

2022 Proxy Season ESG Look Ahead: Key Considerations for Retail

RILA Retail ESG Initiative



**RETAIL INDUSTRY
LEADERS ASSOCIATION**

February 8, 2022

WELCOME



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HOW DOES ESG TOUCH RILA COMMITTEES?

[More about each of RILA's Committee/Councils](#)

ENVIRONMENTAL

- Sustainability Committee
- Responsible Sourcing Committee
- Zero Waste Committee
- Energy Management Committee
- Consumers Products Committee
- Environmental Compliance Committee

SOCIAL

- Retail Talent Council
- Diversity & Inclusion Leaders Council
- Asset Protection Leaders Council
- Workplace Safety Committee
- Consumers Products Committee
- Environmental Compliance Committee
- Responsible Sourcing Committee
- RTech Council
- Privacy Leaders Council
- Compliance Council
- Sustainability Committee

GOVERNANCE

- Compliance Council
- Internal Audit
- Chief Financial Officers Council
- Retail Talent Council
- Diversity & Inclusion Leaders Council
- General Counsel Committee
- Finance Leaders Council

REPORTING: VOLUNTARY & SEC

- Internal Audit
- Finance Leaders Council
- Sustainability Committee
- Chief Financial Officers Council
- Communications Committee

OTHER IMPLICATIONS

- Tax Committee
- Public Policy Steering Committee/Government Affairs Committee/State Government Affairs Committee
- Legal Team/Retail Litigation Center

ESG MARKET EDGE

Helping you stay up to date
with all things E, S and G



**Stay Connected
with RILA's monthly
ESG newsletter!**

- Each edition looks at a different topic in the evolving ESG landscape.
- Customized for a retail industry audience.
- Spotlights RILA committee lead topical experts and key external thought leadership.
- Sign up to be added to the distribution list [here!](#)

Antitrust Statement

RILA believes strongly in competition. Our antitrust laws are the rules under which our competitive system operates. It is RILA's policy to comply with both the letter and the spirit of antitrust laws. This Antitrust Statement has been adopted to avoid even the appearance of impropriety under the antitrust laws.

At any association meeting, participants must avoid any discussion of the following subjects in order to avoid even an appearance of impropriety:

- Do not discuss current or future prices, price quotations or bids, pricing policies, discounts, rebates, or credit terms.
- Do not discuss cost information such as production costs, operating costs, or wage and labor rates.
- Do not discuss profits or profit margins, including what is a "fair" profit margin.
- Do not discuss allocating markets, territories, or customers.
- Do not discuss current or future production or purchasing plans, including plans to take facility downtime, production quotas, or limits on output.
- Do not discuss refusing to deal with any suppliers, customers, or competitors (or any class or type of suppliers or customers).
- Do not require or pressure any supplier, customer, or competitor to adopt any particular actions or policies.
- Never agree on any aspect of future pricing or output.

Do not engage in prohibited discussions before a meeting or after a meeting is over. These antitrust guidelines apply not only in formal RILA meetings, but also in hallways, casual conversations, phone calls, emails, text messages, cocktail parties, golf outings, or any other setting that is related in any way to the RILA. If you have questions or concerns, or if you are uncertain about the propriety of any subject of discussion or proposed activity, you should stop the discussion immediately and bring the issue to the attention of RILA staff, or consult your company's general counsel.

REMINDERS

1. Recording and slides will be shared as follow up, along with relevant links/resources
2. Anonymous audience polls
3. **How to ask a question or make a comment:**
 1. Send question/comment via chat to all at any point
 2. (*Anonymous option*) Send question/comment via chat only to Erin Hiatt or Kathleen McGuigan at any point - Erin or Kathleen will read without attribution
 3. During Q&A at the end, use "Reactions" button to raise your hand and Erin will call on you to unmute yourself

OBJECTIVES

- How shareholders are getting involved in ESG issues,
- The process that they use for doing so,
- The impact of the recent SEC guidance on that process and
- The response options available for companies

... to provide insights into how to navigate this new landscape

SPEAKER

**2022 Proxy Season
ESG Look Ahead:**

**Key Considerations
for Retail**



Melissa Sawyer

Partner

Sullivan & Cromwell

2022 Proxy Season Look Ahead: Key Considerations for Retail

*S&C Presentation to RILA
February 2022*

Melissa Sawyer

Overview

Rule 14a-8 Shareholder Proposals

- Environmental Proposals (Climate Transition Plan)
- Social/Political Proposals (Civil Rights, Racial Justice, DEI)
- Governance and Compensation Proposals

Proxy Voting Guidelines

- Climate Change and Environmental Sustainability
- Diversity in the Board Room; Workforce DEI and HCM
- Shareholder Rights and Governance

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- BlackRock's Pass-Through Voting Announcement
 - Amendments to Rule 14a-8
 - New SEC Staff Guidance on Shareholder Proposals
 - **No-Action Requests:** Overview and Process Changes; Submissions by Retail Companies; Outcomes
 - SEC Mandates Universal Proxy Cards in Contested Director Elections: Overview and Implications
 - SEC's Proxy Advisor Rules and Related Litigation
 - Enhanced Disclosure Requirements for Issuers and Asset Managers
 - Shareholder Activism: Retail; ESG
 - *Annex: 2022 Proxy Voting Guidelines*

Shareholder Proposals in the 2022 Proxy Season: Environmental Proposals

- Last proxy season, shareholder proposals on environmental topics represented only 16% of total submissions to the S&P 1500, but increased more than any other category (up 40% from 2020). While only 29% of environmental proposals went to a vote at the S&P 1500, average support for voted proposals increased from 32% in 2020 to 41%.
- Preliminary data for the 2022 proxy season suggest that environmental proposals continue to make up a relatively small proportion of all voted proposals. However, many of the voted proposals are being passed.
- **As You Sow** remains a key proponent of environmental proposals; its submissions for meetings in 2022 include **climate transition plan proposals**, requesting disclosures addressing if and how companies intend to reduce greenhouse gas (“GHG”) emissions and align with the Paris Agreement’s goals.
 - Retailers that have received such proposals for meetings in 2022 include **Dollar Tree, Foot Locker, Ross, and Skechers**.
 - As You Sow reached an agreement with Foot Locker and withdrew its proposal.
 - At **AutoZone**, a proposal passed by a 70% shareholder vote in favor despite a board recommendation against (Dec. 2021 meeting).
 - As You Sow’s proposal passed with a 92% vote at Sysco, where the board did not make a recommendation (Nov. 2021 meeting).
- **Green Century**’s climate transition plan proposal to “request that **Costco** adopt short, medium, and long-term science-based greenhouse gas emissions reduction targets, inclusive of emissions from its full value chain, in order to achieve net-zero emissions by 2050 or sooner and to effectuate appropriate emissions reductions prior to 2030” also passed last month (Jan. 2022) with a **70%** vote in favor despite the board’s recommendation against the proposal.
 - Costco withdrew its related no-action request based on Rule 14a-8(i)(7) following recent SEC staff guidance.

Proxy Voting Guidelines: Climate Change and Environmental Sustainability

Climate change continues to be a top priority for investors. Similar to previous years, proxy advisors will evaluate companies' disclosure of climate-related issues by benchmarking to standardized frameworks. In 2022, investors will hold companies accountable for progress towards company-specific *and* global climate goals (e.g., zero emissions) and elevate shareholders' views as companies develop climate transition plans and strategies.

Vanguard	BlackRock	Glass Lewis	ISS
<p>Likely to support proposals that request:</p> <ul style="list-style-type: none"> • Disclosure related to companies' Scope 1 and Scope 2 emissions data (and Scope 3 where climate-related risks are material) • Assessment of climate's impact on the company and its strategy plans • Goals or target-setting for relevant GHG emissions <p>Holds companies accountable for climate risk oversight failures</p>	<p>Asks companies to disclose:</p> <ul style="list-style-type: none"> • Sustainability risk assessments (in accordance with the Task Force on Climate Related Financial Disclosures ("TCFD")) • Material metrics and rigorous targets aligned with Sustainability Accounting Standards Board ("SASB") <p>Wants companies to produce short-, medium- and long-term climate targets and disclose how business model aligns with global warming, net-zero emissions, low-carbon technology targets</p> <p>May support shareholder proposals in line with stated climate policy</p>	<p>Recommend against the governance chair of companies that do not provide explicit disclosure of the board's role in overseeing environmental issues</p> <p>Generally support shareholder resolutions requesting enhanced disclosure on climate-related issues</p> <p>Generally recommend against shareholder proposals requesting companies adopt a "Say on Climate" vote (e.g., a vote on a climate transition plan), but if companies do adopt such a vote, consider the board's role in setting "Say on Climate" strategy and company's unique operations and risk profile</p>	<p>Considers disclosure of following items as minimum steps for mitigating climate risks:</p> <ul style="list-style-type: none"> • GHG reduction targets • Analysis of climate-related risks per the TCFD framework <p>If a company is a significant GHG emitter (directly or via supply chain), may recommend against chair of responsible committee (or other directors) for company's lack of effort to mitigate risks</p> <p>Where a climate transition plan is put to a vote, recommend case-by-case considering a range of factors regarding the completeness and rigor of the plan</p>

Shareholder Proposals in the 2022 Proxy Season: Social/Political Proposals

Exclusive: Apple investors call for civil-rights audit

Last Updated: Dec. 22, 2021 at 8:10 a.m. ET
First Published: Dec. 21, 2021 at 7:11 p.m. ET

By [Levi Sumagaysay](#).

First-of-its-kind shareholder proposal for Apple will arrive amid discontent among workers, with a former employee telling MarketWatch that 'Apple's behavior is not reflective of the mission and values they portray to their shareholders and the public'



A shareholder proposal is calling for Apple to agree to a civil-rights audit. AFP/GETTY IMAGES

December 29, 2021 · As You Sow

Lululemon Athletica Inc: Greater Disclosure of Material Corporate Diversity, Equity and Inclusion Data

[← Back to Resolution Tracker](#)

BE IT RESOLVED: Shareholders request that Lululemon Athletica Inc. report to shareholders on the outcomes of the Company's diversity, equity, and inclusion efforts by publishing quantitative data on workforce composition, and recruitment, retention, and promotion rates of employees by gender, race, and ethnicity. The reporting should be done at reasonable expense and exclude proprietary information.

SUPPORTING STATEMENT: Quantitative data is sought so that investors can assess, understand, and compare the effectiveness of companies' diversity, equity, and inclusion programs and apply this analysis to investors' portfolio management and securities' selection process.

WHEREAS: Numerous studies by respected organizations such as *The Wall Street Journal*, Credit Suisse, Morgan Stanley, McKinsey, PwC and BCG have pointed to the material benefits of a diverse workforce.

Resolution Details

Company:
Lululemon Athletica
Inc

Lead Filer:
As You Sow

Year: 2022

Filing Date:
December 2021

Initiative(s): Diversity
Data Disclosure

Status: Filed

Shareholder Proposals in the 2022 Proxy Season: Social/Political Proposals

Continued

- The 2021 proxy season saw social/political proposals become the largest category of shareholder proposals submitted to the S&P 1500, driven by diversity, equity and inclusion (“DEI”) and social capital management proposals, including the emergence of new categories of racial equity audit and human rights due diligence proposals.
- **Racial equity audit proposals** asked companies to commission audits on their impacts on civil rights and DEI.
- While no such proposal filed last proxy season passed, we are seeing similar proposals in the 2022 proxy season.
 - The **New York state Comptroller** (trustee of the NYS Common Retirement Fund) has filed new proposals at **Chipotle**, **Dollar General** and **Dollar Tree** seeking independent audits of practices related to racial equity, and also refiled a proposal at **Amazon** requesting an audit of civil rights and DEI policies and practices (the proposal received 44% shareholder support in 2021).
 - The **National Center for Public Policy Research** has filed similar proposals at **CVS Health** and **Levi Strauss & Co.** requesting audits of the companies’ impacts on civil rights and non-discrimination and the impacts of those issues on the company’s business.
- **As You Sow** has filed proposals for meetings in 2022 requesting **quantitative reporting on DEI efforts** as it relates to workforce composition, recruitment, retention and promotion of employees by gender, race and ethnicity, including to retailers such as **lululemon**, **Ross** and **Hasbro** (latter proposal withdrawn as an agreement was reached).
- Social/political proposals that have been passed recently include:
 - a proposal requesting an annual report assessing Tesla’s diversity and inclusion efforts submitted by Calvert, which passed by a 55% vote in favor despite the Board’s opposition (Oct. 2021 meeting);
 - a proposal requesting a transparency report assessing the effectiveness of Microsoft’s workplace sexual harassment policies submitted by Arjuna Capital, which passed by a 78% vote in favor despite the Board’s opposition (Nov. 2021 meeting).

Proxy Voting Guidelines: Diversity in the Board Room

Board diversity remains a key priority for a range of stakeholders, including investors, regulators and policy makers. After seeing significant positive developments in recent years, proxy advisors have increased expectations with respect to board diversity across indices, industries and geography. In 2022, stakeholders continue to fine tune demands for how companies present leadership diversity data.

Vanguard	BlackRock	Glass Lewis	ISS
<p>Vote for shareholder proposals that ask companies to adopt diversity targets / goals</p> <p>Vote against Nom / Gov Chair (or other director) if a company's board is making insufficient progress in addressing its composition or disclosure policy</p> <p>Indicates disclosure of directors' personal characteristics should be on a self-identified basis at the aggregate or individual level</p> <p>Generally supports shareholder proposals that call for a skills matrix, as disclosure of skills and experience at the director level is expected</p>	<p>Believes board should be 30% diversity of membership</p> <p>Asks companies to disclose:</p> <ul style="list-style-type: none">• How diversity is considered in board composition (including gender, race, ethnicity, age and professional characteristics (<i>e.g.</i>, industry experience, areas of expertise and geography))• Process by which candidates are identified / selected and whether a diverse slate is considered for all available nominations <p>If company has not adequately accounted for diversity in a reasonable timeframe, may vote against Nom / Gov committee</p>	<p>In 2022, recommend against Nom chair of a board with fewer than two gender diverse directors</p> <ul style="list-style-type: none">• In 2023, will generally recommend against Nom chair if board is not at least 30% gender diverse <p>May recommend against Nom / Gov chair of companies with particularly poor diversity disclosure</p> <ul style="list-style-type: none">• In 2023, recommend against companies that do not disclose individual or aggregate racial / ethnic information <p>Recommend against Gov chair of Nasdaq company that does not provide Nasdaq-required diversity stats</p>	<p>Will expand coverage of its current board gender diversity policy—recommend against or withhold from chair of Nom committee (or other directors on a case-by-case basis) at companies where there are <u>no</u> women on the company's board—from S&P 1500 and Russell 3000 firms to <i>all</i> U.S. public companies</p>

Proxy Voting Guidelines: Workforce DEI and HCM

While board diversity remains a focus, institutional investors and other stakeholders are increasingly focused on diversity at the general workplace level. Policies show growing pressure for companies to disclose how they are managing issues like diversity & inclusion, workplace culture and employee health and safety, and to generally demonstrate their commitment to enhancing diversity and fostering an inclusive workplace.

