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ACTIVISTS PUSH THE ESG AGENDA

Listed companies are feeling the heat from big super funds and global investors to embrace action on issues such as climate change and diversity. It's become a critical issue for listed companies and this ASX roundtable discussion explores the best way to respond to this pressure.

Alan Deans, moderator, *Listed@ASX*: What are the hot button issues for corporates in relation to environmental and social reporting?

Michael Chandler, governance director, Morrow Sodali: Responding to activists and their requests is taking up corporates' time. The primary request we're seeing revolves around the impact of climate change. The broader expectation, consistent with recommendations from the Task Force on Climate-related Financial Disclosures (TCFD), is providing more foresight into, and forward modelling and scenario analysis around, the resilience of asset portfolios over the long term. Companies we work with are struggling to gather the data and then figure out how transparent they wish to be in disclosing and quantifying their environmental impact over the long term.

***Listed@ASX*:** How are boards reacting to that situation?

Michael Chandler: Boards are having difficulty interpreting information for the investment community. There's a disconnection between what's important to shareholders and how focused directors are on these issues.

I encourage activist groups to front up to directors. There was an impression activists can't access boards, but that's changing. There's a generational shift taking place on boards and attitudes are shifting. But shareholders want to track performance and they need multiple years of data to assess how these risks and opportunities are being managed. Lots of companies in the ASX 50 still don't have a dedicated sustainability expert. So, responding to environmental, social and governance (ESG) surveys and engaging with shareholders has been difficult. But, that's changing.

Roundtable

Jana Jevcakova, director of research at CGI Glass

Lewis: I'm curious to see whether you've come across any boards that are well prepared on ESG?

Michael Chandler: A mere handful of companies for which we have done sustainability work over the last 18 months have been really on top of it.

Ian Woods, head of ESG investment research, AMP Capital:

BHP Billiton has stakeholder involvement at board and senior management levels. The company is trying to give the board external input on the issues that are coming. So some businesses are thinking about this at the board level. But, based on discussions with some directors, their appreciation of some issues is patchy.

Michael Salvatico, executive director, MSCI ESG Research:

The hot topics are remuneration and diversity. Those are the issues investors are looking at closely. We see human capital as an undervalued asset in an organisation. We recently published a report, *Trends to Watch 2018*, which shows how diversity and human capital management can combine to result in higher growth in revenue per employee. Tax transparency and Climate Change are issues increasingly on ESG investor's radars.

Jana: Governance is currently taking priority over environmental and social



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"The connection between ESG and the remuneration report, voting and accountability is insufficient."

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factors because investors can vote on governance issues, so there is a voting outcome that issuers need to deal with. There is no option for investors to cast their votes specifically on environmental and social issues.

Michael Chandler: The connection between ESG and the remuneration report, voting and accountability is insufficient. There is some discussion on director liability around foreseeable ESG risks. This should be linked to conversations around the potential for

reputation damage and the recourse investors have if directors don't meet their ESG obligations.

Ian: This includes staff and their intellectual property. That is how businesses develop their IP and build relationships with customers and suppliers.

Susheela Peres da Costa, head of advisory, Regnan: For many companies, 80 per cent of market value is made up of intangibles. Investors want

reports that can show how these are being protected and cultivated. Good boards will focus on these issues anyway. What's new is investors being vocal about their interest in seeing it reported.

Listed@ASX: How do investors know what companies should be reporting so they can assess those risks?

Susheela: Investors need to understand the company's business model; consider what its share price already reflects, and what the price should reflect but doesn't. Those same foundations apply to ESG information investors use to understand a company's future prospects. This varies by company, and can be quite specific. For instance on climate change, investors are concerned whether some companies are addressing the potential for more frequent extreme weather events. For other companies it's more important to check how they're hedging against a more challenging market for carbon-intensive products. For some, climate change might not be a focus at all.

Jana: Investors need to be assured companies have a framework in place to manage risk. But the issue is that some companies don't clearly understand the risks and opportunities they face from the environmental and social perspective, or they do not consider them material.



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"One of the reasons investors are thinking about human capital is most of a company's value is in its intangible assets, not what sits on the balance sheet."

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An ASX Thought Leadership Discussion

Listed@ASX: Are companies receptive to this?

Ian: Some are and some are not. We once asked companies about the 10 issues on which senior management should focus. Then we asked investment analysts what they thought and compared the two. There was surprisingly good overlap, but the number one issue for both was different. For analysts, it was cost control, whereas management said it was human capital.

Susheela: Communicating with investors saves guesswork. Many larger companies make good use of investors' willingness to engage, either directly or via groups like Regnan. Activism is often just the visible tip of a much larger base of longstanding, ongoing engagement. There are also plenty of resources for companies to tap into if they are starting the process and want to know what to prioritise. The Integrated Reporting Initiative is worth looking at for peer examples.

Jana: It's important companies know to whom to talk. Management or the board is used to meeting with fund managers who want to know about how they manage costs and focus on financial performance, often in a time horizon of less than one year. There are asset owners who are environmentally and socially conscious and often look at a much longer time horizon. Issuers also need to be aware that people in different roles within the same organisation may have different views and it is not always the portfolio manager who has the voting power.

Michael Chandler: The investor road show and governance road show have different audiences. During the first you talk to the portfolio manager, during the second you talk to the ESG analyst. You need to have the right conversation with the right individual or you are wasting your time.

Listed@ASX: Are there particular issues companies are better at reporting than others, for instance the impact of climate change on operations or diversity?

Jana: Companies' diversity disclosures are pretty good because of workplace gender requirements.

Michael Salvatico: Diversity is well measured at a board level with reports



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such as the *MSCI Women on Boards Progress Report 2017* showing an increase in directorships held by women in the past year. The next step is to understand diversity in the C-suite. Carbon emissions are the easiest metric for measuring climate change impacts, and should be the starting point for companies and investors. Surprisingly 40 per cent of companies still don't report carbon emissions, which then requires a research house such as MSCI to calculate estimates.

Ian: When companies ask me what they should report, I ask them what do directors want reported to them. They represent

shareholders. They are supposed to look after long-term and short-term strategy and risks. So they should look at the same things as investors do. If you want to know what should be disclosed, start with what the board thinks is important.

Jana: Often, I hear really good stories about managing risks in engagement meetings. But then we read the annual report and other disclosures and they are nowhere to be found. So, at engagement meetings

we encourage companies to improve their disclosure and tell their stories where this can add value to investors and other stakeholders.

Michael Salvatico: We look at it clinically and make an assessment based on two aspects: risks and management of risks. Companies can't control all their risk exposures. You are exposed to certain risks through your operations, location and size. But companies can control how they manage risks and we look closely at that. But, we

don't necessarily apply a penalty if businesses are not disclosing information well. We'll take information from other sources to fill in the gaps. We recently performed an analysis that showed on average 65 per cent of the information used to assess a company's ESG rating does not come through voluntary disclosures, but rather specialised data sources.

Michael Chandler: But not disclosing is a huge risk for companies because their situation is open to interpretation. You are better off being on the front foot.

Susheela: These disclosures can seem like an optional extra. But when the market falls, companies that have strong information on record benefit from the trust that is created through that transparency, and do relatively better than their peers. So companies benefit from providing this extra, high-quality information.

Listed@ASX: How does ESG impact the way MSCI compiles indices and decides whether a company is included or excluded?

Roundtable

Michael Salvatico: The inclusion of ESG in indices is in response to investor demand. They want ESG overlaid on standard and factor indexes, which includes information about involvement in areas such as weapons, tobacco or alcohol, their exposure to material risks such as climate risk, and their behaviour relative to global norms. That's coming throughout the investment value chain from consultants to superannuation funds. We work with clients such as super funds to identify companies with better carbon emission management, right through to designing ESG strategies for passive exchange-traded funds (ETFs). Some ETFs exclude or include companies based on their behaviour, or ESG ratings. This is a motivator for companies to disclose information about their ESG profile.

Susheela: Some investors are making more active choices about which index their funds should follow. So although they are not selecting which stocks to buy, they are choosing what methodology is used to select them.

Listed@ASX: AMP Capital is a veteran in ESG. What's your view, Ian?

Ian: I want to know what the company thinks is important to disclose. That tells me about what the company thinks is important. Then we'll have a discussion about the issues we think are important. That's how we look at it. But some companies don't know what and how to report ESG information. Some businesses report what they think stakeholders believe is important. But what stakeholders think is important and what is material to the company is not necessarily the same. So when you talk about an issue tell me why you think it is important to the company. Articulating why data is important and how it's used provides the colour investors want.

Susheela: There are different types of investors – and investment decisions. Marginal investors aim to evaluate the company's prospects better than their peer analysts. In contrast, long term owners are

looking for evidence that today's business initiatives are not coming at the expense of future returns.

Michael Salvatico: In defence of companies, proactive ones tell me they understand how we are looking at ESG now and are working towards resolving the issues that are identified as material. They also want to know what we're looking at next. Companies are better at communicating with MSCI, we have



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seen an increase of almost three times the number of company inquiries over a period of almost four years to 30 November 2017.

Listed@ASX: Who's driving the ESG discussion from within listed companies?

Michael Chandler: Investor relations is struggling now because of the multitude of ESG surveys. Domestic and international stakeholders are bombarding them. They are really struggling to manage that

environment at the moment. Directors understand their reputation is on the line, so they are driving it, too. We are seeing higher no votes on director election resolutions as a result of a lack of focus on ESG. That's new.

Jana: Often, a number of non-executive directors are passionate about these issues and the impetus comes from them.

Listed@ASX: What's the best way to engage with activists?

Michael Salvatico: Activists are smarter now and they're empowered by social media.

Michael Chandler: They play an important role in driving the discussion and the agenda. What's going to increase is the size of the investors who are behind them. Right now, they are quite small. But I expect that is going to grow over time.

Susheela: Non-government organisation (NGO) activists are becoming more sophisticated and coordinated, and the proposals they are putting forward are increasingly investment-grade.

Ian: There used to be a view resolutions put up by an NGO should be voted down. But increasingly, these resolutions must be dealt with on their own merit. If an NGO's resolution has merit, as an investor and shareholder, we'll vote it on its merits.

Jana: But NGO activity in Australia is still very low compared to the rest of the world. In the US you have companies that have 15 shareholder proposals on a ballot. In Australia there were just 11 across the market in 2017, two of which were withdrawn at the last minute.

Ian: I think that's a credit to Australian companies. As a generalisation, in the US they have a very hands-off approach. They don't want to talk to investors or activists. Whereas, Australian companies are prepared to talk to investors such as ourselves, and others and NGOs. Putting up a resolution at the AGM should be a last

An ASX Thought Leadership Discussion

resort. Doing this, you're really using a sledgehammer to push an issue. There is a lot of other discussion, which may or may not be successful, but you can and should have it, before you get to that point.

Jana: Many more proposed resolutions were avoided in 2017 thanks to engagement between companies and activist investors. There may have been many more if that sort of engagement wasn't happening.

Listed@ASX: Which is the most critical ESG issue for listed businesses?

Michael Salvatico: The UN's Sustainable Development Goals should be on companies' radars. We've talked a lot today about risks that companies face and engagement on risks. An opportunity is for companies to communicate to stakeholders about how their products and services are providing positive benefits to communities. An ideal way to do that, a way that is being quickly adopted, is to take the UN's Sustainable Development Goals and identify how your company's behaviour aligns with those goals.

Jana: Based on the type of shareholder resolutions we saw last year, it's all about climate change. But it's very much a case-by-case situation for each company. Identifying and responding to material risks is up to the company. That is what issuers should be exploring.



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Susheela: It depends on the company's own business model, risks and opportunities.

Ian: Climate change is going to be important given the structural changes required in the Australian and global economies. There are lots of other issues and for some businesses climate change isn't a material risk. But for the market as a whole, climate change is number one.



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Michael Chandler: “We're going to see traditional activists that seek control of companies at the board level also begin to exploit an absence of oversight and governance deficiencies to strengthen the argument for change and to convert those who control the votes to their view. This is something we are going to see more frequently.

Jana: Also human rights, modern slavery and the supply chain are the other important topics. That is driven by the nature and the type of investors in the Australian market; many industry super funds are close to these issues.

Listed@ASX: Is this when it comes to sourcing products overseas or paying contractors appropriately?

Jana: Both, as well as entrapment of employees.

Michael Salvatico: Companies generally have global supply chains. Often, if a business sources supplies from Asia there will be a link to slavery or child labour. Analysis on the MSCI ACWI index showed 62.4 per cent of companies are or will be subject to a slavery act, and 53 per cent of controversies for companies in this index had a link to forced labour through supply chains in south east Asia.

Ian: This issue has crystallised with the proposed *Modern Slavery Act*, encouraging companies to consider their disclosures about this. Businesses need to do due diligence on their supply chain to feel comfortable they can make trustworthy disclosures about the reliance on slavery in their business.

Susheela: Any instance where a company can be viewed as having outsourced responsibilities is increasingly under scrutiny. Franchising, joint ventures and contract workforces are in focus and companies should be prepared.



GIUSEPPE
IANNACCONE
e l'arte di
RISCHIARE

L&B PARTNERS,
qui **IL SOCIO**
di capitale **C'È**

LEGALCOMMUNITY
IP & TMT
AWARDS 2018

ACER
così si misura
IL VALORE
DELL'UFFICIO
LEGALE



BEST 50 SPECIALE FATTURATI

Il valore del giro d'affari delle prime cinquanta insegne legali censite da MAG sale a 2,237 miliardi di euro. BonelliErede resta in vetta con oltre 166 milioni. Dentons cresce più di tutti: +94%

Andrea Di Segni

A portrait of Andrea Di Segni, a middle-aged man with dark, wavy hair and a goatee, wearing a dark suit, light blue shirt, and a patterned tie. He is looking directly at the camera with a slight smile. The background is a blurred outdoor scene with green trees and a stone wall.

LA PRIMA REGOLA del proxy fight "club"? **Puntare sul board**

A inizio mese, il fondo attivista Elliott ha battuto l'azionista di maggioranza Vivendi conquistando il board di Tim. È nel consiglio che oggi questi soggetti giocano le proprie partite. E l'Italia è sempre più nel mirino

Lo scorso 4 maggio il fondo attivista Elliott, guidato da **Paul Singer**, ha fatto ciò che molti non si aspettavano fino a un anno fa: conquistare il maggior numero di voti nell'assemblea dei soci di Tim scalzando dalla guida l'azionista

di maggioranza, la Vivendi di **Vincent Bolloré**. Con solo l'8% del capitale sociale acquistato negli ultimi tre mesi, il fondo ha raccolto consensi da azionisti che nel complesso rappresentavano il 49,84 % - fra i quali Cassa depositi e prestiti - aggiudicandosi dieci componenti del board su 15. Vivendi, che possiede il 22% circa del gruppo delle telecomunicazioni, si è fermata al 47,18%.

La mossa di Elliott ha fatto notizia non soltanto per il ribaltone in sé ma anche perché è rappresentativa dell'evoluzione dei fondi attivisti avvenuta negli ultimi quattro anni, dopo un periodo di

assestamento e sviluppo durato dal 2008 al 2014, stando a una ricerca condotta da Jones Day. Ma anche dell'interesse che questo tipo di azionisti, sempre più sofisticati e agguerriti, sta avendo per il nostro Paese.

ITALIA SECONDA "PREDA" AL MONDO

Con la rete di partecipazioni incrociate nelle grandi aziende che si sta smantellando dopo la crisi finanziaria globale, gli investitori attivisti, solitamente nordamericani e britannici, stanno costruendo una presenza in Italia. In particolare i fondi anglosassoni detengono il 60% della quota di tutti gli istituzionali delle blue chip italiane, secondo Borsa Italiana, la quale non fornisce paragoni storici ma stando agli esperti di corporate governance l'influenza di questi fondi è in crescita. Nel 2017 nove aziende italiane sono state nel mirino dei fondi attivisti, meno rispetto alle 12 del 2016. Ma le probabilità di essere "attaccati" sono alte. Stando a un'analisi su 1.740 coinvolgimenti di fondi attivisti in società quotate di 16 Paesi fra il 2000 e il 2010 condotta da **Hannes Wagner**, professore associato del dipartimento di Finanza presso l'Università Bocconi, circa il 13,3% delle aziende italiane ha avuto a che fare con l'attivismo

I PRIMI CINQUE FONDI ATTIVISTI **IN ITALIA** (2015-17)

Posizione	Fondo attivista	Campagne svolte	Market Cap medio delle target (in mld di euro)
1	Amber Capital	13	1,8
2	V. Bolloré/Vivendi	1	14,5
3	GAMCO Investors	1	5,5
4	Lisippo	1	4,6
5	Litespeed Management	1	2,5

Fonte: Activist Insight 2018, Jones Day

I PRIMI CINQUE FONDI ATTIVISTI IN EUROPA (2015-17)

Posizione	Fondo attivista	Campagne svolte	Market Cap medio delle target (in mld di euro)
1	Amber Capital	18	1,7
2	Elliott Management	14	6,9
3	Petrus Advisers	8	3,6
4	Harwood Capital	7	0,096
5	Aviva Investors	4	3,3

Fonte: Activist Insight 2018, Jones Day

dei soci (rispetto ad esempio all'11,6% dell'Olanda, il 7,6% della Germania e il 6% del Regno Unito). Esclusi gli Stati Uniti (19,6%), l'Italia è fra i Paesi con maggiore probabilità di essere oggetto di attenzioni di questi fondi.

Questo perché, spiega **Andrea Di Segni**, managing director di Morrow Sodali, «poiché il sistema di voto di lista italiano consente alle minoranze di scegliere un proprio candidato per il consiglio di amministrazione, questo rende più semplice per i fondi attivisti influenzare il board, al contrario, ad esempio, di quanto accade negli Usa».

Per citarne uno, il fondo attivista Amber capital in Italia ha portato avanti oltre dieci campagne fra il 2015 e il 2017. «La struttura degli azionisti delle società italiane è diventata meno concentrata: quando la crisi finanziaria ha iniziato a ostacolare i prestiti delle banche, gli azionisti di controllo sono stati obbligati a collocare alcune delle loro quote presso investitori istituzionali», aveva detto a Reuters **Arturo Albano**, corporate governance specialist ad Amber Capital, durante la Shareholder Activism Conference organizzata da Morrow Sodali e Jones Day all'Università Bocconi. Investitori che oggi possono pesare nel board: «Adesso siamo nella posizione di poter appoggiare le proposte

«La struttura degli azionisti delle società italiane è diventata meno concentrata: quando la crisi finanziaria ha iniziato a ostacolare i prestiti delle banche, gli azionisti di controllo sono stati obbligati a collocare alcune delle loro quote presso investitori istituzionali»

di altri azionisti, incluse anche quelli degli investitori attivisti», aveva specificato Albano.

In Italia, tuttavia, l'attivismo dei soci ha ancora alcuni ostacoli da affrontare, come ad esempio il muro delle famiglie a capo delle aziende, pari al 33% di tutto il valore del mercato azionario, che potrebbero bloccare le iniziative degli attivisti. A questo si aggiunge il diritto di veto del governo - il cosiddetto "golden power", attuato anche su Tim - attraverso il quale potrebbe bloccare i cambi di controllo attraverso le sue partecipazioni indirette nelle aziende quotate del Paese. In questo contesto, vale la pena ricordare l'esempio, nel 2009, del fondo attivista Usa Knight Winke che chiese di cedere alcune parti di Eni, di cui il Tesoro detiene una quota di riferimento. Cessione avvenuta solo tre anni dopo, con lo spin off di Snam.

ATTENZIONE AL CONSIGLIO

Di certo, evidenzia Di Segni, «a prescindere dal risultato della proxy fight, questo tipo di campagne serve comunque a smuovere le acque, così come successe in quella di Knight Vinke su Eni, che seppur fallimentare ha contribuito al cambio di direzione nella gestione della società».

Nel complesso, in Europa i fondi attivisti contano asset under management per 32 miliardi (nel 2017).

Ma cosa spinge questo "fight club" di fondi a portare avanti campagne di tale portata e quali sono i presupposti per il loro successo? Qui sta uno dei trend principali. Rispetto al passato, infatti, spiega Di Segni, «soprattutto nei Paesi di matrice anglosassone, gran parte dell'attivismo era legato ad aspetti finanziari, ad esempio una disponibilità cash troppo elevata - come nel caso Apple - quindi un'allocazione del capitale non efficiente, un valore del titolo non soddisfacente o un'esigenza, non accontentata, di dismissioni di business non più core. Adesso invece, l'attivismo passa dal board, soprattutto per ottenere determinati cambiamenti come una semplificazione del business con spin-off e dismissioni».

Ciò è quanto accaduto, oltre che in Tim, anche nella società di infrastrutture tlc Retelit, anche se all'inverso. Il fondo attivista tedesco Shareholder Value Management si è infatti schierato contro i progetti di altri investitori, fra cui la Fiber 4.0 di **Raffaele Mincione**, di allontanare l'attuale amministratore delegato e unendo le forze con

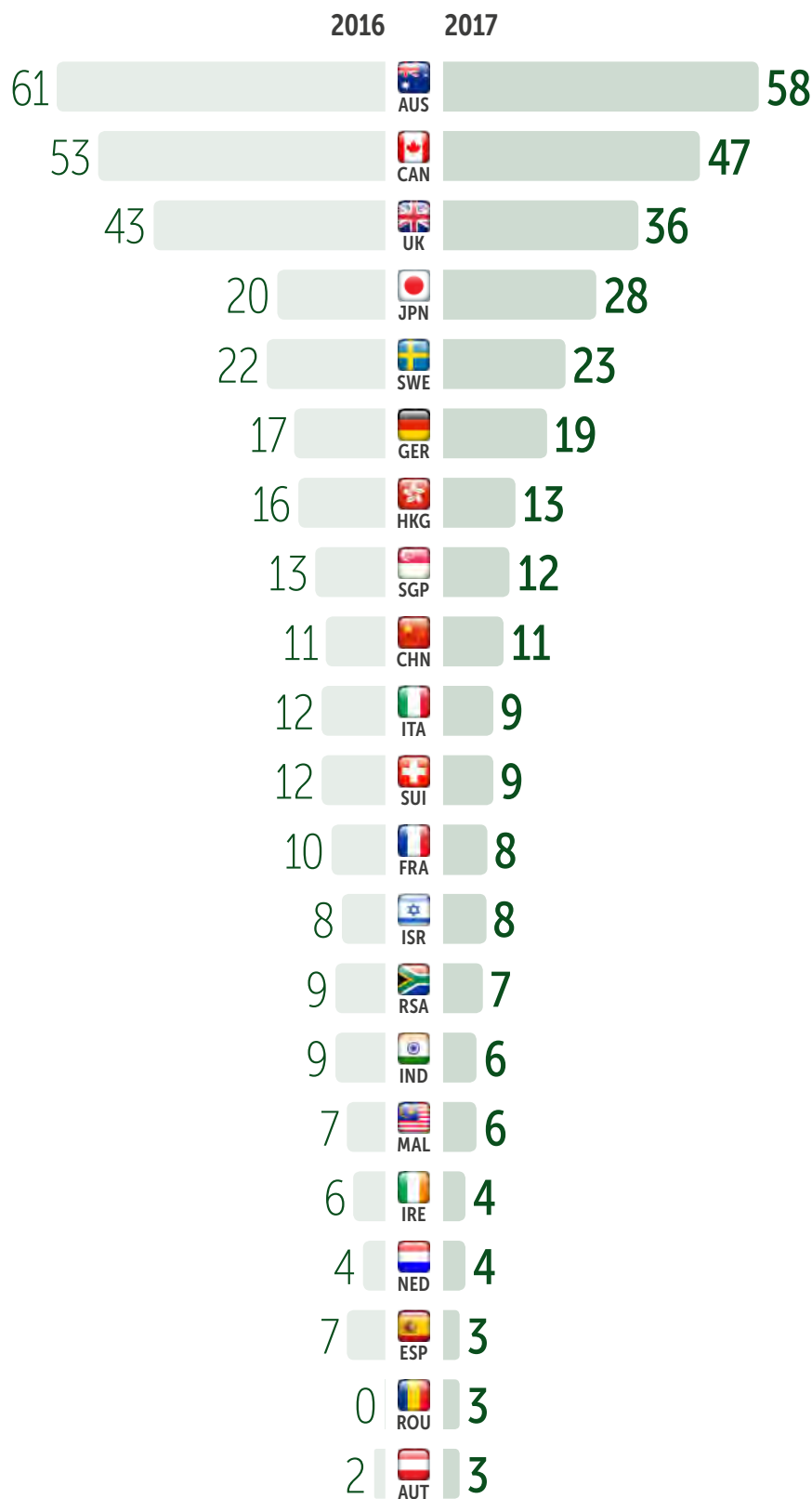
IN ASSEMBLEA IL GOTHA LEGALE

Come ovvio, quando c'è da lottare per il controllo di un consiglio d'amministrazione che conta, le parti non lesinano il ricorso ai pesi massimi dell'avvocatura per portare avanti la loro battaglia. Il caso Tim, per esempio, ha visto agire, al fianco di Vivendi gli studi Chiomenti e Cleary Gottlieb. Il primo con i soci **Filippo Modulo** e **Silvio Martuccelli**, il secondo con i partner **Giuseppe Scassellati Sforzolini** e **Ferdinando Emanuele**. Lo studio BonelliErede, con il suo socio fondatore **Sergio Erede** (già trionfatore con Salini per Impregilo e Cairo per Rcs), invece, ha agito al fianco di Elliot. Il fondo attivista, inoltre, ha scelto di essere affiancato anche da altri due studi. Giliberti Triscornia, in partita proprio con il socio **Alessandro Triscornia**, e lo studio Gianni Origoni Grippo Cappelli per il quale ha agito il fondatore **Francesco Gianni**. Tim è assistita dallo studio Gatti Pavesi Bianchi, con una squadra di avvocati guidata da **Francesco Gatti** e **Carlo Pavesi** assieme al quale ha seguito la vicenda il professor **Andrea Zoppini**. Il collegio sindacale di Tim, infine, è stato affiancato dallo studio Galbiati Sacchi e Associati, con i senior partner **Aldo Sacchi** e **Maurizio Galbiati** e il partner **Matteo M. Cremascoli**, unitamente al professor **Niccolò Abriani**. ▣

shareholders fra cui i libici di Bousval e i tedeschi di Axxion ha battuto Mincione confermando così i vertici della società, il presidente **Dario Pardi** e l'amministratore delegato **Federico Protto**.

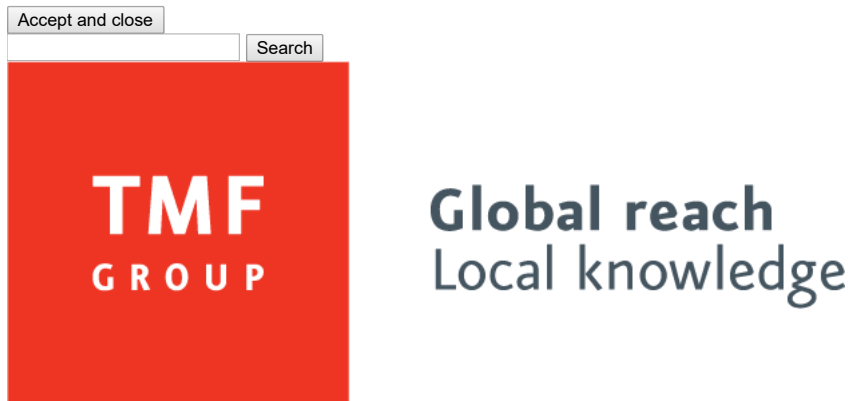
Si capisce come per vincere queste battaglie servano dei presupposti ben precisi che, evidenzia Di Segni, consistono solitamente in «un board le cui caratteristiche non soddisfano i piccoli azionisti, quindi uno scontento generale, e in qualcosa che non va nella gestione». Tim, per fare un esempio, ha perso oltre un terzo del suo valore di mercato da quando Vivendi ne ha rilevato per la prima volta una quota a metà 2015 ed Elliott, cavalcando l'onda del malcontento degli altri azionisti di minoranza, è intervenuto per apportare dei cambiamenti, come ad esempio la parziale cessione della rete fissa, possibilmente attraverso la quotazione, oltre che, naturalmente, la sostituzione dei membri del board. Potremmo dunque assistere ad altre campagne? Per Di Segni non è da escludere totalmente, (anche se probabilmente non nelle prime 10 del Ftse Mib). E nel frattempo Elliott si sta già facendo notare fra gli azionisti di Ansaldo Sts, controllata, al momento, dai giapponesi di Hitachi. ■

TARGET DEI FONDI PER NAZIONE



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The mechanics of robust corporate governance

Article 9 minute read

The mechanics of robust corporate governance

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08 April 2018

Even fast growing new startups need to have a semblance of corporate structure, leadership, oversight and evidence as they continue on their successful path.

Whilst attending the recent [IOD Open House event](#), I had the pleasure of attending a seminar hosted by [Morrow Sodali](#) on Corporate Governance. The discussion by, and between, the panellists was energised and topical with a thought provoking opening question:

‘What is good Corporate Governance?’

Amongst the wide-ranging discussion, panellists reflected on the ongoing importance of the [UK Governance Code](#). As part of its most recent review in April 2016 the original definition in 1992 by the Cadbury Committee was reiterated that:

*“Corporate governance is the system by which companies are directed and controlled. Boards of directors are responsible for the governance of their companies ... The responsibilities of the board include setting the company’s **strategic aims**, providing the **leadership** to put them into effect, **supervising** the management of the business and **reporting** to shareholders on their stewardship...”*

Whilst specifically applicable to companies listed in the UK, its use underpins robust corporate governance across all companies. Even fast growing new startups need to have a semblance of corporate structure, leadership, oversight and evidence as they continue on their successful path. This becomes particularly important if external funding is sought to further grow the business and to meet regulatory oversight requirements.

Increasingly prevalent is the focus that a company can receive as a result of external publicity. Take as examples the public disclosure that board meetings focussed on [personal remuneration at Carillion](#) or the centralisation of blame on senior individuals at [Facebook/Cambridge Analytica](#), resulting from whistle-blower allegations.

So what is good corporate governance?

Clearly, if the Cadbury Committee definition is followed, it incorporates strategy, leadership, supervision and reporting by all board members. The contribution of each individual valued by their diverse expertise and experience, should be brought together to produce a collective message that provides a clear business focus understood and supported by shareholders, employees, clients and third parties.

The application of diversity within a board can significantly strengthen a business, hence the focus on creating diversity, whether through legislation as in some countries, setting quotas or through businesses recognising the benefit and applying it.

Diversity of expertise and experience is irrelevant if board members have no opportunity to share it. Experienced directors will be only too aware that discussion is the substance of a strong and effective board that underpins strategic decision making, which is key to driving a successful business. Discussion by a diverse group of disparate board members enables the leadership of a business to consider multiple options then showcase a consistent message both internally and externally.

Formally recording discussions significantly aids the fourth principle of reporting. Without it, board decisions, discussions, challenge and strategy is not documented or progressed. Having clear board minutes reflecting decisions is a key record, especially when the future direction of the business may rely on previous decisions. And how often do discussions progress from one meeting to the next, through their evolution, starting to build the strategic direction of the business. With minutes to refer back to each time attendees, and especially those who may have been absent at previous meetings, can refer back and ensure that previous decisions can be progressed rather than re-debated.

It also means that, if a strategic decision is made and subsequently found to be the wrong decision, for whatever reason, the evidence is on record of the discussion, the background on the decision made, the reasoning and any dissenters from the outcome. As a board director, it is incumbent on each member to contribute to discussions and decisions, accepting the consensus decision and being part of delivering on the collective decision. Equally, it is the differing views of board members based on their diverse experience and expertise that makes a collective decision so valuable.

Practical application - the mechanics of robust corporate governance

So what does this mean in practice? Directors are required to bring their expertise, experience and leadership skills to all aspects of their role including the discussions held at board meetings in order to make them personally effective and the business successful.

Building a robust framework that supports and underpins the business without creating administrative burden on individual directors is an ideal that all companies should strive for. An effective board support structure will enable directors to rise above the formality and administrative burden of board membership and thus focus on their four primary areas of responsibility: strategy, leadership, supervision and reporting.

There are a few notable practical applications that an effective board support model can implement and can be highly beneficial:

- **minuting discussions** to reflect the key considerations, both those that were identified as key drivers, as well as those that were discussed then side-lined. Having this documented ensures that subsequent discussions don't go over old ground, particularly those that were deemed irrelevant to the topic, unless additional updated information is provided
- **documenting decisions** clearly so that discussion can progress rather than stall in repetition. How often do board meetings rehash the same topic because the decision wasn't clearly defined and documented, thus disabling the ability to move on to implementation
- **evidencing reasons** for the decision, including noting any concerns. Thus, if at a future date, a noted concern becomes more relevant or inapplicable, the decision can be reconsidered with any new information
- **minuting director dissent** will ensure that future review will support any directors' subsequent contention that they disagreed with a collective decision, whatever their subsequent actions may be
- **identifying actions** with specific deliverables, timelines and owners. This has the two-fold benefit of both documenting the application of decisions and also forming part of future agendas to ensure application is tracked.

The added benefit of having the above in place is that they can generate continued focus on the next steps, delivery of past decisions and building on previous ideas.

Documentation, such as board minutes, doesn't have to be long detailing the minutiae of every discussion, but it does need to be accurate, have clarity, support future understanding and provide a robust audit trail if ever required.

Supporting the success of a business

Successful businesses have a leadership that identifies and delivers within specific strategic areas. Building that focus by having a strong leadership team able to discuss, agree and discard is key. Having the discussions documented to ensure continued focus on the specifics, supports the ability to focus on delivery. Tracking discussions and actions through matters arising, delivers a framework that continues to keep focus on the opportunities, even when a new topic for discussion or unpredicted crisis arises. Strong boards with clear objectives can continue to deliver through any crisis management, thus ensuring that the business remains successful despite setbacks.

If in the future, the strategic aim is to build, then sell the business, evidence of effective oversight can reflect the strength and substance of a company. Not only is the strategic focus on sale documented, but also the decisions made and actions taken to make the business more successful to become an attractive purchase.

Future owners can then take this strategy to the next step or ensure they don't replicate what has already been tried. This ensures that, post-acquisition, the direction can continue or be refocussed based on historical paths taken.

In addition, as has been seen by recent publicised cases where board discussions focussed on personal gain, ineffective boards can also be identified by written evidence. By succumbing to administrative discussions only, such as director remuneration, boards are doing their own business a disservice by not taking the opportunity to lead and set the strategy and tone.

For purchasers, the content of board minutes can also flag opportunities to continue a successful direction or rebuild from the top by identifying effective (and ineffective) directors through their documented contribution.

Hence, having strong evidence of strategically thinking board discussions can underpin a business's desire to exit through a successful sale.

Governance housekeeping

The importance of this governance housekeeping and getting it right should not be underestimated. If it's effective it provides a robust skeleton for a business. If it runs smoothly and professionally, it enables the board to spend their time on oversight and strategic governance to drive the success of the business.

If it's done poorly, board members, both collectively and as individuals, spend too much time on administrative matters. This split focus can result in strategic discussion and decision making being delayed or avoided. Administrative delivery is much more tangible and it can be tempting for board members to contribute. But, by limiting the administration and related actions to professional providers, either in-house or external, the real value of a strategic thinking board member can be evidenced and benefited from.

There are advantages of both internal and external board support. Internal can bring company specific knowledge and insight, understanding of the business and its dynamics. However, the resource cost, whether at a senior or support level, should not be ignored, especially for mid-sized companies that are resource light.

External providers of professional board support will bring confidentiality and neutrality, as well an expertise on the formal governance requirements driven by legislation. Board support will be their expertise with best practice learnt through experience of multiple appointments. The cost can also be clearly defined and monitored whilst resourcing, if provided by a company rather than an individual consultant, is not limited by absences. They will also enable all directors, including any who previously may have been responsible for board support, to focus on the board content, rather than board practicalities.

Tangible impacts

There are more tangible and immediate impacts of poor administrative governance. Companies House in the UK, and equivalents in other countries, impose fines for non-compliance with reporting requirements. These include fines for late submission of statutory accounts, which is a Director, as much as a company, deliverable. Persistently late filings or non-conformity with other submission requirements and their deadlines, can impact on a business and its Directors. Certain board minutes should also be maintained with the company's formal books and records.

A director personally carries the responsibility to file and may be fined or struck off from acting as a Director on other companies. From a business prospective, if one of the boards strategic goals is to float or sell in the future, due diligence on the company's statutory filings will quickly identify if deadlines have been persistently missed. This can then raise flags as to why, is it purely poor administration or does it indicate audit concerns, financial issues or cash flow problems that have delayed completion of accounts and the knock on to late filing.

So what is good corporate governance? It starts with segregating the administrative aspects of the board from the governance aspects of strategy, oversight, culture and leadership. If board support is delivered by knowledgeable professional company secretaries, it provides a robust foundation that the board can rely on.

Thereafter good corporate governance is each and every board member contributing to and delivering against the four key aspects. Through this they are setting the character and tone of the business from the top. Building a strong ethos and culture that reflects the business that they are leading through example.

Talk to us

View from the market – investors' attention turns to stewardship

Against the background of MiFID II, fund managers are also focusing on a number of other urgent issues, with stewardship at the head of the list, as **Cynthia Alers** explains.

As we all rush to put the finishing touches on our preliminary results presentations and put the annual report to bed for another year, thoughts should be turning to planning investor relations messaging for the annual general meeting and the next 18 months, post-Brexit and post-MiFID II. What are the key issues for investors?

Morrow Sodali recently published its third annual institutional investor survey which asked 49 global investors, with combined assets under management of \$31 trillion, their views on a wide range of global trends and emerging issues. These focused on the annual general meeting, ESG engagement, board practices, executive pay, activism and investor stewardship strategies. Several key themes emerged.

Spotlight on investor stewardship and corporate governance

Following several high-profile corporate scandals, corporate governance is moving into mainstream investment criteria. All institutional respondents to our survey were signatories of both the Principles for Responsible Investment (PRI) and the UK Stewardship Code. The Investment

Association now compiles a public register on its website that lists all companies in the FTSE All Share Index that have faced significant investor opposition to a proposed AGM resolution. Sacha Sadan, director of corporate governance at Legal & General, one of the UK's largest investors, said at a recent Morrow Sodali conference that LGIM was discussing formulating a similar register of companies with poor governance structures.

The Financial Reporting Council (FRC) is consulting on its white paper on reforming the UK Corporate Governance Code, with the '20% rule' gaining strong support. Any company resolution that is either withdrawn or receives greater than 20% of votes opposed will be required to publish an explanation and proposed actions to address investors' concerns. And politicians are increasingly calling companies to account for poor stewardship policies.

