2023 Proxy Season: Return to Normalcy

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While there have been a number of notable developments during the last several proxy seasons, the 2023 proxy season seemed to show signs of "stabilization." While companies continued to receive scrutiny from investors on certain topics, there were fewer unexpected votes against the board and management than in the past few years. Further, while many companies continued to be presented with various shareholder proposals and scrutiny from certain socially-responsible investors, institutions generally appeared to be more pragmatic in their voting this year and voted in a more timely manner. Where votes were cast late, issuers typically were not "blindsided" by the voting decision, unlike in previous years. Lastly, for shareholder proposals, institutions were more supportive of management than in the last couple of years – likely a result of several factors.

Notable Topics of Focus

Gender diversity of the board was a real focus topic this year, as a number of investors raised their expectations for companies beyond at least 2 female directors to increasingly expect at least 30% gender diversity. With Glass Lewis and State Street Global Advisors particularly focused on the 30% threshold, some companies experienced some adverse voting for certain directors – however in most cases this impact was manageable.

On shareholder proposal outcomes, we saw support for governance-related issues remaining consistent with previous years; however, we saw a decline in the average level of support for environmental and social proposals this year as well. Various factors contributed to this overall decline in average support. Foremost, the volume of shareholder proposals submitted remains very high and proponents from both sides of the aisle submitted proposals that increasingly pushed companies further to address issues of focus in society – a number of which were deemed overly specific or "prescriptive' by institutional investors; several of these would have likely been granted No Action Relief by the SEC in prior years.

In addition, with the level of support being so high over the last several years, we found that companies have become more transparent in their disclosures, and several were also being proactive in responding to certain aspects of shareholder proposals in advance of the AGM than in previous years (which also plays an influence in some of the proposals going further / requesting more). Opposition statements outlined clear commitments and efforts that helped provide sound reasoning for why support for management – and against the proposal – was warranted.

Lastly, investors appear to be taking a more pragmatic approach to assessing certain issues. With stewardship teams growing and engagements likely being more candid, institutions appeared more appreciative and considerate of company-specific circumstances when assessing each proposal this year. This, coupled with companies strengthening relevant disclosures to address key shareholders' areas of focus, have contributed to investors being more thoughtful and constructive in their approach to assessing proposals; the nuances of each company's efforts were given a greater sense of appreciation than in the past.

> Certain institutional investors have begun offering "voter choice" or "pass-through voting" to clients, and this year was the first year that we saw several big money managers initiate these programs.

There were certainly more money managers offering pass-through voting options this year and while we did see some activity that suggests customers may have participated to some degree, in our experience the impact on voting was extremely limited and remained insignificant to voting outcomes. Having said that, there is certainly the possibility that this dynamic may change in the coming years, especially as we anticipate more institutions to offer or expand this practice to additional clients.

Polarization of ESG

We have certainly seen a pushback on ESG initiatives from various stakeholders this year, and we cannot ignore the fact that these pressures likely played a role in how certain institutions went about their business this year, and it was probably most evident in some of the published materials of certain investors. For example, annual proxy voting guidelines and investment stewardship reports made a more conscious effort to tie discussion back to long-term value creation and were a little more reserved in reference to or discussion of ESG issues as compared to the past, but as noted earlier, the pushback was only one of several factors at play this proxy season.

Having said that, we did see more activity from certain proponents that submitted what have become known as "anti-ESG" proposals. Proponents of these proposals have submitted shareholder proposals in the past, however over the last couple of years the proposals submitted have become more pointed and critical of certain environmental and social initiatives. Despite the number of proposals this year being notable, these proposals received minimal support.

We also saw a few instances where more conservative-minded organizations were making clear arguments against certain shareholder proposals where they were not filers. For example, there were a handful of cases in which these organizations filed exempt solicitation filings advocating *against* a shareholder proposal – summarizing their disagreements with the proposal (and the topic more broadly).

Exempt solicitations became common

These have generally become the norm for shareholder proponents over the past couple of years and issuers should anticipate at least one being filed by a proponent if they were to have a shareholder proposal on their ballot. The filings mainly reiterate points within the proposal's supporting statement and generally are not offering new arguments to consider. Though ISS continues to acknowledge these filings in its reports, we did not witness a material impact on voting outcomes. In general, most companies do not respond to the filings unless there is new information that the Company believes warrants a response.

Considerations for companies as we look to 2024

Similar to previous years, the outcomes from 2023 are another indication of the importance of developing and maintaining relationships with key shareholders. These engagements are critical to having in-depth conversations that can lead to a better understanding of perspectives, clarify approaches to certain issues, and provide additional context or updates on specific issues that an investor may be particularly interested in. Especially as investment stewardship teams continue to grow and become more sophisticated, these conversations improve the likelihood that key shareholders will assess future proxy matters through a company-specific lens.

In addition, when considering the state of "ESG", it's important to understand that the results we saw this year do not necessarily mean a shift away from ESG. If anything, as we consider the current state of ESG, with the International Sustainability Standards Board (ISSB) launching and pending SEC regulations as well as regulatory requirements recently passing in Europe, the focus on ESG issues will become more important going forward, however the lens in which we assess and consider these topics will be one more tied to company relevance, long-term value, and risk management.