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THE CONFERENCE BOARD

Shareholder Voting Trends (2018-2022)

Brief 3: Governance Proposals, Say-on-Pay Votes, and Director Elections

In collaboration with: RUTGERS Center for Corporate Law and Governance

Russell Reynolds ASSOCIATES

ESGAUGE is a data mining and analytics firm uniquely designed for the corporate practitioner and the professional service firm seeking customized information on US public companies. It focuses on disclosure of environmental, social, and governance (ESG) practices such as executive and director compensation, board practices, CEO and NEO profiles, proxy voting and shareholder activism, and CSR/sustainability disclosure. Our clients include business corporations, asset management firms, compensation consultants, law firms, accounting and audit firms, and investment companies. We also partner on research projects with think tanks, academic institutions, and the media.

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Shareholder Voting Trends
(2018-2022)

Brief 3: Governance Proposals, Say-on-Pay Votes, and Director Elections

Shareholder Voting Trends (2018-2022) provides an overview of shareholder resolutions filed at Russell 3000 and S&P 500 companies through mid-July 2022, including trends regarding the volume and topics of shareholder proposals, the level of support received by those proposals when put to a vote, and the types of proposal sponsors. The postseason report builds on a season preview report published earlier this year and periodic updates provided by The Conference Board throughout the last few months (see page 32 for a full list of resources). It is also accompanied by a live dashboard, which contains the most current figures and enables data cuts by market index, business sectors, and company size groups.

Drawing upon those data and earlier publications, the report also offers insights for what may lie ahead in the following areas:

- The continued increase in the number of shareholder proposals related to social and environmental policies of the company;
- Shareholder expectations regarding climate-related targets and disclosure;
- The success of many shareholder proposals on civil rights or racial equity audits;
- The alignment of corporate political activity and the firm's stated values;
- The pressure on smaller public companies to endorse governance practices that are now widely used by their larger counterparts; and
- The emerging link between softening support for director elections and company say-on-pay support levels, on the one hand, and investors' dissatisfaction with corporate ESG performance, on the other.

The report is divided into three publications:

Brief 1 discusses trends in ESG proposals in general and environmental requests—especially those related to greenhouse gas emission reduction and climate change risks.

Brief 2 is dedicated to human capital management (HCM) and social policy proposals, especially the rising demands for civil rights (or racial equity audit) and the success of resolutions on corporate political spending disclosure at some large companies.

Brief 3 focuses on the push for smaller companies to adopt governance practices such as board declassification and majority voting, as well as the most recent findings on support levels for say-on-pay resolutions and director elections.

The project is conducted by The Conference Board and ESG data analytics firm ESGAUGE, in collaboration with leadership advisory and search firm Russell Reynolds Associates and Rutgers University's Center for Corporate Law and Governance (CCLG). See "Access Our Online Dashboard" on page 29 for more information on the study methodology. Visit conferenceboard.esgauge.org/shareholdervoting to access and visualize our data online.

Insights for What's Ahead

- **Directors and executives should be aware that some investors are now specifically targeting smaller firms on declassifying boards and adopting a majority voting standard.** During this proxy season, shareholders granted majority support to five resolutions to declassify the board structure as well as four resolutions to change the standard for the election of directors from plurality to majority voting. Both practices have been widely adopted, and the few resolutions filed in these areas target smaller organizations. While some companies in that cohort have thus far remained immune to changes in their director election system, things may change. In particular, boards should take a careful and holistic look at changing their director election practices. Plurality voting and staggered boards can be seen as protections against activism; however, as shown by these shareholder proposals, they can also invite activism. Staggered boards can also be perceived as an impediment to board refreshment, and companies may wish to consider shifting to annual elections if it helps them adjust the composition of the board in a way that keeps pace with strategic needs. See page 5.

- **Support for company proposals on say-on-pay resolutions and director elections has declined. Senior executives and board members should be aware that institutional investors have introduced voting policies to hold individual business leaders accountable for shortcomings in the ESG area.** The analysis of the last four years of say-on-pay resolutions shows a decline in average support level, higher failure rates, and a rising number of Russell 3000 companies receiving less than 70 percent *for* votes, a threshold that may attract additional scrutiny from proxy advisors and investors. Average support levels for board-proposed candidates in director elections have also been declining. In 2022, 75 directors nominated by management did not get elected—a multiple of the number recorded only a few years ago. While many factors can lead to a decline in investor support for directors, proxy advisors and major institutional investors have recently amended their voting policies to indicate their intention to hold specific board members accountable for perceived ESG shortcomings. Board members and C-suite executives should therefore remain educated about ESG issues of concerns to the investment community and the proxy advisors that often influence institutional votes. They can do so by maintaining open lines of communication with their largest shareholders throughout the year, by monitoring voting policies and stewardship reports, by benchmarking their company's ESG disclosure practices against its peers, and by tracking the outcome of resolutions submitted during the proxy season (including those that were withdrawn from the voting ballot after private engagements). See page 22.

Resolutions demanding shareholders' right to call special meetings tripled in 2022. A few other proposals passed at smaller companies that have not yet endorsed widely accepted governance practices.

Over the last few years, the focus of the proxy season has gradually shifted from issues of corporate governance to environmental, human capital, and social issues. The 2022 season confirmed this trend. In the period from January 1 to July 15, 2022, shareholders of Russell 3000 companies filed 258 proposals related to corporate governance matters (or 31.7 percent of the total number of filings), compared to 303 proposals in the same period of 2021 (38.6 percent of the total) and 316 in 2020 (43 percent). Moreover, shareholders gave majority support to only 30 corporate governance–related proposals, a sharp decline from the 50 recorded in the same period in 2021. Passed resolutions requested bylaws amendments to allow for shareholders to call special meetings, eliminate supermajority requirements, declassify the board, and transition from a plurality to a majority voting standard in uncontested director elections.

- In the examined 2022 period, investors filed 114 resolutions requesting their right to call special meetings of shareholders, or three times as many as those recorded in 2021 proxy statement filings. This proposal topic alone represented almost half (44.2 percent) of all governance-related proposal submissions in the season. Almost all special meeting proposals went to a vote (109 proposals), and nine (or 8.3 percent of the 109) passed. They were filed by individual shareholders (namely, John Chevedden, Kenneth Steiner, and Myra K. Young) at health care/medical equipment firm Becton, Dickinson; energy giant ConocoPhillips; and aerospace and defense technology company Northrop Grumman, among others.
- In 2022, investors also approved nine of the 11 voted proposals, filed by John Chevedden and Kenneth Steiner, to eliminate supermajority vote requirements and apply a simple majority voting standard to any shareholder voting matter. Prominent firms where the resolutions were successful include The Southern Company, Goodyear, Netflix, and Fortinet.
- This season, shareholders also approved five resolutions to declassify the board structure and four to change the standard for director elections from plurality to majority voting. Both practices are now widely adopted, and smaller firms are now the likeliest targets for these resolutions; see "On the Choice of Departing from Widely Adopted Governance and Compensation Practices" on page 21. For many years, requests for board declassification have been receiving the highest average support level of all nonbinding shareholder proposals: in 2022 it was the highest on record—or 84.7 percent of votes cast, up from 82.5 percent of 2021 and 73.8 percent of 2019. Their major proponent, CorpGov.net publisher James McRitchie, was successful at health care companies Invitae and NanoString Technologies, while Kenneth Steiner introduced the proposals that passed at financial firms Carlyle Group and New York Community Bancorp. Resolutions on the change from plurality to majority voting received majority support at smaller materials company Warrior Met Coal and information technology companies 2U and Ncino (all with annual revenue of about $500 million or less), but also at a larger health care technology company, IQVIA ($13 billion).