Vanguard	BlackRock	Glass Lewis	ISS
<p>Likely to support proposals that request:</p> <ul style="list-style-type: none">• Disclosure of workforce demographics inclusive of gender and racial and ethnic categories• Disclosure on the board's role in overseeing material DEI risks or other social risks• Inclusion of sexual orientation, gender identity, minority status or protected classes in a company's employment and diversity policies	<p>Expects a robust approach to HCM and disclosure regarding how a company's strategy / business model is aligned with fostering an inclusive, diverse and engaged workforce</p> <p>Asks companies to disclose:</p> <ul style="list-style-type: none">• Steps taken to advance DEI• Job categories and workforce demographics• U.S. EEOC's EEO-1 Survey <p>May vote against members of appropriate committee or support relevant shareholder proposals if a company's disclosure or practices lag market or peers</p>	<p>Recommend against Gov chair if company fails to provide explicit disclosure of board's role in overseeing social issues</p> <ul style="list-style-type: none">• In the absence of explicit board oversight of social issues, may recommend against audit committee members	<p>Recommend case-by-case on proposals asking a company to conduct an independent racial equity and / or civil rights audit, considering a range of factors related to the company's commitment to racial equity</p> <ul style="list-style-type: none">• To evaluate commitment to racial equity, considers established processes for addressing racial inequity / discrimination, previous public statements, general track record, existence of previous controversies / litigation and alignment with market norms

Shareholder Proposals in the 2022 Proxy Season: Governance and Compensation Proposals

- Governance proposals have historically accounted for the majority of all shareholder proposals passed at the S&P 1500.
- In 2021, we saw a continued focus on shareholders' rights to act by written consent and call special meetings.
- John Chevedden, Ken Steiner, James McRitchie and Myra Young, among others, are continuing to make **structural** governance proposals in 2022, including proposals for action by written consent and board declassification.
- Proposals for lowering the ownership threshold to call a special meeting and simple majority vote have had mixed success.
- Recent proposals for an independent chair (or to split the chair and CEO roles) have generally not been passed.
 - Most institutional investors have indicated that while they would prefer portfolio companies to split chair and CEO roles, they would not vote in favor of proposals to split the roles as long as there were other structural governance guardrails in place (*e.g.*, a lead independent director and a board composed mainly of independent directors).
- Chevedden and McRitchie have also been making some **compensation**-related proposals lately, seemingly moving away from pure-play structural governance.
 - A proposal submitted by Chevedden to FedEx requesting the Board to seek shareholder approval for any new or renewed pay package that provides for severance valued at over 2.99x the executive's base salary and target short-term bonus was approved by a 58% vote.
 - McRitchie has submitted a proposal to 3M requesting the Compensation Committee to consider the compensation of all U.S. employees when setting target amounts for CEO comp.; 3M is seeking to exclude this as not meeting requirements for resubmission.
 - McRitchie and Chevedden have also submitted a proposal to Amazon requesting an annual report on the distribution of stock-based incentives throughout the company's workforce, which Amazon is seeking to exclude as relating to ordinary business operations.

Proxy Voting Guidelines: Shareholder Rights and Governance

Investors are increasingly pressuring companies with respect to shareholder rights and general governance practices, and as such, companies must seek out opportunities to proactively engage shareholders. In 2022, proxy advisors shared guidance on multi-class share structures, special meeting / written consent proposals and general shareholder rights, which suggests stakeholders remain focused on influencing company practices both at / outside of normal meetings.

Vanguard	BlackRock	Glass Lewis	ISS
<p>Generally vote for:</p> <ul style="list-style-type: none"> • Management special meeting or written consent proposals • Shareholder written consent proposals, if no special meeting rights <p>May support shareholder special meeting proposals (unless threshold is below 10%)</p> <p>If special meeting threshold of 25% or lower, vote against:</p> <ul style="list-style-type: none"> • Management proposals to increase threshold above 25% • Shareholder proposals to lower current threshold <p>Generally vote against poison pill and for shareholder proposals to rescind</p>	<p>May oppose proposals for special meetings if:</p> <ul style="list-style-type: none"> • Proposal is structured to benefit a dominant shareholder • A lower threshold may lead to an ineffective use of corporate resources <p>Will consider average board tenure to evaluate processes for board renewal</p> <p>May oppose boards that have insufficient mix of short-, medium- and long-tenured directors</p>	<p>Generally supports proposals to:</p> <ul style="list-style-type: none"> • Lower written consent threshold when the company has no special meeting provision or only allows holders of more than 15% to call a special meeting <p>Generally opposes proposals to</p> <ul style="list-style-type: none"> • Lower written consent threshold if company has a 15% or lower threshold <p>Beginning in 2022, will generally recommend against Nom / Gov chair at companies that have a multi-class share structure with unequal voting rights if the company does not have a reasonable sunset provision (generally, 7 years or less)</p>	<p>Starting February 1, 2023, generally recommend against / withhold (against directors individually, specific committee members or the entire board) if company employs problematic capital structure with unequal voting rights</p> <ul style="list-style-type: none"> • Exceptions include newly public companies with a sunset provision of no more than seven years, REITs, <i>de minimis</i> unequal voting rights or situations where companies provide sufficient protections to minority shareholders

BlackRock's Pass-Through Voting Announcement

- BlackRock has announced that it is expanding the opportunity for its clients to participate in proxy voting decisions.
- Proxy voting choice options will first be available to BlackRock's institutional clients that are invested in index strategies, which account for approximately 40% of the \$4.8 trillion index equity assets managed by BlackRock.
- While the details / implementation remain unclear, we anticipate clients of BlackRock will have several options, including:
 1. Voting proxies according to their own policy and transmitting their votes using their own voting infrastructure;
 2. Choosing from a menu of third-party proxy voting policies, with votes cast according to the selected policy using BlackRock's voting infrastructure;
 3. Directing votes on individual resolutions or companies of their choice using BlackRock's voting infrastructure; and
 4. Continuing to have BlackRock vote their proxies on their behalf.

Amendments to Rule 14a-8

- In 2020, the SEC adopted substantive amendments to shareholder proposal requirements set forth in Rule 14a-8 which apply to any shareholder proposal submitted for an annual or special meeting to be held on or after January 1, 2022.
- Amended share ownership requirements for eligibility to submit a proposal.
 - Required market value of the issuer's securities entitled to vote on the proposal owned by shareholder: \$2,000 for at least three years, \$15,000 for at least two years; or \$25,000 for at least one year (subject to a transition period allowing certain shareholders to rely on the \$2,000/one-year ownership threshold for proposals submitted for a meeting held prior to January 1, 2023).
- Increased levels of prior shareholder support required for a proposal to be resubmitted.
 - 5% of the votes if previously voted on once within the preceding five years; 15% of the votes on last submission if voted on twice within the preceding five years; 25% of the votes on last submission if voted on three times within past five years.
- Only one proposal submission permitted per person, rather than per shareholder.
- Shareholder proponents are required to provide their availability to engage with the issuer on their proposal.
- Shareholders who have representatives submit proposals are required to provide identifying documentation.
 - The documentation should identify the company to which the proposal is directed, identify the meeting for which the proposal is submitted, identify the shareholder submitting the proposal and the representative, include the shareholder's statement authorizing the designated representative, identify the specific proposal, include the shareholder's statement supporting the proposal and be signed and dated by the shareholder.

New SEC Staff Guidance on Shareholder Proposals

- On November 3, 2021, the staff of the Division of Corporation Finance of the SEC issued new guidance that rescinds previously issued guidance in 2017, 2018 and 2019 on the shareholder proposal process (Staff Legal Bulletin No. 14L).
- Notably, the new guidance **narrowed exclusions for “ordinary business” and “economic relevance.”**
 - The SEC staff will no longer evaluate the significance of a policy issue to the issuer and will instead “consider **whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company**” in determining whether a proposal is excludable under Rule 14a-8(i)(7).
 - Proposals that relate to operations below the economic thresholds of Rule 14a-8(i)(5) may not be excluded if they raise issues of broad social or ethical concern related to the company’s business.
 - Consistent with its shift away from company-specific analysis, the SEC staff will no longer expect a board analysis for its consideration of no-action requests arguing the ordinary business or economic relevance exclusions.
- The new guidance also provides that “**proposals seeking detail or seeking to promote timeframes or methods do not per se constitute micromanagement.**”
 - The SEC staff will now focus on the **level of detail** sought in the proposal and whether and to what **extent it inappropriately limits discretion of the board or management.**
 - The staff noted that they would no longer concur in excluding proposals similar to the proposals that requested the adoption of timeframes or targets to address climate change which the staff had previously concurred in excluding, so long as the proposals afford management discretion in achieving such goals.

New SEC Staff Guidance on Shareholder Proposals

Continued

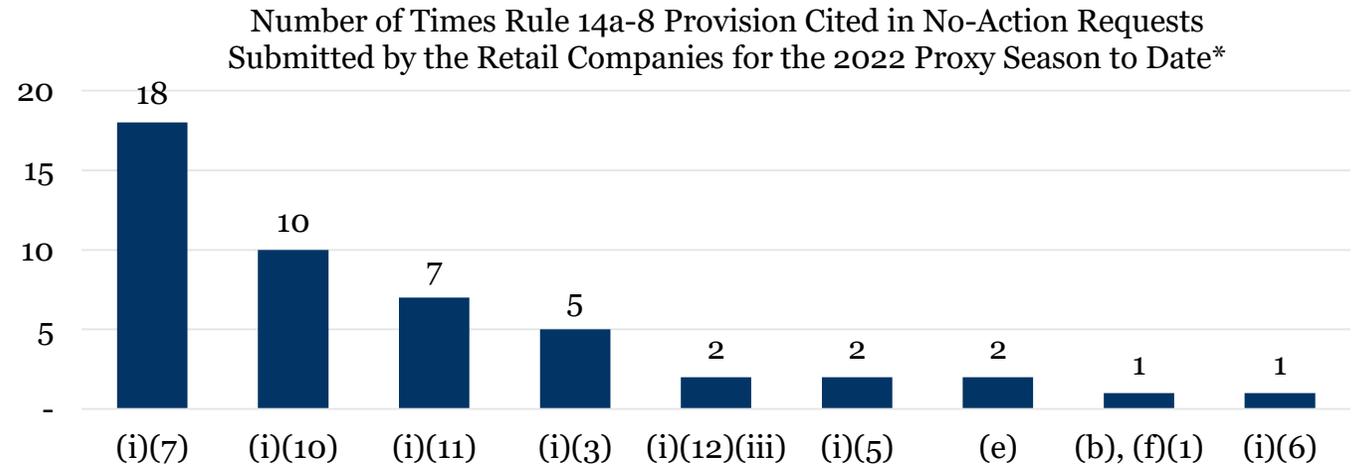
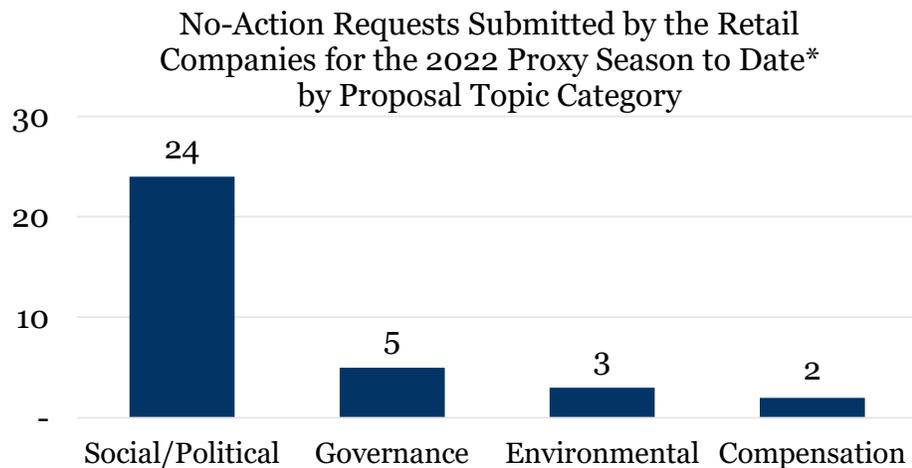
- Staff Legal Bulletin No. 14L contained additional guidance regarding Rule 14a-8, including:
- **Use of Graphics**
 - Any words in images or graphics in a proposal will be counted toward the 500-word limit in Rule 14a-8(d).
 - If an issuer includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics.
- **Use of Email**
 - Both proponents and companies are recommended to seek confirmation of receipt of emails for proof of delivery when submitting shareholder proposals, delivering notice of defects and responding to those notices.
 - The new guidance suggests providing an email address for submitting proposals in the proxy statement, or when requested by a shareholder, and clarifies the burden of proof on companies and proponents when using email.
- **Proof of Ownership**
 - Companies are expected to apply a plain meaning approach to interpreting a proof of ownership letter.
 - The new guidance updates the suggested format for proponents to verify their ownership.
 - Companies should identify any specific defects in the proof of ownership letter, even if the company previously sent a deficiency notice prior to receiving the proponent's proof of ownership.

No-Action Requests: Overview and Process Changes

- From September 1, 2020 through June 30, 2021, 263 requests were submitted for SEC no-action relief to exclude shareholder proposals from proxy materials for meetings in 2021, up slightly from 244 for the 2020 proxy season.
- Issuers have continued to seek no-action relief, with 200 requests submitted from September 1, 2021 through February 4, 2022.
 - By this time last proxy season, 243 requests had been submitted—potentially indicating a decline or delay in submissions.
- Average time for the SEC to respond to no-action requests increased to 60 days in 2021, up from 45 days in 2020.
- For the 2020 and 2021 proxy seasons, SEC staff provided only verbal responses to no-action requests unless a written response would provide value. In 2021, over 96% of responses were provided verbally, up from 79% in 2020.
- On December 13, 2021, the SEC’s Division of Corporation Finance announced that the staff would revert to its past practice of responding to each no-action request with a written letter.
 - This change in the staff’s practice may contribute to further delayed response times. Excluding verbal-only responses from prior to the December 13 announcement, the SEC’s response time has averaged 64 days so far this proxy season.
- The Division of Corporation Finance published another announcement on December 17, 2021, setting out that “[b]eginning immediately, companies and shareholder proponents should redact all personally identifiable and other sensitive information from Rule 14a-8 submissions and related materials prior to submitting them to the Division.”

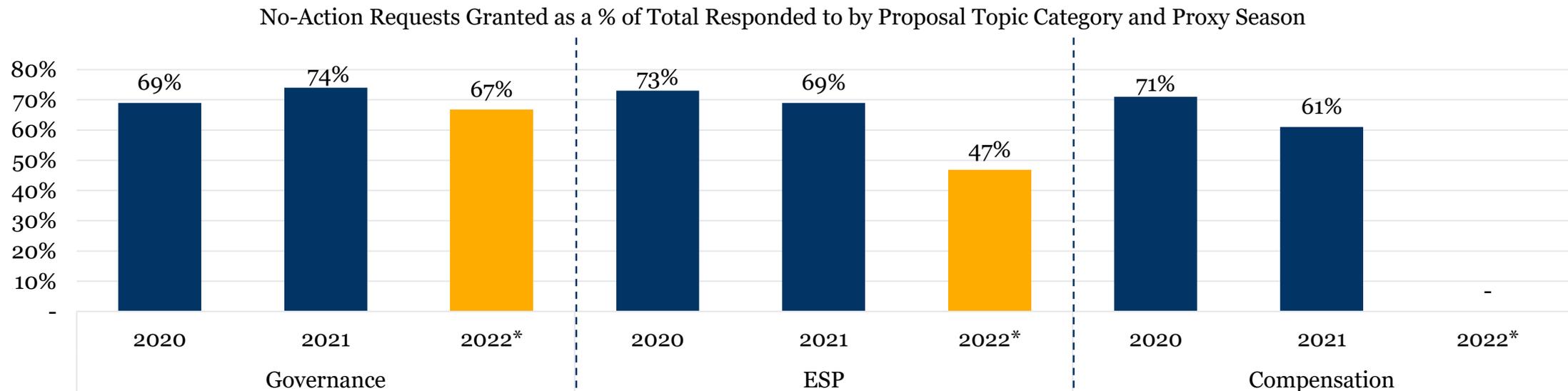
No-Action Requests: Submissions by Retail Companies in the 2022 Proxy Season

- Of the no-action requests submitted since September 1, 2021, we particularly analyzed requests submitted by retailers.
 - Requestors in our sample include 3M, Amazon, Apple, AutoNation, Costco, CVS Health, Levi Strauss & Co., Lowe's, Starbucks, Tractor Supply Company and Walgreens (the "Retail Companies").
- 71% of the no-action requests filed by the Selected Retail Companies to date have related to social/political proposals, which likely reflects social/political proposals comprising the majority of submitted proposals.
- Rule 14a-8(i)(7) (ordinary business), (i)(10) (substantial implementation) and (i)(11) (substantially duplicates another proposal expected to be included), have been the bases for relief most commonly cited by the Retail Companies so far.
 - Subsequent to the change in SEC staff guidance on Nov. 3, the Retail Companies continued to seek relief based on Rule 14a-8(i)(7).
 - Several requests have argued for the exclusion of proposals as so vague or indefinite as to be impermissible under Rule 14a-8(i)(3).
 - 38% of requests cited more than one basis for relief, and two requests each sought relief with respect to two proposals.