A company's reputation is now a board-level risk, with the associated reputational risk for individual directors. 93% of investors Morrow Sodali surveyed confirmed that environmental, social and governance (ESG) policies were fully, or progressing towards being fully, integrated

VIEW ON STEWARDSHIP

- Following several corporate scandals, governance is moving into mainstream investment criteria.
- Composition of the board will be an important issue in the AGM season.
- Activism and shareholder collaboration are increasing scrutiny of underperforming companies.

into portfolio investment decisions, with 54% stating that they will 'focus on climate change disclosures'. Yet, many companies still separate ESG issues from financial reporting statements. ESG is often added to the annual report as a 'stand-alone' section and is not reported in financial presentations. As investors pose more questions on ESG reporting, companies and boards will need to rethink how they manage ESG disclosure around CEO pay ratios, diversity in the workplace, and investment in climate change.

Mark Carney, governor of the Bank of England, highlighted in his Davos interview, the potential investment cost to companies to comply with the Paris Climate Change Agreement, and many investors are focusing on the financial aspects of compliance with the agreement. Disclosure requirements around ESG will continue to increase, and companies need to start thinking how they will meet this communications challenge.

Board composition, disclosure around sustainability metrics and activism

Unsurprisingly, the most important metric for investors continues to be the 'quality and completeness of explanations relating to business strategy and disclosure of material issues impacting performance'. However, investors are increasingly focused on the role of individual directors in evaluating, challenging and monitoring corporate strategy crisis planning, with



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‘ 61% of investors now claim that they would be open to an activist approach that offers a sensible strategic plan ’

97% of investors citing this as an important point.

A further 66% of investors believe that 'composition of the board' will be an important issue in the upcoming AGM voting season. This year, 59% of investors said that they will prioritise 'board skills and experience' – a huge 50 percentage point increase on our survey last year. Investors said that they will be critically evaluating director accountability, contribution to the board and oversight skills, as well as looking at broader issues such as technology transformation, disruptive events and wider stakeholder considerations. Clearly, a brief description in the annual report of the business model and standard risks is no longer sufficient to inform investors.

The FRC is currently consulting on a draft Corporate Governance Code which will have far-reaching implications for IROs and company secretaries as well as boards. One recommendation is that all boards undertake an annual audit of skills and succession. Many companies already conduct regular board audits. Companies that wish to get ahead of the curve should consider setting this up as part of the annual board cycle, as well as considering debating these emerging investor topics at board 'away days'.

Another draft recommendation proposes extending the nine-year limit on board appointments to all board members, including board chairs. This will drive significant turnover in board appointments, making the annual skills audit even more pertinent, to ensure smooth succession.

Finally, activism and shareholder collaboration are increasing scrutiny of underperforming companies. Some startling facts: 59% of investors said that they now collaborate with other investors around the AGM on corporate performance. Forums fostered by the Investment Association and others make it much easier for investors to share concerns and agree a concerted plan of action around the AGM. 61% of investors now claim that they would be open to an activist approach that offers a sensible strategic plan.

Companies seldom consider this threat, yet boards need to be aware of activism approaches as well as dissident shareholder views, much as they discuss cyber security and other crisis planning issues. 'Poor capital allocation', 'weak board', 'poor governance' and 'failed engagement' are all issues investors mentioned as making them open to an activist approach. Proactive boards are

Action points for a response strategy

• Review the narrative of your business model

- Is the explanation of value creation clear?
- Is sustainability of value creation credible in the longer term, considering the challenges of growth, Brexit, MiFID II and global markets?
- Is the tie between future strategy and current performance credible and clearly linked?

• Involve the board in IR strategy

- Does the board regularly undertake a board skills audit and succession planning and is this incorporated into investor communications?
- Does the chair and/or SID take part in regular ESG roadshows to build relationships with stewardship managers in addition to PMs?

• Environment, social, governance

- Do you have a robust strategy around ESG communications, including clear benchmarks and metrics?
- Is ESG integrated into the company's reporting narrative along with financial measures?
- Are you planning communications around climate change compliance?

• Activism

- Have you conducted a vulnerability assessment on your susceptibility to an approach by an activist or dissident shareholder?
- Have you commissioned a proxy advisers influence report to manage communications around your AGM resolutions?
- Is activism incorporated into your crisis communications?

now undertaking vulnerability audits as part of their annual board cycle to monitor company performance and plan a response to these activist issues.

Proxy adviser influence reports can help identify potential shareholder issues ahead of AGMs, helping to avoid disclosure under the 20% rule. Vulnerability audits can assess how your company compares to a selected peer group, not only on corporate governance parameters, but also on financial performance and shareholder value. All these tools can ensure smooth and effective investor communications.

Executive pay still concerns investors

Executive pay continues to be a touch point for investors, as in previous years. Pay for performance, CEO pay ratios, gender pay gap and stretching performance targets in LTIPs are all measurements investors cited, with 88% stating that unjustified pay would come under intense scrutiny, up from 75% in last year's survey.

83% of investors want to see a detailed explanation of how compensation is linked to long-term strategy, with another 76% demanding information on the value board members bring to the boardroom. Executive and board compensation will be an important point to consider in investor communications, in view of the IA's 20% rule on companies disclosing significant votes against AGM resolutions.

‘83% of investors want to see a detailed explanation of how compensation is linked to long-term strategy’

How should IROs respond?

The demands on IROs to educate, communicate and promote their companies and management teams continue to grow. The rise of index-linked investors, which now account for almost half of total invested funds, means that corporate governance is one of the few ways passive investors can influence company performance. Investor focus on corporate governance, ESG and board responsiveness to IR is therefore set to increase, and IROs – and CoSecs – need to start planning a response strategy. ■

If you would like a copy of our 2018 Institutional Investor Survey, email c.alers@morrowsodali.com

BUSINESS NEWS

MARCH 29, 2018 / 2:53 PM / A YEAR AGO

In Italy, activist investors find a happy hunting ground

Maria Pia Quaglia



MILAN (Reuters) - When U.S. activist investor Elliott Advisers laid siege to Italy's dominant phone company this month, a shiver went through the country's corporate sector.

FILE PHOTO: The Milan stock exchange building is seen in downtown Milan March 18, 2013. REUTERS/Alessandro Garofalo/File Photo

Once a gentele club that resolved its problems in quiet, behind closed doors, corporate Italy is increasingly becoming prey for activist shareholders.

North American and British investors, who favor more aggressive investment styles, have been steadily building their presence in Italy as its cosy network of cross-shareholdings has broken down following the global financial crisis.

Anglo-Saxon funds own 60 percent of the blue chip Italian stock market held by investors according to Borsa Italiana — itself part of the London Stock Exchange Group ([LSE.L](#)).

The Italian exchange does not give historical comparisons but corporate governance experts say the influence of these funds has been climbing.

“The Italian market seems to have become ripe for activism, especially in the last three years,” said Fabio Bianconi, director of corporate governance consultancy Morrow Sodali.

“Activists in Italy, for example, are pushing for business simplification with spin-offs and disposals.”

Elliott made its move into Telecom Italia (TIM) early this month, declaring itself a minor shareholder and challenging the former phone monopoly’s controlling shareholder, French media group Vivendi ([VIV.PA](#)), to launch a major shake-up.

TIM has lost more than a third of its market value since Vivendi first took a stake in mid-2015. Elliott, founded by Wall Street hedge fund pioneer Paul Singer, wants TIM to partially sell its fixed-line network, possibly through a listing, and has called for Vivendi’s directors on the TIM board to be replaced.

This week, a battle of activists broke out over Italian telecoms infrastructure firm Retelit ([LIT.MI](#)). German activist fund Shareholder Value Management lined up against a plan by other investors to depose Retelit’s current chief executive as it supports the current business plan.

CHANGING DYNAMICS

Activist investor Amber Capital, which looks for opportunities to improve corporate governance, has run 10 activist campaigns between 2015 and 2017 in Italy.

“The shareholder structure of Italian companies has become less concentrated: when the financial crisis started to hamper banks’ lending, controlling shareholders were forced to place part of their stakes with institutional investors,” said Arturo Albano, corporate governance specialist at Amber Capital.

The weight of institutional investors in Italian firms has more than doubled in the last 20 years, based on Bank of Italy and financial accounts data.

Over half of institutional investors in Italian blue chips are based in the United States, the biggest center for activism.

Their participation in shareholder meetings has also grown.

Until 2010, when a law clarifying voting rights came into force, shareholders were unclear of their voting rights in the event that their holdings had changed in the weeks leading up to a shareholder meeting. That often deterred them from voting.

The law introduced a ‘record date’, usually seven trading days before a meeting, which gave funds certainty over how many votes they could cast at the upcoming meeting.

“They are now in the position to back the proposals of other shareholders, including those of activist investors, if they create value for all stakeholders,” Albano said.

PUTTING DOWN ROOTS

Shareholder activism still faces challenges in Italy.

Families control firms accounting for 33 percent of the Italian exchange’s total market value and can wield powerful blocking stakes against activist investors.

Politics can also get in the way: the Italian government holds indirect stakes in some of the country’s most important listed companies and it has a legal veto — its so-called ‘golden power’ — over changes of control in strategic firms.

Rome held a 30 percent stake in oil major Eni ([ENI.MI](#)) in 2009 when the firm resisted calls from U.S.-based hedge fund Knight Vinke to break itself up. It took three years before Eni sold its gas transport group Snam ([SRG.MI](#)) to state investor CDP.

Politics have not deterred Elliott, whose push for a shake-up at TIM touches on assets deemed by the government to be of national interest, such as its fixed-line network and its submarine cable business, Sparkle.

“Political risk is something activist funds are learning to deal with after Knight Vinke’s mixed experience with Eni,” said finance expert Hannes Wagner, of Milan’s Bocconi University.

Today’s activism is sprouting from roots that were put down a decade or more ago, as share registers opened up and activist investors gained more experience of working in Italy.

Last year, Wagner published a detailed analysis of 1,740 activist “engagements” with listed companies in 16 countries between 2000 and 2010, concluding that around 13 percent of Italian firms had had to deal with shareholder activism.

“Italy is second in the list after the U.S. because it has a decent absolute number of engagements but a relatively low number of publicly traded firms,” said Wagner, who studied instances where activist funds engaged management teams.

Reporting by Maria Pia Quaglia; Editing by Mark Bendeich/Keith Weir

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AGMs 2018: Investors target strategy and board composition

MAR 14, 2018

Survey finds ESG engagement focus will be on board skills and experience

Investor relations and governance teams working on and around AGMs this proxy season should be paying particular attention to the stories their companies are telling about strategy, who is on the board and ESG-related efforts, according to new research.

A Morrow Sodali survey finds that 68 percent of institutional investor respondents cite as highly important 'the quality and completeness of [a company's] disclosures on business strategy and issues of material importance' when making voting decisions on director elections and other agenda items.

Sixty-six percent of respondents point to board composition as being highly important when deciding on AGM votes. Sixty-three percent say the company's ESG policies and practices are key. Fewer – though still a

notable proportion of – respondents point to a firm’s quality of shareholder engagement (51 percent) and ‘the availability of its board members to communicate directly with shareholders’ (39 percent).

Morrow Sodali polled 49 institutional investors managing combined assets of more than \$31 trillion between November and December 2017.

Much of the attention paid to the investors’ increased focus on ESG issues has been centered around climate change. But 59 percent of respondents in the Morrow Sodali survey say board skills and experience will be among the most important ESG topics to them when engaging with companies in 2018 – up 50 percentage points from the survey last year.

Noting this ‘significant’ shift, the report’s authors write: ‘Respondents are turning up the heat on director accountability and oversight. Broader issues continue to evolve such as technology transformation, disruptions and stakeholder considerations.’ By contrast, 27 percent say board diversity is a key ESG topic for engagement, despite this having been a high-profile issue over the past year.

Morrow Sodali chair John Wilcox tells *IR Magazine* that the focus on skills and experience highlights the growing importance of boards’ stewardship and imposing high standards on themselves. There is a trend among institutional investors toward understanding what goes on inside companies and on their boards, and therefore they want to understand the skill sets among directors, he says.

The good news for companies is that this marks a step away from investors having a ‘checklist mind-set,’ Wilcox adds. Even if a company doesn’t meet best practices, this approach by investors gives the firm a chance to explain how it operates – more along the lines of the ‘comply or explain’ model often seen in Europe, he explains.

Climate change disclosure ranks just behind board skills and experience: 54 percent of respondents cite this as important in terms of ESG engagement, up 10 percentage points from last year. The third-rated key focus, cited by 41 percent of investors, is ‘ESG risk management and opportunities’ – up from 24 percent in 2017. Wilcox says this reflects a

growing sense that there are opportunities for companies in addition to risks related to ESG matters.

Institutional investors were also asked what information should be disclosed about a board's composition to enable them to make an informed vote on director elections. Fifty-six percent say the most important topic is the relevant background and experience of individual directors, while 41 percent say the disclosure of a board skills matrix is most important.

'This stands in stark contrast to more detail on the selection and nomination process, where only 7 percent of respondents felt this was the most important issue,' the authors say.

Asked which diversity criteria get the highest importance rating, 71 percent say skills, 17 percent say experience, 7 percent say gender and 2 percent say age. Overall ethnicity ranks below these in investors' responses.

'These results demonstrate that while gender, ethnicity and age diversity are of course important they should not in any way distract boards from recruiting directors who have the right skills and experience for the roles,' the authors write. 'The focus on gender diversity remains a perennial issue across markets and should remain the focus of respondents and the companies themselves.'

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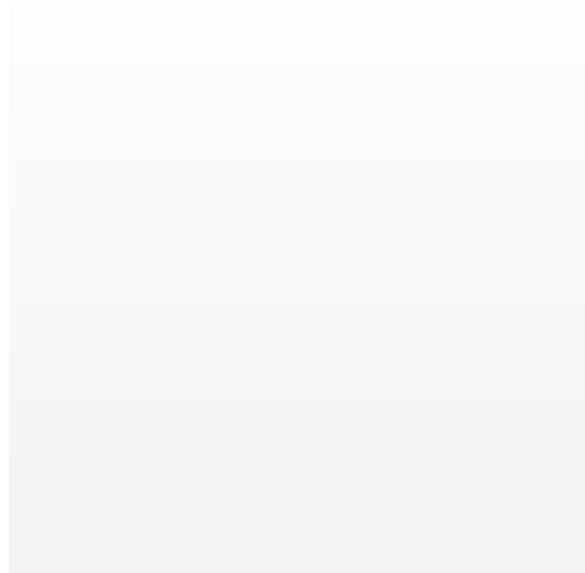
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INCHIESTA Nel corso degli anni hanno accumulato compensi milionari, ma in molti casi hanno permesso alle loro aziende di registrare performance sopra la media. Ecco chi sono i manager più longevi di Piazza Affari. Che piacciono agli istituzionali

Quando il ceo è inossidabile

di Manuel Follis

Spulciando tra le grandi società quotate a Piazza Affari viene fuori che non sono tanti i manager che siedono sulla tolda di comando da molti anni. Anzi, il gruppo degli inossidabili comprende una manciata di amministratori delegati. Non si tratta, si intende, dei manager-proprietari che guidano le aziende di famiglia o di cui sono principali azionisti, ma di quelle figure che potremmo definire tecniche, nominate per le loro capacità o competenze. Il tempo trascorso alla guida di un'azienda non è una variabile di poca importanza, sia per gli investitori che si trovano a fare analisi sui loro possibili investimenti sia per valutare in maniera più ampia e completa i compensi incassati da questi manager. Nelle scorse settimane uno degli argomenti di dibattito che hanno riguardato Fca sono stati i 9,7 milioni di euro percepiti da **Sergio Marchionne**, amministratore delegato del gruppo automobilistico di Torino, per il 2017. Di questi, 3,5 milioni rappresentano la remunerazione fissa mentre 6,13 milioni sono la parte variabile legata ai risultati raggiunti.

L'ufficio studi di MF-Milano Finanza ha calcolato che da quando è entrato in Fiat (poi Fca) Marchionne tra remunerazione fissa, bonus e stock option ha incassato più di 90 milioni di euro. Tanto? Poco? Il giudizio sui compensi è sempre complesso perché va legato a molte variabili, non tutte comparabili, ma secondo quanto calcolato da **MF-Milano Finanza** nella maggior parte dei casi la presenza

in azienda di un manager per un arco temporale più lungo favorisce il conseguimento di risultati soddisfacenti.

Guardando al mercato italiano, molto spesso i manager longevi sono figure individuate da un azionista di riferimento, storico e forte, che ha trovato l'uomo di fiducia cui affidare il proprio business. Marchionne è un caso emblematico di manager di riferimento, nel caso specifico della famiglia Agnelli, ma nella tabella a pagina 27 ci sono altri amministratori delegati legati da solidi e storici rapporti di fiducia con le famiglie-azioniste. È il caso ad esempio di **Giovanni Castellucci** o **Gianmario Tondato da Ruos**, scelti dalla famiglia Benetton per guidare rispettivamente Atlantia e Autogrill dal 2006 e dal 2003, oppure di **Bob Kunze-Concewitz** chiamato dalla famiglia Garavoglia di Campari nel 2007 a dirigere il colosso del beverage.

Ci sono casi, invece, in cui il manager riesce a rimanere alla guida di una società senza il supporto di un azionista di riferimento ma con il consenso del mercato. Il caso più eclatante è quello di **Valerio Battista**, che da quando (dalla scissione di Pirelli Cavi) è stata creata Prysmian, ha sempre guidato l'azienda portandola alla quotazione, gestendo due aumenti di capitale e due acquisizioni di diretti competitor (come Draka e General Cable) e incassando sempre un grande consenso assembleare da parte degli investitori istituzionali. **Alberto Nagel**, invece, guida Mediobanca dal 2007, una posizione complessa vista la composizione degli azionisti di Piazzetta Cuccia,

che raccoglie molte delle più importanti società italiane (da Unicredit a Mediolanum) e anche azionisti francesi del calibro di **Vincent Bolloré**. Nagel è stato spesso considerato dai media in uscita ma alla fine è evidentemente riuscito a risultare la soluzione migliore per i soci e nel frattempo ha guidato Mediobanca nel passaggio da holding di partecipazioni a banca diversificata. Anche **Carlo Cimbri** guida Unipol dal 2007 e anche in questo caso l'azionista di riferimento non è una sola famiglia, ma il mondo delle Coop (azioniste di riferimento della compagnia assicurativa) e la presenza decennale del manager nato a Cagliari testimonia evidentemente la sua capacità di incontrare il consenso di soci così differenti e numerosi. Molti dei manager di questa particolare categoria sono quasi «nati e cresciuti» nelle aziende che oggi dirigono. **Giovanni Bossi** è il manager alla guida di Banca Ifis (controllata da Sebastien Egon Fürstenberg) da prima che quest'ultima esercitasse l'attività bancaria (2002) e si occupava solo di factoring. Bossi ha iniziato a dirigere l'azienda quando ancora circolavano le lire, tanto è vero che la performance dall'inizio delle attività a oggi non è commisurabile. Impossibile ad esempio quantificare l'attività di **Mario Alberto Pedranzini**, che formalmente è diventato consigliere delegato della Popolare di Sondrio dalla fine del dicembre del 2013, ma in realtà è un'altra figura storica per l'azienda, allievo e delfino di Piero Melazzini che è stato l'uomo di riferimento dell'istituto per decenni. Nel caso, invece, di **Alessandro Foti**,

dal 2000 alla guida di Fineco, e di **Rosario Rasizza**, che dal 2003 è al timone di Openjobmetis, il fatto che le due società si siano quotate molto più di recente non ha consentito un calcolo preciso di compensi e prestazioni. Resta il fatto che alla luce dei risultati, che si parli di conto economico o di quotazioni (*tabella a pagina 26*) la valutazione sul compenso assume altri contorni.

I numeri vanno ovviamente pesati. Il mondo bancario, ad esempio, ha affrontato la peggiore crisi di settore della storia italiana mentre in qualche caso anche l'introduzione degli standard IFRS rende i numeri non del tutto omogenei. I manager citati, nel corso degli anni, hanno incassato compensi in alcuni casi milionari, ma sono stati protagonisti positivi delle rispettive aziende. Castellucci è ceo di un gruppo che ha lanciato un'opas per diventare il leader mondiale delle concessioni autostradali, mentre Tondato da Ruos ha portato Autogrill a diventare una delle società più internazionali d'Italia. «Gli investitori istituzionali che guardano al mercato italiano non considerano l'entità dei compensi un problema», spiega a *MF-Milano Finanza* Fabio Bianconi, director di Morrow-Sodali, società internazionale specializzata in attività di corporate advisory, attività assembleare e proxy. «Negli Stati Uniti o nel Regno Unito negli ultimi anni si è assistito sempre più spesso a polemiche o critiche

legate agli stipendi, segnatamente più elevati. Ma non in Italia, dove sostanzialmente quello che interessa di più è la performance. Anzi, si assiste sempre di più al tentativo di legare il compenso ai risultati. Il cosiddetto pay for performance, che nei documenti dei proxy advisor si trova scritto P4P». Sul mercato si affacciano sempre più soggetti che un tempo non investivano in Italia. «Siamo passati da un mercato composto da molti azionisti retail che consideravano prioritario per i loro investimenti l'ammontare dei dividendi a soggetti come i fondi pensione che effettuano investimenti con orizzonte temporale molto lungo e che quindi più che al payout sono interessati alla crescita costante del business e soprattutto alla sua sostenibilità», spiega ancora Bianconi. Il problema è che i mandati in Italia sono triennali, e nel caso delle società pubbliche lo spoils system è la regola. «Il pay for performance è semplice da spiegare, ma non così immediato da introdurre nelle aziende», prosegue il director di Morrow-Sodali, «l'obiettivo però è chiaro: legare i compensi al conseguimento di obiettivi prefissati che siano chiari, trasparenti, sfidanti e da raggiungere in un orizzonte temporale che come minimo sia triennale. In sempre più casi gli istituzionali spingono perché vengano introdotti piani di incentivazione in azioni, in modo da portare i manager a dover considerare sempre di più il punto di vista dei soci». In generale

«la continuità, soprattutto in una public company, è un fattore importante, che può avere un peso sulle scelte degli investitori istituzionali», prosegue Bianconi. «Riuscire a rimanere alla guida di un'azienda a lungo però non è facile, soprattutto visto che i media sono sempre più attenti sia ai risultati sia alle dinamiche sul compenso». Peraltro è provato che se rimane alla guida di un gruppo un manager che performa male, gli azionisti abbandonano il titolo. Nel caso delle società prese in considerazione, invece, non ci sono stati cataclismi o fughe degli istituzionali. C'è da dire che la discontinuità non è in assoluto un male, e anzi in certi contesti è considerata un valore aggiunto, come se fosse un calciomercato dei ceo, in cui si cerca sempre il nuovo attaccante. Questo però funziona laddove il mercato e la scelta è ampia, come ad esempio per i mercati accomunati dalla lingua inglese, come Usa, Regno Unito e Australia. L'italianità dei manager non permette una scelta così ampia. «Bisogna considerare», conclude Bianconi, «che spesso alla base di buone performance, oltre a un ottimo ceo, ci sono i board che apportano un buon mix di competenze, esperienza e capacità di stimolare i vertici». (riproduzione riservata)

Quotazioni, altre news e analisi su
www.milanofinanza.it/ceo



Mario Alberto Pedranzi



Victor Massih



Carlo Cimbri



Rosario Rasizza



Alessandro Fori

I MANAGER CHE SONO RIMASTI PIÙ A LUNGO AL COMANDO

Dati in milioni di euro

Anno	Manager	Gruppo quotato	Compensi 2017	Totale	Anno di confronto	Fatturato (a) 2016	Var. % fatturato	Ebitda (b) 2016	Var. % su ebitda	Utile netto 2016	Var. % su utile netto
2006	Giovanni Castellucci	Atlantia		34,8	2005	4.699,0	70,56	3.378	82,30	1.122,0	41,11
2003	Gianmario Tondato Da Ruos	Autogrill		27,1	2002	4.519,1	34,65	396,9	-2,55	98,2	n.s.
2007	Bob Kunze-Concewitz	Campari		19,3	2006	1.726,5	85,17	405,3	92,45	166,3	42,02
2004	Sergio Marchionne	Fca	9,7	80,9	2004	111.018,0	152,75	12.000	292,16	1.814,0	211,02
2003	Marco Sala	Igt		53,0	2003	4.889,4	410,98	1.574,7	688,86	200,5	n.s.
2005	Valerio Battista	Prysmian		28,3	2004	7.567,0	122,13	637,0	206,33	246,0	336,73
1995	Giovanni Bossi	Banca Ifis		13,3	1994	6.533,7	n.s.	309,0	n.s.	687,9	n.s.
2007	Alberto Nagel	Mediobanca	3,2	63,3	06/2007	40.474,7	40,88	2.068,1	70,80	750,2	-21,30
2007	Victor Massiah	Ubi Banca		16,0	2006	85.166,0	3,82	3.219,5	-22,71	-830,2	-197,45
2007	Carlo Cimbri	Unipol Gruppo Fin.		20,3	2006	14.155,8	61,14	721,6	546,02	329,6	17,17

La colonna compensi racchiude la somma di quanto gradualmente percepito dal manager fino a dic 2016 e riportato nelle tabelle previste dalla direttiva Consob n. 11520 del 1° luglio 1998, a cui è stata aggiunta la valorizzazione delle stock options progressivamente esercitate

Cambio applicato: 1 euro = 1,0541 \$Usa

(a) = raccolta clientititoli per le banche, premi emessi per il gruppo assicurativo

(b) = margine di intermediazione per le banche, saldo tecnico per il gruppo assicurativo

GRAFICA MF-MILANO FINANZA

LA LONGEVITÀ PAGA IN BORSA

Performance dalla data di partenza ad oggi

Società (manager)	Data di partenza	Performance società	Performance Ftse Mib
◆ Atlantia (G. Castellucci)	3 aprile 2006	36,6%	-42,8%
◆ Autogrill (G.M. Todato)	1 aprile 2003	224,2%	0,5%
◆ Campari (M. Garavoglia)	2 maggio 2007	195,6%	-50,0%
◆ Fiat Chrysler (S. Marchionne)	1 giugno 2004	842,6%	-19,5%
◆ Igt (M. Sala)	3 marzo 2003	37,5%	-5,1%
◆ Prysmian (V. Battista)	3 maggio 2007	61,9%	-49,8%
◆ Banca Ifis (G. Bossi)	3 gennaio 2005	478,3%	-29,3%
◆ Mediobanca (A. Nagel)	2 luglio 2007	-38,6%	-47,8%
◆ Ubi banca (V. Massiah)	2 aprile 2007	-78,9%	-47,8%
◆ Unipol (C. Cimbri)	2 aprile 2007	-90,5%	-47,8%

GRAFICA MF-MILANO FINANZA



Giovanni Castellucci



Gianmario Tondato Da Ruos



Marco Sala



Valerio Battista



Bob Kunze-Concewitz



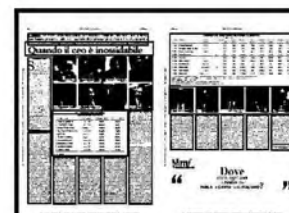
Sergio Marchionne



Giovanni Bossi



Alberto Nagel



Morrow Sodali taps Shammai as corporate governance director

Monday February 19, 2018

International proxy solicitation firm Morrow Sodali has bolstered its team of corporate governance specialists by tapping David Shammai from Dutch pension fund manager APG Asset Management.

Shammai will join the firm as a corporate governance director - cross border and will be based in the company's London office. He will focus on the firm's "growing corporate governance activities across its European offices," Morrow Sodali said in a statement.

"In recent years, we have seen across many markets that institutional investors are broadening the range of topics they wish to discuss with their portfolio companies," Shammai said in prepared remarks. "Whilst traditionally it was mainly about financial performance, new issues such as corporate governance and sustainability are now a mainstream topic of discussion in many markets."

Corporate governance has been increasingly at the epicenter of engagement between firms and shareholders. In order to stave off activist threats, companies have boosted their conversations with shareholders, enlisting firms such as Morrow Sodali to help with the process.

Morrow Sodali has been on a hiring spree lately. In October, it appointed former Paysafe Group communications director Oliver Parry as a corporate governance director, while a month earlier it poached Charles Koons from MacKenzie Partners to head its activism practice.

"Having David onboard - from one of the world's largest fiduciary asset managers - demonstrates our reinforced commitment to helping companies define issues and deal with them proactively before problems arise," Alvise Recchi, CEO of Morrow Sodali, said in a statement.





Photo: Shutterstock

Boardroom skills and experience will be the key issue for investors in 2018, according to new research.

Morrow Sodali, the corporate governance consultants, found that 59% of investors consider skills and experience in the boardroom their biggest ESG (environmental, social and governance) focus for this year.

Climate change is the second most important at 54%, while risk management and opportunities comes in third, at 41%.

Cynthia Alers, head of Morrow Sodali UK, told *Board Agenda* that the 59% represented "exponential growth".

"The only way you can influence the valuation of company if you are a passive investor is through corporate governance."

She said investors were increasingly looking at three areas when looking at the boardroom and its skills: whether the boardroom is providing the right level of challenge and scrutiny; what the individual skills of board members are and how they come together as a whole; and how board decisions align with strategy and performance.

–Cynthia Alers,
Morrow Sodali UK

Morrow Sodali's survey questioned 49 investment institutions with assets totalling \$35trn.

Alers said many boards once offered only passing challenge to business plans before nodding them through.

"That is starting to change," said Alers. "With [events like] Carillion there are questions: where was the board, was there sufficient scrutiny?"

Ayers said investors were becoming much more active in their approach to corporate governance. She said this was being driven by recent scandals but also by a switch to placing assets in passive funds.

"The only way you can influence the valuation of a company if you are a passive investor is through corporate governance," said Alers.

She suggested boards may not be aware of how much of their company's capital is held in passive funds, and questioned the level of preparedness in boardrooms for activist investors.

"I know boards go through a crisis plan and risk management, but I wonder how many have vulnerability to activism on their agenda," said Alers.

Forty-nine percent of investors said that ESG and sustainability were now "integrated" into investment decision-making.

Morrow Sodali also found that 68% of the investors questioned placed a "high" degree of importance on the quality of disclosures on business strategy", and 66% said the composition of the board was of "high" importance.

When asked which factors increase their confidence in the board's "refreshment process", 59% said the quality of appointments was the most important, while 54% said engagement with shareholders.

Forty-nine percent of investors said that ESG and sustainability were now "integrated" into investment decision-making.

Morrow Sodali's report stated: "Investors increasingly recognise ESG and sustainability as material to long-term financial outcomes.

"Investment Managers are ever more influenced by clients' objectives and stakeholder considerations as the focus on environmental, social and governance (ESG) issues continues to attract significant attention.

"More respondents gradually follow the Sustainability Accounting Standards Board (SASB) guidelines for investors, UN Sustainability Development Goals and recently endorsed Task Force on Climate-related Financial Disclosures (TCFD) recommendations."

Investors seek more insight into boardrooms: survey

Thursday February 01, 2017

A survey by global proxy solicitation firm Morrow Sodali suggests institutional investors are lusting for more insight into how boardrooms are operating, raising the demands on directors.

More than 60% of asset managers surveyed placed a high importance on disclosures related to companies' business strategy, board composition, financial performance, and environmental, social, and governance (ESG) policies.

"Respondents want to know boards are heavily involved in evaluating, challenging and monitoring the company's strategy," the report said.

On activist campaigns, the survey suggested investors would prioritize activists with the ability to tell "a credible story focusing on long-term strategy," mirroring their demands on companies. A target's capital allocation approach ranked as the second highest priority in activist situations, ahead of a weak board and poor engagement practices.

"The survey is actually good news for companies," Morrow Sodali Chairman John Wilcox said in an interview with Activist Insight Wednesday. "It reinforces the willingness of investors to listen to individual stories at individual companies, as opposed to a box-ticking approach at annual meetings."

Issuers with a good case to make in the face of an activist challenge could still win support in 2018 without a favorable proxy voting adviser recommendation, Wilcox argued.

Wilcox said the results did not point to a desire to micro-manage companies, drawing a comparison between the appetite for greater disclosure and the introduction of "say on pay" votes almost a decade ago. Investors "want to know more about how the board is doing its job in order to be sure the board is doing its job well," he said.

83% of investors surveyed placed a high priority on receiving more information about the link between long-term goals and performance and 76% wanted more disclosure on board member qualifications.

A majority of respondents said they would find disclosure of the ratio between CEO and median employee pay useful and wanted companies to engage with shareholders when planning for board refreshment. Only 41% of respondents said a skills matrix was among the most important factors in their voting decisions on director elections, behind the background and experience of board members.

Indeed, engagement was consistently ranked as important by respondents, although sanctions for companies that refused to engage were apparently mild. Only 19% would withhold support for the nominating committee members on boards where directors did not meet with shareholders, and only 12% would take up the issue with other investors. A majority would simply engage more.

On ESG issues, 71% of respondents sought more disclosure on the links between sustainability and strategy.

"ESG and SRI [socially responsible investment] have suffered from being viewed by companies as being outside the core of the business," said Wilcox. "I think we're seeing an effort to break down that separation."



Economia

PIAZZA AFFARI

	Valore	%
FTSE MIB	22.762,290	1,11
FTSE Italia All Share	25.162,040	1,07
FTSE Italia Mid Cap	43.804,600	0,77
FTSE Italia Star	38.260,100	1,23

I migliori

	Valore	var. su rif.
1) B Intermobiliare	0,686	13,20
2) Prima Industrie	39,550	10,01
3) Biesse	47,120	9,18
4) Isagro Azioni Sviluppo	1,225	7,46
5) Trevi	0,430	7,10

I peggiori

	Valore	var. su rif.
1) Deutsche Bank	15,490	-5,09
2) Industria e Innovazione	0,129	-3,75
3) Brioschi	0,077	-3,50
4) Commerzbank	12,400	-3,20
5) Intel	37,300	-2,76

BORSE ESTERE

NEW YORK	Dow Jones	25.175,600	0,40
NEW YORK	Nasdaq	7.123,830	0,65
LONDRA	FTSE 100	7.724,220	0,37
FRANCOFORTE	Dax 30	13.319,600	1,15
PARIGI	Cac 40	5.470,750	1,05
TOKYO	Nikkei 225	23.714,500	0,89
ZURIGO	SMI	9.556,981	0,50

CAMBI

DOLLARO	Americano	1,205	-0,17
STERLINA	Inglese	0,889	-0,25
FRANCO	Svizzero	1,176	-0,05
YEN	Giapponese	136,450	0,39
DOLLARO	Australiano	1,536	0,24
DOLLARO	Canadese	1,507	-0,30
CORONA	Danese	7,446	0,01

l'intervista » Andrea Di Segni

di Marcello Zacché

L'anno che si è appena chiuso è stato uno spartiacque per le società italiane quotate in Borsa. I cosiddetti salotti buoni, le scatole cinesi, i nocciolini duri hanno perso la loro forza dominante: nelle grandi banche, così come nell'industria o nei colossi controllati dal Tesoro, gli azionisti di riferimento non possono più evitare di fare i conti con i grandi fondi. O rischieranno di vedersi bocciate in assemblea sia singole proposte, sia le liste di amministratori. Cosa cambierà nei poteri forti? «Che dovranno imparare a dialogare maggiormente con tutti gli azionisti e in special modo con i fondi», ci dice Andrea Di Segni, managing director e tra i fondatori di Morrow Sodali, il maggior provider nei servizi di consulenza alle società quotate.

In dicembre, l'assemblea del Credito Valtellinese senza la sollecitazione dei piccoli soci ha rischiato di non raggiungere il quorum del 20%. Che lezione è stata?

«Ci ha insegnato che la caratteristica delle ex popolari di avere un azionariato molto diffuso può diventare un elemento chiave. Creval è quotata e ha il 50% di soci internazionali, ma è stata la vecchia spina dorsale di queste banche che ha risposto in maniera decisiva a sostenere un piano complesso con un aumento che è il triplo della capitalizzazione. Quindi significa che il vecchio azionariato è ancora importante per le ex popolari e forse anche per le tante altre società che hanno molte migliaia di soci retail».

E anche delle società come la sua: dica che lavoro fa.

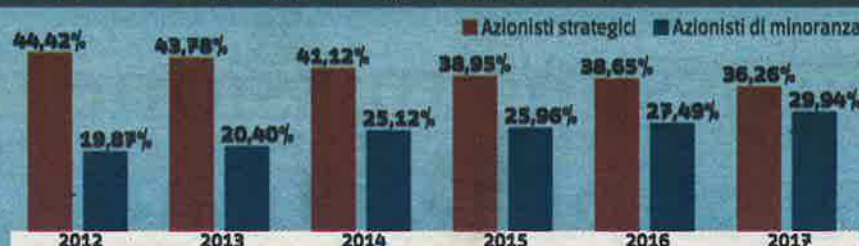
«Forniamo una consulenza strategica alle società quotate, non solo su governance, remunerazione e sostenibilità, ma anche per rafforzare e garantire il dialogo costruttivo con tutti i soci: non solo il grande fondo come Blackrock, ma anche il piccolo azionista. Aiutiamo il manage-

«Fondi padroni in Borsa I big aprano al dialogo»

Il partner di Morrow Sodali: «Presto gli attivisti anche in Italia. Noi colleghiamo vertici e base»

QUORUM ASSEMBLEARI E ASSETTI PROPRIETARI

Come è cambiata la partecipazione dei soci di controllo e di quelli di minoranza alle assemblee delle società dell'indice Ftse Mib di Piazza Affari



Fonte: Morrow Sodali

ment a condividere con i soci la strategia e il modello di governo societario che dovrebbe garantire l'esecuzione».

Ed è diventato un servizio necessario? Cosa è cambiato negli ultimi 10-15 anni?

«Morrow Sodali nel 2007 aveva solo 6 clienti in Italia, oggi ne ha oltre 40, rispetto ai circa 700 nel mondo, e questo dimostra i benefici del nostro ruolo. Condividere le strategie con i fondi o utilizzare la proxy solicitation (la sollecitazione a dare deleghe per il voto, ndr), crea un dialogo diverso e proficuo con gli investitori, e questo spinge i fondi a valutare meglio le società. Inoltre ne-

gli ultimi 6-7 anni il peso specifico degli istituzionali è più che raddoppiato e rende necessario questo dialogo. Se fino al decennio scorso non esistevano rischi o quasi di bocciatura delle delibere, oggi è tutta un'altra storia».

Peso specifico?

«È aumentato per due motivi: la riduzione degli azionisti di riferimento e dei cassettisti, che da tempo, complice prima la crisi economica poi quella delle banche, hanno preferito dare i loro soldi in gestione. Guardiamo per esempio quanti azionisti avevano le grandi spa quotate 10 anni fa e quanti ne hanno oggi».

In effetti dal 2001 al 2017

Eni è passata da 1,8 milioni a 300mila soci; Enel da 3 milioni a 1. Tutte azioni passate ai fondi e che ora arriveranno in assemblea. Il retail è destinato a sparire?