Figure 1

Shareholder Proposals on Corporate Governance—Voted Proposal Volume (2018-2022)

Number of proposals (percent of total)

Russell 3000

2022	Filed proposals	Percent of total	Voted proposals	Percent of total
Adopt director nominee qualifications	1	0.4%	1	0.5%
Allow for (or ease requirement to) act by written consent	8	3.1%	6	2.8%
Other board structure related	6	2.3%	2	0.9%
Allow for (or ease requirement to) call special meetings	114	44.2%	109	51.7%
Change from plurality to majority voting	7	2.7%	6	2.8%
Declassify board	8	3.1%	5	2.4%
Eliminate dual class structure (unequal voting)	10	3.9%	8	3.8%
Other corporate governance issues	13	5.0%	7	3.3%
Other nontakeover defense-related charter/bylaw amendment	1	0.4%	1	0.5%
Reduce difficulty to remove directors (with/without cause)	2	0.8%	1	0.5%
Separate CEO/chairman positions	48	18.6%	37	17.5%
Eliminate supermajority vote requirement	12	4.7%	11	5.2%
Employee representation on board	2	0.8%	2	0.9%
Include shareholder nominee in company proxy (proxy access)	22	8.5%	13	6.2%
Other board committee related	4	1.6%	2	0.9%
	n=258		**n=211**	

2021	Filed proposals	Percent of total	Voted proposals	Percent of total
Adopt director nominee qualifications	3	1.0%	3	1.3%
Allow for (or ease requirement to) act by written consent	82	26.9%	73	30.8%
Allow for (or ease requirement to) call special meetings	37	12.1%	32	13.5%
Change from plurality to majority voting	17	5.6%	12	5.1%
Declassify board	10	3.3%	6	2.5%
Eliminate dual class structure (unequal voting)	13	4.3%	13	5.5%
Eliminate supermajority vote requirement	36	11.8%	21	8.9%
Other corporate governance issues	17	5.6%	7	3.0%
Other takeover defense related (reduce defense)	1	0.3%	1	0.4%
Reduce difficulty to remove directors (with/without cause)	2	0.7%	1	0.4%
Separate CEO/chairman positions	44	14.4%	38	16.0%
Include shareholder nominee in company proxy (proxy access)	37	12.1%	28	11.8%
Mandatory director retirement age-related	1	0.3%	1	0.4%
Other board structure related	3	1.0%	1	0.4%
	n=303		**n=237**	

2020	Filed proposals	Percent of total	Voted proposals	Percent of total
Adopt director nominee qualifications	10	3.2%	7	2.8%
Allow for (or ease requirement to) act by written consent	68	21.5%	63	25.3%
Allow for (or ease requirement to) call special meetings	45	14.2%	41	16.5%
Change from plurality to majority voting	17	5.4%	15	6.0%
Declassify board	21	6.6%	5	2.0%
Eliminate dual class structure (unequal voting)	7	2.2%	7	2.8%
Eliminate supermajority vote requirement	24	7.6%	13	5.2%
Other corporate governance issues	11	3.5%	5	2.0%
Other nontakeover defense-related charter/bylaw amendment	2	0.6%	1	0.4%
Other takeover defense related (reduce defense)	18	5.7%	16	6.4%
Reduce difficulty to remove directors (with/without cause)	4	1.3%	1	0.4%
Separate CEO/chairman positions	49	15.5%	45	18.1%
Employee representation on board	13	4.1%	12	4.8%
Include shareholder nominee in company proxy (proxy access)	20	6.3%	14	5.6%
Mandatory director retirement age-related	1	0.3%	1	0.4%
Other board committee related	3	0.9%	2	0.8%
Other board structure related	3	0.9%	1	0.4%
	n=316		**n=249**	

2019	Filed proposals	Percent of total	Voted proposals	Percent of total
Adopt director nominee qualifications	5	1.7%	3	1.3%
Adopt term limits for directors	1	0.3%	1	0.4%
Allow cumulative voting	5	1.7%	3	1.3%
Allow for (or ease requirement to) act by written consent	41	13.9%	36	15.9%
Allow for (or ease requirement to) call special meetings	30	10.1%	26	11.5%
Change from plurality to majority voting	22	7.4%	20	8.8%
Declassify board	15	5.1%	4	1.8%
Eliminate dual class structure (unequal voting)	7	2.4%	7	3.1%
Eliminate supermajority vote requirement	42	14.2%	22	9.7%
Other corporate governance issues	13	4.4%	5	2.2%
Other nontakeover defense-related charter/bylaw amendment	1	0.3%	1	0.4%
Redeem (or require shareholder vote on) “poison pill”	1	0.3%	1	0.4%
Separate CEO/chairman positions	64	21.6%	59	26.0%
Employee representation on board	3	1.0%	2	0.9%
Include shareholder nominee in company proxy (proxy access)	33	11.1%	30	13.2%
Opt out of state takeover statute	2	0.7%	2	0.9%
Other board committee related	8	2.7%	3	1.3%
Other board structure related	3	1.0%	2	0.9%
	n=296		**n=227**	

2018	Filed proposals	Percent of total	Voted proposals	Percent of total
Adopt director nominee qualifications	3	1.0%	3	1.3%
Adopt term limits for directors	4	1.3%	3	1.3%
Allow cumulative voting	3	1.0%	3	1.3%
Allow for (or ease requirement to) act by written consent	41	13.4%	37	16.1%
Allow for (or ease requirement to) call special meetings	78	25.6%	62	27.0%
Change from plurality to majority voting	9	3.0%	5	2.2%
Declassify board	12	3.9%	6	2.6%
Eliminate dual class structure (unequal voting)	8	2.6%	7	3.0%
Eliminate supermajority vote requirement	25	8.2%	13	5.7%
Other corporate governance issues	13	4.3%	4	1.7%
Other nontakeover defense-related charter/bylaw amendment	2	0.7%	2	0.9%
Other takeover defense related (reduce defense)	1	0.3%	1	0.4%
Separate CEO/chairman positions	56	18.4%	46	20.0%
Include shareholder nominee in company proxy (proxy access)	45	14.8%	34	14.8%
Increase board size	1	0.3%	1	0.4%
Other board committee related	4	1.3%	3	1.3%
	n=305		**n=230**	

Source: ESGAUGE, 2022.

Figure 2

Corporate Governance—Most Frequent Sponsors (2022)

Rank	Sponsor name	Sponsor type	Number of proposals
	Adopt director nominee qualifications		
1	Arjuna Capital	Other stakeholders	1
	Allow for (or ease requirement to) act by written consent		
1	John Chevedden	Individuals	6
2	Kenneth Steiner	Individuals	2
	Other board structure related		
1	Jing Zhao	Individuals	2
1	Tara Chand	Individuals	2
2	Connecticut Retirement Plans & Trust Funds	Public pension funds	1
2	State of New Jersey Common Pension Fund	Public pension funds	1
	Allow for (or ease requirement to) call special meetings		
1	John Chevedden	Individuals	75
2	Kenneth Steiner	Individuals	21
3	James McRitchie	Individuals	2
4	Myra K. Young	Individuals	1
4	Newground Social Investment SPC	Investment advisers	1
	Change from plurality to majority voting		
1	James McRitchie	Individuals	3