No-Action Requests: Outcomes by Proposal Topic

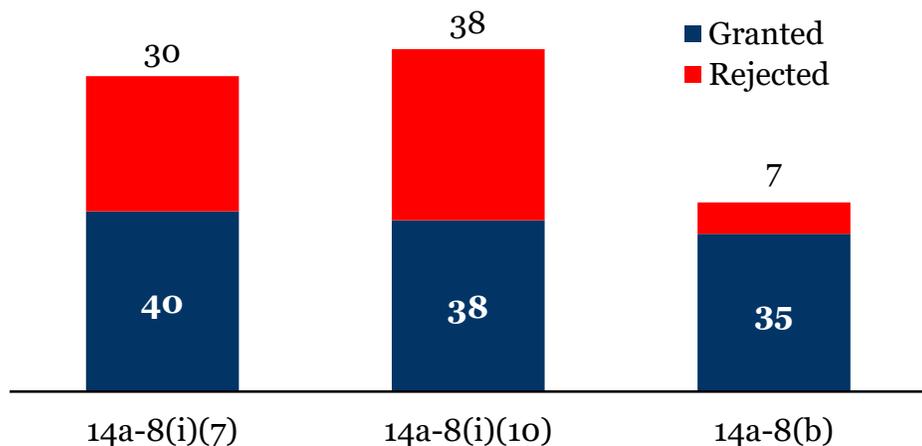
- Last proxy season, of the requests that received a response, the SEC granted relief to 74% of requests related to governance proposals, 69% of requests related to ESP proposals and 61% of requests related to compensation proposals, compared to 69%, 73% and 71%, respectively, in 2020.
- The SEC is concurring with issuers' no-action requests less frequently so far this proxy season. Relief has been granted for only 54% of the 28 requests submitted since Sep. 1, 2021 that the SEC has responded to (excluding withdrawals).
- No-action requests with respect to ESP proposals have so far been denied at a greater frequency than in recent years, with only 47% of those reviewed by the SEC being granted.



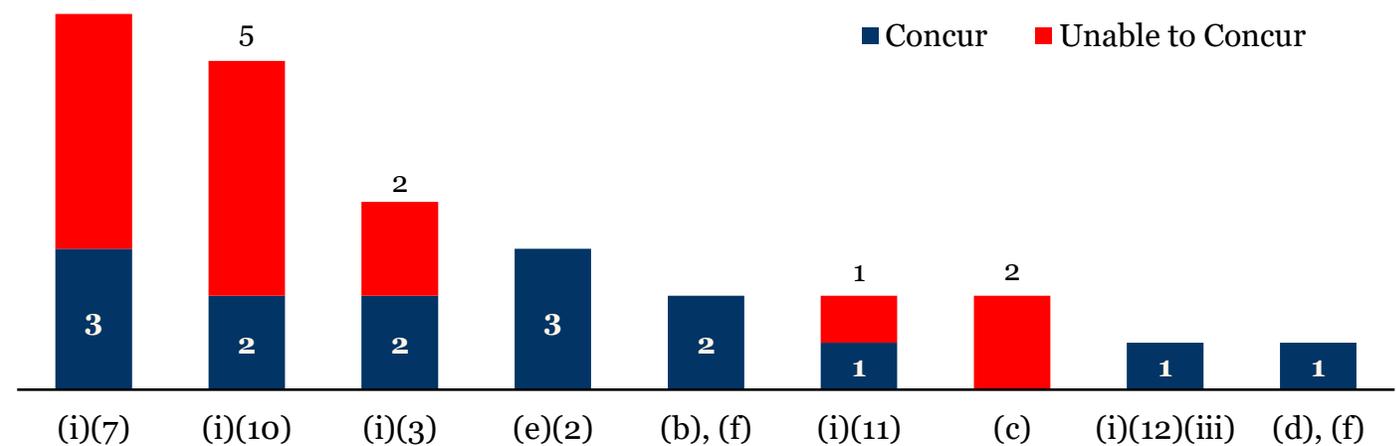
No-Action Requests: Outcomes by Rule Requested

- Consistent with the new staff guidance, we are seeing a shift away from Rule 14a-8(i)(7) (ordinary business) and (i)(10) (substantial implementation) being the most common bases upon which the SEC grants no-action relief. The SEC has denied four of the five no-action requests by the Retail Companies based on these bases that it has considered.
- While some proposals may still be excluded based on the ordinary business and substantial implementation provisions, issuers should consider whether proposals can be excluded for noncompliance with other requirements in Rule 14a-8, *e.g.*, (e)(2) (proposal not received by deadline), (b) (proponent does not meet eligibility requirements), (d) (proposal, including supporting statement, exceeds 500 words), (i)(12) (previous proposal(s) addressing substantially the same subject received less than the requisite vote for resubmission), (i)(11) (proposal substantially duplicates previously submitted proposal for the same meeting) and (i)(3) (proposal violates proxy rules).

No-Action Determinations by Rule for S&P 1500 in the 2021 Proxy Season (by Number of Requests)



No-Action Determinations by Rule 14a-8 Provision in the 2022 Proxy Season to Date (by Provisions Requested and Considered by SEC)



No-Action Requests: Rule 14a-8(i)(7) Examples

Comparison of two requests for no-action relief under Rule 14a-8(i)(7)

Per SEC staff, shareholder request for the Board to commission a nondiscrimination audit report of the company's impacts (including the impacts of company-sponsored training) on civil rights and nondiscrimination in the workplace transcends ordinary business matters and does not seek to micromanage the company, while proposal for the Board to publish content of employee training materials constitutes micromanagement.

Proposal to The Walt Disney Company by the National Center for Public Policy Research

“Resolved: Shareholders of The Walt Disney Company (“Disney” or “Company”) request that the Board of Directors commission a workplace nondiscrimination audit analyzing Disney’s impacts, including the impacts arising from Disney-sponsored or -promoted employee training, on civil rights and nondiscrimination in the workplace, and the impacts of those issues on Disney’s business. A report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on Disney’s website.”

SEC Staff Unable to Concur with Request

“In our view, the Proposal transcends ordinary business matters and does not seek to micromanage the Company.”

Proposal to Deere & Company by the National Center for Public Policy Research

“Resolved: The Board of Directors will publish annually, without incurring excessive costs or disclosing genuinely confidential or proprietary information, the written and oral content of any employee-training materials offered to any subset of the company's employees by the company or with the company’s consent, whether in a mandatory or voluntary setting, as well as any such materials the creation of which was sponsored by the company in whole or part”

SEC Staff Concurred with Request

“[T]he Proposal micromanages the Company by probing too deeply into matters of a complex nature by seeking disclosure of intricate details regarding the Company’s employment and training practices.”

SEC Mandates Universal Proxy Cards in Contested Director Elections: Overview

- On November 17, 2021, the SEC adopted final rules mandating the use of universal proxy cards in contested director elections that take place after August 31, 2022 (other than solicitations that are exempt under the proxy rules).
- Issuers and dissidents will be required to use proxy cards that list the names of all nominees (issuer's, dissident's and any proxy access nominees), allowing shareholders to select from among all nominees similar to in-person voting.
- Dissidents will be required to solicit holders of at least 67% of the voting power of shares entitled to vote in the election.
- A dissident will need to provide the issuer names of its nominees at least 60 calendar days before the anniversary of the prior year's annual meeting date (in addition to any advance notice provisions in the issuer's governing documents).
- An issuer will be required to notify dissidents of the names of the issuer's nominees no later than 50 calendar days before the anniversary of the previous year's annual meeting date.
- Dissidents must file their definitive proxy statement with the SEC by the later of (1) 25 calendar days prior to the meeting date or (2) five calendar days after the date the issuer files its definitive proxy statement.
- The new rules set forth various presentation requirements to ensure a clear and neutral presentation of the nominees.
- Additionally, the new rules will require for all director elections (contested or not): proxy cards to include (1) an "against" voting option in lieu of a "withhold authority to vote" option for elections where there is a legal effect to such a vote and (2) an "abstain" voting option in a director election governed by a majority voting standard, and proxy statements to disclose the treatment and effect of a "withhold" vote.

SEC Mandates Universal Proxy Cards in Contested Director Elections: Implications

- Difficult to predict the likely extent or impact that universal proxy rules will have on proxy contests, including whether they will result in more or fewer proxy contests or impact the outcome of proxy contests.
- Shareholders who receive universal proxy cards may be confused about their voting choices and how to properly mark their cards, which may lead to increased submission of proxies that are invalid or not reflective of shareholders' intent.
- By enabling split-ticket voting, universal proxy cards could lead to a greater number of boards that are composed of a mix of issuer-nominated and activist-nominated directors.
- The minimum solicitation requirement and other procedural requirements could increase the costs associated with launching a proxy contest, which may encourage dissident shareholders to utilize other forms of activism, *e.g.*, pursuing solicitations that are exempt from the proxy rules, calling a special meeting to remove existing directors and appointing their own nominees to fill vacancies, taking advantage of proxy access provisions and/or “vote no” campaigns.
- Issuers should review their governing documents to understand the various options available to shareholders and consider whether modifications are needed (*e.g.*, stricter advance notice bylaws or adoption/enhancement of director qualification provisions).
- In light of the additional deadlines and procedural requirements imposed by the new rules, issuers will need to update their proxy season checklists and work with their transfer agents and proxy solicitors to ensure they comply with all applicable requirements for affected meetings.

SEC's Proxy Advisor Rules

- In July 2020, the SEC adopted amendments to its proxy solicitation rules to effectively require proxy advisors to (1) disclose conflicts of interest and (2) adopt and publicly disclose policies and procedures to provide proxy voting advice to registrants at or prior to dissemination to clients and to provide timely notice to clients of registrants' responses.
- The amendments revised the definition of "solicitation" to expressly include proxy voting advice, and conditioned the availability of exemptions from the proxy rules' information and filing requirements on proxy advisors meeting the above requirements.
- The July 2020 rule amendments (the "2020 rules") also clarified the applicability of the proxy rules' antifraud provisions to proxy advice and added examples of when failure to disclose material information (*i.e.*, the proxy advisor's methodology, sources of information or conflicts of interest) regarding proxy voting advice could be considered misleading under Rule 14a-9.
- The 2020 rules required proxy advice businesses to comply with its provisions by December 1, 2021.
- However, on June 1, 2021, Chair Gensler announced that the SEC was revisiting the agency's regulation of proxy voting advice, including the 2020 rules, and the Division of Corporation Finance issued a statement that it would not recommend enforcement of the 2020 rules during the time that the SEC is considering further regulatory action.

SEC's Proxy Advisor Rules

Continued

- On November 17, 2021, the SEC proposed rule amendments that would rescind the conditions in the 2020 rules requiring proxy advisors to make proxy voting advice available to registrants and provide clients with a means of becoming aware of any written responses by registrants to proxy voting advice in a timely manner.
- Under the proposed rule amendments, the availability of exemptions from certain proxy rules for proxy advisors would still be conditioned on proxy advisors including conflicts of interest disclosures in their proxy advice.
- The proposed rule amendments would also rescind the examples that the 2020 rules added to the antifraud provisions.

Related Litigation

- ISS filed a lawsuit against the SEC in October 2019, arguing that “[t]he provision of proxy advice is not a proxy solicitation and cannot be regulated as such.” The litigation is currently stayed until the earlier of March 31, 2022 or the promulgation of the final rule amendments addressing proxy voting advice.
- More recently, the National Association of Manufacturers and Natural Gas Services Group, Inc. commenced an action against the SEC in October 2021, arguing that the SEC’s suspension of the 2020 rules is “flatly unlawful” under the Administrative Procedure Act. Parties have filed motions for summary judgment as of December 2021.

Enhanced Disclosure Requirements for Issuers and Asset Managers

- The SEC's current regulatory agenda includes proposing rule amendments to **enhance issuer disclosure** regarding
 - **cybersecurity** risk and related governance,
 - **climate**-related risks and opportunities, and
 - **human capital** management, including workforce diversity and corporate board diversity.
- The SEC is also in the process of enhancing disclosure requirements for asset managers.
 - In September 2021, the SEC issued a proposed rulemaking to enhance the information that mutual funds, exchange-traded funds and certain other funds report annually about their proxy votes and to require certain institutional investment managers to report how they voted proxies related to executive compensation “say-on-pay” matters.

Recent Shareholder Activism vs. Retail Companies

FINANCE • UNILEVER

FORTUNE

Unilever will cut 1,500 managers after activist investor Nelson Peltz takes stake

BY THOMAS BUCKLEY AND BLOOMBERG

January 25, 2022 5:20 AM EST

Updated January 25, 2022 5:56 AM EST

- Peltz's Trian Fund Management is reported to have amassed a stake in Unilever over the past few months.
- Unilever recently called off a \$68 billion pursuit of GlaxoSmithKline's consumer health business.
- The company announced cuts to 15% of its senior management and 5% of its junior management staff.

RETAIL



Activist investor Blackwells calls on Peloton to fire CEO, explore sale

PUBLISHED SUN, JAN 23 2022 7:29 PM EST UPDATED MON, JAN 24 2022 4:02 PM EST

- Blackwells Capital published a letter that it sent to Peloton's board remarking that the company is weaker today than before the Covid-19 pandemic.
- The investor is advocating for CEO John Foley to be fired and for the board to commence a sale process.