«Proprio no, anzi. Lo dimostrano le ex popolari e il fatto che ci sono società quotate tra le prime dieci con 3-400mila azionisti retail che valgono il 5-10% del capitale. E quanto vediamo in Francia, Spagna o UK mostra che il retail è importante e può tornare a essere un valore se gestito strategicamente. Il retail è uno dei trend dei prossimi 3-5 anni».

Quali sono i punti, le tematiche assembleari che più in-

teressano ai fondi?

«Di sicuro gli stipendi dei manager e i cosiddetti piani di incentivazione a lungo termine. Poi ci sono i rinnovi, con il rischio di bocciatura per le liste presentate dai grandi soci. Anche i nuovi modelli di governance, come il monistico adottato da Intesa Sanpaolo, sono cambiamenti positivi che dimostrano un avvicinamento al mercato e sono molto apprezzati dai fondi».

Ma cosa vogliono i fondi?

«Gli investitori istituzionali non vogliono decidere come sia composto un cda, o le sue competenze. Ma si aspettano che il consiglio o i soci mettano in cam-



equilibri
Il retail sarà centrale nei prossimi 3-5 anni. Serve una gestione strategica

paletti
Occhi sugli stipendi dei top manager Bene i nuovi modelli di governance

po quel gruppo eterogeneo di amministratori con le competenze appropriate per sviluppare il piano strategico. Importante sarà il parere di orientamento e la cosiddetta diversity policy, quel documento che presenterà il cda uscente. Le società dovranno indicare quali sono le diversità necessarie perché il board eserciti le sue prerogative. Questi sono i documenti letti dagli investitori prima di andare in assemblea».

La lista del cda (appena introdotta da Unicredit) è una buona idea?

«È uno strumento molto positivo e ben voluto dagli investitori, che reputano il cda l'organo giusto per individuare gli amministratori più adatti. Rispetto al passato, questo ruolo attivo del cda rassicura molto gli investitori».

I fondi istituzionali non sono interessati alla gestione. Ma quelli attivisti invece sì. Che differenza c'è?

«Gli attivisti individuano tematiche che rappresentano un disvalore e che, se cambiate, possono generare una crescita importante del titolo. E il grande cambiamento negli ultimi 3-5 anni è che si è passati dall'attivismo puramente finanziario a quello interessato alla governance e in particolare al cda e il suo ruolo».

Arrivano anche in Italia?

«Il nostro è un mercato ancora non molto esplorato. Casi ci sono stati, solo in situazioni straordinarie, ma nel futuro anche l'Italia diventerà un mercato con numerose opportunità di valore non espresso. E in questo caso l'organo che può opporsi all'attivista è proprio il cda. Gli unici alleati del cda saranno i fondi di lungo termine e forse anche i piccoli azionisti retail».

Vedremo già nel 2018 la prima scalata attivista?

«Non so se potrà avvenire nei prossimi 12 mesi, ma anche in Italia ne sentiremo presto parlare. E l'importante sarà essere pronti a rispondere strategicamente e velocemente».

Cinzia Meoni

Prosegue la marcia delle Borse internazionali, anche ieri al traino di Wall Street, incurante dei dati macroeconomici poco entusiasmanti. Piazza Affari compresa: dopo il +2,8% di giovedì, Milano ha guadagnato un altro 1,1%, indifferente a qualsiasi supposto rischio elettorale. Ad aiutare è stato anche uno studio di Jp Morgan che vede rosa per tutto il comparto dell'auto (+6,3% Fca). Anche lo spread, ovvero il differenziale tra titoli di stato decennali italiani e tedeschi, termometro del temuto «rischio Paese», è sceso a 155 punti (-0,5%), sempre più vicino allo spread di 147 tra bund e titoli di stato portoghesi e ai 109 tra bund e bonos spagnoli.

Tutti in rialzo anche gli altri listini europei: Parigi e Francoforte

PROSEGUE L'EFFETTO TRUMP

Piazza Affari «dribbala» l'occupazione Usa e sale ancora (+1%) al traino di Wall Street

Giornata positiva anche per gli altri listini europei. Scende lo spread

dell'1%, Londra dello 0,3%, mentre in Asia, il Nikkei giapponese ha nuovamente ritoccato i massimi degli ultimi 26 anni. L'euro intanto continua a mantenersi sul picco degli ultimi tre anni sul dollaro a 1,2037, mentre aumentano le attese che la

REAZIONI

L'euro rimane ai massimi degli ultimi tre anni
Le stime di Morgan Stanley

Bce termini la politica di stimoli monetari del Qe già in autunno.

A sostenere Wall Street è ancora il taglio delle tasse varato da Donald Trump che ha già rivendicato come «sua» il rally di questa prima settimana del 2018 promettendo di estenderlo. La riforma prevede che l'aliquota sugli utili per le imprese localizzate negli Usa scenda al 21 dal 35% con un impatto negativo nel breve termine causato dalla misurazione di alcuni crediti di imposta utilizzando la tassazione più bas-

sa (Morgan Stanley ha stimato un impatto negativo di 1,25 miliardi sugli utili del quarto trimestre, Deutsche Bank per 1,5 miliardi), ma nel medio termine si tratta di un volano per l'economia americana.

Tanto che la serie di dati Usa pubblicata ieri, con più ombre che luci, ha lasciato indifferente il mercato.

Il rapporto sull'occupazione americana è risultato inferiore alle stime (a dicembre sono stati creati 148mila nuovi posti di lavoro nei settori non agricoli rispetto alle attese di 190 mila); l'indice Ism non manifatturiero si è posizionato a dicembre a 55,9 punti, in calo rispetto ai 57,4

61,4

Il prezzo segnato ieri, in dollari, dal barile di petrolio sul Nymex di New York (+1%)

punti di novembre e meno delle attese mentre la bilancia commerciale di novembre ha mostrato segnali di peggioramento (il deficit si è attestato a 50,5 miliardi, record da gennaio 2012 e oltre le stime). In frenata, invece, il prezzo del petrolio: -1% a 61,39 dollari il barile al Nymex di New York.

AGENDA

A Financial Times Service

Can Renewed Calls for Universal Proxies Change Voting?

By Lindsay Frost December 18, 2017

Close and controversial high-profile proxy contests at Procter & Gamble and ADP have again raised questions about the proxy voting process in the U.S. Shareholders are continuing calls for the use of universal proxy ballots in contested director elections as regulators at the SEC mull the implementation of a universal proxy rule. Meanwhile, Congress sits on the Financial Choice Act — which would prohibit the SEC from ever implementing such a rule.

Governance experts encourage boards to talk to shareholders about improvements to the proxy voting process and prepare for the request of a universal proxy ballot in any future proxy contests at their company. Comment letters to the SEC continue to trickle in as companies and shareholders weigh the pros and cons of universal proxy ballots.

“The adoption of a universal proxy card, at the most basic level, will provide a solution to what is often regarded as a cumbersome voting process when trying to split your vote between issuer and activist,” writes **Michael Verrechia**, managing director of activism and contested situations at **Morrow Sodali**, in an e-mail.

Universal Proxies and Recent Contests

A universal proxy ballot allows for all director candidates in an election to be named on one ballot, giving shareholders an opportunity to mix and match dissident and incumbent candidates as opposed to choosing one slate of candidates versus the other. Most companies tend to reject the use of universal ballots, but shareholders continue to argue for their use.

A proxy contest between data company ADP and Pershing Square’s Bill Ackman last month saw the reemergence of the argument for a universal proxy. Pershing Square’s three nominees lost the contest, with each only receiving between 20% and 30% of the votes. Ackman, in September, requested that the company use a universal ballot for the contest, leaning on the SEC’s rarely used “bona fide nominee” rule, which allows for the dissident to name the management nominees on their ballot, but only with the nominees’ permission, which is rarely given and was not given by ADP.

ADP argued against the use of a universal ballot because the solicitation process had already commenced and shareholders, including its more than 300,000 retail investors, might be confused or disenfranchised. The company also said that it was not the time to try out a new process that has never been used at a large-cap company.

However, Ackman argued that the use of a universal proxy could have given him a better chance at winning a board seat. He noted ISS's recommendation of a withhold vote against the director that Ackman would have replaced.

"Had there been a universal proxy card, this [proxy advisory] firm would have simply recommended a vote for me and I would likely have been elected," Ackman wrote in a statement following the election. "It is incumbent upon all investors to insist that all companies use a universal proxy card in each director election to make sure that shareholders can easily select the directors they wish to represent them."

Another attention-grabbing proxy contest between large-cap consumer goods company P&G and Trian Fund Management's Nelson Peltz has caused governance experts to bring up universal ballots as a way to improve the time-consuming proxy voting system. After an initial vote that left him 6 million votes short, Peltz called for an independent recount, and as of late November, he was proclaimed the victor by a slim margin of 40,000 votes. Shareholders and governance experts question whether the universal proxy would have made a difference.

Most sources interviewed by *Agenda* said a universal proxy would have made a difference only if more dissident seats were being voted on. However, Jacob Williams, corporate governance manager at the Florida State Board of Administration, says a universal proxy would have given the investors more choices than the limited option of Peltz versus incumbent director Ernesto Zedillo.

"Having two slates, two voting cards for investors to choose from and two different cards for tabulators to tally, all reflect the complexity," writes Williams in an e-mail. "With a universal ballot, the Peltz appointment to the board would seem more certain."

Scott Hirst, a professor at Harvard Law School and author of a recent paper on universal proxies, argues that in contests similar to ADP's where shareholders withheld votes for directors instead of voting for another director on a different ballot, a universal proxy could have resulted in the election of the other nominee. For example, a proxy fight between Macellum Capital Management and Citi Trends in May resulted in the election of one dissident and one incumbent nominee. Hirst says more than 4 million votes were withheld from the Macellum nominees. If there had been a universal proxy, shareholders withholding their votes from Macellum nominees would likely have voted for incumbent nominees, and vice versa.

Shareholders Want a Fair Fight

Shareholders continue pressing for a universal proxy because it would place more emphasis on the quality of directors as opposed to who is nominating them, create equal opportunities for all nominees and give shareholders who cannot attend the annual meeting in person the same rights as those who can.

“Without a universal proxy in place, holders are left to make voting decisions between two competing proxy cards,” Verrechia says. “The holder’s shares are then counted on whichever card is voted, and in some cases there can be unintended consequences of voting one card versus the other.”

Hirst argues in his paper that “unilateral voting” disenfranchises shareholder voters and leads to distorted outcomes. His analysis says that 11% of proxy contests between 2001 and 2016 had distorted outcomes. He also argues that allowing for a universal ballot would improve outcomes for management.

For example, Williams says that in a 2008 contest between CSX and The Children’s Fund and 3G Capital, the availability of a universal proxy allowed the fund to split their vote, which reportedly became the swing vote allowing management to win.

“If the CSX vote had been all or nothing, then the SBA likely would have voted the entire dissident slate, which would have possibly eroded more of CSX’s incumbent board of directors than it did,” Williams says. “CSX realized this possibility, so it created a universal ballot that included all nominees and permitted shareowners to vote for any nominee they wished as long as only a total of 12 nominees were selected. This procedure allowed the SBA to exercise its entire vote by voting for the dissident and incumbent candidates that it desired to elect.”

Shareholders also say that the universal proxy would have little impact on director elections, so companies should allow it as an option. The Council of Institutional Investors argues that contested elections are “exceedingly rare” in the U.S., with only 12 short-slate and three full-slate contested director elections at Russell 3000 companies in 2017. Using data from ISS, they claim the universal ballot would impact fewer than 1% of director elections. The CII and other experts also say a universal proxy would make the proxy voting process more democratic.

“The universal proxy would reduce the gamesmanship and help shift the focus to a comparison of individual director qualifications,” Williams says. “Ideally, the adoption of universal proxy balloting by the SEC would allow investors to allocate support so distinctly in every proxy contest.”

Companies Wary on Use

According to comment letters to the SEC and public statements by companies, the most common argument against universal proxies was that the ballots would confuse shareholders. Other

arguments include that universal proxies could create more proxy contests at significantly higher costs to companies and their shareholders, exacerbate short-termism, increase over-voting, and create more defective ballots.

In a comment letter, the Chamber of Commerce's Center for Capital Markets Effectiveness wrote, "The Proposing Release suffers from a number of fatal flaws because it would increase the frequency and ease of proxy fights for dissident shareholders, favor activist investors over rank-and-file shareholders and other corporate constituencies, hamstring boards of directors and encourage balkanization of the board, conflict with common advance notice bylaw provisions, further empower proxy advisory firms ... and violate issuers' (and dissidents') First Amendment rights."

The Society for Corporate Governance argued in its comment letter that "mixed boards" might negatively impact a board's effectiveness.

The commission has received 39 comment letters on the universal proxy rule. In July, the SEC moved the universal proxy off its short-term agenda and onto its long-term agenda, indicating it won't be dealt with any time soon.

Hirst says the SEC should consider setting a universal proxy as the "default" and give companies the choice to opt out of the rule if investors approve. Or, he says, the SEC can make universal proxies voluntary instead of mandatory, as the current rule is written.

Australian Institute of Company Directors

AGM Season Heats Up

Directors have had to deal with increasingly proactive shareholders this annual general meeting season. Ben Power wraps up the key themes.

28 November 2017



Are annual general meetings still worthwhile, particularly in the digital era? This was one of the main topics of discussion between Frank Cooper AO FAICD, a director of Woodside Petroleum and South32, and Graham Bradley AM FAICD, chair of HSBC Australia at the Essential Director Update in Perth in November.

The message from the two was that there is real value in the annual grilling of boards by their shareholders and it comes from the disciplined thinking that occurs well before directors front their shareholders.

“It’s the preparation that directors make to ensure they are prepared to answer the questions that is the real value,” Bradley told the audience. “How do we answer to our shareholders? It’s a constant question directors should be asking.”

Certainly, 2017 has seen shareholder meetings roar back to life as boards responded to intense questioning from investors and proxy advisers and sought better engagement with their shareholders and the community.

“This year, shareholders have been prepared to show more muscle around directors with a history of poor performance,” says Judith Fox MAICD, chief executive of the Australian Shareholders’ Association (ASA).

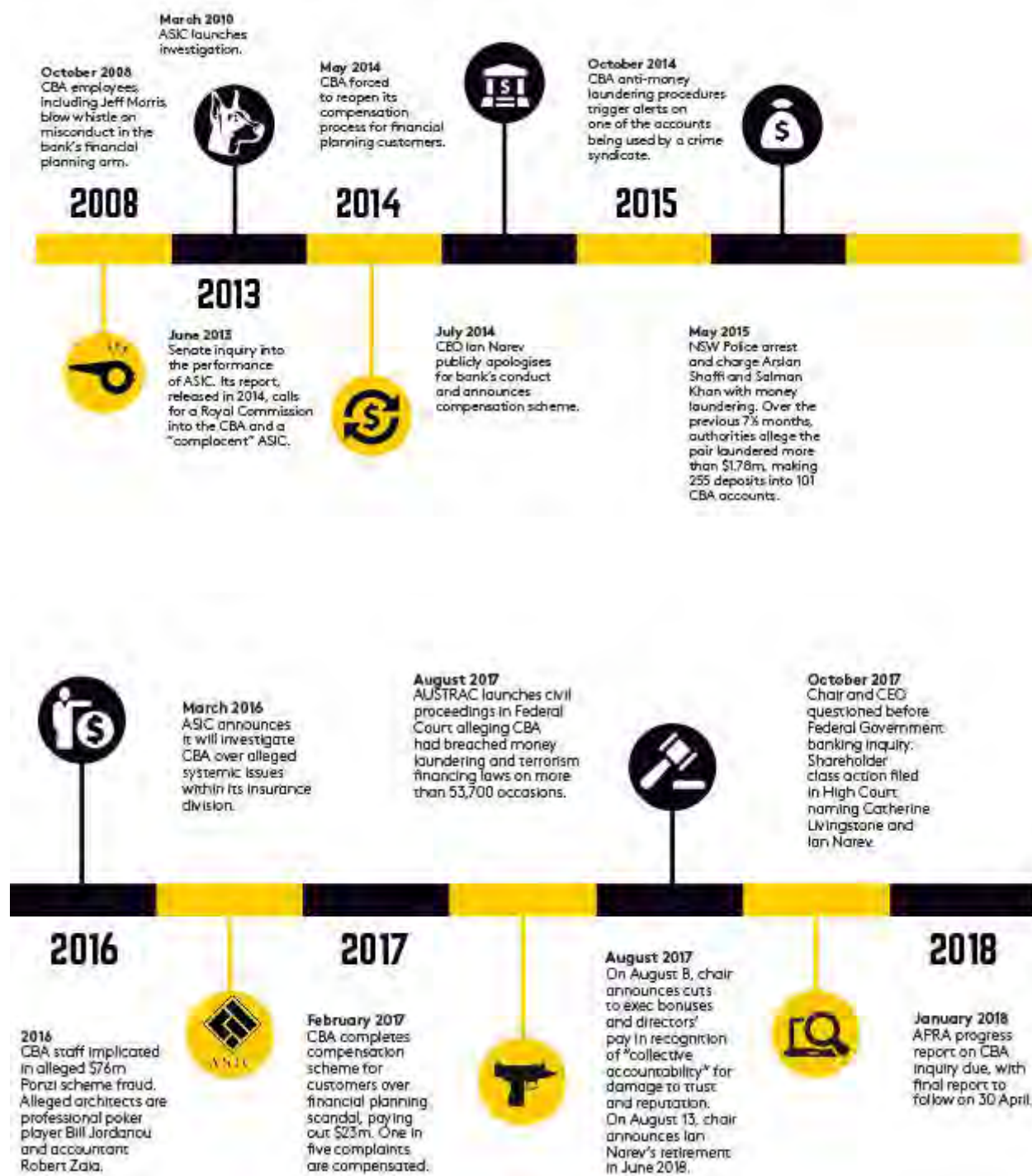
“Shareholders have worked out that directors can make a difference for good and ill,” says Martin Lawrence from proxy advisory firm Ownership Matters. “If you realise that they do make a difference, then your vote is valuable.”

AGMs are also evolving to adapt to this new era. Most large listed companies now livestream their AGMs, Link Group held a hybrid AGM — a traditional AGM that allows shareholders to attend and vote either physically or online. Fellow registry Computershare also held a virtual meeting in November.

“Many listed companies will be watching to see how it goes,” says Fox, adding that the ASA’s hybrid AGM in May had twice as many members online as were in the room.

Four key themes emerged this season: director accountability, diversity, hybrid remuneration and activist resolutions.

COMMONWEALTH BANK: HOW THE SAGA UNFOLDED



Director accountability: the rise of the "no" vote

Directors of ASX-listed companies have traditionally received about 96 per cent of votes in favour of their election. This year, more shareholders have been prepared to take a stand and vote "no" if companies are underperforming.

The directors of Healthscope, Tabcorp, Carsales.com and Bega Cheese all had significant no votes, but one of the most high-profile backlashes occurred at logistics company Brambles, with 25 per cent of shareholders opposing the re-election of veteran chair Stephen Johns (see table, page 20).

Investors were angry at the decline in the share price — down 30 per cent since July. The company also faces a potential class action relating to its January profit downgrade.

Directors need to understand that shareholders are sending a message, says Fox. That is, “be our agents”. While it’s almost impossible to be voted off an Australian board, Lawrence describes the rise in no votes as a “next step” in shareholders asserting their rights.

Voting against directors raises a number of critical issues, says Daniel Smith, general manager at proxy adviser CGI Glass Lewis. “To what extent do we hold directors accountable for actions of management? How does the board manage these issues and what sort of narrative do they send to the broader shareholder community?”

Diversity: an issue that’s starting to bite

As flagged by Company Director in November, the 2017 AGM season has seen increased scrutiny of boards on the level of diversity, both gender and the composition of skill sets on boards, including the appointment of directors with relevant digital, industry and demographic experience.

Gender has become a “proxy” for board performance, says Fox. “If the board’s missing [the importance of diversity], what else are they missing?”

This AGM season the Australian Council of Superannuation Investors (ACSI) recommended its members vote against male directors at ASX 200 companies with all-male boards. It identified 12 ASX 200 companies without female directors, including Flight Centre, TPG and CIMIC Group (formerly Leighton Holdings). CIMIC has since appointed Kate Spargo to its board, while Flight Centre announced the appointment of Colette Garnsey in November.

The AICD is advocating for ASX 200 boards to have a minimum of 30 per cent female directors by the end of 2018. The gender diversity issue is “starting to get some teeth to it”, says Smith, who thinks boards just need to accept that it makes good business sense.

DIRECTOR RE-ELECTIONS: COMPANIES WITH HIGH AGAINST VOTES

Healthscope (HSO)	Rupert Myer 13.9%
Brambles (BXB)	Tahira Hassan 6.8% ; Stephen Johns 24.8% ; Brian Long 18.3%
Tabcorp (TAH)	Dr Zygmunt Switkowski (11 years on board) 22.1%
Carsales.com (CAR)	Wal Pisciotta (18 years on board) 9.7% ; Richard Collins (17 years on board) 14.5%
McMillan Shakespeare (MMS)	Tim Poole 16.9% ; Ross Chessari 30.5%
Vocus (VOC)	Robert Mansfield 7.7% ; David Wiadrowski 10.2% ; Christine Holman 7.0%
Bega Cheese (BGA)	Richard Parbery 9.5% ; Peter Margin 34.6%
ARB Corporation (ARB)	Andrew Stott 12.1%

Emergence of hybrid remuneration schemes

The levels and models of executive remuneration have become a perennial AGM issue.

Gene Tilbrook FAICD, a director of Woodside Petroleum says the model of remuneration is starting to change and he expects this to continue over the next two to three years.

One major trend has been the emergence of hybrid variable remuneration plans from companies including QBE, Perpetual and Wesfarmers — 2017 has been the first year that shareholders have voted on the plans.

Hybrid remuneration frameworks (which combine bonus and long-term equity incentives and put them in play over a much longer period) help boards address shareholder preferences for longer-term incentive measures, but also allow them to avoid scrutiny of annual bonuses, says Michael Chandler, the director of corporate governance at Morrow Sodali.

Boards need to consider whether the link between pay and performance can be simply explained and why it is right for their organisation, says PwC partner Emma Grogan. “Where there’s a clear narrative about why it’s right for us, we see a lot more support from shareholders,” she says.

Activist climate-change resolutions ramp up

Environmental finance group Market Forces filed three resolutions calling for Origin Energy to improve planning, disclosure and measurement around climate change and emissions. It also put a resolution to the Commonwealth Bank seeking to embed climate-change risk management into its constitution. The Australasian Centre for Corporate Responsibility lodged a proposal around human rights in its operations and supply chain.

The release of reporting requirements, particularly on climate change, is helping to drive the resolutions. One resolution called for Origin Energy to implement the recommendations of the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD), which was published in June. However, big shareholders failed to back the resolutions, no proxy adviser groups supported the activist resolutions and the proposals were soundly defeated because shareholders understood the need to comply with standards such as the TCFD, says Chandler.



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Remuneration practices in 2017

A cross-border analysis reveals increasing shareholder support towards management compensation, but issues do persist

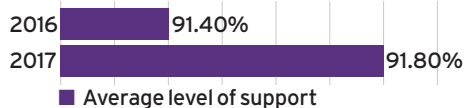
Executive remuneration is increasingly perceived by stakeholders as a window into how the board sets the strategy and how it motivates management.

The say-on-pay votes have thus assumed greater importance. Remuneration policies and practices are required to be in line with the business strategy and not encourage risk-taking. The engagement between companies and investors is still a key driver for the development of sustainable remuneration practices and long-term value creation.

USA and Australia

For companies belonging to the S&P 500, support levels in 2017 remained consistent with 2016 – 91.8 per cent average in 2017 (v. 91.4 per cent in 2016) and a median of 95.2 per cent in 2017 (v. 95.3 per cent in 2016). Pay for performance misalignment, magnitude of pay and 'rigour' of performance goals (i.e. how the compensation committee sets performance targets) under incentive schemes are the predominant themes for adverse proxy advisory firm vote recommendations and low support on 2017 say-on-pay. A total of 449 proposals had been voted up to 31 July 2017 and only four proposals failed (0.9 per cent in total). While the average support level on the proposals that passed was 91.8 per cent, the median was notably higher at 95.2 per cent.

FIGURE 1: SAY-ON-PAY IN THE US



Comprehensive disclosure on shareholder outreach, engagement discussions, actions taken (or to be taken) in response to 'low support' are expected to avoid potential negative vote recommendations against compensation committee members. If the issue persists, the full board may be held accountable.

With the exception of blind followers of ISS and Glass Lewis, institutional

Fabio Bianconi

Director at Morrow Sodali



voting on say-on-pay is usually case-by-case. Early planning, year-round engagement to foster relationships with shareholders whose support may be needed in the future, comprehensive disclosure and effective communication of a company's business strategy and its link to executive compensation and corresponding pay decisions are essential in garnering support.

Historically, proposals on incentive plans typically have not received the same level of attention, scrutiny or opposition as say-on-pay proposals – and that continued to hold true in 2017. A total of 120 proposals have been voted upon through to 31 July 2017.

Proxy advisory firm evaluations and vote recommendations are driven primarily by the size of the new share request and associated cost to shareholders, along with a company's three-year average burn rate. Despite ISS adopting the Equity Plan Scorecard model beginning with the 2015 proxy season in an attempt to make the evaluation process more 'holistic' (i.e. take plan features and grant practices into consideration in addition to cost and burn rate), the primary driver for negative vote recommendations continues to be predominantly based on the shareholder value transfer cost and three-year historical share utilisation rate. Companies typically engage with shareholders on use of equity in the context of executive compensation and say-on-pay rather than exclusively on a company's equity plan.

In Australia, the 'two-strikes' rule was introduced in 2011 to increase directors' accountability beyond executive pay. The entire company board can face re-election



INFLUENCES ON REWARDS
Say-on-pay has prompted many companies to improve shareholder engagement

(within 90 days) if the remuneration report receives two strikes in a row (at least 25 per cent level of discontent).

Among the top 180 Australian listed companies only 12 companies did not exceed the 75 per cent hurdle.

Europe

The United Kingdom is the highest performing country in which the average level of approval of the remuneration report is 92.9 per cent and reaches the 94.9 per cent threshold in relation to the

binding vote on policies (that takes place every three years).

In France, as a result of the enforcement of the Sapin 2 Act, an increased level of transparency and explanations from issuers on executive remuneration has been noticed, notably pay-mix, benchmarks and rationale for the choice of the performance metrics driving variable remuneration components. However, this headway on transparency did not lead to a significant improvement in the average ex-post say-on-pay scores at SBF120 companies (average approval of 89.1 per cent v. 88.7 per cent in 2016). We even noticed a reduction of the average approval score at CAC40 companies compared to 2016. Indeed, proxy advisors and institutional investors have taken stricter stances on executive remuneration packages, placing greater focus on pay for performance alignment.

In the opposite direction, there is an increasing trend in the average scores of equity incentive schemes (authorisations to issue stock-options and performance shares). This development is likely due to greater transparency from issuers on the performance conditions tied to the equity awards in response to institutional investors and proxy advisors' requests. While ex-ante disclosure on the performance targets is still scarce, issuers are becoming more explicit on the performance targets tied to past equity awards, or at least on the level of achievement thereof.

The 2017 scores also show that proxy advisors and institutional investors' requirements on post-mandate arrangements in favour of executives are

Early planning, year-round engagement to foster relationships with shareholders whose support may be needed in the future, comprehensive disclosure and effective communication of a company's business strategy and its link to executive compensation and corresponding pay decisions are extremely essential in garnering support

becoming stricter. The higher level of dissent may notably be explained by proxy advisors' growing scrutiny of the methods used for the computation of rights under defined-benefit pension schemes, and continued concern regarding the performance conditions triggering executives' entitlements to severance payments, on a 'no pay for failure' basis.

In Spain this year, the median investor support for remuneration reports across the IBEX 25 is 86 per cent, broadly in line with 2016. LTIs are increasingly better-aligned with international best practice and, therefore, institutional investors and proxy advisors are focussing more on specifics. But issues persist and namely pertain to

disclosure on peer group composition for relative (e.g. TSR) metrics, targets and degree of achievement thereof. The implementation of qualitative metrics lead to another common issue related to discretionary power of boards in awarding bonuses.

Investors are increasingly placing more attention on targets that are claimed to be 'sufficiently challenging'. This is especially the case with relative metrics (e.g. TSR), which entail peer groups, normally expecting that there is no vesting/pay out in the case of performance below the median.

Among the 25 FTSE/ATHEX large cap companies in Greece, say-on-pay still remains relevant only to the very few companies headquartered outside of Greece. Of those having dual listings in the UK and/or Switzerland, we note a slight increase in approval (from 92.5 per cent in 2016 to 98.8 per cent and 99.2 per cent in 2017), suggesting an increased awareness of issuers in aligning their pay for performance practices.

Germany is the lowest performing country where there is still no obligation to present the say-on-pay resolution for shareholders' vote. The average support for those companies that voluntarily submitted the remuneration policy in 2017 was 69 per cent.

In Italy the level of support for remuneration policies slightly decreased from 91.5 per cent in 2016 to 88 per cent in 2017. A more in-depth analysis, which refers only to minority shareholders, however, reveals that in 2017, only 70.6 per cent approved remuneration policy reports, while the remaining voters dissented.

The major issues identified in 2017 essentially referred to the level of severance payments and the absence of transparency in the definition of the performance metrics for variable incentive plans. The main companies have undertaken structured engagement programmes (with proxy advisors and institutional investors) in order to understand their evaluation metrics to the fullest and to improve alignment with international best practice where needed.

The involvement of HR departments in engagement can be now considered a solid practice and contributed to a better understanding of institutional investors on the peculiarities of local compensation practices.

Conclusion

While shareholder engagement on compensation resolutions has historically come into play during proxy campaigns only as a result of negative voting recommendations from proxy advisory firms, good disclosure and early communication with top holders should be set as a company's strategy to demonstrate alignment with long-term shareholder interests and to mitigate future shareholder concerns. 🌐

FIGURE 2: VOTING RESULTS IN AUSTRALIA

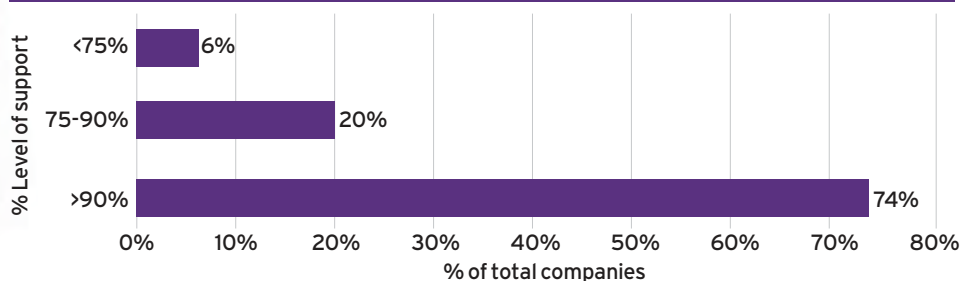
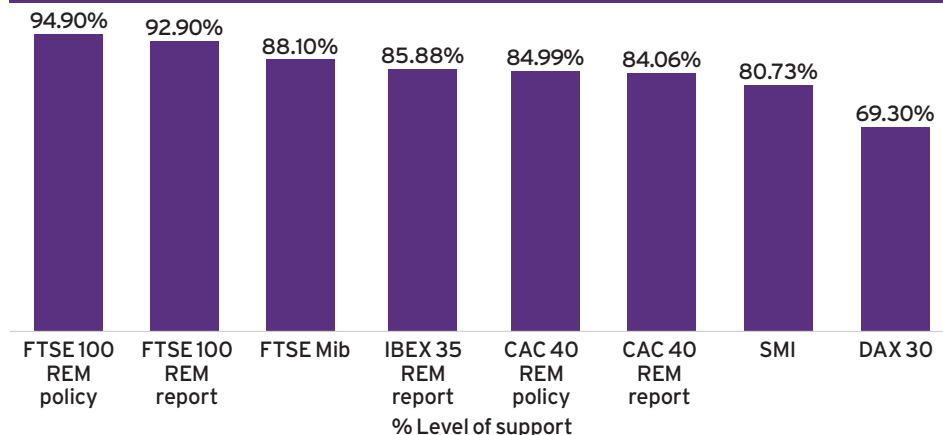


FIGURE 3: SAY-ON-PAY IN EUROPE



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<https://blogs.wsj.com/riskandcompliance/2017/11/17/the-morning-risk-report-u-k-raises-game-on-social-impact-investing-newsletter-draft/>

RISK & COMPLIANCE JOURNAL.

The Morning Risk Report: U.K. Raises Game on Social Impact Investing



By

Mara Lemos Stein

Nov 17, 2017 7:26 am ET

As the U.K. embarks on a review of its corporate governance code, regulators and legislators will take the opportunity to push for companies to demonstrate their contribution to the greater good.

The Financial Reporting Council, an independent regulator for audit, accounting and reporting, will launch a consultation to update the U.K. governance code by the end of this month. Some of the changes being considered include “the need for companies to link corporate governance to purpose, undertake engagement with wider stakeholders, and consider how they benefit wider society,” the FRC said in a statement earlier this week. The review will also cover the U.K. Stewardship Code and address the need for investors’ engagement with boards on issues of “interest of wider stakeholders and broader social impact,” the FRC said in the statement, issued in response to a government-commissioned report on social impact investing. Besides attempting to link a company’s agenda to its impact on the wider society, the governance code review will try to “reaffirm public trust in business,” said Oliver Parry, corporate governance director at Morrow Sodali, a proxy consultancy firm. “It’s the right thing to do, and also the only way—the government clearly isn’t going to introduce legislation any time soon,” said Mr. Parry.

The governance code review will come on the heels of the release of the government-commissioned report titled “Growing a Culture of Social Impact Investing in the U.K.” this week. Not to be confused with environmental, social and governance investing, social impact investing is targeted at companies “that not only measure and report their wider impact on society, but also hold themselves accountable for delivering and increasing positive impact,” the report said. Part of the difficulty in investing in ventures that are focused on doing good for the broader society is the difficulty to measure non-financial outcomes. To that end, the government should encourage companies to be more transparent about their contribution to achieving the goals espoused by the United Nations on sustainable development, the report says, including ways to report such information.

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EXCLUSIVE ON RISK AND COMPLIANCE JOURNAL

McDonnell decision echoes in Menendez mistrial. A 2016 U.S. Supreme Court decision that narrowed key parts of U.S. anti-bribery law weighed over the trial of Sen. Robert Menendez, a New Jersey Democrat, legal observers said after Mr. Menendez’s case ended in a mistrial.



U.S. Sen. Bob Menendez, center, stands with his daughter, Alicia, as his lawyer Abbe Lowell, right, speaks to reporters after a judge declared a mistrial in the senator's corruption trial on Thursday. JULIO CORTEZ/ASSOCIATED PRESS

U.K. charges Unaoil executives. The U.K. Serious Fraud Office said Thursday it filed corruption charges against two men in its ongoing investigation into Monaco-based Unaoil Group, and said a third is subject to an extradition request.

Wal-Mart cites progress on bribery probes. Wal-Mart Stores Inc. has made enough progress in resolving U.S. inquiries into possible bribery violations to be able to estimate the aggregate cost at \$283 million, the company said Thursday.

COMPLIANCE

Senate approves comptroller of currency. The Senate on Thursday approved Joseph Otting as the comptroller of the currency, filling one of the remaining positions on the Trump administration's financial team, the WSJ reports. The OCC, a banking regulator, has been under the leadership of Keith Noreika in an acting capacity since May.

FCC changes media-ownership rules. Changes in federal media-ownership rules approved Thursday are likely to touch off a wave of deal-making, reordering the local-TV landscape, the WSJ reports. The Federal Communications Commission voted to reverse or revise a number of longstanding limits on local ownership of TV stations as well as radio stations and newspapers.

Senate calls for ethics probes shine light on committee. Senate Majority Leader Mitch McConnell's call for ethics investigations into Democratic senators Al Franken and Robert Menendez, as well as Republican candidate Roy Moore, is putting a spotlight on a Senate committee that largely operates in secret and doesn't disclose the results of many of its investigations, the WSJ reports.

Mistrial in Seabrook case. A federal judge Thursday declared a mistrial in the corruption trial of former New York City correction officers' union head Norman Seabrook, the WSJ reports. Prosecutors said Mr. Seabrook accepted a bribe to invest union money into a hedge fund. Mr. Seabrook and his co-defendant, Murray Huberfeld, who ran the fund, had denied the charges.

Mulvaney to temporarily head CFPB. White House budget director Mick Mulvaney is expected to be tapped by the White House to serve as acting director of the Consumer Financial Protection Bureau when the current head, Richard Cordray, resigns this month, according to a person familiar with the matter, the WSJ reports.

Trump pick on chemical safety faces trouble in Senate. Michael Dourson, President Donald Trump's choice to oversee chemical safety at the Environmental Protection Agency may be in trouble in the Senate, as two Republicans have declared their opposition and a third said she is leaning against the nominee, the WSJ reports.

REPUTATION

Franken faces sexual-misconduct allegations. A woman alleged Sen. Al Franken kissed her against her will during a 2006 rehearsal and he posed for a photo in which he appeared to grope her while she was asleep. Mr. Franken said he didn't recall the rehearsal events occurring the same way but apologized, the WSJ reports. He said the photo was a failed joke and he "shouldn't have done it."



Sen. Al Franken, shown in April, apologized after a woman alleged he kissed her against her will. AARON P. BERNSTEIN/REUTERS

Lawsuit claims collusion in bond trading. Some bond-trading firms colluded to set prices at auctions of government debt, according to an amended complaint to a lawsuit by investors. The new complaint, dated Thursday, says some dealers also impeded the development of trading platforms that would have improved access to larger pools of buyers and sellers of the debt. The complaint amends a 2015 lawsuit, the WSJ reports.

Nissan blames lack of inspectors in scandal. Nissan Motor Co. released an internal report blaming a scandal that shut down production and hammered domestic sales on a shortage of inspectors that went unnoticed by management, the WSJ reports. The company said trainee inspectors regularly conducted final vehicle checks, a violation of local rules, for decades.

RISK

German coalition talks stumble. Angela Merkel's path to a fourth term as German chancellor hit a hurdle Friday when negotiations to form the country's first three-party coalition reached a self-imposed deadline without an agreement on key policy areas, the WSJ reports.

Cambodia takes heat from U.S., EU. The U.S. halted financial support for elections in Cambodia and promised additional steps after a court there banned the main opposition party to Prime Minister Hun Sen, Reuters reports. An EU spokesman said respect for human rights was a prerequisite for access to EU trade preferences.

STRATEGY

Tesla unveils all-electric truck. Tesla Inc. Chief Executive Elon Musk on Thursday revealed the company's first all-electric semitrailer truck and a \$200,000 super car, his latest attempt to stir excitement for his vision to upend transportation as the company struggles to mass-produce an affordable sedan, the WSJ reports.