2	Kenneth Steiner	Individuals	1
2	Myra K. Young	Individuals	1
2	Service Employees International Union	Labor unions	1
2	North Atlantic States Carpenters Pension Fund	Public pension funds	1
	Declassify board		
1	James McRitchie	Individuals	2
1	John Chevedden	Individuals	2
1	Kenneth Steiner	Individuals	2
2	New York City Carpenters Pension Fund	Public pension funds	1
	Eliminate dual class structure (unequal voting)		
1	John Chevedden	Individuals	4
2	NorthStar Asset Management, Inc.	Investment advisers	2
3	Kenneth Steiner	Individuals	1
3	International Brotherhood of Teamsters	Labor unions	1
	Other corporate governance issues		
1	North Atlantic States Carpenters Pension Fund	Public pension funds	2
2	Andrew J. Chaney	Individuals	1
2	Frank Sapienza	Individuals	1
2	James McRitchie	Individuals	1
2	Steven J. Milloy	Individuals	1
2	John Harrington	Investment advisers	1
2	Friends Fiduciary Corporation	Other institutions	1
2	The Humane Society of the United States	Other stakeholders	1
2	Mercy Investment Services, Inc.	Religious groups	1
2	Sisters of St Francis Charitable Trust	Religious groups	1
2	Trinity Health	Religious groups	1
	Other nontakeover defense-related charter/bylaw amendment		
1	Richard Kayne	Individuals	1
	Reduce difficulty to remove directors (with/without cause)		
1	John Chevedden	Individuals	2
	Separate CEO/chairman positions		
1	Kenneth Steiner	Individuals	22
2	John Chevedden	Individuals	6
3	National Legal and Policy Center	Other stakeholders	7
4	John Lauve	Individuals	1
4	Legal & General Investment Management	Investment advisers	1
4	United Steelworkers	Labor unions	1
4	James T. Campen Trust	Other stakeholders	1
4	The Humane Society of the United States	Other stakeholders	1
4	Employees Retirement System of Rhode Island	Public pension funds	1
4	New York State Common Retirement Funds	Public pension funds	1
4	Mercy Investment Services, Inc.	Religious groups	1
4	United Church Funds, Inc.	Religious groups	1
4	Vermont Pension Investment Committee	Religious groups	1

	Eliminate supermajority vote requirement		
1	John Chevedden	Individuals	9
2	Kenneth Steiner	Individuals	2
	Employee representation on board		
1	Alexandra A. Brown	Individuals	1
1	AFL-CIO	Labor unions	1
	Include shareholder nominee in company proxy (proxy access)		
1	John Chevedden	Individuals	7
2	James McRitchie	Individuals	6
3	Myra K. Young	Individuals	3
4	Jonah Crandall	Individuals	1
4	California Public Employees' Retirement System	Public pension funds	1
4	New York City Carpenters Pension Fund	Public pension funds	1
4	North Atlantic States Carpenters Pension Fund	Public pension funds	1
	Other board committee related		
1	Dale Wannen	Individuals	1
1	Walter Garcia	Individuals	1
1	Illinois State Treasurer	Investment advisers	1

Source: ESGAUGE, 2022.

Figure 3

Shareholder Proposals on Corporate Governance— Average Voting Results (2022)

Topic	Voted proposals	As a percent of votes cast			As a percent of shares outstanding			
		For	Against	Abstain	For	Against	Abstain	Nonvotes
Adopt director nominee qualifications	1	14.8%	84.0%	1.2%	8.4%	47.8%	0.7%	18.5%
Allow for (or ease requirement to) act by written consent	6	34.3%	63.5%	2.2%	28.0%	47.7%	1.6%	7.1%
Other board structure related	2	3.7%	95.6%	0.6%	2.8%	71.3%	0.5%	10.5%
Allow for (or ease requirement to) call special meetings	109	35.8%	61.7%	0.7%	27.5%	47.4%	0.5%	7.6%
Change from plurality to majority voting	6	53.2%	42.2%	4.6%	48.2%	27.5%	4.4%	7.1%
Declassify board	5	84.7%	12.0%	3.4%	66.0%	7.8%	2.1%	7.6%
Eliminate dual class structure (unequal voting)	8	28.2%	71.5%	0.2%	30.2%	60.8%	0.1%	4.6%
Other corporate governance issues	7	27.8%	57.1%	0.8%	15.3%	38.2%	0.6%	9.7%
Other nontakeover defense-related charter/bylaw amendment	1	37.3%	60.2%	2.5%	29.6%	47.8%	2.0%	8.3%

Reduce difficulty to remove directors (with/without cause)	1	47.3%	52.3%	0.5%	32.8%	36.3%	0.3%	16.1%
Separate CEO/chairman positions	37	27.6%	68.6%	1.2%	20.7%	49.9%	0.9%	9.6%
Eliminate supermajority vote requirement	11	61.9%	18.8%	1.1%	46.3%	14.7%	0.7%	7.7%
Employee representation on board	2	4.9%	93.8%	1.3%	3.5%	67.8%	1.0%	9.4%
Include shareholder nominee in company proxy (proxy access)	13	28.4%	63.6%	0.3%	22.6%	50.1%	0.3%	8.7%
Other board committee related	2	7.6%	92.0%	0.4%	4.3%	86.4%	0.5%	4.6%
Subject average	**n=211**	**33.2%**	**62.5%**	**1.4%**	**25.8%**	**46.8%**	**1.1%**	**9.1%**

Source: ESGAUGE, 2022.

Figure 4

Shareholder Proposals on Corporate Governance—Average Support Level (2018-2022)

For votes as percent of votes cast

	2022	2021	2020	2019	2018
Other nontakeover defense-related charter/bylaw amendment	37.3	0.0	1.5	51.7	10.8
Other takeover defense related (reduce defense)	0.0	2.5	3.7	0.0	2.4
Redeem (or require shareholder vote on) "poison pill"	0.0	0.0	0.0	71.9	0.0
Reduce difficulty to remove directors (with/without cause)	47.3	48.5	53.7	0.0	0.0
Separate CEO/chairman positions	27.6	31.3	34.8	29.4	31.4
Declassify board	84.7	82.5	77.0	73.8	84.4
Eliminate dual class structure (unequal voting)	28.2	31.8	37.2	24.4	27.4
Eliminate supermajority vote requirement	61.9	80.9	63.8	62.6	60.7
Employee representation on board	4.9	0.0	6.0	4.1	0.0
Adopt director nominee qualifications	14.8	9.5	5.7	4.3	13.7
Adopt term limits for directors	0.0	0.0	0.0	10.5	13.2
Allow cumulative voting	0.0	0.0	0.0	5.5	9.3
Allow for (or ease requirement to) act by written consent	34.3	40.9	36.2	38.6	40.5
Allow for (or ease requirement to) call special meetings	35.8	34.3	40.6	44.6	41.5
Change from plurality to majority voting	53.2	54.3	29.2	41.9	73.9
Include shareholder nominee in company proxy (proxy access)	28.4	32.0	32.9	33.8	31.2

Increase board size	0.0	0.0	0.0	0.0	7.7
Mandatory director retirement age-related	0.0	5.3	4.5	0.0	0.0
Opt out of state takeover statute	0.0	0.0	0.0	63.5	0.0
Other board committee related	7.6	0.0	12.0	8.3	6.6
Other board structure related	3.7	3.0	47.0	7.5	0.0
Other corporate governance issues	27.8	30.0	34.2	31.4	47.3

Source: ESGAUGE, 2022.

Figure 5

Shareholder Proposals on Corporate Governance—Pass Rate (2018-2022)

Percent of voted proposals receiving majority support

2022			
Topic	**Voted proposals**	**Voted proposals receiving majority support**	**Percent of total**
Other nontakeover defense-related charter/bylaw amendment	1	0	0.0%
Other takeover defense related (reduce defense)	0	0	0.0%
Redeem (or require shareholder vote on) "poison pill"	0	0	0.0%
Reduce difficulty to remove directors (with/without cause)	1	0	0.0%
Separate CEO/chairman positions	37	0	0.0%
Declassify board	5	5	100.0%
Eliminate dual class structure (unequal voting)	8	0	0.0%
Eliminate supermajority vote requirement	11	9	81.8%
Employee representation on board	2	0	0.0%
Adopt director nominee qualifications	1	0	0.0%
Adopt term limits for directors	0	0	0.0%
Allow cumulative voting	0	0	0.0%
Allow for (or ease requirement to) act by written consent	6	1	16.7%
Allow for (or ease requirement to) call special meetings	109	9	8.3%
Change from plurality to majority voting	6	4	66.7%
Include shareholder nominee in company proxy (proxy access)	13	1	7.7%
Increase board size	0	0	0.0%
Mandatory director retirement age-related	0	0	0.0%
Opt out of state takeover statute	0	0	0.0%
Other board committee related	2	0	0.0%
Other board structure related	2	0	0.0%
Other corporate governance issues	7	1	14.3%
	n=211		