◆ WSJ NEWS EXCLUSIVE | MARKETS

Updated Jan. 17, 2022

Kohl's Is Urged by Macellum to Make Changes or Explore Sale

Activist with roughly 5% stake has been in talks with retailer and believes it has suitors

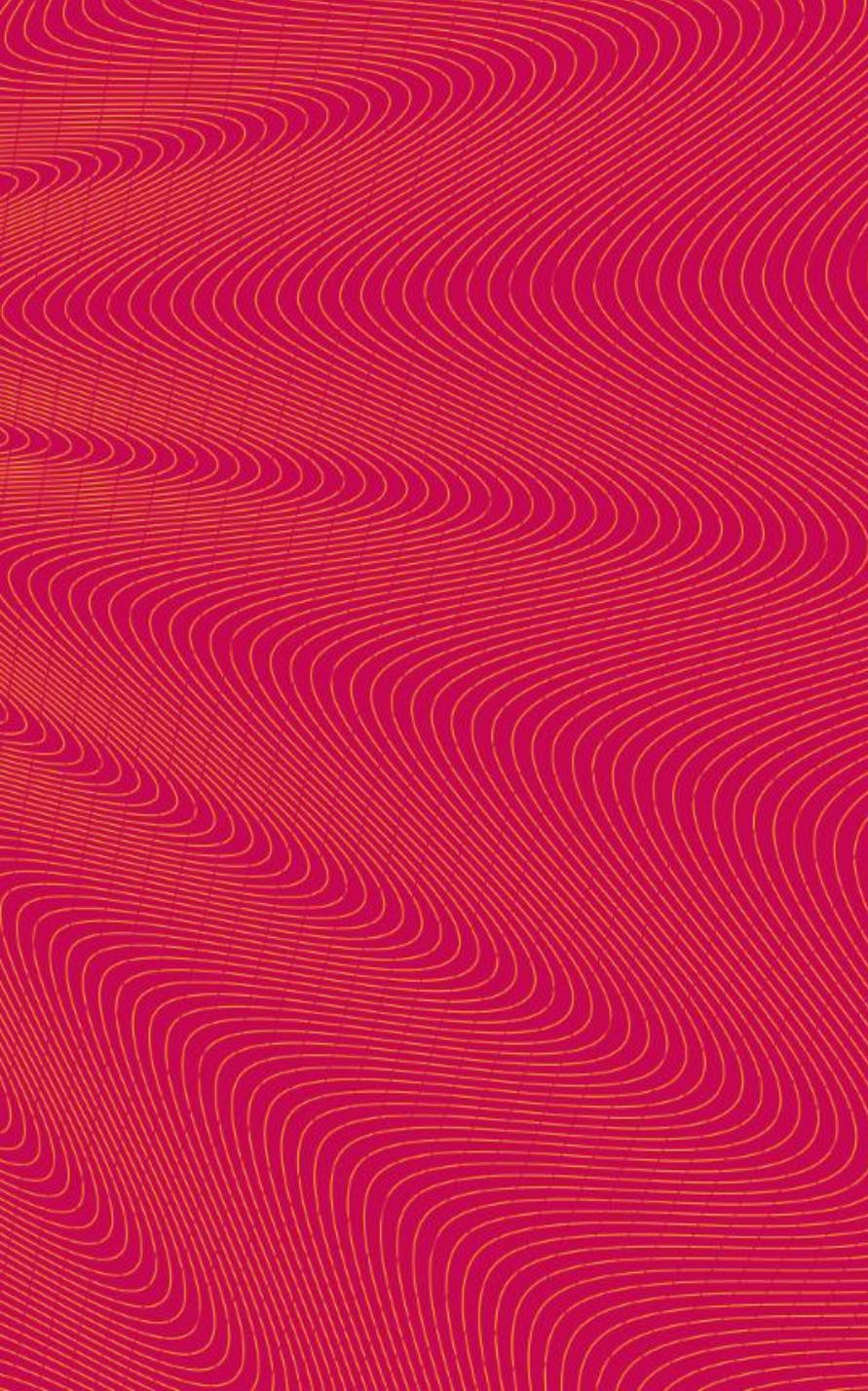
- Macellum, owning ~5% of Kohl's, urged the company to change its board or explore a strategic transaction.
- A consortium backed by activist hedge fund Starboard Value subsequently offered ~\$9 billion for Kohl's.
- Most recently, Kohl's rejected the Starboard Value offer as too low, and adopted a poison pill.

Shareholder Activism and ESG

- Engine No. 1's successful proxy contest at ExxonMobil was the most high-profile activism campaign of 2021, with Engine No. 1, a small and new investment firm, securing three board seats while holding a 0.02% stake in the company.
 - ESG issues were key to this contested election, with Engine No. 1 seeking to push ExxonMobil to reduce its carbon footprint and improve its climate related disclosures.
 - Engine No. 1 argued that ExxonMobil was underperforming and that its underperformance was due in large part to its inability to develop long-term strategies regarding renewable energy.
 - Engine No. 1's partnership with CalSTRS and support from BlackRock, Vanguard and State Street (who collectively owned ~20% of ExxonMobil's shares) as well as ISS and Glass Lewis proved critical to the success of the activist's campaign.
- Going forward, other shareholder activists may bring campaigns that highlight ESG shortcomings while also advocating for more traditional governance, strategy and corporate finance changes.
- ESG activism is also potentiated by the current regulatory landscape in which policymakers have engaged in an unprecedented amount of ESG rulemaking.
 - For example, in another reversal from a policy adopted during the prior administration, the Department of Labor proposed a rule in October 2021 that would remove barriers to plan fiduciaries' ability to consider ESG factors when selecting investments and exercising shareholder rights.



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A decorative vertical band on the left side of the page, featuring a complex, wavy pattern of thin red lines that create a sense of depth and movement.

Annex

2022 Proxy Voting Guidelines

Proxy Advisory Firms: Key Considerations

Described below is a high-level summary of key board governance considerations for U.S. companies and general voting recommendations according to Institutional Shareholder Services (“ISS”), Glass, Lewis & Co. (“Glass Lewis”), BlackRock, Inc. (“BlackRock”), State Street Global Advisors (“State Street”) and Vanguard Investment Stewardship (“Vanguard”).¹

Topic	ISS	Glass Lewis	BlackRock	State Street	Vanguard
<i>Board Independence, Leadership, Size and Composition</i>					
Board Independence (for a summary of independence standards, see Annex A)	Vote <u>against/withhold</u> from non-independent directors when independent directors comprise 50% or less of board.	Where over 1/3 are affiliated or inside directors, vote <u>against</u> some of the inside and/or affiliated directors to satisfy a 2/3 independence threshold.* With a staggered board, will <u>not</u> recommend vote against other affiliates/insiders up for election to achieve 2/3 independence. Instead, will consider recommending vote against directors of concern at their next election. *Note: will <u>not</u> apply 2/3 independence rule to controlled companies if board composition represents makeup of shareholder population.	Expects majority of directors to be independent.	Not specified, but views board quality as a measure of director independence, among other factors.	Vote <u>against</u> nominating committee and all non-independent directors if company does not maintain a majority independent board.* *Note: will <u>not</u> apply majority standard to controlled companies (i.e., where over 50% of voting power of election of directors is held by a single person, entity or group).
Independent Board Leadership	Chair of board should ideally be an independent director and all boards should have an independent leadership position or a similar role.	In the case of a less than 2/3 independent board, strongly <u>supports</u> having a presiding or lead director to set meeting agendas and to lead sessions outside insider chair’s presence.	Absent a significant governance concern, defers to boards to designate the most appropriate leadership structure to ensure adequate balance and independence. If overarching and sustained governance	—	—

¹ For the U.S., the full ISS Proxy Voting Guidelines (effective for meetings on or after February 1, 2022) are available [here](#), ISS Frequently Asked Questions on U.S. Proxy Voting Research Procedures & Policies are available [here](#), ISS Americas Proxy Voting Guidelines Updates for 2022: Benchmark Policy Changes for U.S., Canada, Brazil and Americas Regional are available [here](#), Glass Lewis 2022 Guidelines are available [here](#), Glass Lewis 2022 ESG Initiatives are available [here](#), BlackRock guidelines are available [here](#), State Street Guidance on Diversity Disclosure and Practices is available [here](#), and State Street Guidance on Climate-Related Disclosures is available [here](#) and Vanguard guidelines are available [here](#).

<u>Topic</u>	<u>ISS</u>	<u>Glass Lewis</u>	<u>BlackRock</u>	<u>State Street</u>	<u>Vanguard</u>
		<p>Chairs and lead directors must be unquestionably independent.</p> <p>Vote <u>against</u> governance committee chair when position of independent lead or presiding director is rotated among directors.</p>	<p>concerns such as lack of independence or failure to oversee material risk, may support shareholder proposal seeking separation chair and CEO.</p>		
<p>Independent Chair/CEO</p>	<p>Vote <u>for</u> shareholder proposals requiring board chair position be filled by an independent director, considering:</p> <ul style="list-style-type: none"> • scope and rationale; • company’s current board leadership structure; • company’s governance structure and practices; • company performance; and • other relevant factors. <p>The following factors will increase the likelihood of a favorable recommendation:</p> <ul style="list-style-type: none"> • weak or poorly defined lead independent director role that fails to counterbalance CEO/chair role; • presence of an executive or non-independent chair in addition to the CEO; • a recent recombination of the role of CEO and chair; and/or departure from an independent chair structure; • evidence that board has failed to oversee and 	<p><u>Supports</u> separate roles of chair/CEO, but opposed to overly prescriptive proposals and will consider company rationale for combined roles.</p> <p>Vote <u>against</u> chair of governance committee where company does not have an independent chair or independent lead director.</p>	<p>With a combined chair/CEO model, <u>supports</u> designation of a lead independent director with power to:</p> <ul style="list-style-type: none"> • provide formal input into board meeting agendas; • call meetings of independent directors; and • preside at such meetings. 	<p>Analyze proposals for separate chair/CEO on a <u>case-by-case basis</u>, considering:</p> <ul style="list-style-type: none"> • appointment of and role played by lead director; • company’s performance; and • overall governance structure of company. <p>However, may vote <u>against</u> chair or members of the nominating committee at S&P 500 companies that have combined chair/CEO roles and have not appointed a lead independent director.</p>	<p>Vote <u>against</u> shareholder proposals to separate chair and CEO, absent significant concerns regarding independence or effectiveness of board, considering, among other things:</p> <ul style="list-style-type: none"> • lack of lead independent director; • lack of board accessibility or responsiveness to shareholders; • low overall board independence; • governance structural flaws; and • governance or oversight failings.

<u>Topic</u>	<u>ISS</u>	<u>Glass Lewis</u>	<u>BlackRock</u>	<u>State Street</u>	<u>Vanguard</u>
	<p>address material risks facing the company;</p> <ul style="list-style-type: none"> • a material governance failure, particularly if board has failed to adequately respond to shareholder concerns or has materially diminished shareholder rights; or • evidence that board has failed to intervene when management's interests are contrary to shareholders' interests. 				
Independence of Key Committees	<p>Vote <u>against/withhold</u> from non-independent directors when non-independent director serves on audit, compensation, or nominating committee.</p> <p>Vote <u>for</u> proposals asking that audit, compensation and/or nominating committees be composed exclusively of independent directors unless they currently meet that standard.</p>	<p>Vote <u>against</u> affiliated or inside director seeking appointment to audit, compensation, nominating or governance committee, or who has served in that capacity in the past year.</p> <p>Vote <u>against</u> audit committee member who owns 20% or more of company's stock.</p> <p>For compensation, nominating and governance committees, should be a maximum of one director (or none if committee has less than three members) who owns 20% or more of company's stock.</p>	<p>May vote <u>against</u> directors serving on key committees (including audit, compensation and nominating/governance committees) not considered to be independent.</p> <p>When evaluating controlled companies, only vote <u>against</u> insiders or affiliates who sit on audit committee, but not other key committees.</p>	<p>Vote <u>against</u> nominee at a company with appropriate governance practices if director is classified as non-independent under relevant listing standards or local market practice and serves on a key committee (compensation, audit, nominating, or committees required to be fully independent by local market standards).</p> <p>Where companies demonstrate negative governance practices, vote <u>against</u> nominee (except CEO) who is not considered independent based on a set of stricter standards, described in <u>Annex A</u>.</p>	<p>Vote <u>against</u> non-independent directors who serve on key committees (i.e., audit, compensation and nominating/governance committees) or equivalent.</p> <p>Vote <u>against</u> nominating committee chair in addition to non-independent director(s) serving on committee if committee is not 100% independent.</p> <p>In the second year of a non-independent committee, vote <u>against</u> entire nominating committee.</p> <p>Vote <u>against</u> all directors if a board has no nominating and governance committee, except where the appointment decision is made solely by independent directors.</p> <p><u>Support</u> a non-independent director on a controlled company's compensation</p>

<u>Topic</u>	<u>ISS</u>	<u>Glass Lewis</u>	<u>BlackRock</u>	<u>State Street</u>	<u>Vanguard</u>
					committee and nominating and governance committees, so long as it is due solely to his/her relationship with the controlling shareholder and committee is majority independent.
Lack of Key Committees	<p>Vote <u>against/withhold</u> from non-independent directors when company lacks:</p> <ul style="list-style-type: none"> • an audit, compensation or nominating committee; or • a formal nominating committee, even if board attests that independent directors fulfill these functions. 	—	—	—	—
Board Size	<p>Vote <u>for</u> proposals seeking to fix board size or designate a range for board size.</p> <p>Vote <u>against</u> proposals that give management the ability to alter board size outside of a specified range without shareholder approval.</p>	Vote <u>against</u> chair or nominating committee (or governance committee, if none) at a board with fewer than five or more than 20 directors.	Defer to board in setting size, but may <u>oppose</u> a board that appears too small to allow for effective shareholder representation or too large to function efficiently.	<u>Support</u> proposals seeking to fix or set a range for board size and will vote <u>against</u> proposals that give management the ability to alter the board size outside of a specified range without shareholder approval.	<p><u>Support</u> proposals to set board size. However, will consider anti-takeover effects, particularly in a hostile takeover offer or board contest.</p> <p>Vote <u>against</u> proposals to give board the authority to set board size without shareholder approval at a future time.</p>
Audit Committee Composition and Size	—	<p>Consider vote <u>against</u> audit committee chair if:</p> <ul style="list-style-type: none"> • committee does not have a financial expert or committee's financial expert does not have demonstrable financial background sufficient to understand issues unique to public companies; or • committee has fewer than three members. 	—	—	—

Topic	ISS	Glass Lewis	BlackRock	State Street	Vanguard
Overboarded Directors	<p>Vote <u>against</u>/<u>withhold</u> from individual directors who:</p> <ul style="list-style-type: none"> • sit on more than five public company boards; or • are CEOs of public companies who sit on boards of more than two public companies besides their own (does not apply to boards of controlled subsidiaries (with over 50% ownership))—withhold only at outside boards and at subsidiaries owned 50% or less by parent, considering: <ul style="list-style-type: none"> ○ structure of parent/subsidiary relationship; ○ similarity of business lines of parent/subsidiary; ○ percentage of subsidiary held by parent; and ○ total number of boards on which he/she serves. <p>If service on another board is an integral part of an officer’s duties (<i>e.g.</i>, joint marketing arrangements requiring service on the other board), still counts each board as a separate board, but will take that into consideration.</p>	<p>Vote <u>against</u> a director who is an executive officer of any public company who sits on more than two public company boards or any non-executive director who sits on more than five public company boards.</p> <p>Generally does not recommend voting against overcommitted directors at companies where they serve as executives.</p> <p>May consider:</p> <ul style="list-style-type: none"> • size and location of other companies; • director’s board roles at companies in question; • whether director serves on board of any large privately held companies; • director’s tenure on boards in question; and • director’s attendance record at all companies. <p>For directors who serve in executive roles other than CEO (<i>e.g.</i>, executive chair), will evaluate specific duties and responsibilities of role.</p> <p>Vote <u>against</u> any directors who serve as an executive of a SPAC, and on more than five public company boards.</p> <p>May refrain from recommending against certain directors if company provides sufficient rationale for continued board service, allowing shareholders</p>	<p>Consider voting <u>against</u> committee members and/or individual directors where a director serves on an excessive number of public boards (more than two for a director who is a public company CEO and more than four for any other director).</p>	<p>May <u>withhold</u> votes from NEOs of a public company who sit on more than two public company boards.</p> <p>May <u>withhold</u> votes from director nominees who sit on more than four public company boards.</p> <p>May <u>withhold</u> votes from any board chair or lead independent directors who sit on more than three public boards.</p>	<p>Vote <u>against</u> any director who is an NEO and sits on more than one outside public board. Vote <u>against</u> the nominee at each company where he/she is a nonexecutive.</p> <p>Vote <u>against</u> any director who serves on five or more public company boards. Vote <u>against</u> the director at each of these companies except, generally, one where he/she serves as chair or lead independent director of the board.</p> <p>Consider voting for a director who would otherwise be considered overboarded because of company-specific facts and circumstances.</p> <p>May vote <u>for</u> an overboarded director if he/she has publicly committed to stepping down from other directorship(s) necessary to fall within above thresholds.</p>