Tesla unveiled its first all-electric semitrailer truck as it struggles to mass-produce an affordable sedan. *TESLA MOTORS*

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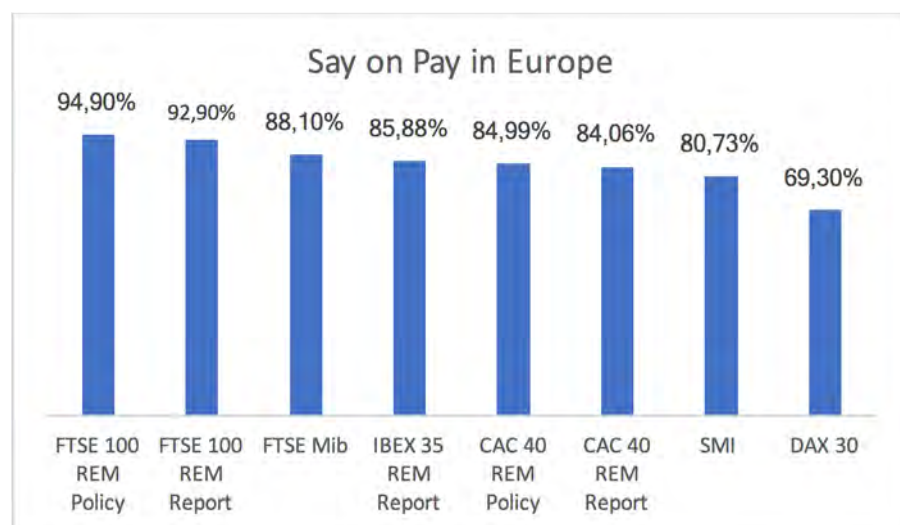
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La REMUNERAZIONE del management e l'ENGAGEMENT con il mercato

La trasparenza sulla remunerazione del Management è percepita sempre più come una “finestra” sul Consiglio di Amministrazione e il voto sul Say on Pay ha assunto maggiore importanza per verificare l'allineamento tra le strategie e le migliori prassi retributive. Un'analisi condotta sui principali mercati europei rivela comunque un forte aumento del supporto verso le proposte di remunerazione per il Management.



Sebbene il Regno Unito continui ad essere il paese più performante, le società italiane hanno dimostrato un livello di consenso ampio.

È vero altresì che questo trova ragione anche nel maggior peso assembleare degli azionisti di controllo. Difatti, il consenso medio dei soli fondi istituzionali sulle politiche di remunerazione nel 2017 supera di poco il 70%, soprattutto in relazione alle criticità sui trattamenti di fine rapporto e l'assenza di trasparenza sulle metriche di performance dei piani di incentivazione variabili. L'engagement tra emittenti e investitori rimane un fattore chiave per lo sviluppo di politiche di remunerazione sostenibili e per la creazione di valore nel lungo termine.

Osservando il comportamento delle società si registra che l'engagement con gli investitori sia spesso avviato solo a seguito di raccomandazioni di voto negativo da parte dei Proxy Advisor.

In tal senso, lo sforzo richiesto alle società italiane per raggiungere livelli di benchmark passa attraverso una maggiore trasparenza e dei programmi di engagement anticipati rispetto all'evento assembleare che permettano una piena condivisione delle politiche di remunerazione, sempre nell'ottica di un maggior possibile allineamento con le politiche di voto dei fondi istituzionali.



Giacomo Fiorenzi
Vice President, Morrow Sodali

Remunerazione vertici, che cosa succede nelle assemblee delle quotate in Europa

Francesco Surace



L'intervento di Francesco Surace, Vice President di Morrow Sodali

Sull'approvazione delle politiche di remunerazione di presidenti e amministratori delegati nelle società quotate, l'Italia è in pole position in Europa. Per intenderci nelle assemblee italiane, quando si tratta di votare i compensi di componenti degli amministratori esecutivi, sostanzialmente quelli con deleghe, il numero dei voti a favore è tra i più alti del Continente. Segno forse di politiche accorte e di un buon dialogo con gli azionisti. I dati europei sulla remunerazione degli amministratori esecutivi, elaborato da Morrow Sodali, dimostrano un buon posizionamento del Ftse Mib, che si piazza immediatamente dopo il Ftse 100, tradizionalmente punto di riferimento e best practice in termini corporate governance.

Nel dettaglio, sul listino londinese (Ftse 100) la società che ottiene il livello di supporto più elevato è Fresnillo con il 99,9% dei voti favorevoli da parte degli azionisti mentre la meno performante è Person dove oltre il 60% degli azionisti hanno votato contro il pacchetto remunerativo di John Fallon, il quale nella scorsa stagione aveva ricevuto un aumento del circa 20% a fronte di cattivo andamento della società

Nonostante il buon piazzamento del listino di Milano, evidenziato dagli analisti di Morrow Sodali, il supporto degli azionisti nel Ftse Mib è complessivamente sceso dal 91,5% del 2016 all'88,1% del 2017, frutto di scelte maggiormente restrittive sulle tematiche di remunerazione da parte dei proxy advisor e di alcuni tra i principali investitori.

Si pensi ad esempio che Blackrock, facendo seguito alle proprie linee guida emanate a gennaio 2017 sull'executive compensation, ha adottato un approccio molto più restrittivo votando in senso contrario o astenendosi sulle politiche di remunerazione in oltre il 35% dei casi.

Guardando però all'interno del nostro mercato la società con il consenso più elevato è certamente Poste italiane con 99,3%, seguita da Saipem con il 98,3%, mentre il gradino più basso del podio spetta a Bper con il 98,2%.

Sul risultato di Poste ovviamente incide fortemente la presenza dell'azionista pubblico che detiene oltre il 64% del capitale sociale, infatti epurando il dato dall'azionista di riferimento (supporto minoranze azionarie) la prima società per consenso sulle politiche di remunerazione sarebbe Bper.

Per una volta i tedeschi sembrano non brillare. Il peggior risultato tra i peers europei è infatti quello del DAX 30, nel quale tuttavia non esiste un obbligo di sottoporre le politiche di remunerazione all'approvazione assembleare degli azionisti, con la conseguenza che la soglia del 69% si basa sui risultati raggiunti da 8 società, tra le quali la più performante è Deutsche Bank con un supporto del 96,8% e la meno performante è Pro Sieben con un supporto assembleare pari al 33,2%.

Dalla complessiva analisi emergono alcuni spunti interessanti:

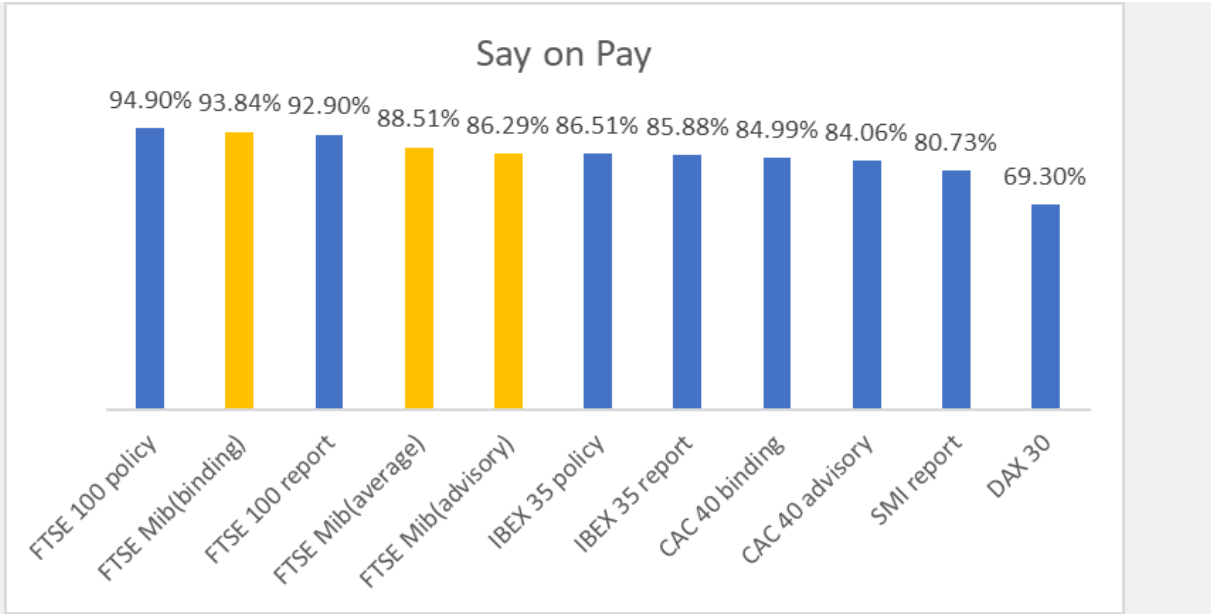
- la presenza di un voto vincolante sulle politiche non incide sul livello di approvazione, anzi nei Paesi che adottano il voto vincolante/consultivo il voto binding conduce ad una percentuale di approvazione superiore, frutto probabilmente di una maggior responsabilizzazione dell'azionariato.

- nel Ftse Mib, Ibex35 e Dax30 il miglior risultato in termini di supporto è raggiunto da banche, frutto della rigida normativa bancaria

- la componente comune delle società meno performanti è la presenza di un azionista di riferimento

- nel Ftse Mib, nel Cac40 e nell'Ibex35 nessuna società ha ricevuto il rigetto delle politiche di remunerazione nel corso del 2017, diversamente da quanto accaduto nel Ftse100 e nel Dax30

- nell'indice più performante (Ftse100) soltanto il 22% delle società ha ricevuto un supporto inferiore al 90% da parte degli azionisti. Dato molto diverso quello del Ftse Mib dove il 47% delle società superano la soglia del 90%.



Il cambiamento climatico bussava alle porte delle società quotate

Francesco Surace SPREAD



L'intervento di Francesco Surace, Vice President di Morrow Sodali

Lo hanno chiesto l'equivalente di un 1 trilione di dollari di investitori istituzionali. Deve essere suonata come una priorità. È infatti un nutrito gruppo di Asset Management e Fondi di investimento che ha inviato una lettera alle prime 60 banche al mondo, tra cui HSBC, Lloyds, Bank of America, JPMorgan Chase, Morgan Stanley e Deutsche Bank, per chiedere di intraprendere azioni per la riduzione di danni collegati ai cambiamenti climatici.

L'importanza del tema è evidenziato anche dai risultati della Survey 2017 elaborata da Morrow Sodali che ha esaminato nella sua analisi un campione di investitori istituzionali che rappresentano circa 24 trilioni di Asset under management, con un posizionamento geografico suddiviso tra: 50% Uk; 28% Us; 18% Europe e 4% Asia.

Il 72% dei rispondenti prende in considerazione tematiche esg nella scelta di investimento ed il 50% ha invece ritenuto che tra gli aspetti principali dell'engagement con gli emittenti ci sia un confronto sulle tematiche di climate change.

Nel corso della passata stagione assembleare, per esempio, nell'indice S&P500 circa 34 società hanno ricevuto proposte da parte degli azionisti legati alla tematica del cambiamento climatico, con le quali in linea di massima veniva richiesto un aumento di disclosure sul possibile impatto del cambiamento climatico sul business della società.

Tra l'altro, contrariamente al recente passato, le proposte hanno ricevuto il supporto della maggioranza degli investitori in grosse società come Occidental Petroleum, PPL Corp ed Exxon Mobil Corp.

In altre società come Ameren Corporation, Devon Energy Corp., Dominion Energy Inc., pur non essendo stato raggiunto il supporto della maggioranza degli azionisti, analoghe risoluzioni hanno ottenuto un consenso assembleare che supera il 40% e rappresenta un segnale inequivocabile rivolto al management della società.

Il risultato positivo è dovuto ad un diverso approccio sulla tematica anzidetta di grossi investitori come Blackrock, Vanguard e Fidelity che nel recente passato si erano sempre astenuti su tali proposte, ed al supporto di due dei più grandi fondi americani CalSTRS e CalPERS.

Basti pensare a recentissime statement o prese di posizioni di investitori:

- Blackrock all'interno delle proprie priorità di engagement nel 2017 e 2018 ha richiesto una climate risk disclosure: *"Systemic disclosure standards would enhance understanding of the impact of climate change on individual companies, sectors and investment strategies."*
- State Street ha chiesto invece con una lettera ai membri del Cda datata gennaio 2017 di focalizzarli maggiormente su tematiche Esg che andrebbero incorporate nella strategia a lungo termine della società.

In Europa, invece, nel corso della passata stagione assembleare un gigante del petrolio come Royal Dutch Shell è stato sottoposto a diverse pressioni da parte di un gruppo di azionisti interessati a proteggere il business della società dai cambiamenti climatici e consentire all'emittente di svolgere un ruolo importante nella riduzione delle emissioni inquinanti.

Per questo gli azionisti avevano presentato una risoluzione (all'assemblea del 2017 e rigettata dal 90% degli azionisti della società) con la quale si richiedeva la riduzione delle emissioni entro due tranches temporali, 2030 ed il 2050 con una contemporanea elaborazione di informazioni sulle azioni annualmente intraprese dal Consiglio di amministrazione della società su questi temi.

Five questions with Morrow Sodali's new corporate governance director

Nov 02, 2017

By Garnet Roach

Oliver Parry joins firm from investor communications role at FTSE 250 company Paysafe Group

Morrow Sodali's latest hire comes in the form of Oliver Parry, who brings more than 10 years' experience in strategic communications, corporate governance and company law. Prior to joining the firm's London office, Parry advised some of the UK's largest financial institutions, served as head of corporate governance at the Institute of Directors and as secretary and adviser to the Global Network of Director Institutes. He joins Morrow Sodali from online payments firm Paysafe Group, where he served as head of investor communications.

How have you seen investor attitudes to corporate governance change over the past 10 years? What has been the main driver of these changes?

Attitudes to [corporate governance](#) issues have changed significantly over the last decade. In the aftermath of the financial crisis, perpetuated by the collapse of major banks, regulators sought to create a more robust regulatory regime for the financial markets.

For listed companies, regulators placed more emphasis on high standards of corporate governance. In the UK, for instance, the [UK Corporate Governance Code](#) was amended in 2010 and 2012. A code of governance for investors, the UK Stewardship Code, was also launched in February 2012. As a consequence, both boards and investors had to focus on high standards of governance.

But investors have taken it upon themselves to promote and uphold high standards of governance at our largest companies. We have witnessed significant investment in ESG functions and I expect to see this continue over the course of the next five years. Investors are clearly primed to scrutinize remuneration issues but other ESG issues, such as diversity and succession planning, are also being more closely monitored.

Equally, how has company engagement around these issues evolved? Are companies doing enough to talk about governance?

This is the BIG question that occupies the minds of regulators and policy makers alike. I personally believe more can always be done and firms such as Morrow Sodali can definitely facilitate this dialogue. The major shift in the last few years has been the volume of meetings held by asset managers with companies. Investors are holding more and more meetings, which is in itself a very good thing – but the industry is by its very nature results-driven and a lot still rides on how resolutions ahead of AGMs and EGMs are crafted and ultimately voted on.

Investors do a lot more but this isn't always communicated to the market or, frustratingly, to journalists. It is always a resource issue. Even the largest asset managers have relatively small investor engagement teams compared with the number of companies they invest in. I've always believed, however, that constructive dialogue can be achieved only if the corporates themselves are prepared to reach out to investors to discuss corporate governance matters, especially on difficult, complex or contentious matters.

More and more FTSE 100 companies, for instance, are holding dedicated governance days ahead of AGMs. This is a great innovation and I know a lot of investors welcome it. The industry will continue to innovate and evolve but it is a two-way street: both boards and investors need to regularly communicate with one another.

What do you think the top three corporate governance issues will be in the next proxy season?

Without doubt, remuneration will again be the number one issue during the next proxy season. Investors are more engaged on this topic and boards are more alive to it, too. Moreover, the UK media are obsessed with high pay, which means the expectation placed on both companies and investors to explain the rationale behind pay policies is increasing.

In addition to pay, I imagine diversity and board composition will continue to be big issues.

Are there any smaller issues you think could become larger trends in the coming years?

I expect investors to focus more on what companies are doing in the field of broader stakeholder engagement. Many companies (around 67 percent, according to Black Sun) currently report on this but I expect the importance attached to this topic will increase over the next few years. Investors will want to see boards communicating how their engagement plan is helping the company in the long term and how it is aligned with the company's strategic goals. An apparent lack of trust in big businesses, the UK government's recent reappraisal of governance and a focus on Section 172 of the Companies Act (which requires all companies to promote the success of the company on behalf of a range of stakeholders) make this an urgent need.

Finally, how should companies – and IR professionals specifically – go about addressing these issues and engaging with investors on governance?

This is a difficult question. Not all IR professionals are asked about corporate governance issues. These matters are sometimes the responsibility of the company secretariat teams. Where this is the case, IR teams have to collaborate more with the general counsel and company secretary. Clear and regular lines of communication need to be established. This isn't always easy but it has to be done.

That said, and as interest in governance-related matters increases, IR teams should use this as an opportunity to discuss these matters with investors. This is one way of avoiding tricky or difficult situations down the line. If you open up a dialogue with investors about ESG issues and ensure it is part of your financial calendar, you can more easily avoid confrontation with investors down the line. This isn't a panacea, obviously, but better direct engagement will certainly help.

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Bond investors and ESG perceptions

ESG issues are of increasing interest to holders of fixed income assets, and there are opportunities here for IROs, as **Lorraine Rees** explains.

Both debt IR and environmental, social and governance (ESG) have evolved significantly over the past decade.

On the debt side, where investor contact in the past may have been more focused around a specific issuance, today issuers recognise the benefits of an ongoing debt IR programme.

Equity investor interest on sustainability is well established with ethical indices like the Dow Jones Sustainability Index (DJSI) and the FTSE4Good now approaching their 20th anniversaries. Debt investors are, by their long-term focus, intrinsically aligned to a long-term sustainable strategy, and we are starting to see more focus in this area.

The success of the dedicated green bonds segment (where the issue is used to finance green projects) on the London Stock Exchange, launched in June 2015, demonstrates the level of potential interest. Green bonds are currently one of the fastest growing market segments internationally with 14 new green bonds issued in London during 2016.



Lorraine Rees is managing director of IR-connect.
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Table 1: As a bondholder, would you be interested in meeting with companies to discuss ESG issues?

Yes, on existing fixed income investments	21%
Yes, on potential new fixed income investments	5%
Both	56%
No	18%

Looking at broader debt markets, Mike Tyrell of SRI-connect comments:

"Debt investors certainly are looking more at sustainability trends. The stimulus created by the success of green bonds and the PRI's efforts to introduce ESG into credit ratings seems to be paying off."

In addition, the PRI's recent report *Shifting perceptions: ESG, credit risk and ratings – part 1: the state of play* suggests plans for further activity in the next year.

We are already seeing portfolio managers and their ESG colleagues working in a more joined-up manner rather than as two separate teams. This impacts IR engagement activity and disclosures, and applies to the debt side as well as from an equity perspective. "As investors further incorporate ESG factors into fixed income investment decision-making, companies need to strengthen their understanding of their investors ESG sensitivities," says Pia Gowland of Morrow Sodali.

The growing importance

But it's early days, and most IR efforts in the ESG space are still directed towards equity side. How many debt investors does your chairman see as part of his governance roadshow? The need to engage in this space is increasingly evident. Morrow Sodali conducted a survey at the start of the year on ESG integration into fixed income. This indicated that 82% of bondholders would be interested in meeting with companies to

DEBT IR AND ESG

- ESG performance is increasingly viewed as critical to investment decisions.
- Additional ESG disclosures and engagement would be useful.
- IROs have a great opportunity to be proactive.

Table 2: How important is a company's ESG performance when taking fixed income related investment decisions?

Critical	15%
In the process of determining	57%
Secondary	28%
Not critical	0%

discuss ESG issues on existing and/or new investments (see table 1, above).

Furthermore, the survey showed that 15% of debt investors currently viewed ESG performance as critical in their decision-making process but this looks set to increase as 57% were in the process of determining its impact (see table 2, above).

The details of ESG issues

The actual topics of interest to ESG investors, whether from a debt or equity perspective, will vary depending on the sector and the investors own benchmarks and portfolio focus, but the core topics include matters such as board diversity, executive remuneration, risk management as well as the environmental impact.

Some measures are easily quantified, such as carbon emissions or board gender analysis, and disclosure is relatively straightforward. Information on the board is one area where additional, narrative disclosure would be useful, for example a summary of the results and actions plans from an annual board evaluation.

IROs have a unique opportunity to be proactive in this area. By ensuring debt investors have the ESG information they need and engaging directly with them on the subject, we can lead the way. ■

Lorraine Rees hosts the IR Society Debt IR course and co-hosts the new Introduction to PR course, see page 38 for more details.



Five questions with Morrow Sodali's Charlie Koons

Don't take shareholder support for granted and keep discussions within the boardroom when faced with an activist or contested situation



Charlie Koons, formerly at MacKenzie Partners, recently joined Morrow Sodali as managing director of its activism and contested situations advisory group.

What are the big trends you're seeing around activism at the moment?

It has been said for several years now that no company is immune to activism, regardless of size or geographic region. This is especially apparent this year with activist situations involving BHP Billiton, General Motors, Nestlé, Arconic, ADP and Procter & Gamble. Companies that were previously considered immune to activism are now frequently targeted. The reach of activists is expected to remain this expansive for the foreseeable future.

The largest index funds, Vanguard, BlackRock and State Street, hold an increasingly significant percentage of the shares outstanding of the large and mega-cap companies by virtue of the massive inflow of capital to these funds over the last several years. The support of even one of these funds is often enough to determine the outcome of a proxy contest.

The increased focus and voice of these index funds on corporate governance is an issue that cannot be ignored. Companies that fail to take heed of the guidelines set forth by these powerful shareholders will find themselves without a strong hand if an activist shows up. Activists will frequently look for governance weaknesses to bolster their argument that change is needed, and that good performance is naturally aligned with good governance.

The tactics employed to reach retail shareholders are quickly evolving. We have seen activists mail individual video players to garner votes in a proxy contest, and companies send instant messages with voting instructions via Facebook. The irony of our interconnected world is that it is more challenging than ever to get people's attention. Companies as well as activists need to be creative to make their messages stand out from the daily noise of people's lives.

To what extent are governance issues being considered in activist or contested situations today compared with three years ago? To what degree is governance being used simply as a vehicle to gain support for financially driven change?

More than ever, governance is a critical piece of any activist situation. While most shareholder activism will be focused on improving shareholder value, the activist landscape continues to be altered by the powerful voices of the large index funds regarding governance standards. These funds have taken a thought-leadership role on how a long-term and sustainable perspective should inform the board's decisions.

Gender diversity in the boardroom will continue to be a prominent area of focus. The August 31 letter sent by Vanguard's CEO Bill McNabb to directors of public companies sent a very clear message about expectations for board and governance structures, compensation and risk oversight. McNabb states: 'When the board contributes the right mix of skill, expertise, thought, tenure and personal characteristics, sustainable economic value becomes much easier to achieve.' Any campaign for shareholder support will have to pay close attention to the governance expectations of its shareholders.

What are the top three things a company should be thinking about in terms of preparedness when it comes to shareholder activism?

To further quote from McNabb's letter, 'you can't wait to build a relationship until you need it.' I often liken preparedness for shareholder activism to foreign policy. The greater your level of engagement and diplomacy in times of peace, the greater likelihood that you will be able to avoid times of conflict. The three things a company should focus on are:

1. **Know your owners.** It is important to closely monitor your stock ownership and stay informed on the differing perspectives and priorities of your various shareholders. This will outline your shareholder engagement strategy to both investment and governance personnel, which will lead to more informed decision-making by management and the board. Additionally, a close eye on the trading in your stock helps to provide an early-warning system should an activist start to accumulate a position.
2. **Know your company.** You must have an honest and objective sense of how your company is performing in relation to its stated objectives and peers as well as how your board and management are contributing to that performance. This assessment should be done as though you were looking at the company through the eyes of an activist. You should be aware of any weaknesses you may have and employ an ongoing self-evaluation process.
3. **Know your team.** Having a collaborative team of outside advisers that knows your company intimately will help you in your year-round engagement and evaluation process, thus positioning you to minimize the threat of activism and maximize your chances of being successful should such a threat become unavoidable. You want a team that has experience in peacetime as well as conflict so that you do not have to transition to a new set of advisers if conflict arises. Having a previously established relationship of trust and confidence with these advisers will make it much easier to respond effectively to a shareholder activist.

What are some of the most common mistakes you see companies making when it comes to handling an activist or contested situation?

The most common mistakes include taking shareholder support for granted: just because a shareholder was complimentary about your story in the recent past does not mean it will not be supportive of an activist's effort to bring fresh ideas and perspectives to your board. Listening objectively to your shareholders and thoughtfully evaluating feedback is as important as articulating the corporate vision. By making these efforts, companies are more likely to have engendered credibility and support for their strategies before an activist even emerges. The IRO must provide management with as unfiltered an assessment of shareholder sentiment as possible and enable an ongoing dialogue between management and shareholders.

Another pitfall is having an executive or board member speak 'off the reservation' in an activist situation. Activists will look to expose divisions within the company that can be quickly exploited. It is important that debate and discussions stay within the boardroom and that a consistent message is communicated to the investor community.

Finally, companies should avoid taking the low road. Arconic's Klaus Kleinfeld sent a letter to Paul Singer of Elliott this past spring without his board's approval, in which he tried to associate Singer with embarrassing past behavior. This quickly boomeranged on Kleinfeld, leading to his prompt departure from the company and paving the way toward a settlement in which three Elliott nominees were placed on the Arconic board.

What advice would you offer to IROs finding themselves in a contested situation for the first time?

Quickly gather all relevant participants – management, board, advisers – and establish clear lines of communication so that your efforts are coordinated. One of the biggest advantages an activist has is speed and agility. You do not want to find yourself on your heels each time the activist communicates with your investors either through the media or in proxy filings. The ability to anticipate the activist's next moves as much as possible and to respond quickly and effectively to them will be key to winning shareholder support.

About Morrow Sodali

Morrow Sodali is the leading global consulting firm specializing in shareholder services, activism and contested situations, corporate governance, strategic stock surveillance and proxy solicitation. The firm provides corporate clients and shareholders with strategic advice and services relating to a broad range of activities, including: mergers and acquisitions, contested director campaigns, shareholder activist initiatives, shareholder meetings and multinational cross-border equity and debt transactions.

www.morrowsodali.com

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Ardent Leisure's capitulation the biggest win by activist investors in decades



Activist shareholder Gary Weiss (left) gave Ardent Leisure chairman George Vernardos a knock out blow. David Rowe



by [Tony Boyd](#)

It is hard to see how [Ardent Leisure chairman George Vernardos](#) can survive the humiliating defeat at the hands of shareholder activist [Gary Weiss](#) who successfully pushed for two board seats as part of a campaign to lift Ardent's value by \$1 billion.

Vernardos, at the weekend, finally ended his stubborn opposition to the activist campaign and invited Weiss and experienced American executive Brad Richmond to join the Ardent board.

After spending months telling Ardent shareholders that Weiss would not work co-operatively with fellow directors and would be a disruptive, negative force on the Ardent board, Vernardos now says Weiss and Richmond "can bring assistance and additional insight to the board".

An extraordinary general meeting of Ardent shareholders scheduled to be held on Monday morning at a hotel in Sydney was cancelled on Sunday.

The best that can be said about the Vernardos backflip is that it proved he could read shareholder proxy votes. It is understood these votes showed the board was completely out of touch with its institutional and retail shareholders.

Sources close to the proxy fight between Weiss and Ardent have calculated that Richmond was going to be elected at Monday's general meeting of shareholders by a majority of about 70 to 30 and Weiss was going to be elected by a majority of least 60 to 40.

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The Ardent shareholder activist campaign carries important lessons for other activists as well as for boards of directors and their corporate advisers. This was the largest successful activist campaign in Australia for decades.

The campaign, which was spearheaded by Weiss and property investor Kevin Seymour, started with the right message to other shareholders when Weiss and Seymour invested about \$100 million in the target company.

Having skin in the game helped Weiss immensely because when he spoke to Ardent's institutional shareholders his interests were aligned with theirs.

The second reason why the activist campaign was a success was the depth of research and professionalism shown by Weiss and his advisers, Investec, in the plan for turning around Ardent's fortunes.

The comprehensive turnaround plan was shared with shareholders through a special website, www.fixardent.com.au.

Unlike the board of Ardent, Weiss showed considerable flexibility in his tactics during the activist campaign. He initially called for the appointment of four directors – himself, Seymour, Richmond and Andy Hedges.

In mid-August he withdrew the resolutions relating to Seymour and Hedges in response to feedback from shareholders. Weiss showed he was in touch with the shareholder base and willing to respond in the interests of all shareholders.

An important reason for the success of the activist campaign was strong shareholder engagement.

Weiss employed Maria Leftakis at proxy solicitation group, Morrow Sodali, to engage with retail and institutional shareholders.

This engagement process gave the activists an edge over the incumbent board, which assumed retail shareholders would blindly follow their recommendation not to vote in favour of Weiss or Richmond.

The high level of shareholder engagement was of critical importance when two leading proxy advisory firms, ISS and CGI Glass Lewis, advised shareholders not to support the election of Weiss and Richmond.

The Ardent outcome completely skews these two proxy advisers and the advice provided to shareholders. They totally missed the dissatisfaction among shareholders about the performance of the incumbent board.

A third proxy advisory firm, Ownership Matters, recommended in favour of Richmond and said Weiss might be worth considering as a non-executive director if he bought more shares in Ardent.

The board of Ardent made some fatal mistakes during its failed campaign to rebuff Weiss and Seymour.

The board was first approached by Weiss in May. But instead of working collaboratively with someone with a proven track record in helping companies lift their performance, the board dug in its heels and treated the activists with contempt.

The board, which was advised by Credit Suisse and Goldman Sachs, failed to show flexibility during the four months following the first approach from Weiss. It painted Weiss as a disruptive and negative force but shareholders did not swallow this story.

The board is sensible to now talk about its "absolute focus on executing its stated strategy" and its commitment to delivering security holder value.

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GUADAGNERANNO FELICI E CONTENTI

Via la norma che obbliga le società Usa a comunicare il rapporto tra la retribuzione del ceo e quella media dei dipendenti. La Casa Bianca l'affossa (prima che entri in vigore), mentre fondi e investitori la sostengono. Il capo azienda può incassare fino a 400 volte di più. E spesso la paga non è commisurata ai risultati ottenuti...

di **Sergio Bocconi**

E alla fine è possibile che l'obbligo di trasparenza dettato dalla «ceo pay ratio rule» tramonti prima ancora di essere applicato. La regola voluta dalla Sec, la Consob Usa, che impone alle società di indicare in bilancio il rapporto fra i compensi del capo azienda e quello medio dei dipendenti, è entrata nel mirino di Donald Trump nello spirito di una più generale e accentuata deregulation.

Il dibattito

Dopo che la stessa Sec nell'autunno 2016 ne aveva dettato i principi applicativi guida, l'introduzione della nuova regola era attesa per la stagione assembleare di quest'anno. Ma è slittata al primo gennaio 2018 e, quindi, spostata alle assemblee che approveranno i bilanci relativi all'esercizio 2017. Difesa dalle organizzazioni sindacali e da numerosi investitori istituzionali, è stata peraltro già applicata in via preventiva da alcune corporation. E Stati come Oregon, Illinois, Massachusetts, Connecticut, Minnesota, hanno introdotto maggiorazioni che arrivano al 10% sulla business income tax nel caso di ceo pay ratio almeno a quota 101, cioè di un compenso del capo azienda che superi di oltre 100 volte quello medio di un dipendente, o del 25% se oltrepassa la soglia di 250. Azioni intraprese condividendo un certo spirito di equità, sostenuto anche da alcune statistiche storiche: secondo l'Economic policy institute, la remunerazione media dei

ceo negli States è aumentata del 997% fra il 1978 e il 2014, circa 100 volte di più rispetto ai salari medi dei lavoratori.

Fra decisioni che anticipano i tempi e il lavoro di preparazione in vista del gennaio 2018, si profila comunque l'incognita Trump.

L'ostacolo che potrebbe portare anche all'archiviazione della regola è determinato dalla forte opposizione della amministrazione del nuovo presidente, che ne ha proposto l'abrogazione all'interno del Financial Choice Act 2017, il corposo pacco di norme (circa 600 pagine) con il quale si vuole in pratica smantellare la regolamentazione finanziaria, istituita dall'amministrazione Obama con il Dodd-Frank Act. Il colpo di spugna, già approvato dalla Camera dei Rappresentanti, deve ancora passare in Senato: si presume che la partita sarà più dura e non è improbabile che entri nel vivo fra ottobre e novembre.

A favore della regola ci sono, oltre alle organizzazioni dei lavoratori, anche una parte consistente degli asset manager globali. «Effettivamente si può presumere che da parte di questi investitori ci sarà una forte pressione perché il parametro venga mantenuto e applicato — dice Fabio Bianconi, director di [Morrow Sodali](#), società internazionale di consulenza in corporate governance e proxy —. Considerandolo un fattore reputazionale di rilievo, molti si stanno già attrezzando per creare comunque al loro interno una regola che renda il ceo pay ratio elemento stabile nella politica di investimento e

voto».

E se è pure forte il fronte delle società che vedrebbe la regola volentieri cancellata, va anche sottolineato che da parte di parecchi operatori l'accoglienza è stata controversa soprattutto per le difficoltà applicative e per gli obiettivi considerati prioritari. C'è chi per esempio sarebbe favorevole a introdurre criteri che privilegino anzitutto un collegamento fra compensi del capo azienda o delle principali figure apicali e parametri come i risultati aziendali e il ritorno per gli azionisti. Fra gli altri, in Italia, l'Osservatorio sull'eccellenza dei sistemi di governo di The European House-Ambrosetti, che studia la qualità della governance nel nostro Paese, suggerisce di inserire nelle relazioni sulla remunerazione tabelle che mettano in evidenza, su un orizzonte di almeno 3-5 anni, il compenso del vertice aziendale e l'andamento delle principali variabili economiche e finanziarie della società che ne indichino in sostanza le performance.

Il gap

Negli Stati Uniti la statistica considerata più attendibile è pubblicata annualmente da Equilar, società specializzata nella governance e nelle retribuzioni apicali insieme a «The New York Times» sui compensi complessivi dei top manager. Mancano ancora, invece, le elaborazioni basate sulle statistiche di PayScale, che fornisce informazioni sugli stipendi medi attraverso il suo sito.

A guidare la classifica dei 200 top manager per il 2017, quindi per l'esercizio

2016, è Thomas M. Rutledge, ceo della Charter Communications, gruppo attivo nella comunicazione via cavo che capitalizza al Nasdaq circa 120 miliardi di dollari. «Tom» ha accumulato compensi totali per quasi 100 milioni di dollari con un aumento del 499%. La classifica include come parte delle retribuzioni anche i pacchetti in azioni che verranno poi incassati nei vari anni successivi. Per questa ragione forse è interessante notare come al secondo posto ci sia Leslie Moonvies della Cbs (26,2 miliardi di capitalizzazione) che già l'anno precedente si era piazzato al posto numero due: compensi per 68,5 milioni di dollari con un aumento «limitato» al 22%, inferiore rispetto all'incremento del total return per gli azioni-

sti, pari al 36%. Nella elaborazione Pay-Scale dell'anno precedente ciò significava che il top manager era retribuito, nella sola parte cash, come quasi 400 dipendenti. E per guadagnare quanto Robert Iger della Walt Disney, che ha ricevuto compensi per 40 milioni di dollari, in diminuzione del 6% contro un calo dell'8% del ritorno per i soci, un dipendente del gruppo avrebbe dovuto impiegare 367 anni. Il mercato determina i multipli, ma sul mercato chi investe è sempre più interessato a una valutazione che coinvolga la comunità degli stakeholder, visto che ne fa parte.

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E

● Che cos'è il «pay ratio»

È il rapporto tra la remunerazione complessiva del capo di un'azienda (e dei top manager) e il costo mediano del lavoro, cioè i salari dei dipendenti. Negli Usa la trasparenza su questo indicatore avrebbe dovuto essere obbligatoria da quest'anno, per una maggiore equità sui compensi, ma la legge è bloccata. Secondo l'ultima indagine dei sindacati dell'Afl-Cio (American Federation of Labor and Congress of Industrial Organizations) sulle aziende dell'S&P 500, nel 2016 il compenso medio dei top manager era di 13 milioni di dollari e il pay ratio pari a 343: lo stipendio del capo è 343 volte quello dei dipendenti



Telecomunicazioni

Thomas M. Rutledge,
ceo di Charter
Communications.

Nel 2016 ha
incassato
complessivamente
98 milioni di dollari
con un aumento del 499%

Disney

Robert Iger, ceo di Walt
Disney, ha ricevuto
compensi per 40,9
milioni di dollari.
Per avere la stessa
paga un dipendente
del gruppo deve
lavorare 367 anni



Re di denari

I mega compensi dei ceo americani, dati in dollari

		Totale compensi*	Var. %	Ritorno totale per azionisti
1	Thomas M. Rutledge Charter Communications	98.012.344	499%	n/a
2	Leslie Moonves Cbs	68.594.646	22%	36%
3	David O'Connor Madison Square Garden	54.044.394	n/a	n/a
4	Fabrizio Freda Estée Lauder	47.691.779	196%	6%
5	Mark G. Parker Nike	47.615.302	183%	10%
6	Mark V. Hurd Oracle	41.121.896	n/a	-6%
7	Robert A. Iger Walt Disney	40.988.618	-6%	-8%
8	Safra A. Catz Oracle	40.943.812	n/a	-6%
9	David M. Zaslav Discovery Communications	37.192.354	15%	3%
10	Robert A. Kotick Activision Blizzard	33.065.560	358%	-6%

Fonte: Equilar - New York Times

* I compensi comprendono parti fisse, variabili, bonus e componenti una tantum

S.A.



Governance. Le grandi quotate puntano sui «retail» per stabilizzare il controllo

I big della Borsa scoprono il peso dei piccoli azionisti

In gioco fino al 25% del capitale delle società

■ Sulla scia di esperienze maturate all'estero, anche tra i big di Piazza affari cresce l'attenzione per i piccoli soci, determinanti

per il controllo e la stabilità di un azionariato in continuo riassetto e ormai orfano degli storici nuclei di controllo. In media la

quota retail arriva al 15% del capitale, e per fidelizzare i piccoli soci si valuta una serie di strumenti che vanno da informative più

puntuali a club, benefit e comitati consultivi.

Ferrando ► pagina 3

Mercati e governance
 GLI ASSETTI PROPRIETARI

Gli strumenti
 All'estero sperimentati con successo shareholders club, benefit e comitati

I casi più rilevanti
 In Generali la quota retail vale più dei grandi soci, in UniCredit dopo l'aumento è rimasta al 13,2%

Piazza Affari scopre il peso dei soci retail

Decisivi per il controllo, in media valgono il 15% del capitale: le iniziative per «fidelizzarli»

Marco Ferrando

■ Per chi entra in uno dei 4.200 hotel del gruppo francese Accor basta esibire la tessera blu con bordo dorato: in cambio, si può beneficiare di un upgrade di camera, di uno sconto del 7% e una serie di offerte riservate. Magia dello *Shareholders club*, esclusivo ma neanche tanto: per farvi parte basta infatti avere 50 azioni del gruppo in tasca, per un investimento che al prezzo di chiusura di ieri non raggiungeva i 2 mila euro.