2021			
Topic	**Voted proposals**	**Voted proposals receiving majority support**	**Percent of total**
Other nontakeover defense-related charter/bylaw amendment	0	0	0.0%
Other takeover defense related (reduce defense)	1	0	0.0%
Redeem (or require shareholder vote on) "poison pill"	0	0	0.0%
Reduce difficulty to remove directors (with/without cause)	1	0	0.0%
Separate CEO/chairman positions	38	1	2.6%
Declassify board	6	6	100.0%
Eliminate dual class structure (unequal voting)	13	2	15.4%
Eliminate supermajority vote requirement	21	19	90.5%
Employee representation on board	0	0	0.0%
Adopt director nominee qualifications	3	0	0.0%
Adopt term limits for directors	0	0	0.0%
Allow cumulative voting	0	0	0.0%
Allow for (or ease requirement to) act by written consent	73	10	13.7%
Allow for (or ease requirement to) call special meetings	32	4	12.5%
Change from plurality to majority voting	12	6	50.0%
Include shareholder nominee in company proxy (proxy access)	28	0	0.0%
Increase board size	0	0	0.0%
Mandatory director retirement age-related	1	0	0.0%
Opt out of state takeover statute	0	0	0.0%
Other board committee related	0	0	0.0%
Other board structure related	1	0	0.0%
Other corporate governance issues	7	2	28.6%
	n=237		

2020			
Topic	**Voted proposals**	**Voted proposals receiving majority support**	**Percent of total**
Other nontakeover defense-related charter/bylaw amendment	1	0	0.0%
Other takeover defense related (reduce defense)	16	0	0.0%
Redeem (or require shareholder vote on) "poison pill"	0	0	0.0%
Reduce difficulty to remove directors (with/without cause)	1	1	100.0%
Separate CEO/chairman positions	45	2	4.4%
Declassify board	5	5	100.0%
Eliminate dual class structure (unequal voting)	7	1	14.3%
Eliminate supermajority vote requirement	13	10	76.9%
Employee representation on board	12	0	0.0%
Adopt director nominee qualifications	7	0	0.0%
Adopt term limits for directors	0	0	0.0%
Allow cumulative voting	0	0	0.0%
Allow for (or ease requirement to) act by written consent	63	5	7.9%
Allow for (or ease requirement to) call special meetings	41	5	12.2%
Change from plurality to majority voting	15	1	6.7%

Include shareholder nominee in company proxy (proxy access)	14	1	7.1%
Increase board size	0	0	0.0%
Mandatory director retirement age-related	1	0	0.0%
Opt out of state takeover statute	0	0	0.0%
Other board committee related	2	0	0.0%
Other board structure related	1	0	0.0%
Other corporate governance issues	5	2	40.0%
	n=249		

2019

Topic	Voted proposals	Voted proposals receiving majority support	Percent of total
Other nontakeover defense-related charter/bylaw amendment	1	1	100.0%
Other takeover defense related (reduce defense)	0	0	0.0%
Redeem (or require shareholder vote on) "poison pill"	1	1	100.0%
Reduce difficulty to remove directors (with/without cause)	0	0	0.0%
Separate CEO/chairman positions	59	0	0.0%
Declassify board	4	4	100.0%
Eliminate dual class structure (unequal voting)	7	0	0.0%
Eliminate supermajority vote requirement	22	17	77.3%
Employee representation on board	2	0	0.0%
Adopt director nominee qualifications	3	0	0.0%
Adopt term limits for directors	1	0	0.0%
Allow cumulative voting	3	0	0.0%
Allow for (or ease requirement to) act by written consent	36	6	16.7%
Allow for (or ease requirement to) call special meetings	26	6	23.1%
Change from plurality to majority voting	20	7	35.0%
Include shareholder nominee in company proxy (proxy access)	30	4	13.3%
Increase board size	0	0	0.0%
Mandatory director retirement age-related	0	0	0.0%
Opt out of state takeover statute	2	2	100.0%
Other board committee related	3	0	0.0%
Other board structure related	2	0	0.0%
Other corporate governance issues	5	2	40.0%
	n=227		

2018

Topic	Voted proposals	Voted proposals receiving majority support	Percent of total
Other nontakeover defense-related charter/bylaw amendment	2	0	0.0%
Other takeover defense related (reduce defense)	1	0	0.0%
Redeem (or require shareholder vote on) "poison pill"	0	0	0.0%
Reduce difficulty to remove directors (with/without cause)	0	0	0.0%
Separate CEO/chairman positions	46	1	2.2%
Declassify board	6	6	100.0%
Eliminate dual class structure (unequal voting)	7	0	0.0%

Eliminate supermajority vote requirement	13	10	76.9%
Employee representation on board	0	0	0.0%
Adopt director nominee qualifications	3	0	0.0%
Adopt term limits for directors	3	0	0.0%
Allow cumulative voting	3	0	0.0%
Allow for (or ease requirement to) act by written consent	37	4	10.8%
Allow for (or ease requirement to) call special meetings	62	7	11.3%
Change from plurality to majority voting	5	4	80.0%
Include shareholder nominee in company proxy (proxy access)	34	3	8.8%
Increase board size	1	0	0.0%
Mandatory director retirement age-related	0	0	0.0%
Opt out of state takeover statute	0	0	0.0%
Other board committee related	3	0	0.0%
Other board structure related	0	0	0.0%
Other corporate governance issues	4	2	50.0%
	n=230		

Source: ESGAUGE, 2022.

In the last decade, following the adoption of say on pay, shareholder resolutions on executive compensation issues have declined in volume and rarely reached the majority support level. This year, however, four such resolutions, regarding golden parachutes in severance agreements, passed.[1]

The proposals were introduced by individual investors John Chevedden and Kenneth Steiner at airlines Alaska Air Group and Spirit AeroSystems Holdings, and at biotech AbbVie and information technology company Fiserv. They all used the same formulation, where "shareholders request that the board seek shareholder approval of any senior manager's new or renewed pay package that provides for severance or termination payments with an estimated value exceeding 2.99 times the sum of the executive's base salary plus target short-term bonus." The four successful proposals are part of a record number of proposal filings of this type in 2022 (16 in total, compared to only four in each of the 2021 and 2020 periods). In 2021, there was only one successful proposal on this topic, and none in each of the prior three years.

Just as in prior years, shareholders also voted on handfuls of proposals related to CEO pay ratio, the use of "clawback" provisions to recoup incentive pay, enhanced disclosure of the link between pay and performance, and equity retention period requirements. However, none of them reached majority support.

1 Golden parachutes are lucrative severance arrangements offered to certain executives in case of mergers or other change-in-control events that would lead to their termination. See Peer Fiss, *A Short History of Golden Parachutes,* Harvard Business Review, October 3, 2016. The SEC adopted rules on the approval of golden parachutes, under the Dodd-Frank Act, in 2011: see SEC, *Shareholder Approval of Executive Compensation and Golden Parachute Compensation,* Release No. 33-9178; 34-63768, January 25, 2011.