Topic	ISS	Glass Lewis	BlackRock	State Street	Vanguard
		<p>to evaluate scope of director’s commitments and contributions to the board.</p> <p>Generally refrains from recommending <u>against</u> a director who serves on an excessive number of boards within a consolidated group of companies or who represents a firm that manages a portfolio of investments including the company.</p> <p>Overboarded Audit Committee: Consider vote <u>against</u> any audit committee member who sits on more than three public company audit committees, unless he/she is a retired CPA, CFO, controller or has similar experience, in which case the limit is four committees, considering time and availability.</p>			
Diversity	<p>Generally vote <u>against/withhold</u> from the chair of the nominating committee (or other directors on a <u>case-by-case basis</u>) at companies with no gender diversity.</p> <p>Exception will be made if there was a woman on the board at the preceding annual meeting with a firm commitment to return to a gender-diverse status within a year.</p> <p>For 2021, will highlight boards with no racial and/or ethnic diversity.</p> <p>For companies in the Russell 3000 or S&P 1500 indices,</p>	<p>For companies within Russell 3000 index, vote <u>against</u> entire nominating committee of a board that has no gender-diverse directors.</p> <p>Beginning in 2022, vote <u>against</u> nominating committee chair of a board with fewer than two gender-diverse directors or the entire nominating committee with no gender-diverse companies (for boards outside Russell 3000 or those with six or fewer directors, the existing policy of one gender-diverse director will remain).</p>	<p>Believes boards should be 30% diversity of membership. Encourages at least two directors who identify as female and at least one who identifies as a member of an underrepresented group on the board.</p> <p>If company has not adequately accounted for diversity on board within a reasonable timeframe, may vote <u>against</u> nominating/governance committee.</p> <p>Asks boards to disclose:</p> <ul style="list-style-type: none"> • how diversity is considered in board composition 	<p>Expects all companies have at least one woman on their boards.</p> <p>Beginning in 2023, expects boards to be comprised of 30% women directors. If this expectation has not been met, may vote <u>against</u> the chair of the nominating committee or the board leader in the absence of a nominating committee.</p> <p>If a company fails to meet this expectation for three consecutive years, may vote <u>against</u> all incumbent members of nominating committee.</p>	<p>Vote <u>for</u> shareholder proposal that:</p> <ul style="list-style-type: none"> • seeks disclosure related to directors’ diversity (including gender, race/ethnicity and national origin) or skills and qualifications, and such information is not already disclosed; • asks companies to adopt policies for appropriate diversity on boards or for the adoption of diversity targets/goals, and appropriate policies do not already exist; and

Topic	ISS	Glass Lewis	BlackRock	State Street	Vanguard
	<p>generally vote <u>against/withhold</u> from chair of nominating committee (or other directors on a <u>case-by-case basis</u>) when the board has no apparent racially or ethnically diverse members. This policy will apply to all companies (those not in Russell 3000 or S&P 1500), effective for meetings on or after February 1, 2022</p> <p>As with gender diversity, similar exception will be made for temporary loss of racial and/or ethnic diversity.</p>	<p>Starting in 2023, will transition from fixed numerical approach to a percentage-based approach, generally recommending <u>against</u> nominating committee chair if board is not at least 30 percent gender-diverse.</p> <p>May extend recommendation to vote <u>against</u> other nominating committee members, depending on certain factors, such as:</p> <ul style="list-style-type: none"> • nominating committee chair not standing for election due to a classified board structure; • company size; • industry; • applicable laws in its state of headquarters; and • governance profile of company. <p>May refrain from recommending vote against directors of companies when boards have provided a sufficient rationale (<i>e.g.</i>, a disclosed timetable for addressing lack of board diversity).</p> <p>In addition, will recommend in accordance with board composition requirements in applicable state laws.</p> <p>Accordingly, vote <u>against</u> the chair of the nominating committee if the company headquartered in California does not have at least one</p>	<p>(including gender, race, ethnicity, age and professional characteristics (<i>e.g.</i>, industry experience, areas of expertise and geography));</p> <ul style="list-style-type: none"> • process by which candidates are identified/selected and whether a diverse slate of nominees is considered for all available nominations; and • the process by which boards evaluate themselves. 	<p>Starting in 2021, will ask companies to articulate their risks, goals and strategy as related to racial and ethnic diversity, and to make relevant disclosure available to shareholders. Will also request information on metrics for the board and workforce, and how the Board executes its oversight role in diversity/inclusion.</p> <p>Will vote <u>against</u> nominating/governance committee chair of an S&P 500 or FTSE 100 company if the company:</p> <ul style="list-style-type: none"> • does not have at least one director from an underrepresented community; • does not disclose the racial and ethnic diversity of its Board (acceptable disclosures include aggregate- or individual-level disclosures); and • does not disclose their EEO-1 reports (for S&P 500 companies only). <p>Vote <u>case-by-case</u> on shareholder proposals regarding diversity, equity and inclusion reporting pending the company's alignment with expectations. May <u>abstain</u> if the company is committed to improving practices.</p>	<ul style="list-style-type: none"> • are not overly prescriptive as to what skills should be included or how this information must be presented. <p>Vote <u>against</u> nominating and/or governance committee chair (or other director if needed) if a company's board is making insufficient progress in addressing its diversity composition and/or board diversity-related disclosures.</p> <p>Disclosure of directors' personal characteristics should be on a self-identified basis at the aggregate or individual director level.</p> <p>Disclosure of skills and experience at the director level is expected.</p> <p>Generally <u>supports</u> shareholder proposals that call for a skills matrix, but companies may already have sufficient disclosure policies in place.</p>

Topic	ISS	Glass Lewis	BlackRock	State Street	Vanguard
		<p>director from an underrepresented community or does not provide adequate disclosure to make this determination.</p> <p>Assesses companies in the S&P 500 for the quality of disclosure of director diversity and skills, which will inform assessments of the company's overall governance. Will evaluate how a company's proxy statement presents:</p> <ul style="list-style-type: none"> • the board's current percentage of racial/ethnic diversity; • whether the board's definition of diversity explicitly includes gender and/or race/ethnicity; • whether the board has adopted a policy requiring women and minorities to be included in the initial pool of candidates when selecting new director nominees; and • board skills disclosure. <p>May recommend vote against chair of nominating and/or governance committee of S&P 500 companies with particularly poor disclosure.</p> <p>Beginning in 2023, will generally recommend vote <u>against</u> companies that have not provided any disclosure of individual or aggregate</p>			

<u>Topic</u>	<u>ISS</u>	<u>Glass Lewis</u>	<u>BlackRock</u>	<u>State Street</u>	<u>Vanguard</u>
		<p>racial/ethnic board information.</p> <p>Beginning with annual meetings held after August 8, 2022, will vote <u>against</u> chair of governance committee if Nasdaq-listed company does not provide Nasdaq-required board diversity statistics annually in the standardized format.</p>			
<i>Responsiveness, Commitment and Experience</i>					
Responsiveness	<p>Vote <u>case-by-case</u> on directors, committee members or entire board if board failed to act on:</p> <ul style="list-style-type: none"> • a shareholder proposal that received support of a majority of shares cast in the previous year or a management proposal seeking to ratify an existing charter/bylaw provision that received opposition of a majority of shares cast in the previous year, considering: <ul style="list-style-type: none"> ○ disclosed board outreach efforts to shareholders; ○ rationale provided in proxy statement for level of implementation; ○ subject matter; ○ level of support for and opposition to the resolution in past meetings; 	<p>Circumstances where 20% or more of shareholders vote <u>against</u> the recommendation of management (excluding abstentions and broker non-votes) warrant close examination and evaluation of whether a board response was warranted.</p> <p>20% threshold may contribute to a recommendation to vote <u>against</u> management's recommendation upon a determination that the board did not respond appropriately.</p> <p>Vote <u>against</u> all members of governance committee (or entire board, if applicable) when board has not begun to implement or enact a shareholder proposal relating to important shareholder rights that received support from a majority of votes cast (excluding abstentions and broker non-votes) (<i>e.g.</i>, proposals to declassify the board).</p>	<p>May vote <u>against</u>:</p> <ul style="list-style-type: none"> • independent chair or lead independent director, members of nominating/governance committee, and/or longest tenured director(s), based on lack of board responsiveness, evidence of entrenchment, or failure to promote adequate board succession planning; and • independent chair or lead independent director and/or members of nominating/governance committee, where a board fails to implement shareholder proposals that receive a majority of votes cast at a prior shareholder meeting, and proposals have a direct and substantial impact on shareholders' fundamental rights or long-term economic interests. 	<p>May <u>withhold</u> from directors of companies that have not been responsive to a shareholder proposal that received majority shareholder support at the last annual or special meeting.</p>	<p>Vote <u>against</u> independent chair or lead independent director and members of the relevant committee for failure to adequately respond to shareholder proposals that received support of shares representing the majority of financial ownership at a prior year's shareholder meeting.</p> <p>Vote <u>against</u> chair of nominating committee if management proposes reappointment of director(s) who failed to receive majority shareholder support and board has not resolved the underlying issue driving lack of shareholder support.</p> <p>Vote should <u>not</u> apply when a fund did not support the initial <u>withhold</u> vote.</p>

Topic	ISS	Glass Lewis	BlackRock	State Street	Vanguard
	<ul style="list-style-type: none"> ○ actions taken by board in response to the majority vote and engagement with shareholders; ○ continuation of underlying issue as a voting item on the ballot (as either shareholder or management proposals); and ○ other factors. • takeover offers where majority of shares are tendered. <p>Vote <u>case-by-case</u> on individual directors, committee members, or entire board if at the previous board election, any director received more than 50% <u>withhold/against</u> votes of the shares cast and the company has failed to address the issue(s) that caused the high <u>withhold/against</u> vote.</p>	<p>Vote <u>against</u> all members of the governance committee when a shareholder resolution is excluded from the meeting agenda but the SEC declined to state a view on such exclusion, or when the SEC has verbally permitted the exclusion of a shareholder proposal but there is no written record provided by the SEC and the company has not provided any disclosure on the no-action relief.</p> <p>For meetings held after January 1, 2021, vote <u>against</u> the governance committee chair when a detailed record of proxy voting results from the last annual meeting has not been disclosed.</p> <p>Vote <u>against</u> nominating committee chair when a director received a greater than 50% (in rare cases, 20% or more) <u>against</u> vote the prior year, director was not removed and issues of shareholder concern were not corrected, considering severity of issues and company responsiveness to such matters.</p>	<p>May vote <u>against</u> chair of nominating/governance committee (or, if none, the longest tenured member), where director(s) at the most recent election received <u>withhold</u> votes from more than 30% of shares voted and board has not taken appropriate action to respond to shareholder concerns (may not apply in cases where BlackRock did not support the initial <u>withhold</u> vote).</p>		
Attendance	<p>Generally vote <u>against/withhold</u> from directors (except new nominees, to be considered <u>case-by-case</u>) who attend less than 75% of board/committee meetings (or missed more than one meeting, if service was three or fewer meetings), unless an acceptable reason for absences is disclosed.</p>	<p>Generally vote <u>against</u> a director (other than one who has served less than a full year) who attend less than 75% of board/committee meetings in the aggregate, absent extenuating circumstances (<i>e.g.</i>, serious illness).</p> <p>For directors who have served less than one full year with poor</p>	<p>Consider vote <u>against</u> committee members and/or individual directors where a director has a pattern of poor attendance (<i>i.e.</i>, less than 75% of combined board/committee meetings) at combined board and applicable key committee meetings.</p>	<p>May <u>withhold</u> votes from directors who attend less than 75% of board meetings without appropriate explanation.</p>	<p>Vote <u>against</u> directors who attend less than 75% of board/committee meetings (in the aggregate) in prior year unless an acceptable reason is disclosed.</p>

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	<p>In cases of chronic poor attendance without reasonable justification, vote <u>against/withhold</u> from appropriate members of nominating/governance committees or full board.</p> <p>If proxy disclosure is unclear or insufficient as to attendance, vote <u>against/withhold</u> from director(s) in question.</p> <p>If director has chronic poor attendance without reasonable justification:</p> <ul style="list-style-type: none"> • after three years, <u>withhold</u> from chair of nominating/governance committee; • after four years, <u>withhold</u> from full nominating/governance committee; and • after five years, <u>withhold</u> from all nominees. 	<p>attendance, recommend tracking attendance.</p> <p>Consider vote <u>against</u> governance committee chair when records for board and committee meeting attendance are not disclosed, or when it is indicated that a director attended less than 75% of board and committee meetings but it is not possible to determine based on the disclosure which director's attendance was lacking.</p>			
<i>Accountability</i>					
Accountability	<p>Vote <u>against/withhold</u> from entire board (except new nominees, to be considered <u>case-by-case</u>) for the following:</p> <ul style="list-style-type: none"> • problematic takeover defenses/governance structure; • restrictions on shareholder rights; • problematic pledging of company stock; or 	—	—	May <u>withhold</u> votes from directors who appear to be remiss in their duties.	<p>In certain instances, vote <u>against</u> a director because of governance failings or as a means to escalate other issues that remain unaddressed by the company, including (and most of which is described above):</p> <ul style="list-style-type: none"> • lack of majority board independence; • lack of committee independence; • “zombie” directors (<i>i.e.</i>, reappointment of directors)

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	<ul style="list-style-type: none"> governance failures. 				<p>who failed to receive majority support);</p> <ul style="list-style-type: none"> limited shareholder rights; non-responsiveness to shareholder proposals; oversight failures; and climate failures.
Problematic Takeover Defenses	<p>Poison Pills (Absent Shareholder Approval): Vote <u>against/withhold</u> if company has a poison pill that was not approved by shareholders (approval prior to becoming a public company is insufficient); however, vote <u>case-by-case</u> on nominees if board adopts an initial pill with a term of one year or less, depending on disclosed rationale, and other relevant factors (<i>e.g.</i>, commitment to put renewal to shareholder vote).</p> <p>Vote <u>against/withhold</u> if board makes a material adverse modification to an existing pill (<i>e.g.</i>, extension, renewal or lowering the trigger) without shareholder approval.</p> <p>Vote <u>against/withhold</u> if pill, whether short-term or long-term, has a dead-hand or a slow-hand feature.</p>	<p>Poison Pills (Absent Shareholder Approval): Vote <u>against</u> all board members who served when a poison pill with a term of longer than one year was adopted without shareholder approval within prior year.</p> <p>If a poison pill with a term of one year or less was adopted without shareholder approval, and without adequate justification, consider vote <u>against</u> all members of governance committee.</p> <p>If board has, without seeking shareholder approval, and without adequate justification, extended the term of a poison pill by one year or less in two consecutive years, consider vote <u>against</u> entire board.</p>	<p>Poison Pills (Absent Shareholder Approval): May vote <u>against</u> independent chair or lead independent director and members of governance committee where board implements or renews a poison pill without shareholder approval.</p> <p>Where a poison pill is put to a shareholder vote by management, may <u>support</u> if it:</p> <ul style="list-style-type: none"> contains a reasonable “qualifying offer clause”; or is the only effective method for protecting tax or other economic benefits. 	<p>Poison Pills (Absent Shareholder Approval): Supports mandates requiring shareholder approval of a poison pill and repeals of various anti-takeover-related provisions.</p> <p>Vote <u>against</u> adoption or renewal of a poison pill.</p> <p>Vote <u>for</u> amendment to a poison pill where terms are more favorable to shareholders’ ability to accept unsolicited offers.</p>	<p>Poison Pills : Vote <u>against</u> adoption of a poison pill and <u>for</u> shareholder proposals to rescind poison pills unless company-specific circumstances require that the board and management be provided reasonable time/protection without excessive short-term distractions.</p>
	<p>Classified Board Structure: Vote <u>against/withhold</u> if board is classified, and a continuing director responsible for a problematic governance issue at the board/committee level that</p>	—	<p>Classified Board Structure: If board is classified, the director(s) with whom there is a particular concern may not be subject to election in the year that the concern arises. If there</p>	<p>Classified Board Structure: Supports annual elections for board.</p>	<p>Classified Board Structure: Vote <u>for</u> proposals to declassify an existing board and vote <u>against</u> management or</p>

