

2010 Proxy Season

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Robert Kropp, writing for SocialFunds.com, ran a recent series of three posts interviewing people on the passing proxy season.

First up was Environmental Shareowner Resolutions Gain Record Levels of Support in 2010 Proxy Season, in which Kropp interviewed Michael Passoff of As You Sow. Looking back on shareowner vote totals for first-time environmental resolutions over the past decade, five of the top ten were for resolutions filed this year. One reason, according to Passoff, was that “Shareholder activists are getting better at making financial arguments about risks from environmental and social liabilities.” In addition to strong showings for resolutions on coal ash and hydraulic fracturing, which got considerable press, a first-time vote on Bisphenol A (BPA) at Coca-Cola won 21.9% of shareowner votes, and resolutions addressing oil sands development in Canada won substantial vote totals as well.

Kropp interviewed Laura Berry of the Interfaith Center on Corporate Responsibility (ICCR) whose members filed a total of 308 shareowner resolutions this year, addressing issues across the ESG spectrum. After years of attempting to convince financial companies to disclose the manner in which they collateralized derivatives, only to have the resolutions disallowed by the SEC, ICCR members were finally successful in having the resolutions included on proxy ballots. Resolution filed at Goldman Sachs, Bank of America, Citigroup, and JP Morgan Chase requested that the companies “ensure that the collateral is maintained in segregated accounts and is not rehypothecated. (taking in collateral as guarantees on derivatives trades, and then using it as collateral for their own transactions)

Members are also “connecting the dots” on health care, asking, “do companies go on record saying they support universal health care, and then underwrite the US Chamber’s efforts to derail it?” Some retail shareowners are beginning to see some value in voting but “I don’t think the average retail investor really understands how to be a citizen investor yet.” “Institutional investors are beginning to understand the connection between lack of transparency and investment risk.” “Those of us who think about social and human capital have been working on these issues for such a long time,” Berry said. “Now, we owe it to the issues to move beyond our circle and make our case to mainstream investors.” (Higher Shareowner Votes Are Encouraging, But Not Enough to Change the System)

Kropp finished up by interviewing me for a post entitled, Will 2011 Be a Watershed Year for Corporate Governance? Speaking to a largely CSR audience I stressed the fundamental importance of corporate governance to any chance of winning on social and environmental

issues. Pay attention to the rules of the game. In that regard, the most important development was Apache v. Chevedden where Apache won the battle but lost the war and the Dodd-Frank bill.

I was on a call with the Social Investment Forum yesterday where a panel was also discussing the 2010 proxy season. Conrad MacKerron and the folks at As You Sow put together a great recap. Two measures were passed with record high votes on sustainability/GHG emissions (60% at Layne Christensen) and climate change (53% at Massey Energy). In 2000, no majority votes on CSR resolutions... none even above 40% and only 6 above 20% out of 266 resolutions (average vote of 7%). This year, 2 majority votes, 17 above 40%, 88 above 20% out of 361 (average 19% vote). MacKerron attributes to:

- * Activists making better financial arguments
- * Increased environmental awareness
 - o Recognizing true vs. externalized costs
 - o Calculating environmental and reputations risk
- * More mutual fund and pension fund support
- * SEC Staff Legal Bulletin in October 2009 made it harder for companies to omit resolutions on environmental or health risk assessment

On the call, Sanford Lewis mentioned that SEC staff would likely issue another legal bulletin in the fall. Comments to Meredith Cross, Director, Division of Corp. Finance, might be helpful. For next year, he sees more focus on risk evaluation, enterprise risk management and better coordination between funds to avoid duplication. Paul Hodgson sees even bigger wins for shareowners, with proxy access, expanded say on pay, continuing work on majority voting... an "era of shareholder activism."

For much more, see post by Lejla Hadzic and Eric Shostal, More Shareholders Call for Political, Climate Risk Disclosure: A Post-Season Review of 2010 Environmental and Social Proxy Proposals, RiskMetrics Group, 7/15/2010. See also Should shareholder proposals serve as an early warning system for emerging risks and retail challenges? by Sanford Lewis and SIF proxy season recap call by Paul Hodgson.