Figure 6

Shareholder Proposals on Executive Compensation—Voted Proposal Volume (2018-2022)

Number of proposals (percent of total)

Russell 3000

2022	Filed proposals	Percent of total	Voted proposals	Percent of total
CEO pay ratio-related	11	26.8%	5	15.2%
Limit (or vote on) severance agreements ("golden parachutes")	16	39.0%	15	45.5%
Require equity retention period	2	4.9%	2	6.1%
Link compensation to ESG performance ("pay for ESG performance")	1	2.4%	1	3.0%
Link compensation to performance ("pay for performance")	2	4.9%	2	6.1%
Other executive compensation issues	3	7.3%	3	9.1%
Recoup incentive pay ("clawback")	6	14.6%	5	15.2%
	n=41		**n=33**	

2021	Filed proposals	Percent of total	Voted proposals	Percent of total
CEO pay ratio-related	13	31.0%	10	38.5%
Expand compensation-related disclosure	2	4.8%	2	7.7%
Limit (or vote on) severance agreements ("golden parachutes")	4	9.5%	4	15.4%
Link compensation to ESG performance ("pay for ESG performance")	9	21.4%	4	15.4%
Link compensation to performance ("pay for performance")	3	7.1%	1	3.8%
Other executive compensation issues	7	16.7%	2	7.7%
Recoup incentive pay ("clawback")	3	7.1%	3	11.5%
	n=41		**n=26**	

2020	Filed proposals	Percent of total	Voted proposals	Percent of total
CEO pay ratio-related	6	11.1%	3	10.0%
Director compensation related	1	1.9%	1	3.3%
Expand compensation-related disclosure	5	9.3%	3	10.0%
Limit (or vote on) severance agreements ("golden parachutes")	4	7.4%	3	10.0%
Link compensation to ESG performance ("pay for ESG performance")	12	22.2%	8	26.7%
Link compensation to performance ("pay for performance")	6	11.1%	1	3.3%
Other executive compensation issues	9	16.7%	4	13.3%
Recoup incentive pay ("clawback")	4	7.4%	2	6.7%
Require equity retention period	7	13.0%	5	16.7%
	n=54		**n=30**	

2019	Filed proposals	Percent of total	Voted proposals	Percent of total
CEO pay ratio-related	3	5.6%	1	3.2%
Expand compensation-related disclosure	1	1.9%	1	3.2%
Limit (or vote on) severance agreements ("golden parachutes")	6	11.1%	5	16.1%
Link compensation to ESG performance ("pay for ESG performance")	17	31.5%	9	29.0%
Link compensation to performance ("pay for performance")	8	14.8%	6	19.4%
Other executive compensation issues	9	16.7%	5	16.1%
Recoup incentive pay ("clawback")	7	13.0%	3	9.7%
Require equity retention period	3	5.6%	1	3.2%
	n=54		**n=31**	

2018	Filed proposals	Percent of total	Voted proposals	Percent of total
CEO pay ratio-related	2	3.4%	1	2.5%
Expand compensation-related disclosure	3	5.1%	1	2.5%
Limit (or vote on) severance agreements ("golden parachutes")	12	20.3%	12	30.0%
Link compensation to ESG performance ("pay for ESG performance")	18	30.5%	9	22.5%
Link compensation to performance ("pay for performance")	4	6.8%	4	10.0%
Other executive compensation issues	7	11.9%	5	12.5%
Recoup incentive pay ("clawback")	13	22.0%	8	20.0%
	n=59		**n=40**	

Source: ESGAUGE, 2022.

Figure 7

Shareholder Proposals on Executive Compensation—Most Frequent Sponsors (2022)

Rank	Sponsor name	Sponsor type	Number of proposals
	CEO pay ratio-related		
1	James McRitchie	Individuals	5
2	Jing Zhao	Individuals	2
2	Myra K. Young	Individuals	2
3	AFL-CIO	Labor unions	1
	Limit (or vote on) severance agreements ("golden parachutes")		
1	John Chevedden	Individuals	6
2	Kenneth Steiner	Individuals	4
3	SOC Investment Group	Public pension funds	2
4	James McRitchie	Individuals	1
4	Myra K. Young	Individuals	1
4	Association of BellTel Retirees Inc.	Other stakeholders	1

	Require equity retention period		
1	New York State Common Retirement Funds	Public pension funds	2
	Link compensation to ESG performance ("pay for ESG performance")		
1	Trium Sustainable Innovators Global Equity Fund	Hedge funds	1
	Link compensation to performance ("pay for performance")		
1	International Brotherhood of Teamsters	Labor unions	1
1	Vermont Pension Investment Committee	Religious groups	1
	Other executive compensation issues		
1	Bernie J. Pafford	Individuals	1
1	Martin Harangozo	Individuals	1
1	New York State Common Retirement Funds	Public pension funds	1
	Recoup incentive pay ("clawback")		
1	John Chevedden	Individuals	3
2	Thomas M. Steed	Individuals	1
2	United Steelworkers	Labor unions	1
2	SOC Investment Group	Public pension funds	1

Source: ESGAUGE, 2022.

Figure 8

Shareholder Proposals on Executive Compensation—Average Voting Results (2022)

Topic	Voted proposals	As a percentage of votes cast			As a percentage of shares outstanding			
		For	Against	Abstain	For	Against	Abstain	Nonvotes
CEO pay ratio-related	5	9.6%	88.5%	1.9%	6.5%	60.6%	1.4%	12.0%
Limit (or vote on) severance agreements ("golden parachutes")	15	42.3%	50.5%	0.5%	32.4%	39.5%	0.4%	9.3%
Require equity retention period	2	25.7%	73.7%	0.6%	15.5%	42.7%	0.3%	16.7%
Link compensation to ESG performance ("pay for ESG performance")	1	14.6%	84.4%	0.9%	12.1%	69.6%	0.8%	3.7%
Link compensation to performance ("pay for performance")	2	41.4%	58.1%	0.4%	32.3%	46.6%	0.3%	8.9%
Other executive compensation issues	3	15.8%	83.8%	0.4%	9.0%	51.1%	0.3%	12.4%
Recoup incentive pay ("clawback")	5	27.2%	71.4%	1.4%	19.9%	48.4%	0.9%	10.1%
Subject average	**n=33**	**25.2%**	**72.9%**	**0.9%**	**18.2%**	**51.2%**	**0.6%**	**10.4%**

Source: ESGAUGE, 2022.

Figure 9

Shareholder Proposals on Executive Compensation—Average Support Level (2018-2022)

For votes as percent of votes cast

	2022	2021	2020	2019	2018
CEO pay ratio-related	9.6	9.9	10.0	9.8	7.8
Director compensation related	0.0	0.0	0.3	0.0	0.0
Expand compensation-related disclosure	0.0	17.5	26.4	21.4	21.7
Limit (or vote on) severance agreements (“golden parachutes”)	42.3	41.6	23.5	29.4	27.5
Link compensation to ESG performance (“pay for ESG performance”)	14.6	11.8	17.5	21.9	17.8
Link compensation to performance (“pay for performance”)	41.4	43.6	26.1	10.8	13.7
Other executive compensation issues	15.8	26.8	26.1	10.1	9.7
Recoup incentive pay (“clawback”)	27.2	33.6	44.0	42.4	37.8
Require equity retention period	25.7	0.0	21.7	24.5	0.0

Source: ESGAUGE, 2022.

Figure 10

Shareholder Proposals on Executive Compensation—Pass Rate (2018-2022)

Percent of voted proposals receiving majority support

2022			
Topic	**Voted proposals**	**Voted proposals receiving majority support**	**Percent of total**
CEO pay ratio-related	5	0	0.0%
Director compensation related	0	0	0.0%
Expand compensation-related disclosure	0	0	0.0%
Limit (or vote on) severance agreements (“golden parachutes”)	15	4	26.7%
Link compensation to ESG performance (“pay for ESG performance”)	1	0	0.0%
Link compensation to performance (“pay for performance”)	2	0	0.0%
Other executive compensation issues	3	0	0.0%
Recoup incentive pay (“clawback”)	5	0	0.0%
Require equity retention period	2	0	0.0%
	n=33		
2021			
Topic	**Voted proposals**	**Voted proposals receiving majority support**	**Percent of total**
CEO pay ratio-related	10	0	0.0%
Director compensation related	0	0	0.0%
Expand compensation-related disclosure	2	0	0.0%
Limit (or vote on) severance agreements (“golden parachutes”)	4	1	25.0%
Link compensation to ESG performance (“pay for ESG performance”)	4	0	0.0%

Link compensation to performance ("pay for performance")	1	0	0.0%
Other executive compensation issues	2	0	0.0%
Recoup incentive pay ("clawback")	3	0	0.0%
Require equity retention period	0	0	0.0%
	n=26		