Difficile pensare che in molti abbiano deciso di comprare azioni Accor (che l'anno scorso ha fatturato 5,6 miliardi e distribuito 260 milioni di utili) solo per entrare nel club, ma al contrario è possibile che qualcuno abbia preferito non vendere per continuare a farne parte. Di qui il club, accanto al quale si pone anche lo *Shareholder advisory committee*, «organo consultivo e spazio di discussione per migliorare il modo con cui comunichiamo con gli azionisti retail», spiegano gli investor relator

di Accor. Che è uno dei benchmark europei in fatto di attenzione per i piccoli soci, i quali dentro al capitale valgono almeno un quarto del 60% di flottante. Una presenza fondamentale per la stabilità dell'azionariato, che quindi - non solo in Accor - si cerca di fidelizzare in tutti i modi.

In Francia così come in alcuni altri mercati europei il tema è centrale da tempo, in Italia rischia di diventarlo presto. Per le stesse ragioni: con lo sfaldamento di salotti e vecchi nuclei di controllo è diventato decisivo il ruolo dei fondi, variegato mondo dove la stabilità della presenza è solitamente correlata alla natura più o meno speculativa degli stessi. Sta di fatto che non sempre si tratta di interlocutori facili (o reperibili), segnando un punto a favore degli azionisti retail. Che oltre ad avere un nome e un cognome, «tendono ad agire con logiche diverse rispetto ai fondi, hanno una maggiore tendenza verso l'acquisto che la vendita e maggiore fiducia nel futuro

guadagno», osserva Andrea Di Segni, managing director di Morrow Sodali, leader nel mercato del proxy advisor. Morale: «La quota

AZIONISTI STABILI


La permanenza media di un cassettista è molto più prolungata di un istituzionale e l'interlocuzione più facile di soci retail diviene molto spesso una forza stabilizzatrice dell'azionariato che alcune volte assorbe gli shock finanziari.

Ma qui si apre un punto delicato. La storia finanziaria recente, in Italia più che altrove, è ricca di pagine amare, in cui sono stati proprio i cassettisti a pagare il conto delle scelte azzardate di amministratori o soci di controllo. Di qui la sfiducia (si veda anche l'intervista qui sotto), che in otto anni, tra il 2007 e il 2015, ha compresso dal 10,5 al 6% la quota del patrimonio dei risparmiatori italiani investita in azioni, secondo l'ultimo rapporto Consob. Certo c'è da ag-

giungere la quota azionaria del risparmio gestito (sceso a sua volta dal 17 al 15%), ma siamo comunque ampiamente sotto media rispetto al resto d'Europa.

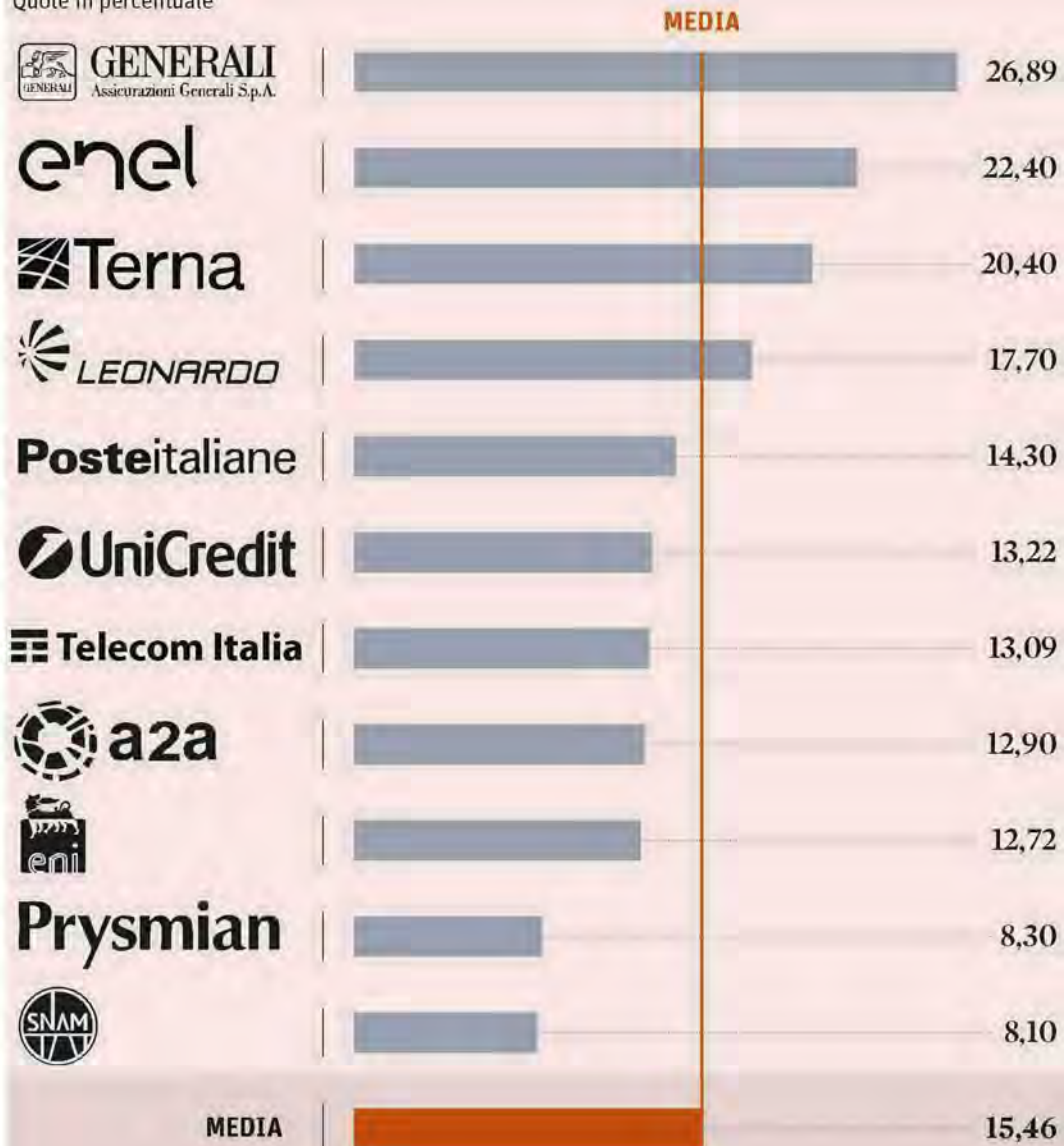
E pensare che il retail «rappresenta oggi in alcune delle blue chips il primo azionista per aggregato se escludiamo fondi che hanno una matrice più diversificata», fa notare ancora Di Segni. «Non solo quindi conta come capitale sociale, ma anche come numeri visto che in almeno 20 blue chips italiane siamo ben oltre i 50 mila azionisti». La fotografia è nei dati qui a fianco: in Generali l'azionariato retail vale il 26,8%, ben più dell'asse di controllo Mediobanca-Caltagirone-Del Vecchio che sfiora il 20%, in Enel il 22,4%, in Terna il 20,4%, in Telecom il 13,09%. Anche in UniCredit, reduce da un aumento da 13 miliardi che ha dimezzato il peso dei cassettisti, siamo ancora al 13,2%, dunque al di sopra del nocciolo duro dei (vecchi) soci di riferimento, composto da Aabar e Fondazioni.

Lo spazio di manovra, dunque, c'è. E l'esperienza internazionale mette a disposizione un ampio bacino di strumenti, che vanno dalla qualità e trasparenza dell'informazione a club per gli azionisti, benefici, premi, e partecipazione agli eventi assembleari: sottotraccia si segnalano le prime iniziative in materia. «La sensibilità al tema è crescente», conferma il consigliere di minoranza di una grande banca quotata, che nei mesi scorsi in consiglio ha istruito la pratica. «Spero solo che si faccia tesoro dell'esperienza passata, compresi alcuni eccessi visti nelle popolari».

 @marcoferrando77

Il peso del retail a Piazza Affari

Quote in percentuale



Fonte: elaborazione di [Morrow Sodali](#) per Il Sole 24 Ore su dati societari



Peltz Must Target Retail Investors In P&G Fight

Both Trian's Nelson Peltz and Procter & Gamble will focus a lot of energy on the "hundreds of thousands" of retail investors representing 40% of the packaged goods company

Ronald Orol Jul 26, 2017 2:28 PM EDT

The largest director-election battle ever to be held is in its second week fully in the public sphere and both its protagonist, activist Nelson Peltz and his target, Procter & Gamble Co. (**PG**) , will soon begin focusing a lot of attention on the company's hundreds of thousands of retail investors.

"They both know that retail investors can make or break Trian's campaign," said Thomas Ball, managing director at proxy solicitor Morrow Sodali. "There are typically lots of retail investors in companies like P&G, where lots of people use their products."

At issue is a director-election battle launched last week by Peltz, who is seeking one seat on the packaged goods company's board. Peltz says he wants to see the company eliminate what he calls its "suffocating bureaucracy" by simplifying its matrixed organizational structure, a system that he contends doesn't give division leaders the power to control their destiny. Observers argue that Peltz actually would like to see the company break itself up as a means of simplifying the business, thus eliminating said bureaucracy, though Trian has explicitly said it doesn't want to do that.

Both sides are digging in for a long battle that likely will end at the company's annual meeting, expected in October. A settlement seems unlikely as Peltz only wants one seat for himself, which the company is fighting tooth and nail. First, up will be Procter & Gamble's fourth quarter earnings release and analyst call, scheduled for Thursday. Expect Procter & Gamble CEO David Taylor to make a case for not including Peltz on the board.

Meanwhile, Trian is expected to employ both traditional and unconventional means to reach out to the company's retail base. The insurgent fund manager is expected to use a burgeoning new strategy for reaching out to small investors by sending their message out through social media, including Twitter and Facebook, according to a person familiar with the situation. A Procter & Gamble spokesman declined to comment on the company's retail investor strategy.

Trian, which has a 1.5% stake, itself will need to convince a large number of both retail and institutional investors to support Peltz, especially as there aren't any other activist-type investors in the packaged goods company's shares.

Ball estimates that roughly 40% of Procter & Gamble's shareholders are made up of "hundreds of thousands" of retail investors. Institutional investors won't be ignored, of course. Both sides will hold meetings and seek to gain the support of the firm's biggest investors, including both Vanguard and Blackrock, which are among P&G's largest shareholders with 7% and 4% stakes respectively.

Overall, expect Trian to employ a multi-pronged retail strategy, which includes a website it set up at the outset of its campaign to distribute its message, "RevitalizePG," which it will use in tandem with its Twitter and Facebook social media campaign.

Also, Ball expects that Trian and Procter & Gamble will both employ a direct calling and automated calling effort, similar to the robo-calls voters receive during political elections. Traditionally, retail investors are more supportive of management, which means that Trian's work will be cut out for them.

"They will likely blast out a bunch of advocacy calls, but at some point based on the share size they will want to engage with investors one-on-one," Ball said. "Retail investors will be more supportive of the company so getting on the phone really is important to gauge the amount of support."

Don't expect either side to send out mini video players to retail investors, the way activist Elliott Management's Paul Singer did in his boardroom battle at Arconic. The insurgent fund sent out tens of thousands of the players, each with one short four-minute video of the activist's position. The players are expensive and cost-prohibitive, one person familiar with the situation said.

STOCKS TO BUY: TheStreet Quant Ratings has identified a handful of stocks with serious upside potential in the next 12-months. [Learn more.](#)

Ball notes that social media is particularly important at a consumer products company, adding that Trian will need to file with the Securities and Exchange Commission every time a tweet is employed. Other activists have gone to twitter in the midst of campaigns. For example, Carl Icahn has made over 300 tweets, some of which have had a market-moving impact, including one where the billionaire activist tweeted in 2013 that he had a large position in Apple and he believed the iPad and iPhone maker was undervalued.

"This is a new area for proxy solicitors and an important area they need to make sure they are up on," Ball said. "Tweeting or Facebook posts are an effective way to reach out to a wide variety of retail investors as long as the content is also filed with the SEC."

Ball said he didn't expect the two sides to settle anytime soon, though a settlement to add Peltz to the board could be reached before the October meeting if Procter & Gamble felt that they were likely to lose the contest.

Trian is not the first activist to target Procter & Gamble. Pershing Square Capital Management's Bill Ackman's 2013 campaign at the packaged goods company succeeded in pushing out its then-CEO, Bob McDonald. Ackman, however, isn't around to assist Peltz. He liquidated his position in 2014.

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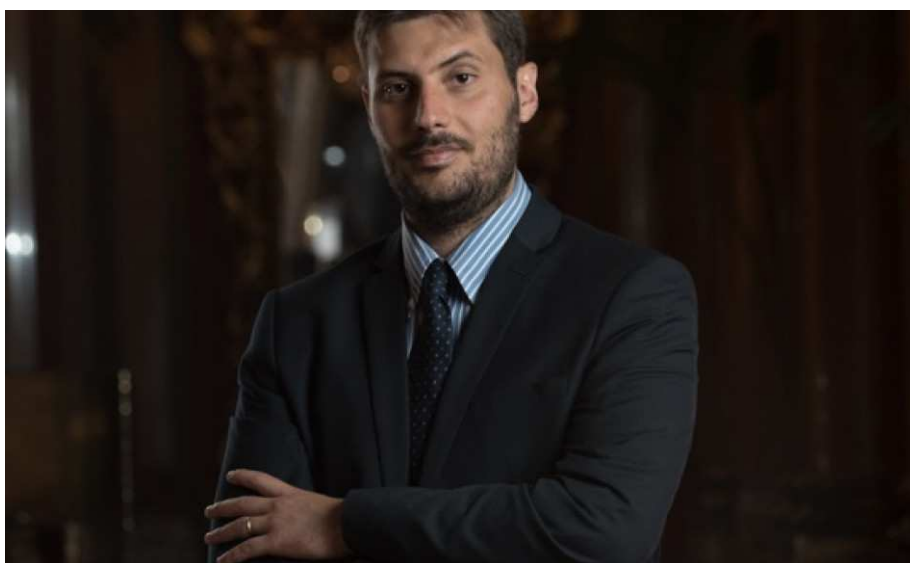
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Come si stanno muovendo gli hedge fund in Europa e Stati Uniti

✍ **Francesco Surace**

📁 SPREAD

0Condividi



L'intervento di Francesco Surace, vice presidente di Morrow Sodali

Oggi, nessuna azienda, indipendentemente dal settore nel quale opera, può considerarsi immune dall'attivismo degli hedge fund. Non esiste difatti azienda troppo grande, redditizia, popolare o che ha performato meglio dei propri peers e/o competitor che possa sentirsi completamente al sicuro.

Basti pensare alle principali aziende Us che sono state sottoposte ad attacco da parte degli attivisti: Amgen, Apple, Microsoft, Yahoo, Sony, General Motors, Qualcomm, Hess, P&G, eBay, Transocean, ITW, DuPont, e PepsiCo.

Storicamente l'Europa è stata considerata strutturalmente meno attrattiva per gli attivisti rispetto agli Us, anche se negli ultimi anni il trend sembra stia cambiando.

Un confronto tra le modalità di azione in Europa e Stati Uniti, anche in ragione di un framework legale e di business non pienamente uniformato, è la disponibilità dei fondi ad un approccio tendenzialmente più cooperativo e meno aggressivo verso le società rispetto agli Us.

Utilizzando i dati della piattaforma Activist insight emerge che il primo semestre dimostra una leggera riduzione dell'attivismo nei principali Paesi europei che nel medesimo periodo, lo scorso anno aveva raggiunto 62 casi nei paesi evidenziati, per raggiungere l'ammontare totale di 104 casi a fine anno.

Company HQ 2016 2017 YTD

FOTO

Chi c'era alla festa del Pd a Milano. Le foto



Prodi e Minniti al Csa per la presentazione del libro di Giovanna Pancheri. Foto di Pizzi



Carriera e relazioni di Enrico Costa, il ministro centrista che ha mollato Gentiloni. Le foto



France	7	2
Germany	12	6
Ireland	6	2
Italy	12	3
Netherlands	4	3
Sweden	14	14
Switzerland	6	3
UK	43	22
Total	104	55

Tra i recenti casi europei di attivismo, Clariant in Svizzera e Ericsson in Svezia. In 26 casi su 55 (47% dei casi) si parla del cosiddetto "board related activism" ovvero quando la strategia attivista è finalizzata a ottenere una rappresentanza nel Cda, cambiare la composizione di quest'ultimi o ottenere la rimozione dell'amministratore delegato. Nel 22% dei casi si tratta di attivismo collegato ad operazioni di M&A, nel 6% dei casi di attivismo collegato alla business strategy della società.

I settori europei maggiormente coinvolti sono quelli finanziari e dei servizi con 12 casi di attivismo ciascuno ed il settore tecnologico con 3 casi di attivismo. Tra le società più grosse per market cap sottoposte ad attivismo ricordiamo ABB Ltd e Nestlé (250 billion di market cap, la più grande società al mondo nel proprio settore).

Come è possibile contrastare l'attivismo? In primo luogo, è sicuramente fondamentale promuovere delle relazioni efficienti e stabili con i propri investitori, potenziando l'attività di engagement e i roadshow che molte società svolgono esclusivamente sul versante finanziario. In tal senso è fondamentale avere un quadro efficiente ed aggiornato della propria base azionaria e delle aspettative della stessa, in modo da conoscere anticipatamente come i propri azionisti possano muoversi in un contesto di proxy fight o durante la pressione di un attivista. Difatti molto spesso una delle problematiche principali può sorgere dal cosiddetto attivismo alleato che si verifica quando alla classica pressione degli attivisti puri si coalizza il supporto di un gruppo di investitori tradizionali (dato in aumento).

In secondo luogo è fondamentale dare seguito al canale di dialogo aperto con il mercato attraverso l'implementazione di adeguate pratiche in termini di governance e di executive remuneration, ed evitare che chi amministra la società assuma rischi che portano ad un ritorno economico di breve termine, con potenziali rischi nel lungo periodo.

Azioni e relazioni di Carlo Messina (che pensa a Popolare di Vicenza e Veneto Banca) in 25 foto



Bazoli, Caltagirone, Castagna, Confalonieri, Messina e Salini all'assemblea della Banca d'Italia. Tutte le foto



Ecco chi ha ascoltato Visco all'assemblea 2017 della Banca d'Italia



21/07/2017

Chi ha letto questo articolo ha letto anche:



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Chi c'era alla festa della nuova Reti (che saluta Claudio Velardi). Foto di Pizzi



L'ambasciatore spagnolo Sáenz de Buruaga lascia la Santa Sede. Le foto di Pizzi



La visita di Sergio Mattarella alla sede della Guardia costiera. Le foto



Il simposio "Digital Transformation" organizzato da Elettronica. Foto di Pizzi



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APPUNTAMENTI

Nessun evento

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BORJA MIRANDA JOHANSSON, DIRECTOR DE MORROW SODALI

'Proxy advisors': un seguimiento riguroso de los Consejos

Si la figura de los asesores de voto ha surgido con tanta fuerza será porque existe una necesidad en el mercado de marcar de cerca la gobernanza de las empresas

Es lógico pensar que la actividad de los 'proxy advisors' y su irrupción en la gobernanza de las empresas cotizadas pueda entenderse como un freno a la capacidad de maniobra y gestión de su gobierno corporativo cuando, hasta hace pocos años (apenas 10), su presencia e influencia era prácticamente inexistente. Desde entonces la influencia de los 'proxy advisors' ha ido cobrando peso en el desarrollo de las juntas de accionistas de las empresas cotizadas, afectando al resultado de las votaciones mediante su recomendación a favor o en contra de las diferentes propuestas.

Un 'proxy advisor' –asesor del voto, en su traducción al español– es una agencia independiente que analiza las propuestas que los emisores someten a votación en las juntas de accionistas, y en función de determinados criterios o políticas internas, emiten una recomendación de voto para sus clientes. Una figura que nace en 1972 en Estados Unidos a raíz de la fundación del Investor Responsibility Research Center (IRRC), centro sin ánimo de lucro cuyo objetivo era el de proporcionar un análisis imparcial ante propuestas de carácter social y medioambiental. En 1974, su desarrollo se ve fuertemente marcado por la ley norteamericana (ERISA¹), que establece estándares mínimos de conducta para los fiduciarios de planes de pensiones. Entre dichos estándares se considera como un importante activo², el ejercicio del voto, lo que impulsa la participación de los inversores institucionales en las juntas de accionistas. Igualmente, los diferentes escándalos financieros y la crisis económica han impulsado en otros países el desarrollo de iniciativas y normativas similares. Entre ellas, la más conocida, el 'stewardship code' de Reino Unido publicado en 2010 y actualizado en 2012. Es a principios de los años 80 cuando se incorporan aspectos de gobierno

corporativo al análisis y cientos de inversores institucionales pasan a ser subscriptores de los mismos. Desde entonces, y tras diversos movimientos de consolidación del sector, surgen los 'proxy advisors' tal y como los conocemos ahora (ISS, Glass Lewis, PIRC, ECGS, etc). El desarrollo de los 'proxy advisors' responde por tanto a la necesidad de los diferentes inversores por contar con un asesoramiento que les ayude en la toma de decisión de voto para cada una de las propuestas de las juntas de accionistas de sus participadas.

Conociendo el origen y objetivo de los 'proxy advisors' es fácil entender la procedencia de su influencia y cómo la misma está afectando a las emisoras en la adopción de sus prácticas de gobernanza. Como sabemos, las empresas están obligadas a celebrar anualmente una junta general de accionistas con el objetivo de deliberar determinadas cuestiones acerca de la empresa. Entre dichas cuestiones, algunas de carácter más financiero, estratégico y otras de índole más administrativo o de supervisión. Las propuestas sometidas a votación son entonces analizadas por los 'proxy advisors' siguiendo sus políticas internas de voto. Como resultado de dicho análisis, emiten un informe para los subscriptores con las conclusiones de su análisis y proporcionan una recomendación de voto. Cuando es negativa y se recomienda votar en contra de las propuestas sometidas por el Consejo su impacto vendrá determinado por:

–El número de accionistas (representación del capital social) receptores

del informe y por ende de la recomendación de voto. –El grado de seguimiento de los accionistas ante dicha recomendación.

Por tanto, dependiendo del perfil accionarial de la compañía, la influencia ejercida por los 'proxy advisors' puede llegar a ser tan alta como para condicionar el voto resultante. Es por tanto la falta

de alineamiento entre los criterios de las empresas y los de los 'proxy advisors' lo que está originando en todo el mundo situaciones de gran notoriedad por la falta de apoyo en las Juntas Generales de Accionistas (JGA). Por ejemplo, la JGA de Royal Dutch Shell en 2009 no aprobó el plan de retribución de los principales ejecutivos, la JGA de 2012 votó en contra de la retribución del CEO de Citigroup y en la JGA de 2017 los accionistas de la gestora de activos de la Suiza GAM, han rechazado la compensación máxima variable propuesta para los consejeros ejecutivos. Así, el temor a la no aprobación de alguna propuesta por parte del accionariado está haciendo que los emisores consideren (con mayor o menor convicción) el seguimiento de las políticas de los 'proxy advisors' en la definición de las propuestas y, en definitiva, en la definición de sus prácticas corporativas.

Los 'proxy advisors' ¿están por tanto definiendo el margen de acción de las empresas cotizadas, limitando sus opciones? ¿En qué medida dicho corsé es beneficioso para todos los accionistas? Podríamos considerar que la aplicación de unas políticas pre-definidas por parte de los 'proxy advisors' reduce, o de alguna forma condiciona, la capacidad de decisión y de maniobra de las empresas a la hora de implementar determinadas prácticas corporativas. Si es beneficiosa o no para el accionista la aplicación de dichas políticas y por ende la influencia que ejercen los 'proxy advisors', podríamos decir en términos generales que sí, ya que los criterios seguidos simplemente se apoyan en aquellos comúnmente esperados por la comunidad internacional. Ahora bien, como resultado de todo aquello que se basa en principios generales, el corsé aplicado puede resultar contraproducente ante la situación y contexto particular de algunas compañías. Fruto de lo anterior, ya sea con razón o no, existe una fuerte presión contra la actividad y, en definitiva, contra la influencia de los 'proxy advisors'. Ante dicha situación, deberíamos iniciar un ejercicio de autocritica. Si ha surgido con tanta fuerza una figura como la de los asesores del voto, será porque existe una necesidad evidente en el mercado. Respaldado por los numerosos casos de malas prácticas y las consecuencias, no solo económicas, para los accionistas como para otros 'stakeholders' (grupos de interés), dicha necesidad se traduce en un seguimiento



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más riguroso de la gobernanza de las empresas.

Ahora bien, ¿comportamientos pasados predicen comportamientos futuros? Ya sabemos que no, si nos referimos a rentabilidades obtenidas. No obstante, seguramente estemos más cómodos afirmándolo si nos referimos a la cultura de la empresa (consejo de administración, dirección y empleados). Es decir, a la atención que presta la empresa ante las expectativas e intereses tanto de sus accionistas como de otros 'stakeholders'. La forma de expresar ese alineamiento de intereses, puede limitarse a cumplir con los principios establecidos por terceros ('proxy advisors' entre ellos), o a explicar (con el esfuerzo que conlleva) cómo determinadas decisiones propias, fuera de los estándares, pueden ayudar a alcanzar mejor el alineamiento deseado. En definitiva,

el buen gobierno corporativo va más allá del cumplimiento. Y debe llegar a interiorizarse en el seno de la empresa y donde su reflejo a través de un plan estratégico de buena gobernanza, no quede en un simple pensamiento sino en una forma de actuar.

En este sentido, hay varias vías para las sociedades cotizadas de minimizar el riesgo derivado de la influencia de los 'proxy advisors'. Con dicho objetivo, se podrían destacar las siguientes acciones:

- Mayor importancia y control de las decisiones que afecten el gobierno corporativo de la empresa. Las prácticas de buen gobierno deben responder a un ejercicio de valor de las decisiones estratégicas de la empresa.
- Potenciar los canales de comunicación entre la empresa con los accionistas, ampliando el contenido de las discusiones no solo a aspectos económico-financieros sino también a otros aspectos extra-financieros como los sociales, medioambientales y de buen gobierno.
- Mejorar la transparencia en todos aquellos aspectos relacionados con la aplicación de prácticas de gobierno corporativo.
- Seguimiento y transparencia de una política social y medioambiental no solo respetuosa sino integrada con la creación de valor de la empresa.
- Aumentar el conocimiento del accionariado, su comportamiento de voto y sus expectativas en materias extra-financieras. ■

¹ Employee Retirement Income Security Act of 1974 (ERISA)

² "Avonletter" emitida en 1988 por DoL (U.S. Department of Labor)

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BREAKING NEWS

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The Activist Who Pushed Whole Foods Into the Arms of Amazon Could Target These Companies Next

Ronald Orol Jun 19, 2017 9:47 PM EDT



TheStreet Video

Jana Partners is expected to receive about \$320 million from its Whole Foods Market Inc.'s (**WFM**) investment after the organic grocer closes its \$13.7 billion sale announced Friday to Amazon.com Inc. (**AMZN**) .

The sale marked a major victory for Jana Partners, which in April launched a campaign to have the organic grocer consider selling itself. The fund was a key driver for a deal that will likely transform the grocery store industry. But also, it is expected to generate a windfall, net of fees, that Jana Partners' Barry Rosenstein will likely invest partly into another insurgency campaign in the coming months.

"I would certainly expect to see Jana deploy its profits into a new activist campaign," said Thomas Bell, a managing director at proxy solicitor Morrow Sodali. "They have been doing event-driven investing for since 2001, and this will provide them with a lot of dry powder to continue with that approach."

The activist investor accumulated its original 9% Whole Foods stake between Feb. 9 and April 10, at prices ranging from \$29.14 a share to \$31.80, significantly lower prices than the \$42 a share Amazon acquisition price. The Deal estimates Jana Partners returns based on the 28 million shares it owned as of May 30. Jana Partners did not return calls.

At this stage, it is unclear what company Jana Partners and Rosenstein might target next. However, its existing investments can provide some clues.

For example, the fund owns a 0.3% stake in Acadia Pharmaceuticals (**ACAD**), a drug company that also features a 0.6% investment by another major activist, Elliott Management's Paul Singer. The company has frequently been mentioned as a potential buyout target, but Jana or Elliott (or both) could both agitate for a deal if one doesn't happen soon.

Read More: Here Are Some Huge Retailers Amazon Might Buy After Digesting Whole Foods

Jana's Barry Rosenstein.

Jana Partners also recently bought a 0.7% \$219 million Sherwin-Williams Co. (**SHW**) position, a company where another activist, Third Point's Dan Loeb owns a 1% stake.

Also, according to a recent securities filing, Jana Partners recently acquired a 0.3% stake in Hewlett-Packard Enterprise Co. (**HPE**), a company that already has investments from three other activists, Third Point LLC's Dan Loeb, Starboard Value's Jeff Smith and FrontFour Capital Group LLC. The congregation of activists at both Sherwin and Hewlett-Packard suggests that a campaign could emerge soon.

Jana Partners also recently bought a \$4 million stake in Laureate Education Inc. (**LAUR**) and a less-than-1% stake in retirement services company Athene Holding Ltd. (**ATH**). It also accumulated a new 0.2% position in Shire PLC (**SHPG**) for about \$99 million and a 0.6% stake in Resolute Energy Corp. (**REN**) and a 1.2% stake in WebMD Health Corp. (**WBMD**) for \$25 million.

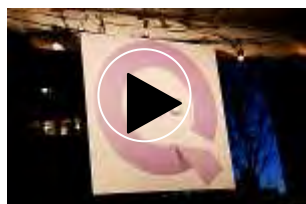
Any of these companies could become Jana Partners targets in the coming months, though expect the activist investor to increase its position before launching a campaign.

Jana also hiked its stakes in drug company Dermira Inc. (DERM), Select Medical Holdings Corp. (SEM) and Universal Health Services Inc. (**UHS**) and fiber networking company Zayo Group Holdings Inc. (ZAYO) over the past quarter. An increased position at these companies also suggests that a campaign could be around the corner. For example, Jana owns a 2.7% stake in Universal Health Services.

Zayo may be particularly vulnerable to an activist. In addition to Jana Partners, Zayo Group features investments from two other well-known insurgent investors, Corvex Management's Keith Meister and Third Point's Loeb, who reported owning 1% and 2.5% respectively.

The fund also reported owning a 0.3% stake in British drug company GW Pharmaceuticals PLC (**GWPH**), 0.4% stake in Radius Health Inc. (RDUS) and a 1.1% stake in risk management company Willis Towers Watson (**WLTW**), a company where another activist, ValueAct, owns a 6% stake.

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What's Trending In Corporate Governance Today?

- Published on June 27, 2017



Paul De Nicola
Managing Director at PwC



A CONVERSATION WITH JOHN WILCOX - CHAIRMAN OF MORROW SODALI

Hedge fund activism has been escalating over the past few years, with assets under management surging and many funds finding success getting board representation. Has activism peaked, or will we continue to see growth in this area?

JW: I think hedge fund activism is here to stay. Many people now refer to activist investment as an asset class. They really see it almost as a permanent feature of the capital markets, operating as a check and balance on a company's performance. We're moving away from the old discussion of whether activism creates or destroys value.

There is also a shift to more passive investment by large funds, which has some consequences, including downward pressure on fees from index funds. As a result, actively managed funds are increasingly being forced to justify higher fees by differentiating the value they can add, and that includes activist strategies.

The debate in governance over long-termism and short-termism has been going on for decades. Are activists too focused on the short-term at the expense of long-term shareholders?

JW: Many of the strategies that some strategic or value activists bring to companies are intended to actually improve the creation of long-term value. The activist may have a shorter-term exit strategy, but the short-term/long-term debate oversimplifies the situation. If you look at many of the actual campaigns, you see the strategies being promoted by activists are ones designed to fundamentally restructure companies to produce greater long-term value, in addition to short-term increases in the stock price.

I also think that the rise of the stewardship concept also encourages activism. The concept of stewardship rose in the UK and is spreading to other markets – and it is something that big investment managers are really focusing on.

One discussion I often have with board members is about engagement with shareholders. What's driving engagement, and what are your thoughts about the board's role?

JW: In the US, say on pay originally drove the concept of board engagement. The end result of say on pay was not going to be shareholders micromanaging companies' pay plans, but rather an increase in dialogue between companies and shareholders about the structure of pay plans. The say on pay process opened the door to engagement.

Today, shareholders mostly want to discuss the areas that are in the board's purview. There is very little concern that directors will get into selective disclosure or different messages, provided that management works with the board about the topics that directors should be addressing with shareholders.

I've noticed some frustration on the part of directors about the ultimate goal of engagement. They say they learn about shareholder views on the company but don't think engagement influences investing decisions or proxy voting. What do you think the ultimate goal should be?

JW: Engagement works. There will be more and more of it in the future. However, it must be a two-way street. If you're looking at it from the viewpoint of the shareholders, it should be for them to achieve an understanding of what the company is doing – capital allocation, company values, governance policies, ESG, CEO succession planning, board evaluations. If there is an issue, engagement should be a way for shareholders to get a clearer understanding of why the board has decided to do certain things and what the business rationale is.

In a way, this type of increased transparency and willingness to engage and communicate creates a narrative that explains how the board's policies and choices are integral to the running of the business. It's by far the most convincing way to ensure that you will have shareholder support. And it can ultimately help prevent activism.

Board composition is a top issue for many directors in the US, including discussion of board refreshment, mandatory retirement, and term limits. What is your take on the recent board composition focus?

Many of the checklist items, such as diversity and age or term limits, are useful but rather narrow lenses through which to look at board composition. What I think is more effective is a board matrix where a company lists the attributes that it feels it needs on its board in order to run the business effectively against names of directors. This is an easy way for a board and company to demonstrate how thoroughly it thinks about board composition in connection with the realities of the business. It's also a good way to check whether they're doing appropriate board renewal.

I think much more can be done with board evaluations. The board evaluation process, which is traditionally a very internalized one that is closed and private, could be much more valuable if done from the perspective of other constituencies that the board represents. Shareholders would be at the top of the list, but you'd also look at customers, suppliers, communities and other groups, including looking from an ESG focus.

JOHN NOTED THAT GOVERNANCE IS NOW CONSIDERED A BUSINESS FACTOR, ONE THAT IS CRITICAL TO SAFEGUARDING A COMPANY'S REPUTATION AND BRAND. YOUR BOARD SHOULD REGULARLY DISCUSS THESE AND OTHER GOVERNANCE TOPICS AND THINK ABOUT HOW THEY MAY PLAY A PART IN THE LONG-TERM SUSTAINABILITY OF THE COMPANY.

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No more quiet chats? Australia becomes new frontier for shareholder disruption

Jamie Freed and Maiya Keidan

Published: June 22 2017 - 11:35AM

As BHP Billiton fends off the attention of Elliott Management, activist funds are targeting other Australian firms, shaking up a corporate culture that has long favoured quiet chats over splashy headlines.

Seeking new, less crowded markets, international activist investors are using Australia's shareholder-friendly laws to pressure corporate boards criticised as clubby and conservative in an effort to improve returns.

"Whereas before it was quite normal for companies to address any potential shareholder activism in Australia behind closed doors, only now is there a real appetite to go public and to take the message direct to shareholders," said Michael Chandler, governance director at shareholder engagement firm Global Proxy Solicitation.

Activists publicly targeted 26 ASX-listed companies in the first five months of 2017, a quarter more than same period five years ago, according to data from research firm Activist Insight.

While the number of targets is similar to last year, the size of targets has jumped. Elliott's three-month campaign targeting "The Big Australian" BHP has cemented the idea that no company is immune.

The strategy appears to be bearing some fruit, with activist shareholders winning board-level resignations or strategy changes.

Among the more recent campaigns, building firm Brickworks is in court to defend its corporate structure from attack by investment firm Perpetual, while Wilson Asset Management forced the exit of Hunter Hall Global Value's chairman in April.

New frontiers

More attacks are also coming from overseas - a change for a country where activist investors have largely been homegrown.

Between 2013 and 2016, 86 per cent of shareholder campaigns in Australia came from domestic investors, compared with 59 per cent in Canada and 39 per cent in Japan, according to Activist Insight data.

"The US markets are a bit saturated, so (activist investors) look at the markets that don't have as much activist focus at the moment and that are most similar to the US," said David Hunker, head of shareholder activism defence at JP Morgan.

Apart from New York-based Elliott's push into Australia, Britain's Crystal Amber Fund has moved aggressively into the market, last year building an initial 10 per cent stake in medical device developer GI Dynamics.

Crystal Amber backed a new management team's plan to commercialise the company's obesity and diabetes treatment, is pushing for an London Stock Exchange and has grown its stake to more than 40 per cent.

Unlike some other Asian markets, local corporate rules help activist investors.

Shareholders can call a meeting to remove directors with only a 5 per cent stake and boards are barred from putting in place US-style "poison pills" to insulate themselves from a change of control.

Yet compared with the US, where Elliott last month raised more than \$US5 billion in 24 hours for a new fund, shareholder activism is still niche here.

"None of the big name marquee activists have really made an attack down here publicly until Elliott," said Gabriel Radzynski, managing director of Sandon Capital, one of the few dedicated activist funds in Australia.

"You've got to have an appreciation for local mores and customs. It doesn't mean foreigners can't do it, but you have just got to be conscious."

'It is very much a club'

Australia has a relatively insular, risk-averse community of board members and investors who for the most part do not seek public confrontation, said Gilbert + Tobin partner Justin Mannolini.

"I do think we are culturally inclined to avoid conflict rather than to bring it on," he said.

Many independent directors also hold seats on multiple boards.

"In Australia we have this independent non-executive director club where you have a large group of ex-CEOs, ex-bankers, ex-lawyers in some cases and they are very much dependent on their income for parts of their retirement in sitting on four or five board seats," said another lawyer who advises boards and requested anonymity for fear of reprisals. "It is very much a club."

Sometimes, the mere act of taking a campaign public can be enough to shake things up. Directors don't want to be "tainted" and lose out on future roles and fees because they were rejected by shareholders.

A Gilbert + Tobin review of the 2016 AGM season found nearly half of the proposed resolutions from activists seeking to remove board members were withdrawn before the meeting because the directors voluntarily resigned or the activist succeeded in getting a board appointment of its choosing.

Some investors and directors say Australian boards do respond to feedback from major investors and they can achieve their aims without confrontational, public spats.

For example, Insurance Australia Group in 2015 killed plans to establish a general insurance business in China after fund managers privately balked at the risks.