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	<p>would warrant an <u>against/withhold</u> vote recommendation is not up for election. All appropriate nominees (except new nominees) may be held accountable.</p> <p>Vote <u>against/withhold</u> if company has opted into, or failed to opt out of, state laws requiring classified board structure.</p>		<p>is a concern regarding a committee or committee chair that is not up for reelection, <u>withhold</u> from all available members of relevant committee.</p> <p><u>Supports</u> proposals requesting de-classification, but may make exceptions if an appropriate strategic rationale is articulated (e.g., for newly public companies or companies undergoing a strategic restructuring). Boards should periodically review this rationale.</p>		<p>shareholder proposals to create classified board.</p>
	<p>Director Performance Evaluation: Vote <u>against/withhold</u> if board lacks mechanisms to promote accountability and oversight, coupled with sustained poor performance relative to peers. Considers company's operational metrics and other factors as warranted.</p>	<p>Director Performance Evaluation: With regard to voting recommendations on the basis of company performance, considers (in addition to stock performance) company's overall corporate governance, pay-for-performance alignment and responsiveness to shareholders.</p>	<p>—</p>	<p>—</p>	<p>—</p>
	<p>Unilateral Bylaw/Charter Amendments and Problematic Structures: Vote <u>against/withhold</u> if board amends company's bylaws or charter without shareholder approval in a manner materially diminishing shareholder rights or adversely impacting shareholders, considering:</p> <ul style="list-style-type: none"> • rationale for adopting amendment without shareholder ratification; • disclosure by company of any significant engagement 	<p>Unilateral Bylaw/Charter Amendments and Problematic Structures: Vote <u>against</u> chair of governance committee or entire committee where board amended company's governing documents to reduce, remove or impede important shareholder rights, without shareholder approval. Examples:</p> <ul style="list-style-type: none"> • elimination of shareholders' ability to call a special meeting or act by written consent; 	<p>Unilateral Bylaw/Charter Amendments: May vote <u>against</u> certain directors where changes (especially changes potentially impacting shareholder rights) to governing documents are not put to a shareholder vote within a reasonable period of time.</p> <p>If board's unilateral adoption of changes to charter/articles/bylaws promotes cost and operational efficiency benefits, may <u>support</u> such action if it does not have a negative effect</p>	<p>Unilateral Bylaw/Charter Amendments: May <u>withhold</u> where directors have unilaterally adopted/amended company bylaws that negatively impact shareholder rights (e.g., fee-shifting, forum selection and exclusive service bylaws) without putting amendments to a shareholder vote.</p> <p>Does <u>not</u> support or will vote <u>against</u> proposals giving board exclusive authority to amend bylaws and amendments to</p>	<p>Unilateral Bylaw/Charter Amendments: Generally vote <u>against</u> management proposals that give the board the exclusive authority to amend bylaws.</p> <p>Vote <u>for</u> management proposals to provide shareholders a special meeting right or the right to act by majority written consent.</p> <p>May vote <u>for</u> shareholder proposals to establish special meeting rights, as long as the</p>

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	<p>with shareholders regarding the amendment;</p> <ul style="list-style-type: none"> level of impairment of shareholder rights caused by unilateral amendment; board’s record with regard to unilateral board action on bylaw/charter amendments or other entrenchment provisions; company’s ownership structure and existing governance provisions; timing of board’s amendment in connection with a significant business development; and other appropriate factors. <p>If unilaterally adopted amendment is deemed materially adverse to shareholder rights, vote <u>against</u> board. Examples:</p> <ul style="list-style-type: none"> authorized capital increases that do not meet ISS’s Capital Structure Framework; board classification; director qualification bylaws that disqualify shareholders’ nominees or directors who could receive third-party compensation; fee-shifting provisions that require a suing shareholder to bear all 	<ul style="list-style-type: none"> increase to ownership threshold required to call a special meeting; increase to vote requirements for charter or bylaw amendments; adoption of provisions limiting ability of shareholders to pursue full legal recourse (<i>e.g.</i>, bylaws that require arbitration of shareholder claims or “fee-shifting” or “loser pays” bylaws); adoption of a classified board structure; adoption of exclusive forum provisions; and elimination of shareholders’ ability to remove a director without cause. <p>Consider vote <u>against</u>:</p> <ul style="list-style-type: none"> governance committee chair, board adopted a forum selection clause in the past year without shareholder approval (may make exceptions where a clause is narrowly crafted or if it includes a reasonable sunset provision) or if board is currently seeking shareholder approval of such a clause pursuant to a bundled bylaw amendment; 	<p>on shareholder rights or company’s governance structure, considering:</p> <ul style="list-style-type: none"> the publicly stated rationale for changes; company’s governance profile and history; relevant jurisdictional laws; and situational or contextual circumstances which may have motivated proposed changes. <p>Non-Unilateral Amendments: <u>Supports</u> changes to charter/articles/bylaws where benefits to shareholders demonstrably outweigh costs or risks of making such changes.</p> <p>May vote <u>against</u> independent chair or lead independent director and members of governance committee where effect of charter/articles/bylaw amendment may be to entrench directors or significantly reduce shareholder rights.</p> <p>Structure: May <u>reject</u> certain positive changes if bundled with proposals that contradict or impede rights and economic interests of shareholders.</p> <p><u>Supports</u> proposals to:</p> <ul style="list-style-type: none"> adjourn a meeting to solicit additional votes, unless agenda contains items deemed detrimental to 	<p>bylaws requiring supermajority shareholder votes.</p> <p><u>Supports:</u></p> <ul style="list-style-type: none"> proposals removing restrictions on right of shareholders to act independently of management; amendments to bylaws requiring simple majority to pass/repeal certain provisions; general updating of, or corrective amendments to, charter/bylaws unless such amendments would reasonably be expected to diminish shareholder rights (<i>e.g.</i>, insufficient reason provided for the amendment); exclusive forum provisions; proposals related to special meetings if current bylaws do not allow shareholders to act by written consent or where the written consent threshold is above 25% of outstanding shares; and proposals related to special meetings if bylaws only allow for special meeting with support from more than 25% outstanding shares. <p>Structure: <u>Supports</u> requests for approval of amendments to the certificate of incorporation</p>	<p>ownership threshold is not below 10%.</p> <p>If a company already has the right to call a special meeting at a threshold of 25% or lower, vote <u>against</u>:</p> <ul style="list-style-type: none"> management proposals to increase the ownership threshold above 25%; and shareholder proposals to lower the ownership threshold below the current threshold. <p>Vote <u>for</u> shareholder proposals to adopt written consent rights if shareholders do not have a special meeting right.</p>

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	<p>costs of a legal action that is not 100% successful;</p> <ul style="list-style-type: none"> increasing vote requirement for shareholders to amend charter/bylaws; adopting a plurality vote standard in uncontested elections, or a majority vote standard in contested elections; removing or restricting shareholders' right to call a special meeting; removing or materially restricting shareholders' right to act via written consent; restricting forum to a particular district court; and provisions that specify a state other than the state of incorporation as the exclusive forum, or that specify a particular court. <p>Unilateral amendments considered on a <u>case-by-case basis</u>, but generally <u>not</u> considered materially adverse:</p> <ul style="list-style-type: none"> advance notice bylaws setting customary and reasonable deadlines; director qualification bylaws requiring disclosure of third-party compensation arrangements; and 	<ul style="list-style-type: none"> all members of governance committee during whose tenure board adopted, without shareholder approval, provisions in its charter or bylaws that, through rules on director compensation, may inhibit shareholders' ability to nominate directors; and chair of governance committee for bundling disparate proposals into a single proposal (<i>e.g.</i>, including a forum selection clause into a bundled bylaw amendment). <p>Generally, <u>supports</u> proposals to:</p> <ul style="list-style-type: none"> lower written consent threshold when the company (i) has no special meeting provision or (ii) only allows holders owning more than 15% of shares to call a special meeting. <p>Considers <u>case-by-case</u>:</p> <ul style="list-style-type: none"> shareholder proposals to call special meetings, considering several factors, such as company size, shareholder base, responsiveness of company to shareholders and existing special meeting rights, among other factors. <p>Generally <u>opposes</u>:</p> <ul style="list-style-type: none"> shareholder proposals to lower written consent 	<p>shareholders' best long-term economic interests;</p> <ul style="list-style-type: none"> seek exclusive forum for certain shareholder litigation (except where a board unilaterally adopts such a provision that is unfavorable to shareholder interests); and reduce or eliminate supermajority voting requirements if shareholders' ability to protect their economic interests is improved (except where supermajority requirements are protective of a substantial/dominant shareholder's interests). <p>May <u>oppose</u> shareholder proposals for written consent if:</p> <ul style="list-style-type: none"> proposal is structured to benefit a dominant shareholder; or if company already provides shareholders with the right to call a special meeting. <p>May <u>oppose</u> shareholder proposals for special meetings if:</p> <ul style="list-style-type: none"> proposal is structured to benefit a dominant shareholder; or 	<p>that are not unreasonably dilutive or enhance shareholder rights. Evaluated on a <u>case-by-case basis</u>, considering company's financial situation.</p> <p>Generally, <u>supports</u>:</p> <ul style="list-style-type: none"> authorization of preferred stock in cases where company specifies voting, dividend, conversion and other rights of such stock, and terms appear reasonable; and proposals to create "declawed" blank check preferred stock. <p>Will <u>not</u> support or will vote <u>against</u>:</p> <ul style="list-style-type: none"> proposals authorizing new classes of common stock with superior voting rights and new classes of preferred stock with unspecified voting, conversion, dividend distribution and other rights; and capitalization changes that create "blank check" classes of stock or classes that dilute voting interests of existing shareholders. 	

Topic	ISS	Glass Lewis	BlackRock	State Street	Vanguard
	<ul style="list-style-type: none"> exclusive venue/forum provisions (if venue is the company's state of incorporation, or if choosing Delaware as a corporation incorporated in Delaware). <p>Unless adverse amendment is reversed or submitted to a binding shareholder vote, in subsequent years vote <u>case-by-case</u> on director nominees.</p> <p>Vote <u>against</u> (except new nominees, who are considered <u>case-by-case</u>) if directors classified the board; adopted supermajority vote to amend bylaws/charter; or eliminated shareholders' ability to amend bylaws.</p>	<p>threshold if company has a 15% or lower special meeting threshold.</p>	<ul style="list-style-type: none"> a lower threshold may lead to an ineffective use of corporate resources. <p>Frequently <u>opposes</u> proposals to create "blank check" classes of stock, or to authorize preferred stock with unspecified conversion, dividend distribution and other rights. Exceptions can be made, for example, if there is a legitimate financing motive, and if there is a commitment not to use stock for anti-takeover purposes.</p>		
	<p>Newly Public Companies – Governance Structure: Vote <u>against/withhold</u> if prior to or in connection with company's public offering, company or its board adopted the following bylaw or charter provisions, considered materially adverse to shareholder rights:</p> <ul style="list-style-type: none"> supermajority vote requirements to amend bylaws or charter; classified board structure; or other egregious provisions. <p>A reasonable sunset provision is a mitigating factor.</p>	<p>Newly Public Companies: Vote <u>against</u> members of the governance committee (or other director nominees if there is no governance committee or if members of the governance committee are not up for election) of newly public companies that completed an IPO or spin-off within past year, if board approved highly restrictive governing documents, considering:</p> <ul style="list-style-type: none"> adoption of anti-takeover provisions (e.g., poison pill or classified board); supermajority vote requirements to amend governing documents; 	<p>Newly Public Companies: Engages new companies on topics such as classified boards and supermajority vote provisions to amend bylaws, as such arrangements, while potentially helpful during companies' early stages, are believed to be against the best long-term interests of shareholders.</p> <p>Applies a one-year grace period for application of certain director-related guidelines (including, but not limited to, director independence and overboarding considerations).</p> <p>Will provide exemptions for emerging growth companies for duration of companies'</p>	—	—

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	<p>Unless adverse provision is reversed or removed, vote <u>case-by-case</u> on director nominees in subsequent years.</p> <p>Problematic Capital Structure: Vote <u>against/withhold</u> if prior to or in connection with the company's public offering, company or its board implemented a multi-class capital structure in which classes have unequal voting rights without subjecting the structure to a reasonable time-based sunset, considering:</p> <ul style="list-style-type: none"> • company's lifespan; • post-IPO ownership structure; and • board's disclosed rationale for the sunset period. <p>No sunset period of more than seven years from the IPO will be considered reasonable.</p> <p>Continue to vote <u>against/withhold</u> from incumbent directors in subsequent years, unless problematic capital structure is reversed, removed or subject to a newly added reasonable sunset.</p> <p>Applies to companies that emerge from bankruptcy, spin-offs, direct listings and those who complete an IPO.</p>	<ul style="list-style-type: none"> • presence of exclusive forum or fee-shifting provisions; • whether shareholders can call special meetings or act by written consent; • voting standard for the election of directors; • shareholders' ability to remove directors without cause; • evergreen provisions in equity compensation arrangements; and • presence of a multi-class share structure which does not afford common shareholders voting power aligned with their economic interest. <p>In cases where a board adopts an anti-takeover provision preceding an IPO or during a business combination with a SPAC, vote <u>against</u> directors who served at the time of the IPO if board did not:</p> <ul style="list-style-type: none"> • also commit to submit the anti-takeover provision to a shareholder vote at the first shareholder meeting post-IPO; or • provide for a reasonable sunset for the provision (generally three to five years in case of a classified board or poison pill, or seven years or less in the case of a multi-class share 	<p>qualification, but expects to see independent audit committee by end of first year.</p>		

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		structure). In the case of a multi-class structure, if provisions are put to a shareholder vote, will examine the level of approval attributed to unaffiliated shareholders.			
	<p>Problematic Capital Structure: Starting February 1, 2023, generally vote <u>against/withhold</u> or <u>against</u> directors individually, committee members or entire board (except new nominees) if the company employs problematic capital structure with unequal voting rights. Exceptions include newly public companies with a sunset provision of no more than seven years, REITs, <i>de minimis</i> unequal voting rights or situations where companies provide sufficient protections to minority shareholders.</p>	<p>Problematic Capital Structure: vote <u>against</u> governance chair with a multi-class share structure and unequal voting rights when the company does not provide a reasonable sunset (generally seven years or less).</p> <p>Vote <u>for</u> shareholder proposals to eliminate multi-class share structure.</p>			
	<p>Management Proposals to Ratify Existing Charter or Bylaw Provisions: Vote <u>against/withhold</u> where boards ask shareholders to ratify existing charter or bylaw provisions, considering:</p> <ul style="list-style-type: none"> • presence of a shareholder proposal addressing same issue on same ballot; • board’s rationale for seeking ratification; 	—	—	—	—