2020

Topic	**Voted proposals**	**Voted proposals receiving majority support**	**Percent of total**
CEO pay ratio-related	3	0	0.0%
Director compensation related	1	0	0.0%
Expand compensation-related disclosure	3	0	0.0%
Limit (or vote on) severance agreements ("golden parachutes")	3	0	0.0%
Link compensation to ESG performance ("pay for ESG performance")	8	0	0.0%
Link compensation to performance ("pay for performance")	1	0	0.0%
Other executive compensation issues	4	0	0.0%
Recoup incentive pay ("clawback")	2	1	50.0%
Require equity retention period	5	0	0.0%
	n=30		

2019

Topic	**Voted proposals**	**Voted proposals receiving majority support**	**Percent of total**
CEO pay ratio-related	1	0	0.0%
Director compensation related	0	0	0.0%
Expand compensation-related disclosure	1	0	0.0%
Limit (or vote on) severance agreements ("golden parachutes")	5	0	0.0%
Link compensation to ESG performance ("pay for ESG performance")	9	0	0.0%
Link compensation to performance ("pay for performance")	6	0	0.0%
Other executive compensation issues	5	0	0.0%
Recoup incentive pay ("clawback")	3	1	33.3%
Require equity retention period	1	0	0.0%
	n=31		

2018

Topic	**Voted proposals**	**Voted proposals receiving majority support**	**Percent of total**
CEO pay ratio-related	1	0	0.0%
Director compensation related	0	0	0.0%
Expand compensation-related disclosure	1	0	0.0%
Limit (or vote on) severance agreements ("golden parachutes")	12	0	0.0%
Link compensation to ESG performance ("pay for ESG performance")	9	0	0.0%
Link compensation to performance ("pay for performance")	4	0	0.0%
Other executive compensation issues	5	0	0.0%
Recoup incentive pay ("clawback")	8	0	0.0%
Require equity retention period	0	0	0.0%
	n=40		

Source: ESGAUGE, 2022.

On the Choice of Departing from Widely Adopted Governance and Compensation Practices

Governance and executive compensation practices that were the focus of the proxy season only a decade ago are now commonly adopted, at least among larger public companies. This is certainly the case for board declassification, majority voting, and the policy of seeking shareholder approval of termination pay included in severance agreements with senior executives.

Current data from The Conference Board and ESGAUGE's **Corporate Board Practices Live Dashboard** show that, in the S&P 500 Index, only 13.7 percent of companies still stagger the terms of their director service. Even in the Russell 3000, where board classifications are much more common, almost 60 percent of companies have transitioned to annual elections for all their board members (though the percentage drops to 30 for companies with annual revenue under $100 million). Similarly, less than 10 percent of S&P 500 companies continue to use a system of plurality voting in their director elections, which was the norm for all publicly traded companies just over 10 years ago and remains prevalent today at smaller organizations in the Russell 3000.

Directors and executives should be aware that some investors are now specifically targeting those governance and compensation issues at smaller firms. While many companies in that cohort have thus far remained immune to changes in their director election system, things may change. In particular, boards should take a careful and holistic look at changing their director election practices. While plurality voting and staggered boards can be seen as protections against activism, they can also invite activism. As for staggered boards, they are increasingly perceived as an impediment to board turnover, and companies may wish to consider shifting to annual elections if it helps them to adjust the composition of the board in a way that keeps pace with strategic needs.

As for golden parachutes, The Conference Board Task Force on Executive Compensation placed them on a list of "contentious" pay practices as far back as 2009, recommending that companies review them through the pay-for-performance lens and "avoid them except in limited circumstances," given the risk that they could "erode credibility and trust of key constituencies."[2]

2 The Conference Board, *The Conference Board Task Force on Executive Compensation*, September 21, 2009.

Today, proxy advisor ISS has a policy for investors to vote in favor of any shareholder proposals requiring that executive severance agreements be submitted for shareholder ratification, unless the proposal requires shareholder approval prior to entering into employment contracts.

Per ISS guidance:

- The triggering mechanism should be beyond the control of management.
- The amount should not exceed three times the base amount (defined as the average annual taxable W-2 compensation during the five years prior to the year in which the change of control occurs).
- Change-in-control payments should be double-triggered (i.e., after a change in control has taken place, and the executive is terminated as a result of the change in control.)
- The company should articulate the rationale for the golden parachute in the statement accompanying the management resolution requesting the ratifying vote.

The analysis of the last four years of say-on-pay resolutions shows a decline in average support level, higher failure rates, and a rising number of Russell 3000 companies receiving less than 70 percent *for* votes, a threshold that may attract additional scrutiny from proxy advisors and investors.

After being quite stable for almost a decade following the adoption of SEC rules governing advisory votes on executive compensation, average support level for say-on-pay (SOP) proposals has been declining in the last four years. Of the Russell 3000 SOP proposals voted in the examined 2022 period, 96.8 percent passed, down from an average of 97.6 percent in the prior three years. Of the S&P 500 SOP proposals voted in the examined 2022 period, 95.8 percent passed, down from an average of 97.4 percent in the prior three years.

- In 2022, in the Russell 3000, the SOP failure rate (i.e., vote support below 50 percent) was 3.2 percent, up from an average of 2.5 percent in the prior three years. In the S&P 500, it was 4.2 percent in 2022, up from an average of 2.4 percent in the prior three years. As of July 15, 2022, the list of Russell 3000 failed SOP votes in this proxy season contains 67 companies (up from 61 last year, 45 in 2022, and 50 in 2019), including JP Morgan, Intel, The TJX Corporation, Halliburton, and Netflix. Average support level for companies on the failed SOP list was 35.5 percent of votes cast.

- Other companies reported passing SOP proposals with support of less than 70 percent of votes cast, the level at which proxy advisory firms may scrutinize more closely their compensation plans and consider issuing a future negative recommendation. In 2022, the share of Russell 3000 companies in this category was 6.8 percent, up from an average of 5.2 percent in the prior three years. In the S&P 500, it was 6.3 percent in 2022, up from an average of 5.5 percent in the prior three years. As of July 15, 2022, the list of Russell

3000 SOP votes with support level of 70 percent or lower contains 143 companies (up from 102 last year, 109 in 2020, and 124 in 2019), including Amazon, Apple, First Republic Bank, CSX Corporation, Coca-Cola, Virgin Galactic, and Twitter. Average support level for companies on this list of SOP underperformers was 60.9 percent of votes cast.

- There was also a notable decline in the percentage of companies that received the support of 90 percent or more of the votes cast for their SOP management proposal. In the Russell 3000, 70.5 percent of the companies were in this category in 2022, down from an average of 74.9 percent in the prior three years. In the S&P 500, 66.1 percent of the companies were in this category in 2022, down from an average of 73.3 percent in the prior three years.

Figure 11

Say-on-Pay Votes, by Index (2018-2022)

Number of say-on-pay management proposals (approval rate)

2022					
		Approval rate			
Index	**Number of say-on-pay management proposals**	**90%+**	**70%-90%**	**50%-70%**	**Below 50% (Failed)**
S&P 500	431	285	101	27	18
Russell 3000	2110	1487	413	143	67
2021					
		Approval rate			
Index	**Number of say-on-pay management proposals**	**90%+**	**70%-90%**	**50%-70%**	**Below 50% (Failed)**
S&P 500	477	322	113	24	18
Russell 3000	2280	1688	429	102	61
2020					
		Approval rate			
Index	**Number of say-on-pay management proposals**	**90%+**	**70%-90%**	**50%-70%**	**Below 50% (Failed)**
S&P 500	488	364	87	27	9
Russell 3000	2207	1655	397	109	45
2019					
		Approval rate			
Index	**Number of say-on-pay management proposals**	**90%+**	**70%-90%**	**50%-70%**	**Below 50% (Failed)**
S&P 500	465	362	67	27	9
Russell 3000	1994	1509	310	124	50
2018					
		Approval rate			
Index	**Number of say-on-pay management proposals**	**90%+**	**70%-90%**	**50%-70%**	**Below 50% (Failed)**
S&P 500	461	367	65	23	6
Russell 3000	1858	1417	277	118	46

Source: ESGAUGE, 2022.