Shareholders in BHP succeeded in privately persuading the miner to change its dividend policy last year and to halt pricey expansion plans in 2012.

Aberdeen Asset Management portfolio manager Mark Daniels, whose firm owns BHP shares, said he couldn't recall any case in which he backed an activist's public push for change.

"We wouldn't be invested in the company if we didn't like it in the first place," he said.

Reuters

This story was found at: <http://www.smh.com.au/business/no-more-quiet-chats-australia-becomes-new-frontier-for-shareholder-disruption-20170621-gwvh5n.html>

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di Manuel Follis

Il peso delle minoranze nelle società quotate di Piazza Affari continua a salire e la maggior presenza si deve principalmente agli investitori istituzionali stranieri. Minoranze che peraltro di anno in anno stanno facendo sentire in maniera sempre più forte la loro voce, anche quando si tratta di dissenso nei confronti degli azionisti di riferimento. Sono questi alcuni dei dati che emergono dopo la recente tornata di assemblee delle società quotate a Piazza Affari. I dati, va sottolineato, riguardano solo quegli azionisti che hanno deciso di portare i loro voti in assemblea e quindi non la totalità dei possessori di titoli. In ogni caso i numeri

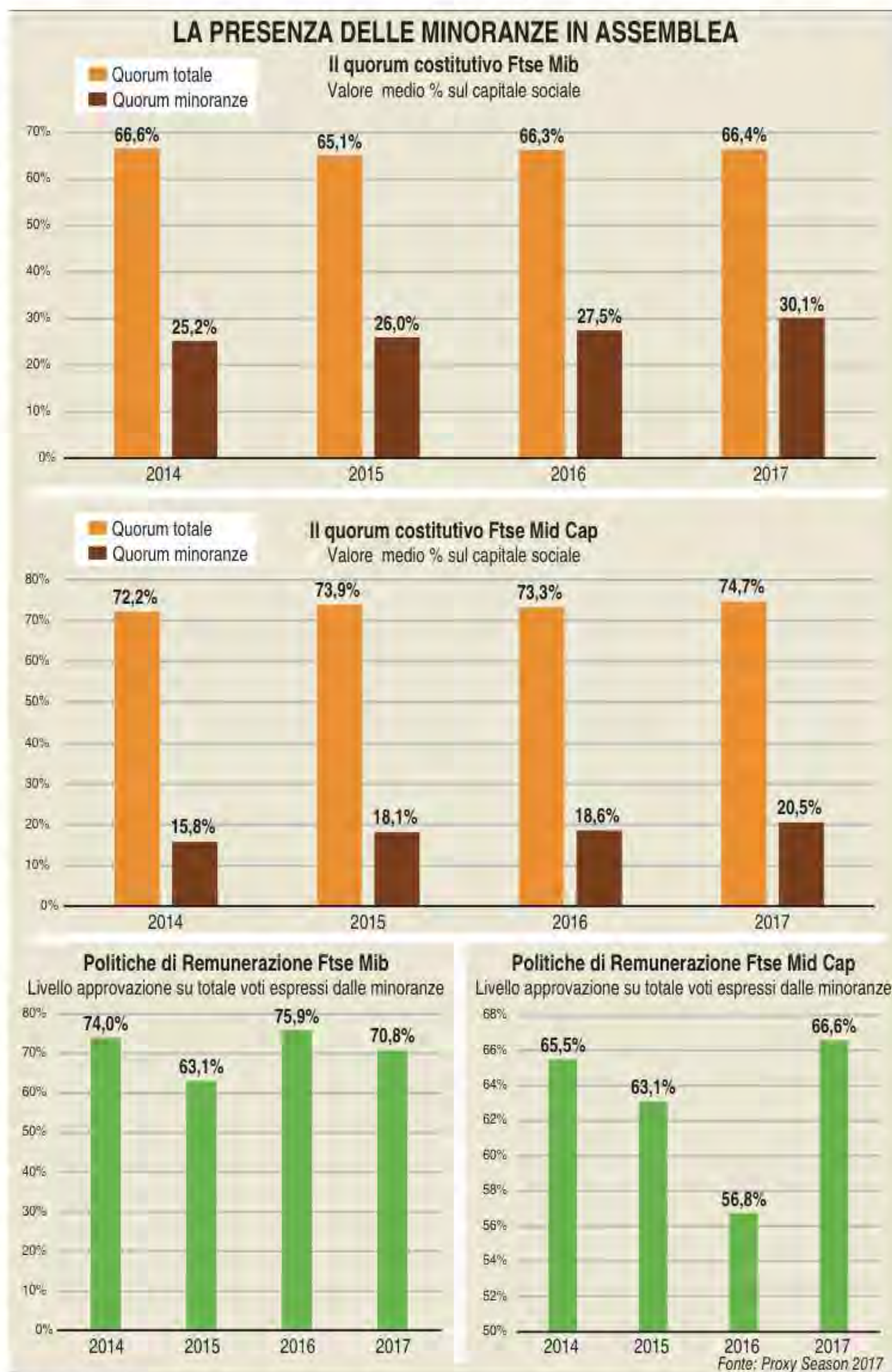


Alberto Recordati

dicono che il trend riguardante la maggiore partecipazione delle minoranze va avanti ormai dal 2011. «Dal 2016 al 2017 l'incremento partecipativo è stato mediamente del 3%», commenta Fabio Bianconi, director di Morrow-Sodali, società internazionale specializzata in attività di corporate advisory, attività assembleare e proxy. Il dato, prosegue, «fa presupporre che questi soggetti abbiano incrementato le posizioni in portafoglio e che continuino a investire, il che è un buon segnale in generale». Interessante anche il dato riguardante la tipologia di investitore internazionale che si presenta in assemblea, visto che il numero di hedge fund si è leggermente ridotto ed è passato dal 10 al 9% delle minoranze. Chiaramente bisogna distinguere, perché non tutti gli hedge sono uguali e alcuni hanno fatto investimenti di lungo periodo e hanno anche fatto sentire la loro presenza nel governo societario. Si conferma invece la forbice tra aziende di grandi e di medie dimensioni. In questa seconda categoria nel 2017 la presenza delle minoranze è passata dal 18,6 al 20,5%. «Sembrano numeri piccoli, ma in realtà si tratta di un incremento importante», sottolinea Bianconi. Certo, il quorum delle minoranze delle mid cap rispetto al quorum costitutivo complessivo (in media 74,7%) è sempre inferiore a un terzo, rapporto non comparabile con quello degli altri Paesi europei, dove in media le minoranze rappresentano quasi la metà del quorum

GOVERNANCE Continua a salire il peso delle minoranze in assemblea e aumentano anche i voti contrari alle politiche aziendali. Sono soprattutto quelli degli azionisti istituzionali stranieri. Retail in calo

Ubi minor, maior cessat



GRAFICA MF-MILANO FINANZA

complessivo delle mid cap. Le società del Ftse Mib appaiono dunque più aperte alle minoranze di quanto non lo siano le medie imprese, ma ciò in parte si spiega col fatto che molti investitori istituzionali sono indicizzati e quindi procedono ad acquisti automatici ma solo su società appartenenti a panieri come il Ftse Mib. Tornando alla provenienza geografica di questi soggetti, l'incremento della partecipazione delle minoranze, come accennato, si deve in gran parte all'aumento della presenza di soggetti stra-

nieri, «ma si iniziano a notare timidi segnali anche da parte di investitori italiani», spiega Bianconi, «soprattutto da parte di quelli più strutturati, come potrebbero essere Eurizon o Generali Investments, che negli ultimi mesi hanno sviluppato i team e le strutture di proxy voting». Sintomatico invece che la quota di investitori retail stia diminuendo. «In realtà», precisa il director di Morrow-Sodali, «non c'è stato il tracollo che ci saremmo aspettati», ma i dati dicono comunque che se gli investitori

retail «un tempo rappresentavano circa il 25% del capitale sociale di Piazza Affari, adesso questa percentuale è scesa al 15-20% e difficilmente riuscirà a risalire. Per questo sarebbe importante per le aziende trovare strumenti o modalità per coinvolgere di più e meglio gli investitori retail. Ma come votano queste minoranze? I numeri dicono che il consenso medio è sceso. Di Telecom Italia si è già parlato molto, segnalando che molti investitori favorevoli a Vivendi

quando si è trattato di votare sull'ingresso dei suoi rappresentanti in assemblea a distanza di un anno hanno cambiato idea e la lista francese è così passata per un soffio con il voto contrario di più del 70% delle minoranze presenti. Ma ci sono casi anche più pesanti. Il gruppo farmaceutico Recordati, ad esempio, da poco entrato a far parte del Ftse Mib, ha ricevuto un forte dissenso rispetto alla politica di remunerazione, bocciata da più del 90% degli azionisti di minoranza presenti in assemblea. L'azienda presieduta da Alberto Recordati non è stata l'unica a essere oggetto di critiche da parte delle minoranze: Ferragamo ha ricevuto voto contrario alla politica di remunerazione da parte dell'80%, Yoox da circa il 70%, Brembo da quasi il 60% e Unipol da oltre il 50% delle minoranze presenti in assemblea. Percentuali molto alte che, benché non abbiano effetto sul



Matteo Del Fante

risultato finale del voto (spesso perché l'azionista di riferimento ha la maggioranza assoluta), potrebbero averne dal punto di vista reputazionale. A fronte di casi in cui i soci di minoranza hanno preso posizione contro le scelte aziendali ci sono anche casi di aziende che hanno ben lavorato nell'interlocuzione con gli azionisti, come è stato per alcune banche (ad esempio, Banco Bpm, Creval o Bper) o per grandi aziende come Generali e Saipem (che ha ricevuto il 95% di voti favorevoli da parte delle minoranze). C'è infine il caso di Terna, che ha recuperato un gap importante nei rapporti con il mercato. Nel 2014, ultimo anno con Flavio Cattaneo alla guida, il 60% delle minoranze aveva votato contro la politica di remunerazione, mentre nel 2017, ultimo anno di Matteo Del Fante, i voti contrari erano scesi sotto il 10%. (riproduzione riservata)

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Evaluating board skills

05 June 2017 by Francesco Surace



A board skills matrix can be a useful governance tool and is valuable to investors

Investors are focusing on board composition to evaluate whether directors possess the skills, knowledge and experience necessary to oversee the business in line with the company's strategy. Disclosure of a board skills matrix can help investors make such evaluations and reassure them that the board has a robust process in place to assess the mix of skills and diversity it currently has and/or is looking to achieve.

The skills matrix typically represents a visual snapshot of experience and qualifications for the directors to be appointed at the upcoming annual meeting. Although director biographies include individual qualifications, the skills matrix is becoming more common and a more efficient tool to depict the overall expertise and help assess boards.

Key disclosure item

Morrow Sodali's latest Institutional Investor Survey shows that the board skills matrix is viewed as a key disclosure item by investors representing \$18 trillion of assets under management – 78% of respondents – when voting on director elections.

It is not only useful for investors to determine whether the board comprises the necessary skills and expertise to deliver long-term value, but is also useful for companies when evaluating the merits of a new board member. Although the topic of diversity initially started with a focus on gender, the discussion has now evolved to an overarching belief that there should also be diversity of skills and expertise.

“A skills matrix helps to identify the current skills, knowledge, experience and competencies of the board”

There is no doubt that the best examples of skills matrix disclosure are offered by US companies, which consider Securities and Exchange Commission requirements, and Australian companies, for which the corporate governance code has suggested disclosure of a skills matrix since 2014. In the same year, the Council of Institutional Investors surveyed its members for examples of what they considered best-in-class disclosure of director nominee qualifications and skills from 2013 US proxy statements, and why, and published a best practice market sample.

There is no standard for skills matrices and companies providing such disclosure use different forms, such as schematic tables, which name and list relevant director skills, and short narrative descriptions of each director's skills.

Integration tool

The board skills matrix can be used as an internal tool to integrate board evaluation and succession planning. Although disclosure of the board skills matrix is important to investors, as it offers better insight into board composition, it also represents an extremely useful internal tool for the board to determine its optimal structure.

A skills matrix helps to identify the current skills, knowledge, experience and competencies of the board, as well as any gaps in skills or competencies that could be addressed in future director appointments.

To be beneficial, the board skills matrix needs to result from a well-thought-out and regularly reviewed process, which is tailored to the unique circumstances of each company, considers both current needs and future scenarios, and is not executed as a mere compliance exercise.

Identify skills gap

A board skills matrix should be closely aligned with other governance information, and be fully integrated into renewal and rotation policies, board evaluation and succession planning. Producing a board skills matrix can also help boards assess their own effectiveness and identify areas for potential improvement.

The skills matrix can be standardised for each company since it is linked to the company type, business model, and strategic objectives. It is, therefore, a more complex process that relates to board evaluation, in that it is possible to identify potential skills gaps on the basis of companies' strategic choices that can eventually be filled during the process of appointing new directors.

In other words, the board must identify the key qualifications and experience essential for the company's business strategy and expected future business needs.

It follows that there are some expertise areas which tend to be represented on listed company boards, such as legal, governance, risk management, leadership, finance, and international experience.

“Companies need to find an appropriate balance between providing valuable information to their investors and avoiding details that could be negatively perceived by the market”

There are also other core competencies which are closely linked to each company type (for example, climate change or environmental, social and corporate governance for energy and oil companies) and the issuer’s specific goals.

Skills matrix disclosure requires companies to find an appropriate balance between providing valuable information to their investors and avoiding details that could be negatively perceived by the market.

Nevertheless, openness about gaps in desired skills can indicate the board proactively seeks to improve its composition and effectiveness. As such, discussion around board, committee and directors’ skills matrices should be considered an important topic when engaging with investors.

Robust evaluation

A robust evaluation process can inform directors, give them a voice, and reassure a wide array of stakeholders that the board is representing their interests effectively. By providing early warning of constituents’ concerns, the board evaluation process can also help directors and management understand and deal with problems before they reach the stage of open confrontation.

Board evaluation is best corporate governance practice. The existence of a robust process enabling the board to assess its own composition and effectiveness is seen as an indicator of good governance by investors.

Reassure investors

Disclosure of the board evaluation process and its outcome helps to improve investor confidence in the company’s ability to address efficiently issues relating to board composition and succession planning. It is therefore crucial that higher levels of disclosure beyond the bare minimum facilitate an identification of strengths and weaknesses within the board, as well as the definition of necessary steps for improving the quality of its composition or the quality of board debates.

“It is not uncommon to find very low levels of disclosure on governance practices, or the use of generic definitions in the annual report”

The annual board evaluation has rapidly progressed beyond a pure compliance exercise, becoming a key barometer for shareholders in assessing board functioning and progress. Our Institutional Investor Survey shows that 85% of investors consider the disclosure of summary findings and recommendations to be crucial, and 78% consider the action steps and implementation timetable to be essential.

Because board evaluation is virtually unregulated, companies have a great deal of flexibility over the process and its disclosure. Therefore, it is not uncommon to find very low levels of disclosure on governance practices, or the use of generic definitions in the annual report, especially among non-blue-chip companies or in less-developed countries.

Improve effectiveness

A well-designed evaluation process is an essential tool for the board to clarify roles and expectations, as well as to prompt ongoing improvements. Broadening the scope of the evaluation by incorporating the perspective of senior managers, who regularly interact with the board, as well as directors' peer reviews and board chair reviews can contribute to the quality of the review.

An adequate board evaluation process should necessarily include a review of board and committee composition and process, the interaction among board members and between CEO and chairman, and a robust analysis of the quality of the supporting material.

Discussion on how board skills and performance are reviewed and refreshed should be considered an important topic when engaging directly with investors. Indeed, BlackRock's priorities for 2017 are evidence of the growing importance of this topic among top institutional investors.

Francesco Surace is Vice President within the corporate governance team at Morrow Sodali

FORO EXPANSIÓN JURÍDICO RETRIBUCIÓN DE LOS ÓRGANOS DE ADMINISTRACIÓN

Claves para diseñar con éxito la política retributiva del consejo

Escuchar al mercado, vincular el sueldo a la evolución del negocio e incorporar medidas para evitar que se asuman riesgos excesivos son los pilares de una política salarial que atraiga talento e inversores.

V. Moreno, Madrid

Transparencia, estrategia corporativa, equilibrio o presentación de información completa. Éstas son algunas de las ideas que más repiten los expertos al abordar los procedimientos para fijar la remuneración de los consejeros de una empresa cotizada.

“El inversor examina dos aspectos esenciales en una compañía. Por un lado, analiza la fortaleza del equipo directivo y, por otro, el esquema retributivo que se aplica a éste. El cambio en la Ley de Sociedades de Capitales ha generado un cambio de tendencia clara entre las empresas, pero también ha provocado que los inversores realicen análisis tanto cuantitativos como cualitativos”, explica Jaime Sol, socio responsable del *people advisory services* de EY.

Como apunta Borja Miranda, director general de Morrow Sodali en España, la remuneración de los administradores debe guardar una proporción razonable con la importancia de la compañía y los estándares de mercado de empresas comparables. Por esta razón, Miranda afirma que “hay que escuchar al mercado, interiorizar el mensaje y adaptarlo a la cultura de la empresa, para luego trasladarlo a la política retributiva”.

Fernando Frías, vicesecretario del consejo de administración de Grupo Red Eléctrica, destaca que siempre “hay que vincular la retribución de los consejeros ejecutivos no sólo a indicadores financieros, sino también a indicadores de negocio, en línea con la estrategia de la empresa; también hay que cuidar y escuchar, de manera proactiva y empática, a los accionistas que, al fin y al cabo, son los dueños de la empresa”.

Transparencia

Un asunto especialmente relevante para el conjunto de expertos en esta materia es garantizar la transparencia en la remuneración de los consejeros, puesto que si ésta no existe, el inversor no entenderá la política salarial y tampoco podrá comprender el sistema de trabajo de la propia compañía. En la misma línea se expre-

Fernando Frías

Vicesecretario del consejo del Grupo Red Eléctrica



“ Hay que vincular la retribución de los consejeros ejecutivos no sólo a los indicadores financieros, sino también a indicadores de negocio ”

Paola Gutierrez

'Regional head of board services' de Pedersen & Partners



“ La mejor manera de atraer talento es contar con una buena política retributiva y que ésta esté alineada con la estrategia corporativa ”

Lourdes Centeno

Socia responsable de Derecho Societario y Gobierno Corporativo de EY



“ Deben evitarse los esquemas retributivos demasiado complejos que dificultan su comprensión y la verificación de los requisitos que son de aplicación ”

Borja Miranda

Director general de Morrow Sodali



“ Hay que escuchar al mercado, interiorizar el mensaje y adaptarlo a la cultura de la empresa, para luego trasladarlo a la política de remuneración ”

Jaime Sol

Socio responsable de 'people advisory services' de EY



“ El inversor examina dos aspectos esenciales en una compañía: analiza la fortaleza del equipo directivo y el esquema retributivo que se aplica a éste ”

Olga Cecilia

Directora de 'people advisory services' de EY



“ Una de las modificaciones más importantes de la Ley de Sociedades de Capital es que incorpora las cautelas necesarias para evitar la asunción excesiva de riesgos ”

Fotos: P. Moreno

sa Paola Gutierrez, *regional head of board services* de Pedersen & Partners, que asegura que “ser transparente nunca es un desincentivo para captar profesionales. La mejor manera de atraer talento es contar con una buena política retributiva y que ésta esté alineada con la estrategia corporativa”. Algo que también completa Lourdes Centeno, socia responsable de derecho societario y gobierno corporativo de EY, al explicar que hay que “evitar los esquemas retributivos demasiado e innecesariamente complejos que dificultan su comprensión y la verificación de los requisitos

que son de aplicación”.

Dejando de lado este apartado, y ante la posibilidad de que aparezcan retribuciones excesivas y abusos, Centeno también advierte de que “la política y las prácticas de remuneración deben formar parte de una estrategia de negocio a largo plazo en las entidades, que deberán contemplar todo tipo de riesgos, incluidos los derivados de un eventual incumplimiento de normas de conducta, así como los conflictos de interés que puedan plantearse”.

Algo que corrobora Olga Cecilia, directora del área de *people advisory services* de EY,

que destaca que “una de las modificaciones más importantes que se ha realizado en la Ley de Sociedades de Capital es que el sistema retributivo incorpore las cautelas necesarias para evitar la asunción excesiva de riesgos”.

El papel de los 'proxy'

Otro asunto esencial para los expertos en remuneración es el impacto que puedan tener las recomendaciones de los *proxy advisors* (asesores de voto) en el resultado de las juntas de accionistas en materia de retribuciones. Para Miranda, “el *proxy advisor* es una figura muy criticada, pero está

tan presente como las agencias de *rating* y, sin duda, sus análisis sirven de apoyo a los inversores a la hora de votar”.

En este sentido, Sol destaca que “es importante mantener una buena relación y una constante comunicación con los *proxy advisors* para explicarles y transmitirles correctamente cada propuesta de cambio que se realice en la política retributiva, para que, así, los accionistas conozcan y entiendan toda la información antes de votar en la junta de accionistas”.

Frías también rompe una lanza a favor de estos asesores de voto. Para el vicesecretario

Informe anual de gobierno corporativo

El conjunto de expertos reunidos en el foro de EXPANSIÓN Jurídico destaca el papel esencial que juega la Comisión Nacional del Mercado de Valores (CNMV) en la cuestión de la información sobre las remuneraciones de los consejeros. Sin embargo, todos ellos también aseguran que, a pesar de las reformas que se han llevado a cabo en el informe anual de gobierno corporativo para adecuarlo a las recomendaciones del código de buen gobierno de las sociedades cotizadas, todavía tienen que realizarse más actualizaciones. “Sería recomendable modificar modelo del informe anual de remuneraciones para que los emisores pudieran explicar mejor sus políticas de retribución”, considera Olga Cecilia, de EY. Los especialistas afirman que sería bueno flexibilizar las directrices de la CNMV, puesto que la rigidez puede tener un efecto adverso y generar desinformación.

del consejo de Red Eléctrica los *proxy advisors* y sus di pueden terminar guiando compañías hacia el buen bierno, una materia que p ser rentable y beneficiosa la empresa. Aun así, para el buen gobierno sea efec este experto advierte de la cesidad de “ser consciente verdadero valor que ge para la empresa y de la fianza que despierta en la ciudad. Por ello, es neces que su impulso provenga propio consejo de administración, que es su motor pr pal, para que se doten lo cursos necesarios, que fi ten su aplicación volunta sobre todo, anticipada”. E opinión, el verdadero l gobierno se lleva a cabo diante “acciones preven no correctivas”.

Respecto a este último pecto, Gutierrez apunta a equilibrio que existe ac mente entre *hardlaw* (no legales de obligado cumplimiento) y *softlaw* (código de conducta o programas c ción) y destaca que, des punto de vista, “no hay q perar a que la ley impor sistema de buen gobiern ra cumplirlo”.

I maggiori azionisti delle banche italiane alle assemblee 2017 (in % sul capitale sociale)

Intesa Sanpaolo

58,44%

Quota di capitale votante



Compagnia Di San Paolo	9,2%
Fondazione Cariplo	4,8%
Fondazione CaRi di Padova e Rovigo	3,2%
Blackrock	3,0%
Harris Associates	2,8%
Hsbc Global Asset Management	2,3%

Unicredit

57,47%

Quota di capitale votante



Capital Group	5,1%
Aabar	5,0%
Fondazioni	4,6%
Blackrock	3,4%
Dodge & Cox	3,4%
Vanguard	2,2%

Banco Bpm

36%

Quota di capitale votante



Norges Bank	3,2%
Invesco	3,1%
Davide Leone Partners	2,5%
Blackrock	2,1%
Axa Investment Managers	1,5%
Capital Group	1,3%

Bper

40,54%

Quota di capitale votante



Unipolsai Assicurazioni Spa	9,9%
Fondaz. di Sardegna	3,6%
Vanguard Group	2,0%
Fondaz. Cari di Modena	1,6%
Blackrock	1,3%
Amber Capital	1,0%

Ubi Banca

48,57%

Quota di capitale votante



Silchester International Investors	6,6%
Fondaz. CaRi di Cuneo	5,9%
Fondaz. Banca del Monte di Lombardia	5,2%
Davide Leone Partners	2,8%
Blackrock	1,6%
Lucchini	1,5%

Creval

16,25%

Quota di capitale votante



Vanguard Group	1,3%
Fidelity Investments Limited	1,0%
Hosking Partners	0,8%
Generali Investments SGR	0,7%
Wisdomtree Asset Management	0,6%
Henderson Global Investors	0,5%

Grandi banche e popolari sono i fondi i nuovi padroni

ANDREA GRECO

MILANO. Gli investitori istituzionali stranieri sempre più padroni delle banche. I verbali delle assemblee, depositati in maggio, dicono chi e quanto nei dettagli. In sette delle maggiori banche - Intesa Sanpaolo, Unicredit, Banco Bpm, Ubi, Mps, Bper, Creval - i fondi controllano di fatto le decisioni essendo maggioranza in assemblea. E anche se le adunate 2017 sono passate lisce, salvo qualche rilievo sulle politiche di remunerazione, da ora in poi toccherà farci sempre più i conti.

Anche la trasformazione per legge delle grandi popolari in spa ha rafforzato gli istituzionali, che surclassano sempre più i clienti-risparmiatori, ridotti tra il 25 e il 15% del capitale nella banca tipo. Prendiamo Banco Bpm, nata dalla fusione tra due ex mutue a gennaio. L'assemblea di bilancio ha nel fondo sovrano norvegese Norges Ubi la prima forza al 3,2%, poi l'hedge fund dell'italiano di Londra Davide Leone al 2,5%, Blackrock al 2,1%, Axa 1,5%, Ca-



pital group 1,3%. Al quinto posto una fondazione (Lucca, 1,2%), dall'1% in giù Pioneer, Vanguard, Azimut, Dnca, Standard Life, altre due fondazioni. Anche in Ubi, nuova spa da anni presidiata da soci di Brescia e Bergamo, i fondi contendono i primi posti: Silchester al 6,6%, Davide Leone (anche qui) al 2,8%, Blackrock 1,6%, Vanguard 1% accanto a Norges. Per Bper, invece, il cambio in spa ha coinciso con il capolino al 9,9% di UnipolSai, prima forza legata a Modena dalla bancassicurazione.

Altra storia di cambiamento - pur se la discontinuità non viene dal governo ma dalla ricapitalizzazione per 13 miliardi, è Unicredit. Post aumento ci sono sempre più istituzionali: Capital Group con il 4,3% depositato (ma attorno al 5%, come il fondo emiratino Aabar), davanti alle storiche fondazioni diluite a un 4,6% totale. Seguono gli americani Blackrock e Dodge & Cox - 3,4% ciascuno -, Vanguard e ancora Norges col 2% a testa, poi Del Vecchio (1,9%) e altri fondi: su un 32% intestato ai primi 14 soci

Colossi come Vanguard, Norges, Blackrock più forti tra i soci e dominano le principali assemblee

CONSIDERAZIONI FINALI

Domani il governatore di Bankitalia, Ignazio Visco, leggerà le sue Considerazioni finali

Unicredit solo un 6,5% è italiano, e solo un 13,5% circa fa capo al blocco di forze che siedono in cda da anni (i fondi hanno solo una poltrona; ma certo il nuovo ad Jean Pierre Mustier darà loro più spazio nel 2018). Unicredit e Intesa Sanpaolo - dove i fondi hanno la maggioranza, ma cinque fondazioni storiche con un 21% del capitale blindano controllo e decisioni - sono i gruppi dove gli istituzionali ci sono da più tempo, e dove il dialogo con i vertici è più sviluppato. Tuttavia la diffusione dei grandi nomi dell'inve-

stimento nel credito nostrano segna la strada per tutti, anche i gruppi più locali. «Investitori globali come Blackrock, Vanguard, Invesco e altri sono ormai ricorrenti nell'azionariato delle banche, molto più disperso delle altre aziende di Piazza Affari - rileva Fabio Bianconi di Morrow Sodali -. E anche se molti di questi gestori hanno condotte passive, contemplan strutture interne che monitorano le migliori prassi di governance nelle partecipate». Il consulente vede la riforma del settore come «un cammino in cui i banchieri italiani sono accompagnati dai più grandi nomi: non vedo banche sotto scalata ma nemmeno istituti abbandonati al loro destino». Salvo, ovviamente, le banche in crisi dove dovrà investire lo Stato, come Mps, Vicenza e Veneto Banca. O tranne la Sondrio, ancora coop e oggetto delle mire di Amber e altri fondi. I rinnovi 2018 dei cda Unicredit e Bper saranno un test del rapporto tra i banchieri e i loro nuovi, ineffabili danti causa.

GRUPPO EDITORIALE L'ESPRESSO

L'ANTICIPAZIONE

Intesa nel piano del 2018 potrà chiudere mille filiali

MILANO. Intesa Sanpaolo nel nuovo piano strategico che sarà presentato a inizio 2018 potrebbe tagliare i costi per centinaia di milioni di euro, e chiudere fino a un terzo delle 3mila filiali. Lo ha scritto il Financial Times, secondo cui la maggior banca italiana

REGIONE LOMBARDIA
AZIENDA SOCIO SANITARIA
TERRITORIALE (ASST) DI MANTOVA
Strada Lago Paoli, 10 - 46100 Mantova
BANDO DI GARA PER ESTRATTO
Si rende noto che è stata indetta procedura aperta, in forma telematica, per l'aggiudicazione della fornitura di un "Sistema analitico completo per l'analisi di prototipi specifici".

ESTRATTO BANDO DI GARA
SETTORI SPECIALI - FORNITURE
Trenitalia S.p.A. intende procedere per l'affidamento attraverso Gara a procedura aperta, interamente gestita con sistemi telematici, n. 6746294 (Appalto EBO17/G004) cartella n. 10488, all'acquisto di Materiali di ricambio di Carpentaria Metallica.
Per il valore complessivo di € 14.423.283,92 suddiviso in 53 lotti.
Tutta la documentazione di gara è disponibile su www.acquistonline.trenitalia.it
Il termine per la presentazione delle offerte è fissato per il giorno 29/09/2017 ore 13.00.

PROCURA GENERALE DELLA REPUBBLICA
PRESSO LA CORTE D'APPELLO
di CAGLIARI
Ufficio Esecuzioni Penali
N. SIEP 82/2017
La Corte D'Appello di Cagliari con Sentenza n.1131/2016 del 21.11.2016, in riforma della sentenza emessa in data 11.12.2015 G.U.P. Tribunale Ordinario Cagliari, irrevocabile il 07-04-2017, ha condannato BARBERIO EFISIO, nato a Cagliari il 15-01-1947, residente in Quartu Sant'Elena (Prov. di CA)

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Institutional investors fill activism gap in Europe

As hedge funds engage less, pension funds are increasing their activity

By: [Sophie Baker](#)

Published: May 15, 2017



Daniel Summerfield said USS expects companies to consult on material changes and issues.

Activism for long-term change is on the rise in the U.K. and continental Europe among institutional investors, as corporate governance and other concerns climb higher on investor agendas.

Sources also expect activist investors that seek short-term opportunities from M&A activity to rise as the impact of the U.K.'s decision to leave the European Union begins to bite.

“We have seen some of the major groups taking more action in (the long-term activism) space, and it's the major groups that have the power and ability to do things — they could be large asset owners or asset managers,” said Stephen Miles, global head of equities at Willis Towers Watson PLC based in Surrey, England. “These universal owners control a large number of assets in the system, and there is a greater recognition among those groups that it

is worth investing that time and energy to be an active owner and to engage with corporates. They are upping their game.”

Mr. Miles said the consultant has encouraged and seen money managers apply increased resources to this area, “hiring and beefing up internal corporate governance teams, in response to the recognition that this is important to asset owners.”

Institutional investors are stepping into the breach left open by hedge funds, which have taken on fewer campaigns since the financial crisis. “If one looks at campaigns that were made public by hedge funds, excluding cases of M&A activism, we are still well below the levels reached before the financial crisis,” said Nelson Seraci, associate director, special situations research at corporate governance firm Institutional Shareholder Services in Brussels. “However, it seems the void left by hedge fund activism has been picked up by traditional investors, who have become more vocal, especially in the U.K.”

Mr. Seraci said the number of activist investors and their assets under management in Europe appears to have shrunk vs. the prior economic cycle, or at least has not grown. He said tactics used before the 2008 financial crisis “were considered aggressive by traditional investors and overly focused on short-term bumps for stock prices,” and a number of the strategies also have closed due to redemptions. Those that survive tend to engage behind the scenes, he said.

“Simultaneously, traditional investors have taken responsibility for engagement with companies, not needing in many cases an activist hedge fund to be the catalyst for change. This is mostly true in the U.K., and to a much lesser degree in continental Europe, where other factors are at play,” added Mr. Seraci, such as a culture of avoiding public confrontation, legal loopholes or unfavorable regulation, and conflicts for bank-owned money managers.

Active institutional investors

Institutional investors have become increasingly active in terms of airing their concerns in the public domain. Reza Eftekhari, U.K. director at global consulting firm Morrow Sodali in London, which specializes in shareholder services, corporate governance, proxy solicitation and capital markets transactions, noted “institutional investors are more active now than ever before. In the U.K., executive pay continues to dominate the agendas for investors as they are under increasing pressure from their clients as well as the public to hold management of underperforming companies accountable for failures. As a result, investors have less tolerance toward sharp increases in pay packages of executives in cases of poor financial performances.”

At least three U.K. companies since the beginning of the year have been forced to withdraw new remuneration policies before an annual general meeting as a result of shareholder opposition, he said. And at least five U.K. issuers have received more than 40% of votes against their remuneration proposals, he added. He did not specify the companies.

In the cases of large retirement plans, such as the £60 billion (\$77.7 billion) Universities Superannuation Scheme, Liverpool, and the £1.3 billion National Employment Savings Trust, London, growth in assets translates into relative growth in active ownership and voting.

“We protect our members' pensions by acting as engaged stewards of the investments we make on their behalf — that's what drives our approach to being a long-term, active and responsible shareowner,” said Daniel Summerfield, co-head of responsible investment at USS Investment Management in London, which manages the pension fund's investments. “We invest in high-quality businesses which we believe can create value over time and whilst we are owners of the business, we encourage them to adopt the best standards of governance and reporting.”

Mr. Summerfield said the firm has one of the largest responsible investment teams in the U.K. retirement sector, and “use our influence as a major institutional investor to promote strong (environmental, social and governance) practices in the companies and other assets classes in which we invest.” In practice, that means engaging with boards and executive teams, and using voting rights effectively, he said. In 2016, USS voted on 7,539 resolutions at 623 events, covering 521 separate companies.

USS executives also seek open and two-way dialogue with companies, and expects them to consult on material changes and issues impacting long-term shareholders, Mr. Summerfield said.

“We have always taken great pride in being a long-term, active and responsible shareowner but the scale of our assets and investments has grown considerably in recent years,” said Mr. Summerfield. Growth in assets, which are overseen and largely managed in-house, and “diverse interests in countries and markets across the world” have combined to create a “relative increase in our shareholder activity.”

Mr. Summerfield said it is “very rare for us to publicly air our concerns,” and USS made the unusual move last month when it published a news release calling for “meaningful and constructive dialogue” between paint and coatings maker PPG Industries Inc. and takeover target AkzoNobel N.V. USS' current holding is 1.28% of AkzoNobel's issued share capital, and it expressed concerns at an annual general meeting over fiduciary obligations to shareholders.

“The steps we took regarding AkzoNobel were the exception to the rule, but demonstrate that we will not shy away from using the strength of our voice if we feel that all other avenues to achieving meaningful engagement have been closed to us,” added Mr. Summerfield.

Active owner

Similarly, multiemployer defined contribution plan NEST views itself as a responsible and active owner of securities.

“Although we mostly hold equities via index funds and our fund managers vote NEST's shares, we aim to have as much input and oversight into the voting process as we can,” said Diandra Soobiah, head of responsible investment at NEST in London.

NEST executives have also developed their own voting and engagement policy, setting out viewpoints on important areas of corporate practice. It allows executives to hold money managers to account on the way they vote, she said.

Executives also engage directly with companies. “We take a particular activist role in working with standard setters and regulators, as at this stage in our development this is where we believe we can create most positive change,” added Ms. Soobiah.

As the plan has grown in participants and the investment approach has developed, in-house expertise on responsible investment has also been established, and the plan now has a direct relationship with proxy voting agency Manifest. The firm provides proxy voting and engagement support.

While sources acknowledged that activist hedge funds are in decline, or at least are not showing growth, there is one exception: mergers and acquisitions.

Mr. Eftekhari said the number of activist campaigns across Europe continues to be steady, “and in particular, activism in M&A situations will likely increase over the next 12 months.”

“Instability and uncertainty as a result of global geopolitical concerns such as Brexit, the new U.S. administration and upcoming European elections would impact the financial performance of many businesses in the U.K. and across Europe,” said Mr. Eftekhari. ” n

Original Story Link: <http://www.pionline.com/article/20170515/PRINT/305159982/institutional-investors-fill-activism-gap-in-europe-as-hedge-funds-engage-less-pension-funds-are-increasing-their-activity>



Ben Ashwell

Activist campaign at Xerox indicates company management is at risk

JAN 24, 2018

Activists more prepared than ever to pursue 'bold tactic' of targeting management, research suggests



Activist campaign at Xerox indicates company management is at risk

JAN 24, 2018

Activists more prepared than ever to pursue 'bold tactic' of targeting management, research suggests

In a week when Xerox's CEO has been singled out by an activist investor, FactSet data shared with *IR Magazine* indicates that the number of campaigns targeting company management increased by more than 40 percent last year.

Carl Icahn recently teamed up with Darwin Deason to [announce](#) demands for a number of changes at Xerox, including that CEO Jeff Jacobson be 'replaced immediately.' Jacobson joins a growing list of CEOs who have been targeted by activist investors. The chief executives of Arconic and Buffalo Wild Wings, for example, left amid activist campaigns in 2017.

Icahn and Deason describe Jacobson in their announcement as being 'neither qualified nor capable of running this company' and 'a member of the Xerox *old guard*.' The two investors, who between them own 15 percent of Xerox, are also targeting four directors as part of their campaign.

Xerox released a statement saying its directors and management are confident with the strategic direction of the company and its ability to deliver value to shareholders.

According to data provided to *IR Magazine* by FactSet, there were 20 activist campaigns in the US last year that targeted company officers – up from 14 in each of the previous three years. The likelihood of a CEO leaving a company [doubles within the first year of an activist's involvement](#), according to separate research released last year ([IRMagazine.com, 5/30](#)).

Number of activist campaigns targeting company officers in the US, by year

2017	20
2016	14

2015	14
2014	14

Source: FactSet

Although activists can have a disruptive effect on CEO tenure, they have historically been reluctant to directly target the corner office for fear that removing a CEO would be too destabilizing to the business, according to Charlie Koons, managing director of activism and contested situations at Morrow Sodali.