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	<ul style="list-style-type: none"> disclosure of actions to be taken by board should the ratification proposal fail; disclosure of shareholder engagement regarding ratification request; level of impairment to shareholder rights caused by existing provision; history of proposals on the provision at past meetings; whether current provision was adopted in response to shareholder proposal; company's ownership structure; and previous use of ratification proposals to exclude shareholder proposals. 				
Restrictions on Shareholder Rights	<p>Vote <u>against/withhold</u> if company's governing documents impose undue restrictions on shareholders' ability to amend bylaws, including, but not limited to:</p> <ul style="list-style-type: none"> outright prohibition on submission of binding shareholder proposals; or share ownership requirements or time-holding requirements in excess of SEC Rule 14a-8. <p>Vote <u>against</u> on ongoing basis.</p>	—	—	<p>Will <u>not</u> support or will vote <u>against</u> proposals that reduce shareholder rights or entrench incumbent management.</p> <p><u>Supports</u> proposals in the spirit of enhancing shareholder rights, considering:</p> <ul style="list-style-type: none"> proposed ownership thresholds and holding duration; binding nature of proposal; number of directors that shareholders may be able to nominate each year; company governance structure; 	<p>Vote <u>against</u> independent chair or lead director and members of a governance committee in response to unilateral board actions meaningfully limiting shareholder rights. Vote is based on a holistic review of company's governance structures and only applied when there is concern that shareholders are unable to exercise their voice.</p>

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				<ul style="list-style-type: none"> shareholder rights; and board performance. 	
Problematic Pledging of Company Stock	<p>Vote <u>against</u> members of committee that oversees risks related to pledging, or full board, where a significant level of pledged company stock by executives or directors raises concerns, considering:</p> <ul style="list-style-type: none"> presence of anti-pledging policy, disclosed in the proxy, prohibiting future pledging activity; magnitude of aggregate pledged shares in terms of total common shares outstanding, market value and trading volume; disclosure of progress or lack thereof in reducing magnitude of aggregate pledged shares over time; disclosure in proxy that shares subject to stock ownership and holding requirements do not include pledged company stock; and any other relevant factors. 	—	—	—	—
Oversight Failures	<p>Under extraordinary circumstances, vote <u>against</u> or <u>withhold</u> from directors individually, committee members or the entire board, due to:</p> <ul style="list-style-type: none"> material failures of governance, stewardship, 	<p>Vote <u>against</u> risk committee members where company has disclosed a sizable loss or writedown and committee's poor oversight contributed to the loss.</p> <p>Consider vote <u>against</u> board chair (for a combined</p>	<p>Consider vote <u>against</u> the following:</p> <ul style="list-style-type: none"> current audit committee, and any other directors who may be responsible, where board failed to exercise oversight with regard to accounting 	<p>If companies are non-compliant with Investor Stewardship Group's Corporate Governance Principles and cannot explain the nuances of chosen governance structure, consider vote <u>against</u> independent board leader.</p>	<p>Vote <u>against</u> from directors who have failed to effectively identify, monitor and manage material risks and business practices under their purview based on committee responsibilities.</p>

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	<p>risk oversight or fiduciary responsibilities at company;</p> <ul style="list-style-type: none"> failure to replace management as appropriate; or egregious actions related to director's service on other boards that raise substantial doubt about his/her ability to effectively oversee management and serve the best interests of shareholders at any company. <p>Examples of failure of risk oversight include but are not limited to bribery; large or serial fines or sanctions from regulatory bodies; significant adverse legal judgments or settlement or hedging of company stock.</p> <p>Vote <u>case-by-case</u> on requests for a report on a company's actions to strengthen policies and oversight to prevent workplace sexual harassment.</p>	<p>chair/CEO, only in egregious cases) where a company maintains a significant level of financial risk exposure but fails to disclose any explicit form of board-level risk oversight.</p> <p>Vote <u>against</u> directors who have served on boards or as executives of companies with records of poor performance, inadequate risk oversight, excessive compensation, audit- or accounting-related issues and/or other indicators of mismanagement or actions against the shareholder interests, evaluating:</p> <ul style="list-style-type: none"> length of time since incident; shareholder support for director; severity of issue; director's role and tenure at company; whether ethical lapses accompanied oversight lapse; and evidence of strong oversight at other companies. <p>Vote <u>against</u>:</p> <ul style="list-style-type: none"> a director who is also the CEO of a company where a material restatement has occurred after the CEO had certified the pre-restatement financial statements; 	<p>practices or audit oversight;</p> <ul style="list-style-type: none"> members of compensation committee during a period in which executive compensation appears excessive relative to performance and peers or where the company has proposed an equity compensation plan that is not aligned with shareholder interests; chair of nominating/ governance committee (or if none, the longest tenured committee member), where board is not comprised of a majority of independent directors (other than a controlled company); members of the responsible committee (or most relevant director), where, with regard to material ESG risk factors, company has failed to provide adequate disclosure; or where it appears the director has acted (at the company or at other companies) in a manner that compromises his/her reliability to represent the best long-term economic interests of shareholders. <p>Consider vote <u>against</u> all members of governance committee during whose tenure</p>		<p>When a specific risk does not fall under a specific committee, vote <u>against</u> lead independent director and chair.</p> <p>Does not apply to directors who have served less than one year on the board and/or applicable committee.</p>

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		<ul style="list-style-type: none"> a director who has received two <u>against</u> recommendations from Glass Lewis for identical reasons within prior year at different companies; and any compensation committee member who has served on compensation committee of at least two other public companies that have consistently failed to align pay with performance and whose oversight of compensation is suspect. 	<p>a shareholder proposal relating to important shareholder rights (<i>e.g.</i>, declassified board structure, majority vote standard for director elections, or a right to call a special meeting) received support from a majority of the votes cast (excluding abstentions and broker non-votes) and board has not begun to implement or enact the proposal.</p>		
<p>Environmental, Social and Governance (“<u>ESG</u>”) Oversight, Risks and Failures</p>	<p>Under extraordinary circumstances, vote <u>against/withhold</u> from directors individually, committee members or the entire board, due to material failures of governance, stewardship, risk oversight or fiduciary responsibilities at company.</p> <p>While risk oversight was always a concern, demonstrably poor risk oversight of environmental and social issues, including climate change, may now result in adverse vote recommendations.</p>	<p>Will note as a concern when boards of companies in the S&P 500 index (and, beginning in 2022, the Russell 1000 index) do not provide clear disclosure concerning the board-level oversight afforded to environmental and/or social issues.</p> <p>Vote <u>against</u> the governance chair of a company in the S&P 500 who fails to provide explicit disclosure concerning the board’s role in overseeing environmental and/or social issues.</p> <p>Will review company’s overall governance documents and practices to determine if directors maintain a meaningful</p>	<p>May vote <u>against</u> election of directors where there are concerns that a company may not be appropriately dealing with environmental or social factors, considering whether:</p> <ul style="list-style-type: none"> company has already taken sufficient steps to address the concern or is actively implementing a response; or there is a clear and material economic disadvantage to the company in the near-term if the issue is not addressed in the manner requested by the shareholder proposal. 	<p>May take action <u>against</u> board members at S&P 500 companies that lag based on R-Factor™² scores and cannot articulate a remediation plan.</p>	<p>Vote <u>case-by-case</u> on all environmental and social disclosure proposals.</p> <p>Likely to <u>support</u> proposals that:</p> <ul style="list-style-type: none"> address a shortcoming in the company’s current disclosure relative to market norms or widely accepted frameworks (<i>e.g.</i>, SASB or TFCO); reflect an industry-specific, materiality-driven approach; and are not overly prescriptive about time frame, cost or other matters.

² R-Factor™ is an index created by SSGA that measures the performance of a company’s business operations and governance as it relates to financially material ESG factors facing the company’s industry.

Topic	ISS	Glass Lewis	BlackRock	State Street	Vanguard
		<p>level of oversight of and accountability for a company's environmental and/or socially related impacts and risks.</p> <p>May vote <u>against</u> directors with oversight of environmental and social risks where a company has not properly managed or mitigated such risks to the detriment of shareholder value, or where such mismanagement has threatened shareholder value.</p> <p>In the absence of explicit board oversight of such issues, vote <u>against</u> members of audit committee, carefully reviewing the situation, its effect on shareholder value, and any corrective action or response made by the company.</p>	<p>May vote <u>against</u> election of relevant directors where they feel the company has not made sufficient progress on climate-related disclosure (even where they may not support a shareholder's climate-related proposal or disclosure request).</p>		<p>Vote <u>case-by-case</u> on proposals that request adoption of targets or goals or prescribe adoption of environmental or social policies and practices.</p>
Climate	<p>Where a climate transition plan (or climate-related commitments or reporting plans) is put to a shareholder vote by management, vote <u>case-by-case</u> considering a range of factors regarding the completeness and rigor of the plan.</p> <p>Vote <u>case-by-case</u> on proposals that request disclosure of greenhouse gas (GHG) emissions, reduction targets and climate transition plan, taking into account completeness/rigor of plan, actual GHG emissions performance, company's previous GHG failures or</p>	<p>In addition to policies regarding oversight of environmental issues (see above), vote <u>case-by-case</u> but generally <u>support</u> shareholder resolutions requesting enhanced disclosure on climate-related issues.</p> <p>Generally vote <u>against</u> shareholder proposals requesting companies adopt a "Say on Climate" vote (<i>e.g.</i>, a vote on climate transition plans).</p> <p>Where companies have adopted such a "Say on Climate" vote, vote <u>case-by-case</u>, considering disclosure of the board's role in setting company's "Say on Climate" strategy and each</p>	<p>May signal concerns regarding company's climate plans or disclosures in voting on director elections, particularly at companies facing material climate risks.</p> <p>Encourages companies to disclose approach to sustainability. Asks companies to disclose:</p> <ul style="list-style-type: none"> • identification, assessment, management and oversight of sustainability-related risks in accordance with Task Force on Climate-Related Financial Disclosures (TCFD); • investor-relevant, industry-specific, material 	<p>Expects companies to align climate-related disclosures to the TCFD framework: Governance, Strategy, Risk Management and Metrics and Targets.</p> <p>Expects disclosure of:</p> <ul style="list-style-type: none"> • interim GHG emissions reduction targets (short- and/or medium-term); • discussion of impacts of scenario planning on strategy and financial planning (especially for companies in carbon-intensive sectors); • use of carbon pricing in capital allocation decisions 	<p>To assess a climate risk oversight failure, considers:</p> <ul style="list-style-type: none"> • materiality of the risk; • effectiveness of disclosures enabling market to understand/price risk; • whether company has disclosed business strategies and risk mitigation plans in the context of regulatory requirements and the Paris Agreement; and • company-specific context, market regulations and expectations.

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	<p>controversies and the burden of plan.</p> <p>For companies that are significant GHG emitters (either directly or via supply chain), generally vote <u>against</u>/<u>withhold</u> from incumbent chair of responsible committee (or other directors on a case-by-case basis) where ISS determines company is not taking minimum steps to understand, assess and mitigate risks. For 2022, minimum steps include: (i) appropriate GHG emission reduction targets and (ii) detailed disclosure of climate-related risks, which, per Task Force on Climate-Related Financial Disclosures (TCFD) include:</p> <ul style="list-style-type: none"> • Board governance measures; • Corporate strategy; • Risk management analyses; and • Metrics and targets. 	<p>company’s unique operations/risk profile.</p>	<p>metrics and rigorous targets aligned with Sustainability Accounting Standards Board (SASB); and</p> <ul style="list-style-type: none"> • adoption of any supranational standards, participation in industry initiatives, peer benchmarking or any assurance processes. <p>Asks companies to articulate how business model is aligned with global warming targets (below two degrees Celsius; global net zero emissions by 2050).</p> <p>With respect to net zero, asks companies to disclose a business plan showing financial performance through the transition to global net zero.</p> <p>As it relates to greenhouse gases (“GHGs”), alternative energy sources and low carbon technologies, looks for companies to set short-, medium- and long-term science based targets, and to disclose how capital allocation across alternatives is consistent with said targets.</p> <p>May <u>support</u> shareholder proposals in line with climate policy.</p>	<p>(for companies in carbon-intensive sectors);</p> <ul style="list-style-type: none"> • total direct and indirect GHG emissions, including “Scope 1,” “Scope 2” and material categories of “Scope 3” emissions; and <p>Beginning in 2022, will start taking voting action <u>against</u> directors by voting <u>against</u> independent board leader of companies in the S&P 500, S&P/TSX Composite, FTSE 350, STOXX 600 and ASX 100 indices if companies fail to provide sufficient disclosure of:</p> <ul style="list-style-type: none"> • board oversight of climate-related risks and opportunities. • total “Scope 1” and “Scope 2” emissions; and • targets for reducing GHG emissions. <p>In 2022, will launch a targeted engagement campaign against large emitters, and in 2023, will hold companies and directors accountable for failing to meet expectations.</p> <p>Vote <u>case-by-case</u> on climate-related shareholder proposals, considering several factors, including: reasonableness; emergent market and industry trends; peer performance, engagement with management and, if the company is in a carbon-intensive sector, the</p>	<p>Likely to <u>support</u> proposals that:</p> <ul style="list-style-type: none"> • request disclosure related to companies’ Scope 1 and Scope 2 emissions data, and Scope 3 where climate-related risks are material; • assessment of climate’s impact on the company and its strategic plans; and • goals or target-setting for relevant GHG emissions

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Human Capital Management (“HCM”) and Racial Equity	Vote <u>case-by-case</u> on proposals asking a company to conduct an independent racial equity and/or civil rights audit, considering a range of factors related to the company’s commitment to racial equity (e.g., established processes for addressing racial inequity/discrimination, public statements, track record and existence of controversies)		<p>Expects companies to demonstrate a robust approach to HCM and provide shareholders with disclosures to understand how a company’s strategy and business model is aligned with fostering an inclusive, diverse and engaged workforce.</p> <p>Expects companies to disclose steps taken to advance (i) diversity, equity and inclusion; (ii) job categories and workforce demographics; and (iii) U.S. Equal Employment Opportunity Commission’s EEO-1 Survey.</p> <p>Where a company’s disclosures or practices fall short relative to market or peers, may vote <u>against</u> members of the appropriate committee or <u>support</u> relevant shareholder proposals.</p>	<p>company’s alignment with expectations.</p> <p>Will vote <u>against</u> nominating/governance committee chair of an S&P 500 company if the company does not disclose their EEO-1 reports (original EEO-1 report or content of the report).</p> <p>Vote <u>case-by-case</u> on shareholder proposals on racial and gender pay gap, considering:</p> <ul style="list-style-type: none"> confirmation that individuals, regardless of race or gender, are compensated equally in the same positions; workforce diversity statistics; long-term, diversity-specific goals; and description of strategy or practices to meet goals. <p>Will vote <u>against</u> racial equity and/or civil rights audits proposals at companies that articulate (i) board oversight of racial equity/civil rights risks; (ii) specific risks overseen; and (iii) plan for mitigating risks.</p> <p>Will <u>abstain</u> for companies that commit to meeting expectations.</p>	<p>Likely to <u>support</u> proposals that request:</p> <ul style="list-style-type: none"> disclosure on workforce demographics inclusive of gender and racial and ethnic categories, considering widely accepted industry standards and, if applicable, laws and regulations; disclosure on the board’s role in overseeing material diversity, equity and inclusion risks or other material social risks; and inclusion of sexual orientation, gender identity, minority status or protected classes (as appropriate under applicable laws) in a company’s employment and diversity policies.
Lobbying/Political Activities			Companies that engage in political activities should develop robust oversight	Vote <u>case-by-case</u> on shareholder proposals regarding climate-focused	Vote <u>case-by-case</u> on shareholder proposals that request greater disclosure of

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			<p>processes to guide activities and mitigate risk.</p> <p>May <u>support</u> shareholder proposal requesting increased disclosure of political activities if:</p> <ul style="list-style-type: none"> • a material inconsistency exists between a company’s stated policy positions and positions taken by significant industry groups to which it belongs; or • further transparency may clarify how political activities support long-term strategy. 	<p>corporate political activity, considering:</p> <ul style="list-style-type: none"> • the board’s role in oversight of the company’s political activities; • if the company performed a gap analysis of stated positions on climate change versus those of its trade associations; and • if the company discloses its trade association memberships. 	<p>political spending and/or lobbying activities, policies or practices. Considers a range of factors, including:</p> <ul style="list-style-type: none"> • applicable laws/regulations; • prevalence of political activity within a company’s industry; • the company’s current disclosure and level of board oversight; and • recent controversies, litigation, fines or other risks associated with the company’s political activity.
<i>Proxy Contests/Proxy Access</i>					
Proxy Contests	<p>Vote <u>case-by-case</u> in contested elections, considering:</p> <ul style="list-style-type: none"> • long-term financial performance of company relative to industry; • management’s track record; • background of contested election; • nominee qualifications and any compensatory arrangements; • strategic plan of dissident slate and quality of critique against management; 	—	<p>Evaluated on a <u>case-by-case</u> basis, considering:</p> <ul style="list-style-type: none"> • qualifications of dissident and management candidates; • validity of concerns identified by dissident; • viability of both dissident’s and management’s plans; • likelihood that dissident’s solutions will produce desired change; and • whether dissident represents best option for enhancing long-term shareholder value. 	<p>In deciding which director nominee to support, considers numerous factors.</p>	<p>Vote <u>case-by-case</u> on shareholder nominees in contested director elections, focusing on:</p> <ul style="list-style-type: none"> • the case for change at target company (<i>e.g.</i>, performance relative to peers); • quality of company and dissident board nominees; and • quality of board governance.