Figure 12

Say-on-Pay Votes, by Business Sector (GICS) (2022)

Number of say-on-pay management proposals (approval rate)

Approval rate					
	Number of say-on-pay management proposals	**90%+**	**70%-90%**	**50%-70%**	**Below 50% (Failed)**
Communication Services	56	31	20	2	3
Consumer Discretionary	261	183	49	18	11
Consumer Staples	68	49	9	9	1
Energy	92	76	6	6	4
Financials	364	280	57	21	6
Health Care	388	231	100	40	17
Industrials	309	222	63	14	10
Information Technology	255	159	65	20	11
Materials	103	88	10	5	0
Real Estate	149	108	30	8	3
Utilities	65	60	4	0	1
	n=2110				

Source: ESGAUGE, 2022.

Figure 13

Say-on-Pay Votes, by Company Size (2022)

Number of say-on-pay management proposals (approval rate)

Approval rate					
	Number of say-on-pay management proposals	**90%+**	**70%-90%**	**50%-70%**	**Below 50% (Failed)**
Annual Revenue					
(All companies except Financials and Real Estate)					
Under $100 million	193	95	59	32	7
$100-999 million	428	294	80	37	17
$1-4.9 billion	556	414	102	21	19
$5-9.9 billion	162	120	29	6	7
$10-24.9 billion	156	114	32	7	3
$25-49.9 billion	52	31	12	6	3
$50 billion and over	50	31	12	5	2
	n=1597				

Asset Value					
(Financials and Real Estate companies)					
Under $500 million	6	6	0	0	0
$500-999 million	12	9	2	0	1
$1-9.9 billion	272	206	49	14	3
$10-24.9 billion	108	82	14	10	2
$25-49.9 billion	44	35	6	2	1
$50-99.9 billion	31	23	6	2	0
$100 billion and over	40	27	10	1	2
	n=513				

Source: ESGAUGE, 2022.

Compensation experts have suggested that there may be a link between these recent trends regarding the SOP vote and the increasing scrutiny of corporate ESG performance by large institutional investors. (See "On Business Leaders Being Held Accountable for Perceived Poor ESG Performance" on page 27).

Average support levels for board-endorsed candidates in director elections have been declining in recent years. In 2022, 75 directors nominated by management did not get elected—a multiple of the number recorded only a few years ago.

In the Russell 3000, for example, average support level went from 98.2 percent of votes cast in 2017[3] to 95.1 percent in 2020 and 94.1 percent in 2022. Only seven directors in the entire index had failed to receive majority support in 2017, while the number climbed to 50 in 2020 and 75 in 2022. Similarly, the number of directors who received less than 70 percent of votes cast was only 83 in 2017 and rose to 290 in 2020 and 442 in 2022. While these numbers are relatively small when compared to the full director population in the examined index (almost 17,500 directors were up for reelection in the Russell 3000 in 2022), they were never observed in earlier years.

Just as in other recent proxy seasons, the health care sector reported the lowest average support level in director elections in 2022, at 90.6 percent of votes cast; it was 92.8 percent in 2020 and 97.4 percent in 2018. Utilities companies reported the highest, or 96.8 percent; it was 97.3 percent in 2018. The company size analysis shows significantly lower average director election support levels among smaller companies; for example, those with annual revenue under $100 million showed a support level of 88 percent, down from 92 percent in 2018; there were only two failed director elections in 2018, and the number grew to 10 in 2022. By way of comparison, larger companies with annual revenue reported a director election support level of 95.5 percent this year and no failed election.

3 See Matteo Tonello, *2021 Proxy Season Preview and Shareholder Voting Trends (2017-2020),* The Conference Board, January 26, 2021, p. 17.

Figure 14

Director Elections, by Index (2018-2022)

	Total number of directors	Average support level (*for* votes as a percent of votes cast)	Number of directors receiving less than 70 percent of shares voted	Number of directors receiving less than 50 percent of shares voted
2022				
S&P 500	4584	95.5%	48	7
Russell 3000	17648	94.1%	442	75
2021				
S&P 500	4935	95.9%	46	5
Russell 3000	18272	94.7%	352	79
2020				
S&P 500	4756	96.4%	30	1
Russell 3000	16801	95.1%	290	50
2019				
S&P 500	4722	96.5%	46	10
Russell 3000	16021	95.2%	342	61
2018				
S&P 500	4665	96.8%	34	5
Russell 3000	15139	95.7%	238	34

Source: ESGAUGE, 2022.

On Business Leaders Being Held Accountable for Perceived Poor ESG Performance

A link is emerging between softening director election support levels, on the one hand, and investors' perceived dissatisfaction about corporate ESG performance.[4] Some commentators have also speculated that the recent decline in SOP support may be attributable not only to excessive compensation but also to the lack of pay-for-sustainability performance.[5]

Major asset managers have become quite explicit about the intention of holding individual board members and senior executives accountable for their lack of leadership regarding ESG issues within their purview. These are just a few examples of their expansionary policy, and for now the focus seems to be on larger companies:

- ISS' *Sustainability Proxy Voting Guidelines* recommend, under extraordinary circumstances, voting against or withhold in the election of directors (whether individually, on a committee, or potentially all board members) due to material "failures to adequately manage or mitigate environmental, social or governance (ESG) risks."[6] Examples of failure of ESG risk oversight described in the guidelines include: bribery; large or serial fines or sanctions from regulatory bodies; demonstrably poor risk oversight of environmental and social issues, including climate change; significant environmental incidents, including spills and pollution; large-scale or repeat workplace fatalities or injuries; significant adverse legal judgments or settlements; or hedging of company stock.
- In the 2022 proxy season, ISS has also started to recommend voting *against* the incumbent chair of the responsible board committee at companies that are "significant greenhouse gas emitters" in those situations where ISS "determines that the company is not taking the minimum steps needed to understand, assess, and mitigate risks related to climate change to the company and the larger economy."[7]
- In 2021, BlackRock, the largest asset manager in the United States, amended its voting policies to indicate it intends to vote *against* the independent chair or lead independent director, members of the nominating/governance committee, and/or the longest tenured director(s) in situations where "we observe a lack of board

4 For a recent investigation of the consequences of ESG failures for the business leadership, see Richard Walton, *What Do the Consequences of Environmental, Social and Governance Failures Tell Us About the Motivations for Corporate Social Responsibility?,* International Journal of Financial Studies 10, no. 1 (2022): 17.

5 See Todd Sirras et al., *What Do Elevated Shareholder Expectations Mean for Large Company Boards and Compensation Programs?,* Harvard Law School Forum on Corporate Governance, July 31, 2022.

6 ISS, *United States Climate Proxy Voting Guidelines. 2022 Policy Recommendations,* January 19, 2022, p. 14.

7 ISS, *US Climate Proxy Voting Guidelines,* p. 14.

responsiveness to shareholders," including, more specifically, where "the board fails to consider shareholder proposals that receive substantial support" or fails to "exercise appropriate oversight of management…with regard to material ESG risk factors."[8]

- A few years ago, State Street Global Advisors, the second-largest asset manager in the country, introduced its R-Factor, a scoring system 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." According to its 2022 voting guidelines, State Street "may take voting action against the senior independent board leader at companies on the S&P 500 that are R-Factor laggards…and cannot articulate how they plan to improve their score."[9]
- As for SOP, AllianceBernstein was the first large global asset manager to amend its US voting guidelines and state that an executive compensation plan "should reflect management's handling, or failure to handle, any recent social, environmental, governance, ethical or legal issue that had a significant adverse financial or reputational effect on the company."[10]

Board members and C-suite executives should remain educated about ESG issues of concerns to the investment community and the proxy advisors that often influence institutional votes. They can do so by maintaining year-round lines of communication with their largest shareholders, by monitoring voting policies and stewardship reports, by benchmarking their company's ESG disclosure practices against those of its peers, and by tracking the outcome of resolutions submitted during the proxy season (including those that were withdrawn from the voting ballot after private engagements). At least for now, the new accountability voting policies described above seem to be confined to the most serious cases of perceived ESG shortcomings; if a company is not yet prepared to endorse a certain ESG practice, the engagement process is the channel to persuade investors of its rationale for a more measured approach.

