYC pension fund resolution got 44.1 percent; and at **St. Jude Medical**, where a Walden proposal got 42.8 percent. Considerably more than half of the 39 sustainability reporting resolutions filed were withdrawn, mostly following agreements by companies to publish the requested reports.

advocacyposition

SAY-ON-PAY BECOMES LAW



TIMOTHY SMITH
Walden Asset Management

Unchecked CEO pay directly contributed to the financial crisis of 2008. On January 25th the SEC adopted new rules for the shareholder advisory vote on executive compensation, popularly known as say-on-pay, as required under the Dodd-Frank bill passed in 2010. This year, all companies must place an advisory vote on their proxy statements as a means to hold management more accountable to their shareowners regarding CEO and senior executive pay practices. (In the last two years only those companies receiving Troubled Asset Relief Program (TARP) funds and several dozen who responded positively to shareholder input provided a say-on-pay vote.)

This is a moment to celebrate, as investors led by Walden Asset Management, AFSCME, and the State of Connecticut, among others, worked tirelessly for say-on-pay. Early on, we convened successful roundtables of more than 100 business leaders, governance experts, and institutional investors to study the benefits and processes needed to implement say-on-pay.

There were investor sign-on letters, corporate dialogues, and shareholder proposals advocating for the reform, with many of the proposals garnering majority shareholder votes. Over 75 investors worked together filing shareholder proposals on this issue. Say-on-pay votes have already stimulated re-thinking by Board Compensation Committees on various perks and controversial pay formulas. Dozens of companies agreed to provide the advisory vote before they were required to do so.

The combination of relentless investor advocacy, the responsiveness of some leading companies to be early adopters, and public outrage about executive compensation led to having an annual investor vote on pay enshrined in the Dodd-Frank bill.

In addition, the controversy over how Wall Street pay formulas contributed to taking excessive risks leading to the financial crisis has built more pressure for checks and balances on executive pay.

This proxy season a new round of work begins. Every proxy statement asks investors to vote on the frequency of say-on-pay votes. Should it be every one, two, or three years? We strongly urge all investors to vote for annual say-on-pay, promoting maximum accountability by providing a platform for feedback each and every year. The discipline of an annual vote will encourage boards to be more responsive and accountable on executive compensation.

This is so important that on January 31st a group of investors with over $830 billion in assets under management issued a public call for companies to support annual votes on executive pay and for investors to vote in favor. The news is out—since early in the proxy season investors at half a dozen companies ignored management's appeal for a three-year vote and instead voted in the 51 percent to 72 percent range in favor of an annual vote, refusing to embrace "occasional accountability on pay" represented by the three-year plan.

The more weighty responsibility is voting on the pay packages themselves. Will we vote 'yes,' 'no,' or 'abstain' on Wall Street financial houses that are returning to pre-crisis pay packages, or for an oil executive whose pay increases not just because of smart business choices but because the price of oil went up? This will be a significant proxy season with executive compensation front and center on every proxy statement.

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