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	<ul style="list-style-type: none"> likelihood that proposed goals and objectives can be achieved (both slates); and stock ownership positions. <p>For nominations pursuant to proxy access, vote <u>case-by-case</u> considering relevant factors, including factors specific to the company, the nominee(s) or the nature of the election.</p>				
Proxy Access	<p>Vote <u>for</u> proposals for proxy access with the following provisions:</p> <ul style="list-style-type: none"> <u>Ownership threshold</u>: maximum requirement not more than 3% of voting power; <u>Ownership duration</u>: maximum requirement not longer than three years of continuous ownership for each member of nominating group; <u>Aggregation</u>: minimal or no limits on number of shareholders permitted to form a nominating group; <u>Cap of nominees</u>: generally 25% of board. <p>Review for reasonableness any other restrictions on the right of proxy access. Vote <u>against</u> proposals if more restrictive than the guidelines above.</p>	<p><u>Supports</u> giving shareholders the right to nominate director candidates to management's proxy to ensure that significant, long-term shareholders have an ability to nominate candidates.</p> <p>Considers several factors:</p> <ul style="list-style-type: none"> specified minimum ownership and holding requirement for shareholders to nominate directors; company size; performance; and responsiveness to shareholders. 	<p><u>Supports</u> market-standardized proxy access proposals, allowing a shareholder (or group of up to 20 shareholders) holding 3% of a company's outstanding shares for at least three years the right to nominate the greater of up to two directors or 20% of board.</p> <p>Where a standardized proxy access provision exists, <u>opposes</u> shareholder proposals requesting outlier thresholds.</p>	<p>Considers proposals relating to proxy access on a <u>case-by-case</u> basis.</p> <p><u>Supports</u> shareholder proposals setting parameters to empower long-term shareholders while providing management with flexibility to design an appropriate process for the company's circumstances.</p>	<p>Vote <u>case-by-case</u> on management and shareholder proposals to adopt proxy access.</p> <p>Vote <u>for</u> proposals permitting a shareholder or a group of up to 20 shareholders representing ownership and holdings thresholds of at least 3% of a company's outstanding shares for three years to nominate up to 20% of board seats.</p> <p>Consider <u>support</u> for proposals with differing thresholds if company has not adopted any proxy access provision and does not intend to do so.</p>

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<i>Other Board-Related Proposals</i>					
Age/Term Limits	<p>Vote <u>case-by-case</u> on management proposals regarding term/tenure limits, considering:</p> <ul style="list-style-type: none"> the rationale; the robustness of the board evaluation process; whether limit is sufficient length to allow for broad range of director tenures; whether limit would disadvantage independent directors compared to non-independent directors; and whether board will impose the limit evenly, and not have the ability to waive it in a discriminatory manner. <p>Vote <u>case-by-case</u> on shareholder proposals regarding term/tenure limits, considering the scope of the proposal and evidence of problematic issues at the company combined with or exacerbated by, a lack of board refreshment.</p> <p>Vote <u>against</u> management and shareholder proposals to limit the tenure of independent directors through mandatory retirement ages.</p> <p>Vote <u>for</u> proposals to remove mandatory age limits.</p>	<p>Beginning in 2021, will note as a potential concern instances where the average tenure of non-executive directors is 10 years or more and no new independent directors have joined the board in the past five years. Will not make voting recommendations solely on this basis in 2021 (would otherwise vote <u>against</u> nominating committee chair); however, may be a contributing factor in recommendations.</p> <p>Suggests shareholders monitor overall composition of board, in lieu of imposing inflexible age/term limits.</p> <p>Beginning in 2022, if board waives age/term limits for two consecutive years, consider voting <u>against</u> nominating and/or governance committees, unless sufficient explanation is provided (<i>e.g.</i>, a merger).</p>	<p>Where boards find that age/term limits are the most efficient and objective mechanism for ensuring public board refreshment, generally <u>defer</u> to board's determination in setting such limits.</p> <p>Will consider average board tenure to evaluate processes for board renewal.</p> <p>May <u>oppose</u> boards that have insufficient mix of short-medium- and long-tenured directors.</p> <p>While in support of regular board refreshment, not opposed in principle to long-tenured directors.</p>	<p>Vote <u>against</u> age/term limits unless company has poor board refreshment and director succession practices, and has a preponderance of non-executive directors with excessively long tenures.</p> <p><u>Withhold</u> if overall average board tenure is excessive, considering preponderance of long-tenured directors, board refreshment practices and classified board structures.</p>	<p>Vote <u>for</u> management proposals to limit terms of outside directors and <u>against</u> shareholder proposals to limit such terms.</p>

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Declassified Board	<p>Vote <u>against</u> proposals to classify the board.</p> <p>Vote <u>for</u> proposals to repeal classified boards and to elect all directors annually.</p>	<p><u>Supports</u> declassification of boards and annual election of directors.</p>	<p><u>Supports</u> proposals for board declassification.</p> <p>Without a voting mechanism to immediately address concerns of a specific director, may vote <u>against/withhold</u> votes from directors up for election.</p>	<p><u>Supports</u> annual elections for board of directors.</p>	<p>Vote <u>for</u> proposals to declassify an existing board and <u>against/withhold</u> against proposals to create a classified board.</p>
CEO Succession Planning	<p>Vote <u>for</u> proposals seeking disclosure on a CEO succession planning policy, considering:</p> <ul style="list-style-type: none"> • reasonableness/scope of request; and • company's existing disclosure on current succession planning process. 	<p>Supports disclosure of CEO succession planning.</p> <p>May support proposals seeking disclosure of CEO Succession planning process if (i) company provides no information and (ii) there are specific concerns regarding CEO succession.</p> <p>Generally will not support proposals if rigidity would hinder board's ability to handle CEO succession.</p>	<p>Succession planning to cover both long-term planning consistent with strategic direction of company and leadership needs over time, as well as short-term planning for an unanticipated departure.</p> <p>Encourages company to explain succession planning process, including where accountability lies within the boardroom, without prematurely divulging sensitive information associated with this exercise.</p>	—	—
Cumulative Voting	<p>Vote <u>against</u> management proposals to eliminate cumulative voting, and <u>for</u> shareholder proposals to restore or provide for cumulative voting, unless company:</p> <ul style="list-style-type: none"> • has proxy access, allowing shareholders to nominate directors; and • has adopted a majority vote standard, with a carve-out for plurality voting in situations where there are more nominees than seats, and a 	<p>Review proposals on a <u>case-by-case basis</u>, considering independence of board and company's governance structure.</p> <p>If independence is lacking and appropriate checks and balances favoring shareholders are not in place, vote <u>for</u> cumulative voting.</p> <p>Where a company has a true majority voting standard, vote <u>against</u> cumulative voting proposals due to the incompatibility of the two.</p> <p>For companies that have <u>not</u> adopted a true majority voting</p>	<p><u>Opposes</u> proposals requesting adoption of cumulative voting.</p> <p>Favors a simple majority voting, and will <u>oppose</u> a shareholder proposal seeking an alternative voting mechanism where company already has a sufficiently robust majority voting process.</p>	<p>Does <u>not</u> support cumulative voting structures.</p> <p>Vote <u>against</u> proposals requiring super-majority votes to repeal certain provisions.</p> <p>Vote <u>for</u> reduction of such super-majority vote requirements or provisions.</p>	<p>Vote <u>for</u> management proposals to eliminate cumulative voting and vote <u>against/withhold</u> proposals to adopt cumulative voting.</p> <p>Vote <u>for</u> shareholder proposals requiring majority vote for director election, if company has plurality voting. May also vote <u>for</u> management proposals to implement majority voting.</p> <p>Vote <u>against</u> shareholder proposals requiring majority vote for election of directors if company has a director resignation policy under which a nominee who fails to get a</p>

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	<p>resignation policy to address failed elections.</p> <p>Vote <u>for</u> proposals for cumulative voting at controlled companies (insider voting power > 50%).</p>	<p>standard but have adopted some form of majority voting, vote <u>against</u> cumulative voting proposals if company has not adopted anti-takeover protections and has been responsive to shareholders.</p> <p>Where company has <u>not</u> adopted a majority voting standard and faces both a proposal to adopt majority voting and a proposal to adopt cumulative voting, <u>support</u> only majority voting proposal.</p>			<p>majority of votes cast is required to resign.</p>
<p>Indemnification and Liability Protection</p>	<p>Vote <u>case-by-case</u> on proposals on director and officer indemnification and liability protection.</p> <p>Vote <u>against</u> proposals that would:</p> <ul style="list-style-type: none"> • eliminate entirely directors' and officers' liability for monetary damages for violating the duty of care; • expand coverage beyond just legal expenses to liability for acts that are more serious violations of fiduciary obligation; or • expand the scope of indemnification to provide for mandatory indemnification of company officials in connection with acts that previously were subject to permissive indemnification at the discretion of the board. 	<p>Viewed as appropriate for a company to provide indemnification and/or enroll in liability insurance to cover its directors and officers provided that the terms of such agreements are reasonable.</p>	<p>—</p>	<p><u>Supports</u> proposals to limit directors' liability and/or expand indemnification and liability protection if he/she has not acted in bad faith, or with gross negligence or reckless disregard of the duties involved in the conduct of his/her office.</p>	<p>—</p>

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	<p>Vote <u>for</u> only proposals providing such expanded coverage in cases when a director's or officer's legal defense was unsuccessful if both of the following apply:</p> <ul style="list-style-type: none"> • if the director was found to have acted in good faith and in a manner that he/she reasonably believed was in the best interests of the company; and • if only the director's legal expenses would be covered. 				
Filling Vacancies/Removal of Directors	<p>Vote <u>against</u> proposals that provide that directors may be removed only for cause.</p> <p>Vote <u>for</u> proposals to restore shareholders' ability to remove directors with or without cause.</p> <p>Vote <u>against</u> proposals that provide that only continuing directors may elect replacements to fill board vacancies.</p> <p>Vote <u>for</u> proposals that permit shareholders to elect directors to fill board vacancies.</p>	—	—	<p>Vote <u>for</u> proposals to restore shareholders' ability to remove directors with or without cause.</p> <p>Vote <u>for</u> proposals that permit shareholders to elect directors to fill board vacancies.</p>	<p>Vote <u>for</u> management proposals to allow directors to fill vacancies on board if the company requires a majority vote for the election of directors and board is not classified.</p> <p>Vote <u>against</u> management proposals to allow directors to fill vacancies on a classified board.</p>
Virtual-Only Shareholder Meetings	<p>Vote <u>for</u> management proposals allowing for the convening of shareholder meetings by electronic means, so long as they do not preclude in-person meetings. Encourages disclosure of the circumstances under which virtual-only meetings are to be held, and to allow for comparable rights and</p>	<p>Vote <u>against</u> members of governance committee where board is planning to hold a virtual-only shareholder meeting and company does not provide effective disclosure in the proxy assuring shareholders that they will have the same opportunities to</p>	<p>Vote <u>case-by-case</u> on relevant shareholder proposals, but recognizes that virtual meetings are an increasingly viable way to facilitate shareholder accessibility, inclusiveness and cost-efficiencies.</p> <p>Expects shareholders to have a meaningful opportunity to</p>	—	<p>Generally <u>support</u> proposals seeking to conduct "hybrid" meetings (which shareholders can attend in person or online).</p> <p>May vote <u>for</u> proposals to conduct virtual-only meetings if:</p>

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	<p>opportunities for shareholders to participate electronically as they would have during an in-person meeting.</p> <p>Vote case-by-case on shareholder proposals concerning virtual-only meetings, considering:</p> <ul style="list-style-type: none"> • scope and rationale of the proposal; and • concerns identified with the company’s prior meeting practices. 	<p>participate as they would at an in-person meeting.</p> <p>Robust disclosure concerning shareholder participation is expected, including:</p> <ul style="list-style-type: none"> • disclosure of shareholders’ ability to ask questions at the meeting; • procedures, if any, for posting appropriate questions received during the meeting and the company’s answers on its public website; and • logistical details for meeting access and technical support. 	<p>participate in the meeting and interact with board and management.</p>		<ul style="list-style-type: none"> • procedures and requirements are disclosed of meeting; • a formal process exists for shareholders to submit questions; • real-time video footage is available and attendees can call into the meeting or send a recorded message; and • shareholder rights are not unreasonably curtailed.

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Thank you!

2022 Proxy Season ESG Look Ahead: Key Considerations for Retail

Live Poll Report

RILA Retail ESG Initiative



**RETAIL INDUSTRY
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February 8, 2022

Live Polls

*Note for live polls, the survey results represent a “snapshot in time” of some RILA member companies’ policies and activities related to the topics covered by this survey. Not all RILA member companies participated in the survey and more than one representative from a company may have responded. Therefore, the survey results do not represent a complete picture of the policies and activities of the whole RILA membership or the retail industry on these issues.

Poll 1: Is your company planning to make any changes to its advance notice bylaws for director nominations in view of the SEC's decision to require universal proxy cards?

- I Don't Know – 71.7%
- No – 24.53%
- Yes – 3.77%

Poll 2: Does your company provide disaggregated diversity disclosures about your directors for any categories other than gender and race/ethnicity (e.g., sexual orientation)?

- No – 56.14%
- I Don't Know – 28.07%
- Yes – 15.79%

Poll 3: How does your company decide whether to include a director in shareholder engagement meetings? Select up to 2.

- Not Sure or Not Related to My Role – 60.94%
- Board leadership position of direction (e.g., committee chair) – 15.63%
- Shareholders' Request – 15.63%
- Expertise of Director – 14.06%
- Size of Shareholders' Holdings – 9.38%
- Other – 1.56%

Poll 4: What impact is the SEC staff's changed guidance with respect to the ordinary business and economic relevance exclusions having on your approach to 14a-8 proposals? Select all that apply.

- Not Sure or Not Related to My Role – 62%
- No Changes to Our Process – 14%
- Submitting Fewer No-Action Requests – 12%
- Greater Focus on Other Bases for Excluding Proposals – 10%
- Increased Engagement with Proponents – 8%

Thank you!