Koons tells *IR Magazine* that, although targeting a CEO can also paint an activist as adversarial rather than willing to work with the company management, a campaign against a CEO is increasingly seen as an effective way of getting the board's attention.

'In recent years some activists have sought to amplify their message of *the need for change* by targeting CEOs,' he says. 'It is clearly a bold tactic, but given that choosing the CEO is at the top of a board's responsibilities, voting against the CEO can send shock waves across the entire board.'

Taking on a CEO is a bold strategy that only a handful of activists are adopting – Icahn, for instance, has previously targeted chief executives of companies such as AIG, Navistar and eBay. But activists are increasingly able to point to their track records to try to garner favor with the broader investor base, Koons adds.

'Today's activists have access to a much better-qualified pool of director nominees, including potential replacements for a targeted CEO,' he explains. 'There is no longer a stigma attached to being part of an activist slate.'

The increased appetite among certain activists to target company management shows the importance of shareholder engagement and positioning the CEO as the articulate figurehead of the company strategy, according to Patrick Tucker, managing director with Abernathy MacGregor.

'IR people especially can make sure the CEO is doing two key things: ensuring he or she is building an understanding with investors of what the strategy is and how it's linked to shareholder value, and explaining how the company decided on the strategy,' he tells *IR Magazine*. 'What you want is the rest of your investor base to disagree with an activist or see a disconnect with what the activist seems to be saying about your CEO.'

M O R R O W
S O D A L I

INSTITUTIONAL
INVESTOR
SURVEY
2018

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COMPANY OVERVIEW

Morrow Sodali is the leading global consultancy specializing in **shareholder and bondholder services, corporate governance, proxy solicitation and capital markets transactions**.

The firm provides corporate boards and executives with strategic advice and services relating to a broad range of activities, including: mergers and acquisitions, annual and special meetings, shareholder activist initiatives, multinational cross-border equity transactions and debt restructuring services.

From headquarters in New York and London and seven offices in major capital markets, **Morrow Sodali** serves **more than 700 corporate clients in 40 countries**, including many of the world's largest multinational corporations. In addition to listed and private companies, its clients include mutual funds, stock exchanges, membership associations and activist investors.

WE ARE

GLOBAL

The world leader in proxy solicitation, M&A, shareholder services, and governance advisory.

TRUSTED

Over **45** years Morrow Sodali has achieved an unbroken track record of success for our clients.

INTEGRATED

One firm serving clients from nine offices in major capital markets around the world.

EXPERIENCED

We have provided advice and services on more than **1,000** shareholders meetings, **100** M&A transactions, **75** tender offers and **50** contested meetings in the last 18 months alone.

SERVICE ORIENTED

Our high retention rate (**95%**) among annual meeting and corporate governance clients demonstrates our commitment to clients and the quality of service.

OUR SERVICES

CORPORATE GOVERNANCE CONSULTATION	BOARD SERVICES	M&A, ACTIVISM RESPONSE, & PROXY FIGHTS CONSULTATION
CAPITAL MARKETS INTELLIGENCE	PROXY SOLICITATION	INFORMATION AGENT SERVICES
BONDHOLDER SERVICES AND RESTRUCTURINGS	RETAIL SERVICES AND SPECIAL SITUATIONS	IPO PREPAREDNESS

EXECUTIVE SUMMARY

The positive response to Morrow Sodali's 2018 Institutional Investor Survey goes to show how Institutional Investors continue to recognize the importance of their stewardship activities, working to improve their investee companies' ESG practices through corporate engagement and proxy voting. Also, fulfilling their fiduciary duty to their clients by driving changes that increase shareholder value. The rise of index funds has also increased reputational and regulatory pressure, causing both active and passive investment managers to ensure strong corporate governance oversight.

Board effectiveness and executive pay remain key issues for investors as we head into 2018. There is an increased demand for companies to disclose relevant aspects of their business strategy and more likelihood that Institutional Investors will support credible activist strategies compared with previous years.

Our results show that an increasing number of Institutional Investors will focus their attention on board effectiveness, looking at the skills of each board member, considering these as the most critical factor when evaluating directors. After skills and experience, gender was chosen as the most significant board diversity factor, with geography, age and ethnicity following behind.

Executive pay is still one of the main areas where boards and shareholders are likely to disagree during 2018. Institutional Investors are expected to *up the ante* when scrutinizing pay policies, demanding enhanced disclosure of pay metrics and seeking a closer alignment between pay and performance. Further pressure will come to bear on companies with excessive pay practices, particularly with the introduction of the CEO pay ratio.

When evaluating remuneration plans, Institutional Investors are interested in receiving information on the sustainability metrics used, particularly those linked to a company's risk management and business strategy. For example, the incorporation of climate risk into remuneration plans is likely to be a key topic for the most exposed industries.

Activism remains in the spotlight. The rise of Investment Stewardship strategies is redefining how Institutional Investors think about company performance and investment decisions. In this regard, many Institutional Investors confirm that they are more likely to support activists who put forward a credible story focused on long-term strategy. Institutional Investors are assigning more resources to assess companies' risks and opportunities and are collaborating more to better understand the merits of activist proposals.

Many of the emerging issues will no doubt resonate with our readers. We believe it's important to keep abreast of the many changes affecting proxy voting and corporate engagement. We hope the 2018 Institutional Investor survey results will provide companies with useful insights and help them navigate the complex world of corporate governance as they work to achieve their long-term strategic goals.

**Our 3rd annual investor survey has only been made possible
thanks to the participation of Institutional Investors.
We would like to thank them all for taking the time to respond to our survey.**

ABOUT THE SURVEY

This is Morrow Sodali's 3rd Annual Institutional Investor Survey. Forty-nine global Institutional Investors – managing a combined \$31 Trillion in assets under management - took part. We continue to monitor the views of Investment Managers and Institutional Investors on a wide variety of global trends and emerging issues around the Annual Shareholder Meeting, ESG Engagement, Board Practices, Executive Pay, Activism and Investment Stewardship Strategies.

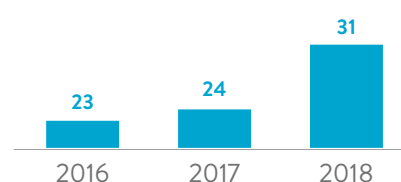
The purpose of this year's survey is to determine which issues will have priority for Institutional Investor's during the 2018 annual meeting season. Our goal is to alert clients to these issues and help them prepare to manage and engage effectively with their shareholders. Institutional Investors responding to this year's survey have the following characteristics:

ASSETS UNDER MANAGEMENT

2018 \$31 Trillion of assets under management

2017 \$24 Trillion of assets under management

2016 \$23 Trillion of assets under management



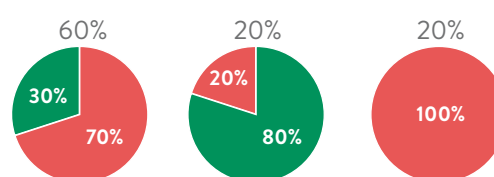
INVESTMENT STRATEGY: ACTIVE VS PASSIVE

Active \$18 Trillion / Passive \$13 Trillion

60% of respondents manage **70% Active** / **30% Passive**

20% of respondents manage **80% Passive** / **20% Active**

20% of respondents manage **100% Active** / **0% Passive**



ROLE OF RESPONDENTS

■ Head of Corporate Governance 30%

■ ESG Analysts 22%

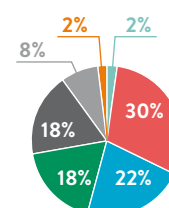
■ Responsible Investment Analysts 18%

■ Head of Investment Stewardship 18%

■ Portfolio Managers 8%

■ Chief Investment Officers 2%

■ General Counsel 2%



INVESTMENT STEWARDSHIP FOCUS

- **50% of the index/ETF/passive funds incorporate ESG or sustainability policies**
- All respondents surveyed are signatories of the Principles for Responsible Investment (PRI)
- Respondents with \$11 Trillion AUM are signatories of the US Investment Stewardship Group
- Respondents with \$21 Trillion AUM are signatories of the UK Stewardship Code

KEY INSIGHTS

Institutional Investors responding to Morrow Sodali's 2018 Survey revealed three critical areas of increasing concern:

1. The need for a clear articulation of a portfolio company's business strategy and goals.
2. More detailed information about the directors' skills, qualifications, experience and how each member contributes to the effectiveness of the board.
3. An explanation of the business rationale for board decisions and how they align with strategy and performance.

Based on our findings, we identified the following top priorities for 2018:

- **Investors will prioritize skills ahead of gender or ethnic diversity.** 71% of respondents representing \$23 Trillion AUM overwhelmingly felt that "Skills" was the most important diversity criteria. 54% of respondents representing \$17 Trillion AUM felt that engagement with shareholders on succession planning was the most important issue.
- **Unjustified pay will come under intense scrutiny** say 88% of respondents representing \$24 Trillion AUM. Respondents want to see better alignment between pay and performance. This is up from 75% last year. 61% of respondents representing \$17 Trillion AUM suggest the CEO pay ratio disclosure will gain a lot of attention and be a useful statistic. The rigor of incentive schemes will also come under the microscope according to 46% of respondents managing \$17 Trillion AUM.
- **Investor collaboration around broader Annual Shareholder Meeting topics will increase exponentially.** Nearly two thirds of respondents representing \$13 Trillion AUM stated collective engagement and collaboration with other shareholders related to annual general meetings is a powerful tool to help influence change.
- **Institutional Investors are increasingly likely to support a credible activist story** say 61% of respondents representing \$18 Trillion AUM. Poor capital allocation is a key concern according to 54% of respondents representing \$19 Trillion AUM. The Board's role in capital allocation will receive greater scrutiny.
- **93% of respondents representing \$30 Trillion AUM confirm ESG integration into investment decision making is either fully integrated or progressing towards full integration.** Respondents want to see companies better prepared to provide more detail around ESG risks and opportunities.
- **Investors seek enhanced disclosure around materiality and sustainable metrics linked to long-term business strategy** say 71% of respondents representing \$20 Trillion AUM. There is more demand to understand a company's purpose and boards should provide more detail in the annual report and in particular, corporate governance statements.

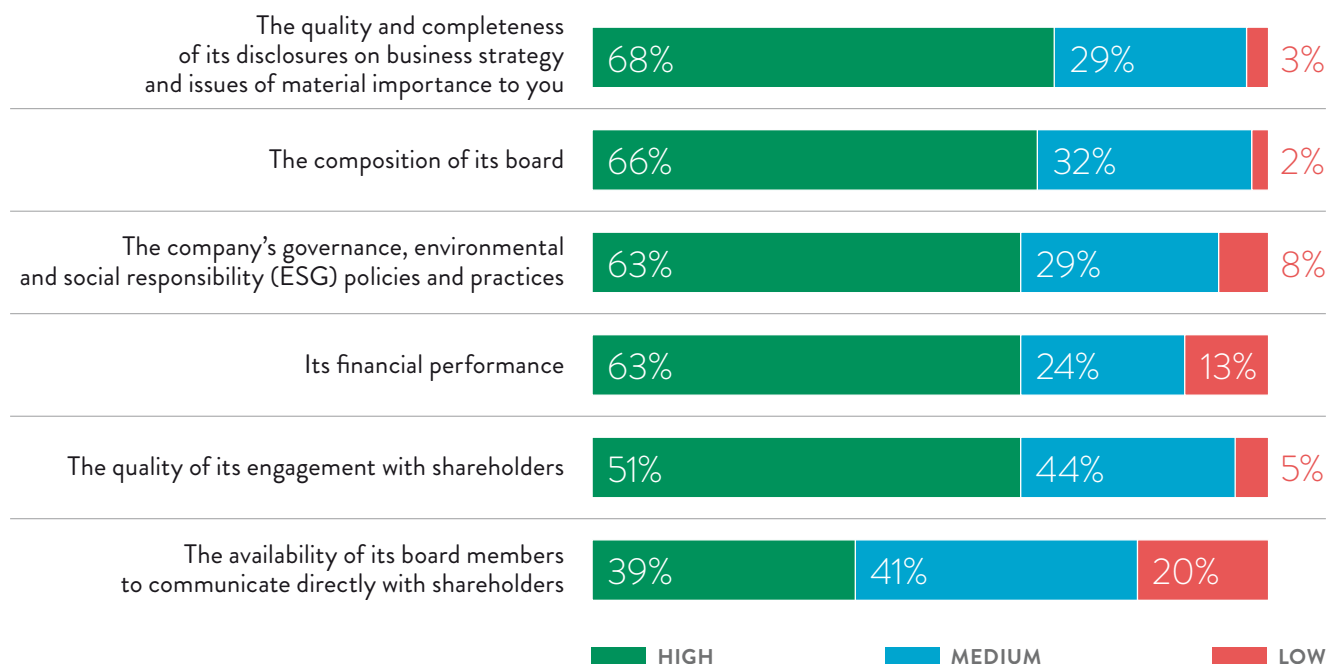
What these answers tell us is that respondents to the Morrow Sodali survey are looking beyond compliance and one-size-fits-all voting policies. Instead they are seeking specific information from individual portfolio companies that will help them understand the fundamentals of the business and its strategic goals, the value contributed by the board of directors and the links between board policies and decisions, management's effectiveness and the company's long-term economic performance. This is good news for companies willing to make these disclosures, as it opens the path to closer relations with investors based on business fundamentals rather than compliance with external standards.

Respondents' answers to other questions further indicate that they are taking a more individualized approach to portfolio companies and moving away from standardized policy-based box-ticking voting criteria.

ANNUAL MEETING SEASON

Q.01

LOOKING FORWARD TO THE UPCOMING ANNUAL MEETINGS OF YOUR PORTFOLIO COMPANIES, PLEASE INDICATE HOW IMPORTANT THE FOLLOWING FACTORS WILL BE WHEN TAKING YOUR VOTING DECISION ON DIRECTOR ELECTIONS AND OTHER AGENDA ITEMS:



This is a critically important time for directors, committee chairs and boards as we enter the 2018 Annual Shareholder Meeting season.

Investor expectations will intensify around the role the board plays in managing strategic oversight. Respondents increasingly want to know if the board is involved in evaluating, challenging and monitoring the company's strategy and challenging management in crisis situations.

Shareholders are increasingly focused on the composition of the board and expect each director to provide real contributions. Companies are now expected to play a pivotal role in addressing key societal issues and economic risks such as climate change, gender and ethnic diversity and stakeholder considerations. Director elections in many jurisdictions have received significant scrutiny in the past year. In the US the adoption of proxy access has increased dramatically allowing certain investors to nominate director candidates; in the UK we noticed a couple of stand-out negative director election votes linked to ineffective risk management.

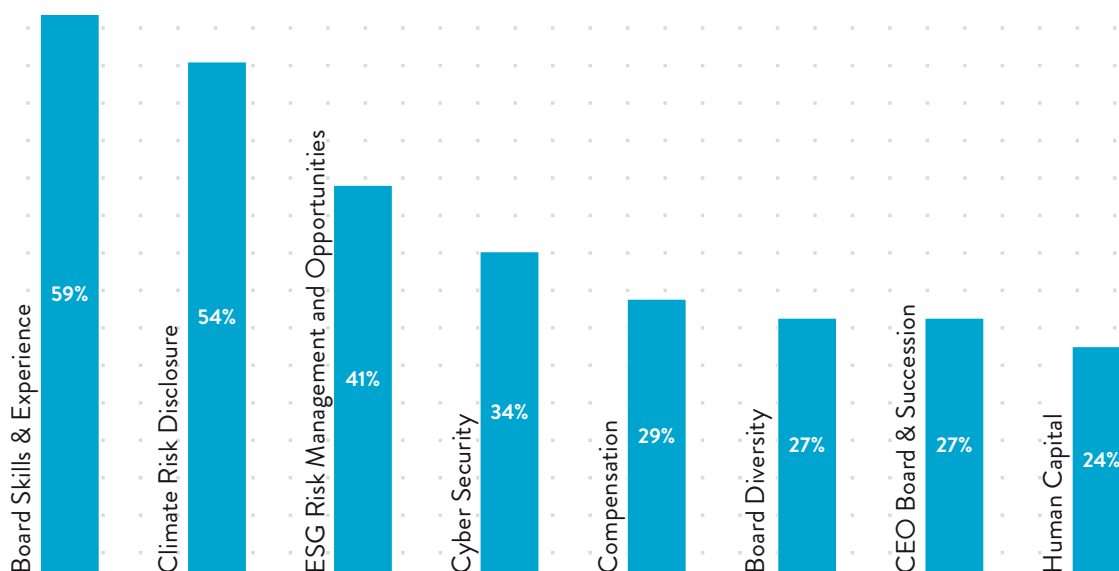
68% of respondents suggested "The quality and completeness of a company's disclosures on business strategy and issues of material importance" is the most important point of focus in 2018. Respondents want to know boards are heavily involved in evaluating, challenging and monitoring the company's strategy.

66% of respondents believe "The composition of its board" is the next most important point of focus when considering votes on director elections in 2018. This is particularly poignant given the green paper and governance reforms requiring companies to have independent Chairmen; FTSE 350 companies will need to be aware of investor expectations as they lag behind in this area.

The company's financial performance and ESG disclosure & practices received a score of 63% in terms of importance.

Q.02

WHICH 3 ESG TOPICS WILL BE MOST IMPORTANT TO YOU WHEN ENGAGING WITH COMPANIES IN 2018?



Corporate engagement is now a pivotal mechanism that investors use to monitor their investee companies. The mutual benefits, access and opportunity to create relationships has helped investors and companies improve the information flow and critically build a stable long-term relationship.

In this year's survey 59% of respondents will prioritize "board skills & experience." This is a significant increase of 50 percentage points on last year's 2017 survey. Respondents are turning up the heat on director accountability and oversight. Broader issues continue to evolve such as technology transformation, disruptions and stakeholder considerations.

Just under two-thirds (54%) of respondents will focus engagement on "climate risk disclosure," this is an increase of 10 percentage points on last year's survey. Climate change has now become

a mainstream long-term investment risk and respondents demand better disclosure around reporting metrics and financial impact linked to climate related risk.

The 3rd key focus point with 41% of investor responses will target "ESG risk management & opportunities" in 2018, this is compared to 24% in 2017. Respondents seek information on quantifiable ESG opportunities.

This is in comparison to last year's 2017 survey respondents that suggested climate change (\$7 Trillion AUM) and pay for performance (\$10 Trillion AUM) were the most important engagement topics, followed by board composition and cyber security. 2018 sees continued growth in environmental, social and corporate governance (ESG) engagement as a key mechanism for investors to identify risks and opportunities linked to the company's long-term business strategy.

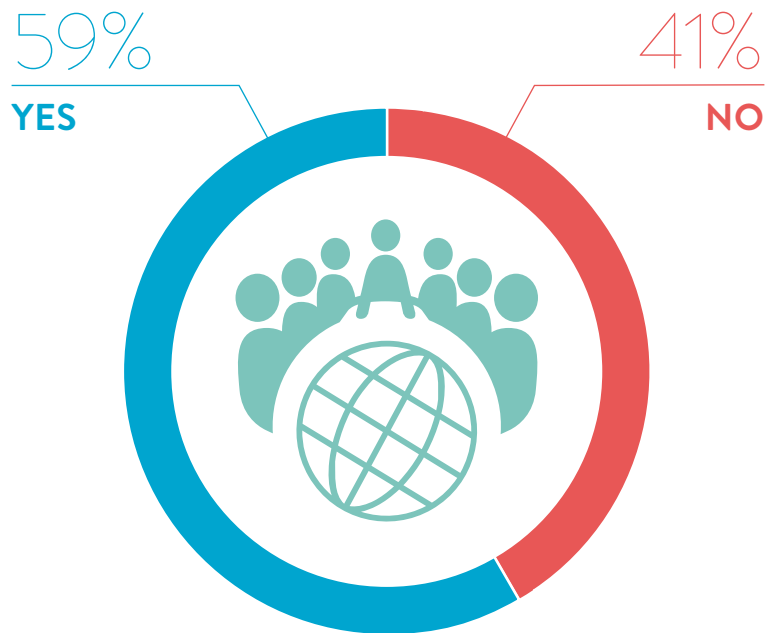
Q.03

DO YOU EXPECT TO COLLABORATE WITH OTHER SHAREHOLDERS WITH RESPECT TO ISSUES OF IMPORTANCE AT ANNUAL MEETINGS?

Shareholder Collaboration has increased exponentially and continues to be a powerful mechanism to seek change at companies with poor governance practices. In the US minority shareholder rights are under scrutiny from the Financial CHOICE Act restricting individual shareholder's ability to submit proposals on the agenda. In Japan, cross-holdings and the lack of truly transparent independent directors has always resulted in governance shortcomings.

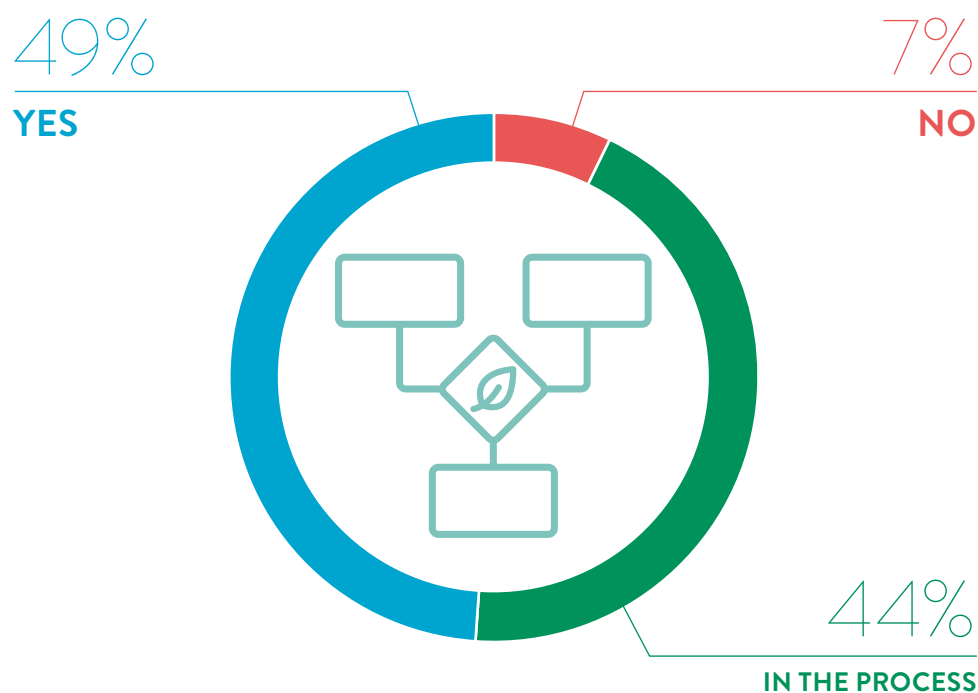
However, the introduction of Investor organizations such as UK Investor Forum, US Investor Stewardship Group and Japan GO Investor Forum has changed the landscape. Creating established principles results in a framework for standardized corporate governance principles. These collective groups provide minority investors leverage as a collective voice to influence change.

59% of respondents confirmed they would collaborate with other shareholders with respect to important issues at annual general meetings and given the significance of the result, we went back to respondents to better understand the most frequent topics they will collaborate on in 2018. In the last decade we have noticed a sharp increase of shareholder collaboration around Annual Shareholder Meeting agenda items especially in the UK and US. Shareholders do recognize time constraints and resource challenges and see group meetings as an opportunity to discuss thematic issues or AGM issues.



Q.04

ARE ESG AND SUSTAINABILITY NOW INTEGRATED INTO YOUR INVESTMENT/DIVESTMENT DECISION-MAKING PROCESSES FOR ALL ASSET CLASSES?



Investors increasingly recognize ESG and sustainability as material to long-term financial outcomes. Investment Managers are ever more influenced by clients' objectives and stakeholder considerations as the focus on environmental, social and governance (ESG) issues continues to attract significant attention. More respondents gradually follow the Sustainability Accounting Standards Board (SASB) guidelines for investors, UN Sustainability Development Goals and recently endorsed Task Force on Climate-related Financial Disclosures (TCFD) recommendations.

This year we asked investors to what extent ESG is integrated into their investment decisions.

49% of respondents confirmed that ESG and sustainability indicators are fully integrated

into their investment decision processes across all asset classes.

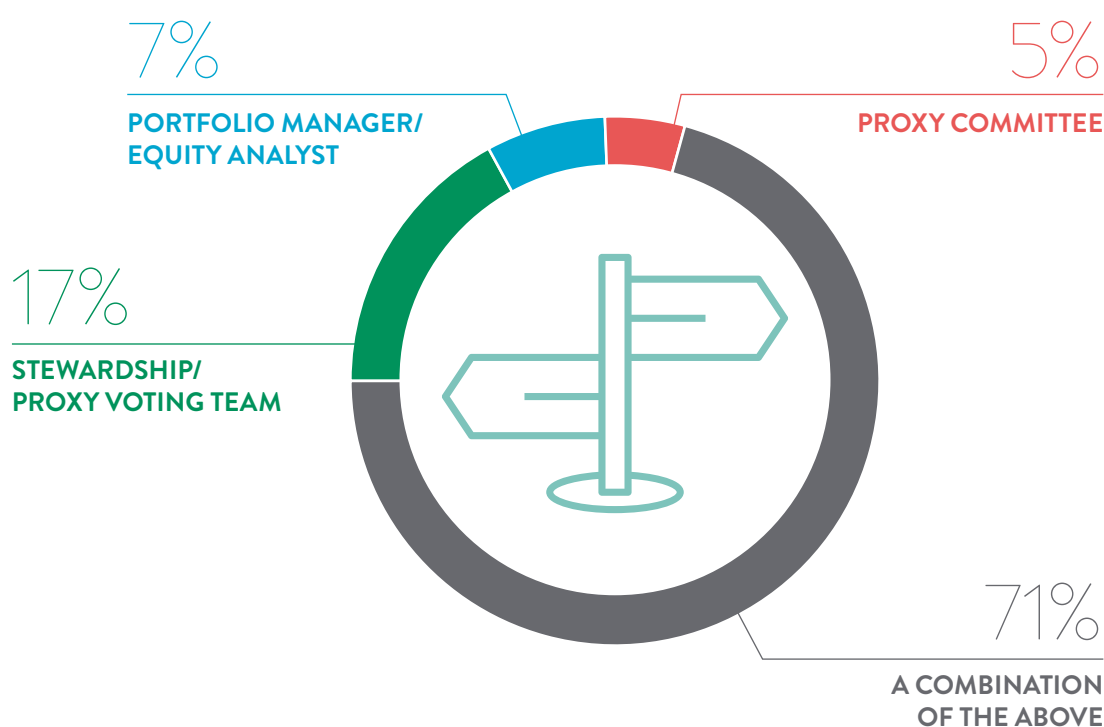
44% of respondents confirmed they are in the process and only 7% have zero or minimal ESG integration.

A combined 93% of respondents therefore are either fully integrated or progressing towards full integration. This portrays a strong message from investment managers on the direction in terms of assessment of ESG risks and opportunities within their investment portfolios.

In our 2017 survey 72% of respondents representing \$14 Trillion AUM suggested "the disclosure of material ESG information was very important to their investment decisions."

Q.05

WHO IS INVOLVED IN MAKING THE VOTING DECISIONS IN THE GENERAL MEETINGS OF YOUR PORTFOLIO COMPANIES?



Over a decade ago most proxy voting decisions were determined by the Portfolio Manager particularly within the actively managed investment funds. The shift to index funds and Institutional Investors' increasing resources have contributed to a power shift away from Portfolio Managers. Corporate Governance and Investment Stewardship Analysts now tend to lead discussions related to the Annual Shareholder Meeting.

The flow of investment capital from active to passively managed strategies continues to grow rapidly. Consequently, and under some external pressures, large index managers increasingly play an important role enforcing stewardship responsibilities and protecting the long-term interests of client assets. Questions have been asked, and to their credit, index managers have

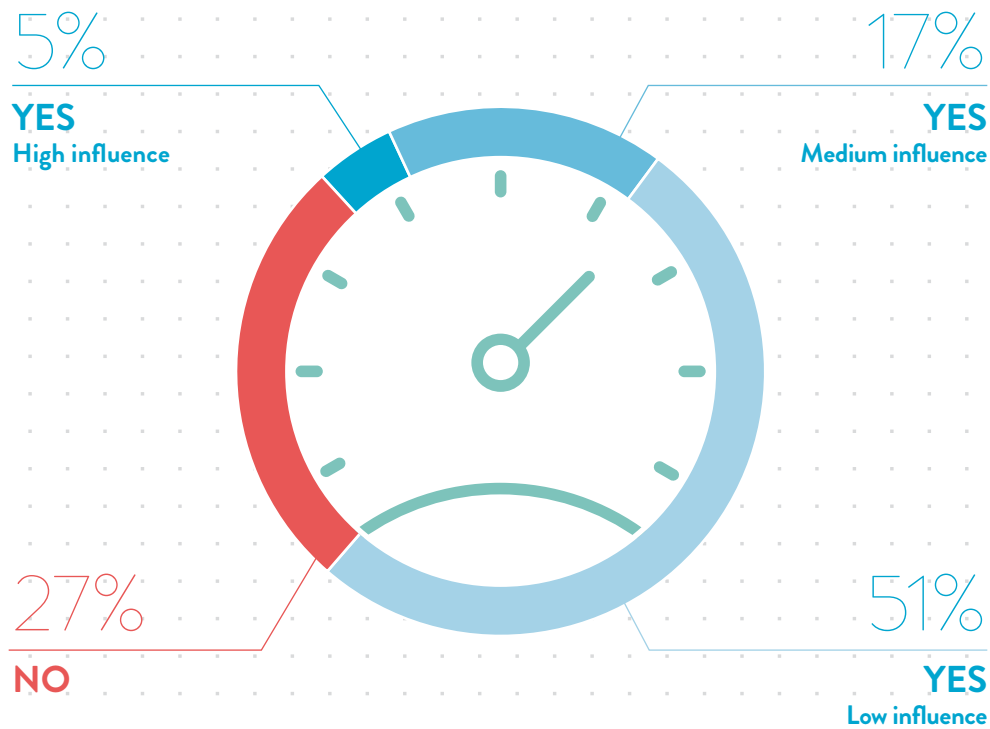
taken a proactive approach, becoming active stewards. They have increased the size of their corporate governance teams and developed detailed market policies.

71% of respondents confirmed that a combination of the stewardship team and investment decision makers take proxy voting decisions at Shareholder Meetings.

17% of respondents confirmed that the stewardship team will manage the vote decision and only 7% of voting decisions are controlled by Portfolio Managers.

Q.06

DO YOU SUBSCRIBE TO ESG RESEARCH AGENCIES?
IF SO, INDICATE HOW INFLUENTIAL THE RATINGS ARE
TO YOUR VOTING AND/OR ENGAGEMENT DECISIONS?



ESG and Sustainable investing has gained momentum in recent years and there is greater demand from investors for better ESG disclosure expected in key markets and sectors. Investors continue to seek credible research to help reduce the knowledge gap on how these types of investments can significantly improve risk-adjusted returns. Research firms specializing in environmental, social and governance analysis fill this gap and investment managers have become more attuned to the usefulness and availability of this information. Investment Managers also inform us the demand for ESG mandates from clients (asset owners) increased exponentially.

51% of respondents confirmed they subscribe to ESG research agencies with a low impact on voting decision/engagement targets. A further 17% suggested they have a medium influence on voting decision/engagement targets.

Q.07

DO YOU SUBSCRIBE TO PROXY ADVISORY FIRMS?
IF SO, HOW IMPORTANT ARE THEIR RECOMMENDATIONS
WHEN YOU MAKE VOTING DECISIONS?



Over time, regulators and market participants have increasingly recognized the influence of proxy advisors on investors' votes and have pushed for stringent regulation of the proxy advisory industry. As recent as December 2017 The Corporate Governance Reform and Transparency Act of 2017 was approved with the intention of increasing the transparency of shareholder proxy advisory firms. Many observers believe that the influence of proxy advisors is significantly overstated, and that stringent regulation may do more harm than good while others suggest it will have a positive impact and increase competition in the industry.

Proxy advisor policies are becoming stricter and their reports are an important source of information for their clients to help make an informed decision in a timely manner.

For investors, the rise of in-house governance teams reduces some of the concerns raised by issuers and requires an extra layer of analysis when considering agenda items. Some investors subscribe to one or more proxy advisors and generally do not follow their recommendations strictly.

63% of respondents confirmed that their recommendations only have a "low influence" on their final vote decisions.

32% stated proxy advisor recommendations have a "medium influence" on their final vote decisions.

Only 5% of respondents informed us that proxy advisor recommendations have a "high influence" on their final vote decision.

BOARD COMPOSITION

Q.08

WHAT INFORMATION SHOULD BE DISCLOSED ABOUT A BOARD'S COMPOSITION SO THAT YOU CAN MAKE AN INFORMED VOTE ON DIRECTOR ELECTIONS?

RELEVANT BACKGROUND AND EXPERIENCE OF INDIVIDUAL DIRECTORS



BOARD SKILLS MATRIX



MORE DETAIL ON THE SELECTION AND NOMINATION PROCESS



■ MOST IMPORTANT
 ■ IMPORTANT
 ■ LEAST IMPORTANT

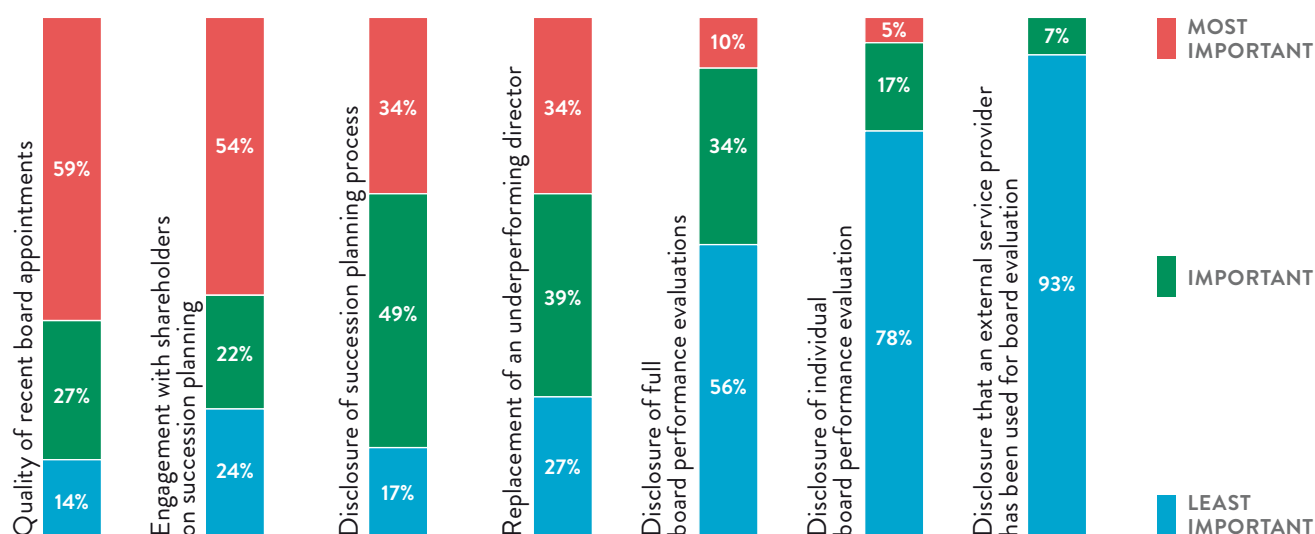
Investors increasingly demand that boards and its committees should have the appropriate balance of skills, experience, independence and knowledge of the company to enable them to carry out their responsibilities and duties both effectively and to the highest standards possible. Access to adequate, timely and complete information about the make-up of boards is therefore essential to enable an investor to make a judgement on the suitability of individual directors. Transparency around board composition has substantially increased in recent years, thanks to a combination of regulatory developments as well as changes to corporate governance codes across the world. Both regulators and investors have placed much greater emphasis on the

appointment process of directors, ensuring that directors are appointed on merit against objective criteria and with consideration to the benefits of having in place a diverse board, capable of providing independent oversight of management.

Over 56% of respondents believed that the most important topic concerning a company's composition was the relevant background and experience of individual directors, while 41% of respondents believe that the disclosure of a board skills matrix is the most important. This stands in stark contrast to more detail on the selection and nomination process, where only 7% of respondents felt this was the most important issue.

Q.09

WHICH OF THE FOLLOWING INCREASE YOUR CONFIDENCE IN THE BOARD'S REFRESHMENT PROCESS?



A core tenet of good corporate governance is the requirement for boards to explain, to investors, that there exists a formal, rigorous transparent and continuous process for monitoring the composition of the board. The board should look to satisfy both itself and investors that plans are in place for the orderly succession for appointments. This is important for maintaining an appropriate balance of skills and experience within the company and, crucially from an investor perspective, to ensure regular and progressive refreshing of the board. The days of simply appointing directors to the board of a public company on a whim or a wink and a nod are long gone.

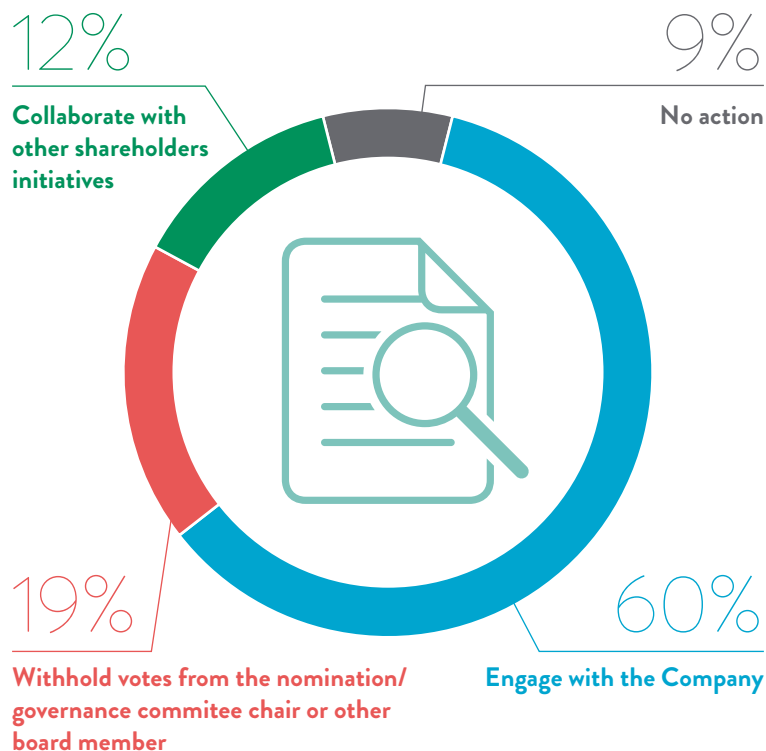
59% of respondents considered the disclosures around the quality of recent board appointments were the most important and **54% of respondents** felt that engagement with shareholders on succession planning was the next most important. This demonstrates the importance that respondents attribute to engagement with the board and arguably is representative of a growing desire by respondents, especially ESG practitioners, to be more involved in promoting long termism at companies, of which succession planning, nominations and board evaluations are naturally crucial to. 93% of respondents felt that the least important topic was disclosure that an external service provider has been used for the board evaluation.