For other analyses of postseason results, see the other two parts of this publication. **Brief 1** discusses trends in ESG proposals in general and environmental requests—especially those related to greenhouse gas emission reduction and climate change risks. **Brief 2** is dedicated to human capital management and social policy proposals, especially the rising demands for civil rights (or racial equity audits) and the success of resolutions on corporate political spending disclosure at some large companies.

8 BlackRock, *BlackRock Investment Stewardship. Proxy Voting Guidelines for US Securities,* January 2022, pp. 5, 6, and 4, respectively.

9 State Street Global Advisors, *Proxy Voting and Engagement Guidelines—North America (United States & Canada),* March 2022, p. 6.

10 AllianceBernstein, *Proxy Voting and Governance Policy,* March 2022, p. 9.

Access Our Online Dashboard

Shareholder Voting Trends (2018-2022) reviews proxy voting data of business corporations registered with the US Securities and Exchange Commission (SEC) that held their annual general meetings of shareholders (AGMs) between January 1, 2022, and June 30, 2022, and that were in the Russell 3000 index as of January 2022. Data for the 2022 period are compared with findings from the previous four years. The Russell 3000 Index was chosen because it assesses the performance of the largest 3,000 US companies, representing approximately 98 percent of the investable US equity market.

The project is conducted by The Conference Board and ESG data analytics firm ESGAUGE, in collaboration with leadership advisory and search firm Russell Reynolds Associates and Rutgers University's Center for Corporate Law and Governance (CCLG).

Data from *Shareholder Voting Trends (2018-2022)* can be accessed and visualized through an interactive online dashboard organized in five parts. Please access the dashboard for the most recent figures and statistics.

Part I: Shareholder Proposals focuses on voted proposals introduced by shareholders at AGMs and related to executive compensation, corporate governance, and social and environmental policy. A fourth all-inclusive "other" category comprising resolutions on director nomination, mergers and acquisitions transactions, asset divestitures, or other value maximization proposals is also included in the analysis. (Shareholders may also be authorized by corporate charters or bylaws to call special meetings for the purpose of discussing and voting on certain matters; special shareholder meetings, however, are excluded from the scope of this analysis.)

For a description of shareholder proposal topics, see the "Proposal Subjects" section in the Glossary. Data reviewed in Part I include proposal volume, topics, and sponsorship. Proponent types considered in the sponsorship analysis are described in the "Sponsor Types" section in the Glossary. For proposals with multiple sponsors, the analysis by sponsor is based on the investor listed as the main proponent. The discussion of voting results is integrated with information on nonvoted shareholder proposals (due to their withdrawal by sponsors, the decision by management to omit them from the voting ballot, or undisclosed reasons). Omission figures indicate that the company was granted no-action relief by the staff of the SEC in connection with the exclusion of a shareholder proposal from its proxy materials, as allowed for under Rule 14a-8 of the Securities Exchange Act of 1934. Data on withdrawn proposals are limited to publicly available information or information provided by the proponent or issuer on their websites or other public sources. To be sure, some investors adopt the tactic of privately submitting one or more proposals to engage in a negotiation with a target company and may withdraw it before it is officially filed. Investment advisor Trillium Asset Management, advocacy group As You Sow, and the Office of the NY Comptroller are examples of investors that may adopt a similar approach. The study is limited to the analysis of shareholder proposals included in proxy statements and proposals that, while not described in public SEC filings, are disclosed on the website of prominent investors tracked by ESGAUGE as frequent sponsors of shareholder resolutions.

Part II: Management Proposals follows a similar organization of information as Part I to analyze company-formulated resolutions submitted to the vote of shareholders when applicable state corporate laws or the company's articles of incorporation or bylaws require shareholder approval on a certain business action. The review of management proposals complements the findings of Part I, especially with respect to corporate policy changes related to executive compensation, corporate governance, or social and environmental issues that are implemented by management after a precatory shareholder proposal on the same topic received wide support at a previously held AGM.

Part III: Say-on-Pay Votes pays specific attention to the results of say-on-pay votes. It contains details on their approval rate and the list of companies that, in each of the recent proxy seasons, failed the vote or received a support level below the 70 percent threshold—the level at which proxy advisory firms may scrutinize compensation plans more closely and evaluate issuing a future negative recommendation.

Part IV: SEC No-Action Letters updates on no-action relief requests submitted to the SEC under Exchange Act Rule 14a-8. It details requests by type of regulatory exemption, granted and rejected requests, and the proposals for which no-action letter was requested but that were subsequently withdrawn by the sponsoring shareholder(s).

Part V: Director Elections zeroes in on votes for the election of board members, with information on their average support level by business sector and company size group, the percentage of directors receiving less than 70 percent and 50 percent of shares voted, and the voting performance of shareholder proposals to elect dissidents' director nominees.

Part VI: Proxy Contests and Other Shareholder Activism Campaigns reviews all shareholder activism campaigns involving a director election, an action by written consent or a (shareholder or management) resolution put to a vote at a shareholder meeting. Specific attention is paid to proxy solicitations and contested director elections, including information on dissidents, dissenting reasons, and outcomes. However, the discussion extends to exempt solicitations (including vote-no campaigns) and other public agitations mounted by activist investors to influence fellow shareholders and put pressure on target companies. To provide insights on the profile of major activists, the analysis in Part VI is supplemented by a table summarizing campaign tactics adopted by investors in FactSet's SharkWatch50 index during their entire history of activism.

Throughout the parts of the dashboard, data are segmented by business industry and company size. The industry analysis aggregates companies within 11 groups, using the applicable Global Industry Classification Standard (GICS). For the company-size breakdown, data are categorized along seven annual-revenue groups (for manufacturing and nonfinancial services companies) and seven asset-value groups (based on data reported by financial and real estate companies, which tend to use this type of benchmarking). Annual revenue and asset values are measured in US dollars. In Part I, additional breakdowns by sponsor types and proposal subjects are provided.

Comparisons of Russell 3000 data with the S&P 500, another commonly followed equity index, are also included to offer an additional perspective on the difference between large and small firms. Figures and illustrations used throughout the study refer to the Russell 3000 analysis unless otherwise specified.

Data included in the report and dashboard should be interpreted with caution. While the tools offer a comprehensive set of charts segmenting aggregate data across industries, size groups, subjects, and sponsor types, trends in proxy voting may also depend on a variety of other aspects that are sometimes referenced but not fully assessed in these pages. In particular, factors that may play a role include corporate ownership structures; financial performance; and the current state of organizational practices in corporate governance, executive compensation, and social and environmental policy.

Access the dashboard at: conferenceboard.esgauge.org/shareholdervoting

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About the Author

Matteo Tonello
Managing Director,
ESG Research

Other Resources on the Proxy Season

This report adds to several other resources from The Conference Board on the 2022 proxy season:

Governance Watch: Highlights from the 2022 Proxy Season Webcast - August 9, 2022

Why Support for Political Activity Proposals is Declining Blog post - June 21, 2022

70% of Environmental Shareholder Proposals Going To Vote Blog post - May 20, 2022

First 2022 Racial Equity Audit Proposals Successful Blog post - March 22, 2022

Six Ways Boards Can Prepare for a Challenging Proxy Season Publication - March 11, 2022

2022 Proxy Season Preview and Shareholder Voting Trends Publication - February 14, 2022

Environmental & Social Proposals in General Publication - February 14, 2022

Human Capital Management Proposals Publication - February 14, 2022

Environmental Proposals Publication - February 14, 2022

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