Q.10

IF A COMPANY DOES NOT ALLOW DIRECT COMMUNICATION BETWEEN DIRECTORS AND SHAREHOLDERS, WHAT ACTION WILL YOU TAKE?

Regular and direct dialogue between directors and shareholders is of a vital importance to a company's long-term health. This should be ongoing and not done just at times of crisis or ahead of Shareholder Meetings. As identified in the 2017 survey, rules and best practice guidelines are raising the bar for institutional investors to be better stewards of their investments. Stewardship codes exist across the globe, from UK to Japan. Moreover, corporate governance codes have significantly changed how companies engage with shareholders and other key stakeholders, including employees, customers and suppliers. Moreover, this theme will inevitably take on greater importance in the coming years, not least because of the forthcoming changes to the UK Corporate Governance Code and the anticipated consultation on the UK Stewardship Code, expected in 2018. The UK's approach to governance and stewardship, and the core principles that make up the Codes, have generally been replicated globally and therefore, much greater emphasis on effective engagement between boards and shareholders can be anticipated.

Building on last year's questions with respect to engagement, this question clearly showed that most **respondents (close to 60%)** were prepared to engage with the board; **19% of respondents** instead considered they would rather withhold votes from the nomination/governance committee chair or other board member. Moreover, **close to 12% of respondents** would collaborate with other shareholder initiatives. This is a testament to the commitment by global respondents to proactively seek to promote good corporate governance and ensure that the boards make decisions for the long-term interests of the com-



pany. Moreover, many global respondents have substantially increased their ESG resources, with many teams now focused on engagement. While it is impossible to engage with every company, respondents have much more capacity than they did a decade ago and are therefore more willing to perform a proactive stewardship role, promoting responsible investments across their portfolio. Moreover, the UK market benefits from both the Investor Forum and the Investment Association which allow respondents to work together, when appropriate, and engage on difficult and contentious governance issues at companies. **Only 9% of respondents** would take no action if the company did not permit communication. This very low score demonstrates that very few respondents are prepared to sit back and not engage directly with companies.

Q.11

WHICH IS MORE IMPORTANT TO YOU WHEN EVALUATING DIRECTORS: INDEPENDENCE; SKILLS; QUALIFICATIONS AND EXPERIENCE?

SKILLS



QUALIFICATIONS + EXPERIENCE



INDEPENDENCE



■ MOST IMPORTANT ■ IMPORTANT ■ LEAST IMPORTANT

In the 2017 survey, close to two-thirds of respondents (representing \$19 trillion AUM) explained that more detail on each individual director's biography was an important source of information for them to make an informed voting decision. Investors increasingly demand that companies are run by directors who not only possess the right experience and skills, but can also demonstrate their independence, not just at the time of their appointment but throughout their tenure on the board. Greater emphasis has been placed on ensuring that boards are composed of directors that fulfil a much greater skills matrix as well as demonstrating independence criteria.

Building on the results of the 2016 and 2017 survey, investors were asked to identify, in order

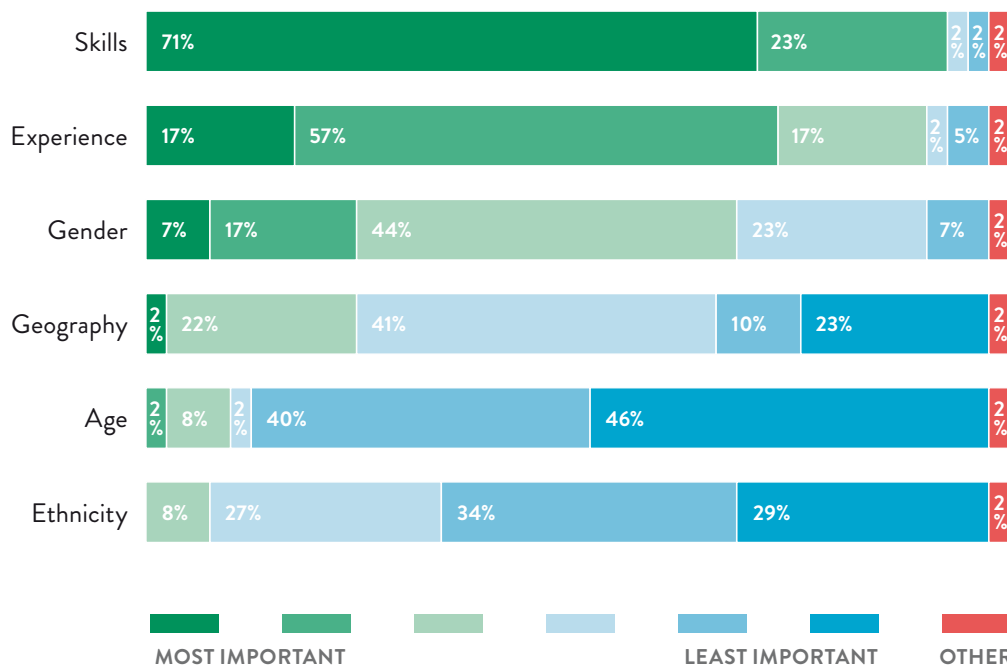
of rank, what factors (independence, skills and qualifications/experience) were most important.

Skills (49%) and **Qualifications + Experience** (29%) were viewed by respondents as the most important.

Comparatively, **27% felt independence** was the most important issue here. Although skills were clearly the most popular in this instance, the relative closeness between all three options demonstrates that independence, skills and qualifications/experience are all imperative. This is not only the view of respondents, as demonstrated by this survey, but also that of many corporate governance codes. The current UK Code (2016), for instance, assigns an equivalent weighting to the three principles.

Q.12

WHICH DIVERSITY CRITERIA ARE MOST IMPORTANT TO YOU?



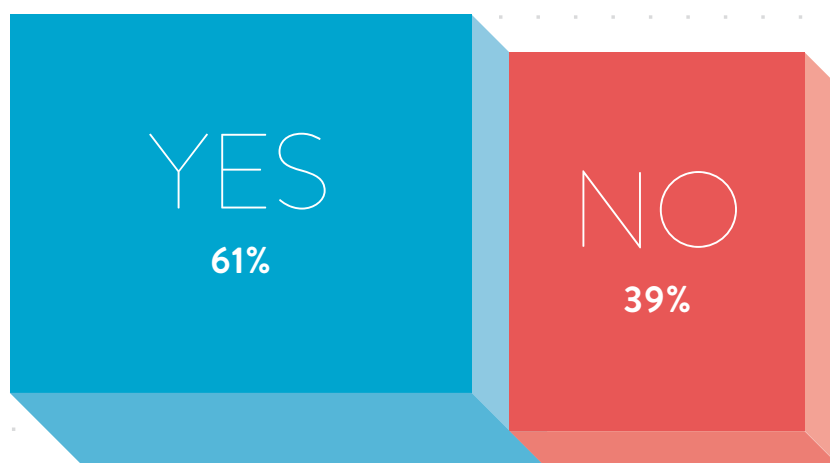
Boardroom diversity has been one of the most dominant corporate governance themes in the last decade. Initiatives to increase gender equality on the boards dominate the minds of regulators and governments. Corporate Governance Codes and regulations have sought to change the make-up of boards, moving from ones dominated by “pale, stale, males” to ones more representative of the society that they operate within. In recent years, we have seen the diversity debate shift from one solely focused on gender to one that looks to increase the make-up and composition of boards in other ways, including ethnicity and geography. The Parker Review (into ethnicity on UK boards) was published in October 2017, proposing that each FTSE 100 Board should have at least one director from an ethnic minority background by 2021 and for each FTSE 250 Board to do the same by 2024. The debate around boardroom diversity will continue to develop over the next few years and will no doubt continue to be a focus for investors, regulators and governments alike.

71% of respondents overwhelmingly felt that “Skills” was the most important diversity criteria. 17% of respondents ranked “Experience” as the next most important and 7% of respondents ranking “Gender” third. 46% of survey participants felt that “Age” was the least important diversity criteria while another 29% of respondents expressed the same view for “Ethnicity”. These results demonstrate that while gender, ethnicity and age diversity are of course important they should not in any way distract boards from recruiting directors who have the right skills and experience for the roles. The focus on gender diversity remains a perennial issue across markets and should remain the focus of respondents and the companies themselves.

In the 2017 survey, 30% of respondents identified “board diversity” as one of their top three ESG topics for that Annual Shareholder Meeting season. Looking to develop this theme further, respondents in this year’s survey were asked which diversity criteria were the most important to them.

Q.13

CEO VS MEDIAN EMPLOYEE PAY,
DO YOU FIND THIS RATIO USEFUL?



Governments, society and other key stakeholders continue to believe CEO pay is excessive and has simply gotten out of hand. In the UK and US, regulators and policy makers have tried unsuccessfully, it would seem, to address these concerns. Investors now seek a more effective approach to link executive pay to the interests of employees and other long-term stakeholders.

Companies are expected to disclose CEO pay ratios in the UK and US from January 1st, 2018 and it is likely to reignite a fierce debate around executive pay.

61% of respondents suggest the pay ratio will be a useful statistic. Many respondents stated that this is a good starting point but “it may not have immediate value however the statistic would be useful to track over time

and compare with peers.” While many US respondents suggested “the ratio between the CEO vs NEO is more important and valuable.” Some of the respondents also indicated “a better tool would be CEO pay vs the average in the executive committee.” Finally, many respondents suggest companies should continue to increase engagement with key stakeholders to discuss the logic behind the rationale and its appropriateness.

The pay ratio mechanism will certainly put the spotlight on company pay, however questions are being raised whether this alone will effect change. Respondents want the culture within capital markets to change; businesses, remuneration consultants, headhunters and other key players, such as shareholders, will all play important roles.

Q.14

HOW IMPORTANT IS THE INCLUSION OF SUSTAINABILITY PERFORMANCE METRICS AND TARGETS IN THE CEO SHORT-TERM AND/OR LONG-TERM INCENTIVE PLANS?

LEVEL OF IMPORTANCE IN THE ANNUAL INCENTIVE PLAN



LEVEL OF IMPORTANCE IN THE LONG-TERM INCENTIVE PLAN



Shareholders are getting more comfortable demanding more information around environmental and social considerations as evidence based research champions the value of sustainable practices.

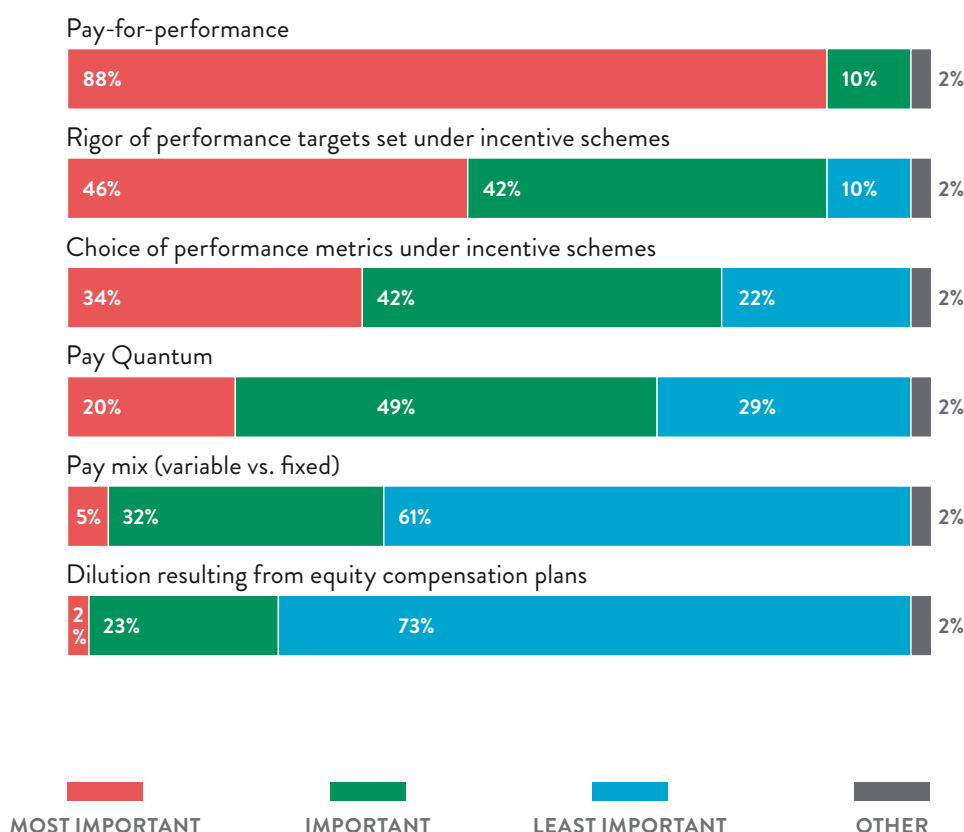
Only 29% of respondents say it is “very important” to include sustainability performance metrics and targets in the CEO’s short-term incentive plan, with 32% suggesting it was “somewhat important” and the remaining 29% stating it was “not important”.

However, in relation to the CEO’s long-term incentive plan **74% of respondents suggested it was “somewhat important”** to include sustainability performance metrics and targets.

Organizations are more frequently considering disclosing whether and how performance metrics, including links to remuneration policies, take into consideration climate-related risks and opportunities. Climate-related risks are receiving more attention but whether related performance metrics should be incorporated into remuneration policies needs further assessment. Respondents want to see enhanced disclosure and continue pushing for progress.

Q.15

RANK THE FOLLOWING EXECUTIVE REMUNERATION ISSUES



Executive pay continues to be the focus of significant shareholder scrutiny, especially given the squeeze on employees' wages, the excessive rise of executive pay and the continued misalignment of pay for performance. The link between executive pay and company performance is negligible according to many and this fuels arguments for reform of corporate compensation packages.

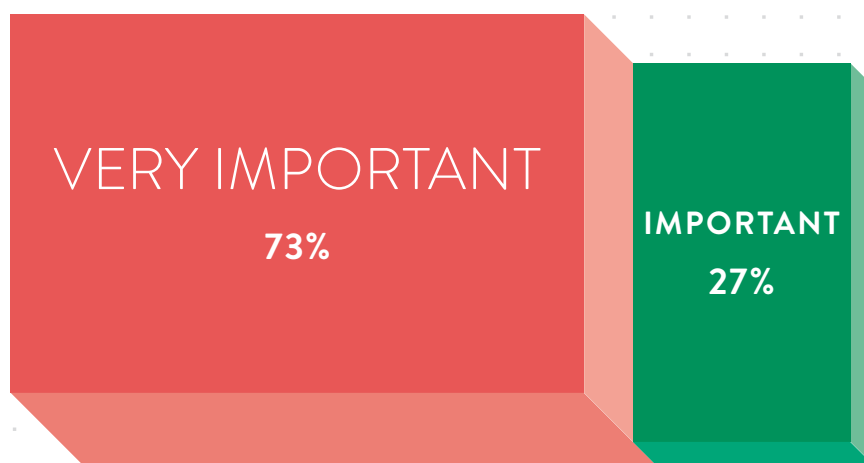
Overwhelmingly, **88% of Respondents stated**, "pay for performance" is the most important executive remuneration issue. This is a 13-percentage point increase on last year's results.

"Rigor of performance targets set under incentive schemes" was the second most important issue with **46% of respondents** suggesting it as a key issue. However, compared to last year, this was a 16 percent point drop.

Further reforms are in progress in key markets. The UK public register identifying companies with significant against votes was launched in December 2017 and the disclosure of CEO pay ratio is due in both the UK and US in 2018.

Q.16

HOW IMPORTANT IS IT FOR THE COMPENSATION/ REMUNERATION REPORT TO DISCLOSE IN DETAIL THE METRICS AND CRITERIA THAT ARE THE BASIS FOR PAY DECISIONS, INCLUDING CRITERIA RELATED TO BUSINESS STRATEGY AND PERFORMANCE?



Investors increasingly expect remuneration committees to create the right remuneration structures for their businesses and strategy, which clearly links pay to the long-term success of the business.

It is expected that remuneration committees make better long-term decisions. It is important that the Remuneration Committee Chair has a proper understanding of the company strategy and its performance drivers.

Investors recognize the sensitivity behind disclosure of targets but there is an appetite for better explanations why a target might be commercially sensitive and for companies to provide more color on the timeline for metrics to be disclosed.

Investors seek more granularity around how performance metrics are aligned with the implementation of the company's long-term strategy, and how they are linked to long-term value creation for shareholders.

73% of respondents agreed that it is "very important" to have better disclosure on metrics/criteria especially those related to business strategy and performance.

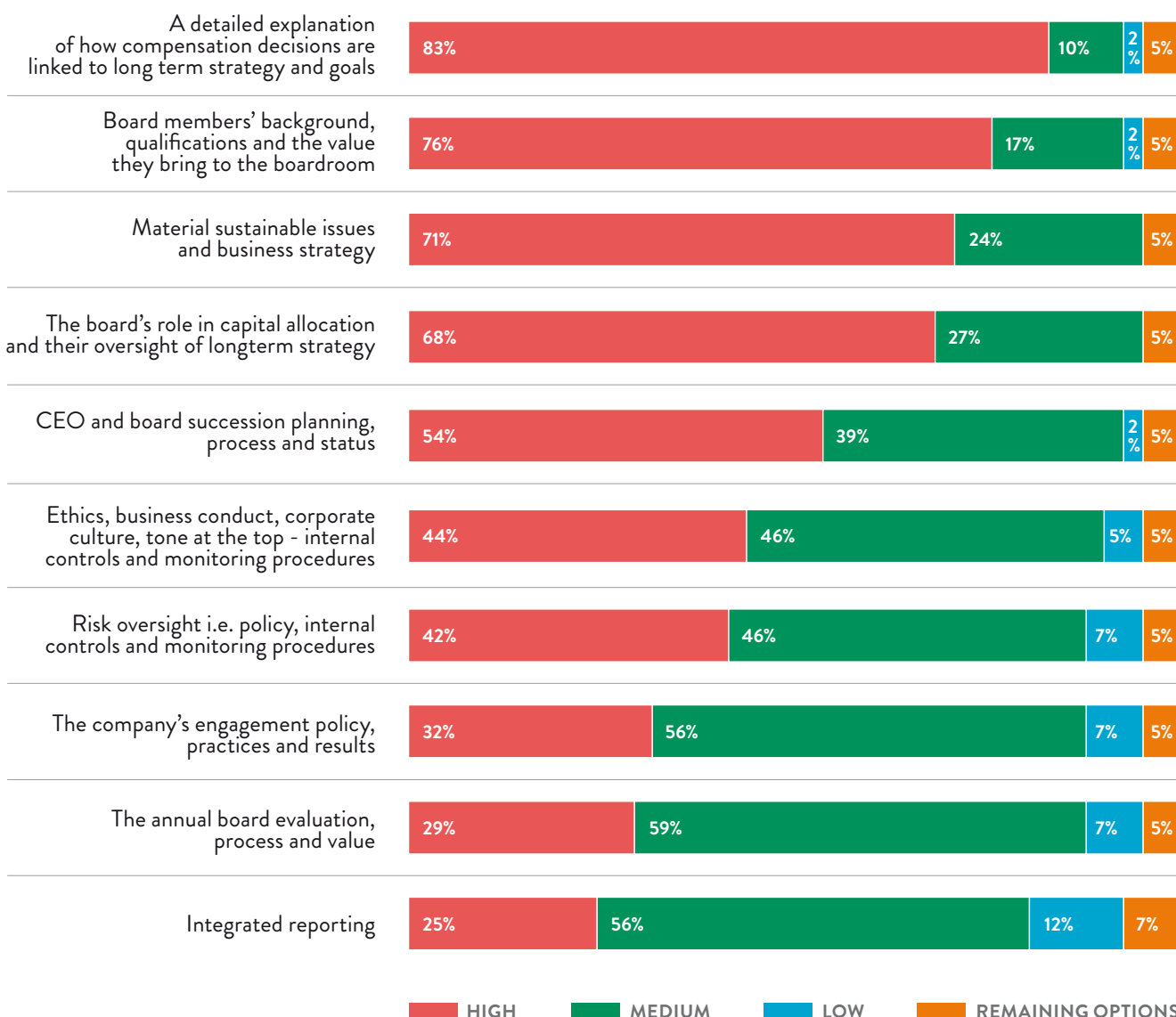
The remaining respondents (**27%**) **agreed** it is "important" to have better disclosure of metrics/criteria especially those related to business strategy and performance.

Perhaps even more importantly, zero respondents agreed it was "not important".

DISCLOSURE

Q.17

PLEASE INDICATE THE TOPICS
ON WHICH YOU WOULD LIKE TO SEE
MORE DETAILED DISCLOSURE BY PORTFOLIO
COMPANIES AND RATE THEIR IMPORTANCE



83% of respondents feel there needs to be better disclosure on 'how compensation decisions are linked to long term strategy and goals'.

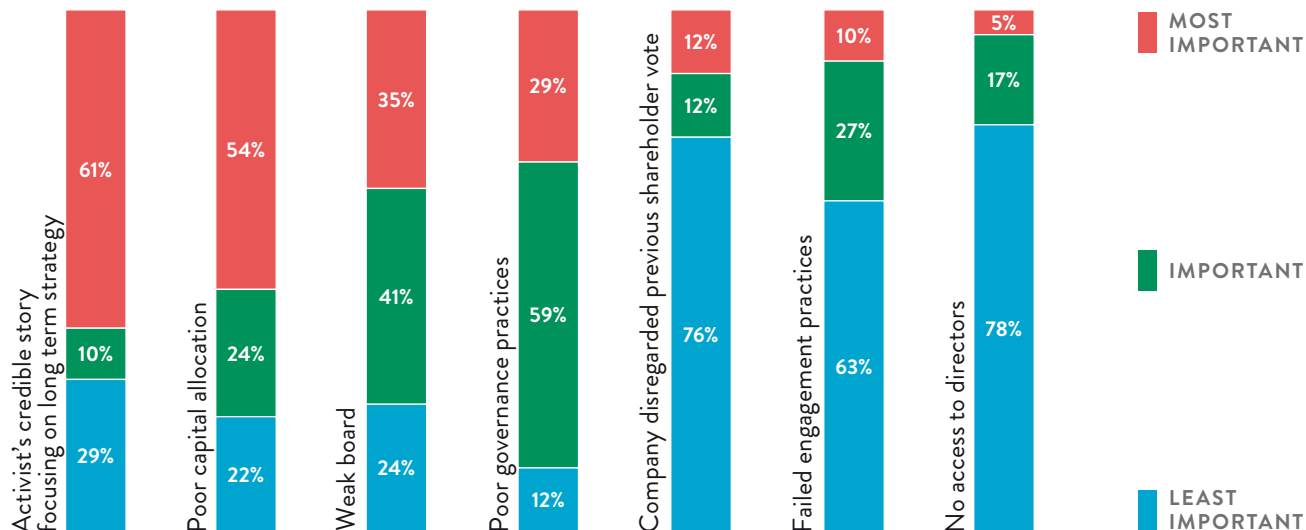
76% suggested more granularity around the 'Board members' background, qualifications and the value they bring to the boardroom' would be helpful.

The third most important aspect is more disclosure around 'Material sustainable issues and business strategy', with 71% of respondents highlighting this point. We are seeing a strong recurrence throughout the survey of investor focus related to long-term business strategy.

ACTIVISM

Q.18

IN ADDITION TO FINANCIAL PERFORMANCE,
WHAT FACTORS LEAD YOU TO SUPPORT
ACTIVIST CLAIMS/RESOLUTIONS?



The debate around the long-term effects of activists investing in companies are not yet well understood, and it is still highly contentious. In some corners you will find supporters championing the role activists play in holding corporate leaders accountable for poor decision making, however some opponents believe activist strategies drive executives away from long-term decision making. The consensus is that many find that activist investor activity must be examined on a case by case basis.

This year 61% of respondents said the most important factor that would lead to respondents supporting activist campaigns is an **“Activist’s credible story focusing on long term strategy”**. Understanding the strategies from an activist’s view point can be extremely insightful, specifically those focused on generating long-term value with focus on governance issues and enterprise risk management.

Last year in a separate question we asked

respondents how they judge the effectiveness of a company’s capital allocation, this year it was included in our activism related question.

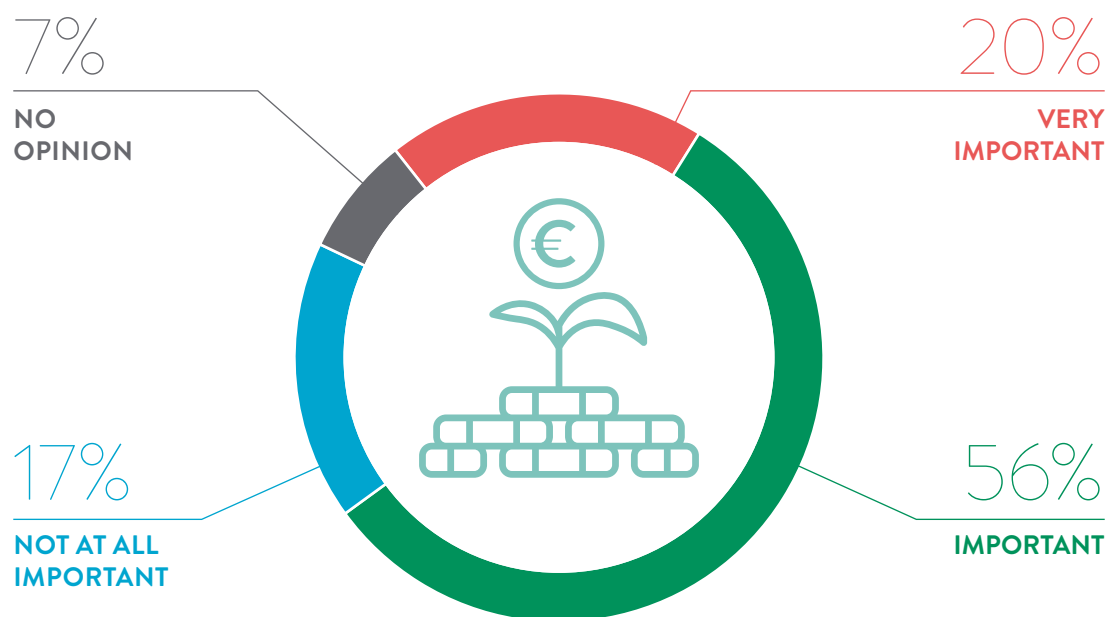
Interestingly, **“Poor capital allocation”** was the second most important factor with **54% of respondents** citing this as a key factor that might influence shareholders to support an activist campaign.

In our 2017 survey poor governance practices was the most important factor leading investors to support activist claims. It is worth noting this year that 88% of respondents thought it was either “important” or “most important” that “poor governance practices” could lead to investors supporting a credible activist story.

Investors want companies to monitor the internal and external risks to help identify signals or conflicts. This process will contribute towards taking decisive and effective action at the critical moments.

Q.19

**DISTRESSED DEBT RESTRUCTURING PROPOSALS:
IN ADDITION TO FINANCIAL CONSIDERATIONS,
HOW IMPORTANT ARE ESG FACTORS/CORPORATE
GOVERNANCE REFORMS WHEN TAKING
YOUR VOTING DECISION?**



Companies that have issued public debt and and comply with their interest and principal repayment commitments may decide to have a distant relationship with their bondholders. However, once a company starts to face financial difficulties and requires the proactive participation of its fixed income investors, this “distant” relationship needs to change quickly. The company is required to communicate and negotiate with bondholders that could be spread worldwide.

When voting in favor or against a proposal presented by the company during a distressed

debt restructuring situation, **76% studied the ESG factors and corporate governance reforms involved in such proposals.**

These results continue the pattern we saw in last year’s institutional investor survey, in which fixed income investors confirmed they did integrate ESG factors into their analysis when making decisions. The traditional ESG view seeing equity holders as the main stakeholders interested in a company’s performance is old-fashioned, and companies should bear this in mind – including during distressed debt restructuring situations.

Q.20

GREEN BONDS: IF YOU INVEST IN GREEN BONDS, DOES YOUR STEWARDSHIP TEAM ENGAGE WITH THE RELEVANT COMPANIES ON ESG ISSUES TO MONITOR THE RELATED RISKS AND OPPORTUNITIES?



Green bonds are a relatively new financial instrument and are issued to fund projects that have a positive effect on the environment, such as: renewable energies, energy efficiency, sustainable waste and water management, sustainable land use or clean transport.

We have seen substantial growth in green bond issuances with benefits to both investors and issuer companies. Annual green bond issuance rose from US\$ 3 billion in 2011 to US\$ 95 billion in 2016. The Organization for Economic Co-operation and Development (OECD) estimates that by 2035, the green bond market could increase to US\$ 4.7-5.6 trillion in outstanding bonds. This increase in green bonds' investment

is clearly reflected in the survey results: **almost 80% of respondents surveyed confirmed they invest in green bonds.**

It is important for green bond issuer companies, and for organizations that are considering issuing this instrument for the first time, to be aware of the level of due diligence investors perform when investing in green bonds. Second opinion agencies release independent reports on the environmental quality check of the issuer's framework for selecting projects and investments for green bonds funding, and credit rating agencies have also been adapting their tools to assess green bonds in the last two years.

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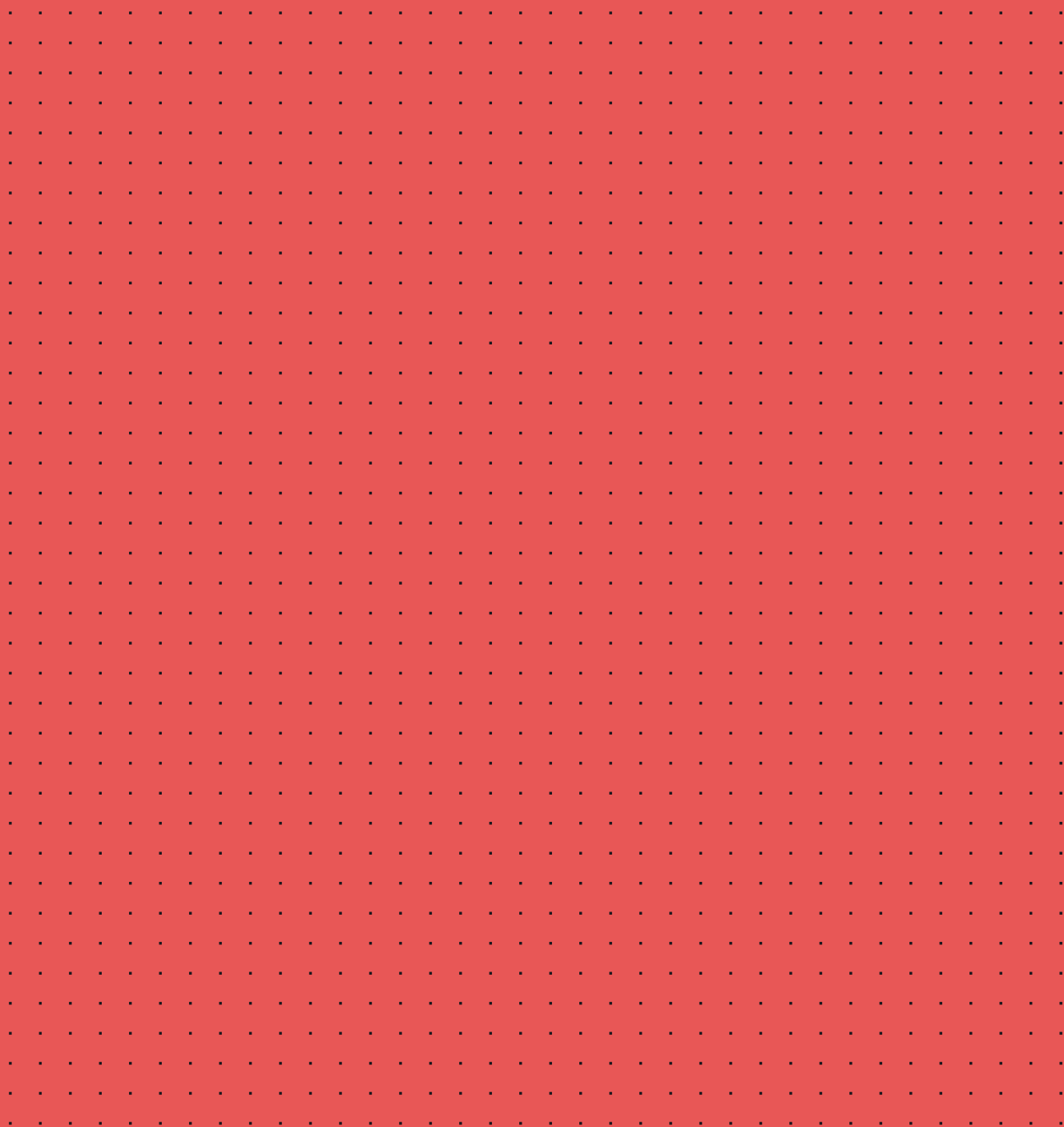
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GOBIERNO

La efectividad del consejo, objetivo de los inversores

ENCUESTA/ Las habilidades de los consejeros y las políticas de remuneración de los primeros ejecutivos son otros puntos clave que preocupan a gestores y fondos.

A. Medina. Madrid

Los inversores valoran que el consejo de administración esté involucrado en la evaluación y seguimiento de la estrategia de negocio de la compañía y las habilidades y experiencia de los consejeros, al tiempo que exigen una mayor vigilancia de las remuneraciones de los consejeros ejecutivos. La firma Morrow Sodali ha llevado a cabo, por tercer año consecutivo, una encuesta anual, en la que han participado medio centenar de gestores y fondos que gestionan 31 billones de dólares (25 billones de euros) en activos.

La efectividad del consejo y los sueldos de los ejecutivos siguen siendo temas clave para los inversores a medida que avanza 2018 y hay una mayor demanda para que las empresas comuniquen aspectos relevantes de su estrategia de negocio y, frente años anteriores, más probabilidad de que estos inversores respalden las estrategias del activismo accionarial, siempre que sean creíbles.

La encuesta muestra que, de cara a esta temporada de votaciones en las juntas de accionistas, el 68% de los inversores sugiere que la calidad de la divulgación de la estrategia de negocio de una empresa es el factor más importante en su decisión de voto, lo que indica que quieren saber que el consejo está muy involucrado en la evaluación, el desafío y el seguimiento de la estrategia. A continuación, se sitúa la composición del consejo (66%), seguida de las políticas de gobierno, sociales y ambientales (63%) y los resultados financieros (63%).

Habilidades

Los inversores hacen hincapié en las habilidades de los consejeros, considerándolas el factor más importante a la hora de participar en una empresa (59%), por delante de la divulgación de los riesgos del cambio climático (54%). Sin embargo, este último elemento ha aumentado diez puntos porcentuales respecto a la encuesta anterior. El cambio climático, indica el estudio, se ha convertido en un riesgo principal de inversión a largo pla-



En la encuesta participaron inversores que gestionan 31 billones de dólares en activos.

La opinión de los grandes inversores

● Hay una mayor demanda para que las empresas comuniquen aspectos relevantes de su estrategia de negocio.

● Habilidades (71%) y experiencia (17%) son los criterios que consideran más importantes para evaluar a los consejeros.

● Seis de cada diez ve apropiado vincular la retribución del consejero delegado con el sueldo medio de los trabajadores.

zo y los encuestados piden una mejor divulgación en torno a las métricas de informes y al impacto financiero vinculado con el riesgo climático. Las habilidades (71%) y la experiencia (17%) son también los criterios considerados más importantes por los inversores cuando se trata de evaluar a los consejeros, por

delante del género (7%) y de la geografía (2%).

La remuneración de los directivos es otra de las principales áreas de preocupación y donde, en algunos países, se ha abierto un debate en el que Gobiernos, sociedad y grupos de interés consideran que la retribución de los primeros ejecutivos es excesiva. Según

la encuesta, se prevé que los inversores institucionales aumenten su exigencia cuando analicen las políticas de remuneración, buscando más alineación entre sueldo y desempeño y ejerciendo mayor presión sobre aquellas compañías con políticas de remuneración excesivas. En este sentido, el 61% considera apropiado vincular la retribución del consejero delegado con el sueldo medio de los trabajadores de la empresa.

Riesgos

Al evaluar los planes de remuneración, los inversores están interesados en la información sobre las métricas de sostenibilidad, en particular las relacionadas con la gestión de riesgos y la estrategia de negocio de la compañía.

Por ejemplo, es probable que la incorporación del riesgo climático en los planes de remuneración sea un tema clave en las industrias más expuestas.

SOCIEDAD Y EMPRESA

Gesticomsa, la puerta al empleo en el sector servicios

Expansión. Madrid

“El principal objetivo de la empresa es la integración de personas con discapacidad en el mundo laboral, para lo cual es necesario tener apoyo institucional, así como de entidades privadas, para la consecución de sus objetivos”, afirma Iván Almodóvar, gerente de Gesticomsa. La empresa de servicios, que está a la espera de conseguir la calificación de Centro Especial de Empleo, contaba a finales del año pasado con una plantilla de 22 trabajadores, de los que 18, el equivalente al 81,8% del total, corresponden al colectivo de personas con discapacidad.

Para su integración, Gesticomsa colabora con el Programa Incorpora a través de la Confederación Española de Personas con Discapacidad Física y Orgánica, que facilita los currículos de posibles candidatos.

Aumento de plantilla

Durante el pasado ejercicio, diez trabajadores con discapacidad se unieron a la compañía a través del programa de intermediación laboral de la Obra Social de La Caixa. “Sustituyen a trabajadores que han causado baja voluntaria o despido y otros, lo que incrementa el número medio de asalariados. Para 2018, aún no tenemos previsiones, pero cabe la posibilidad de aumentar la plantilla entre cinco y diez personas más”, indica Almodóvar.

Con una edad media de 43 años, desempeñan su labor como operarios de limpieza y mantenimiento, personal de apoyo y como supervisores, organizando a los trabajadores, facilitando los materiales y revisando los trabajos realizados. Como el resto de compañeros, reciben formación en prevención de riesgos laborales y específica para el puesto asignado. Todos los empleados tienen contrato fijo, “primando el contrato a jornada completa, buscando con ello la estabilidad personal y económica del trabajador”, destaca el gerente de Gesticomsa.

Colaboración

Almodóvar valora de forma muy positiva la participación de la compañía en el Programa Incorpora. “El crecimiento depende, en gran parte, de la estrecha colaboración con el Programa, ya que el 90% del capital humano con el que actualmente contamos ha sido contactado a través de ellos”, dice el gerente de Gesticomsa, que añade que “es necesario colaborar con estos programas por iniciativa social, es decir, concienciar a la población de que una persona con discapacidad es igualmente válida para desarrollar cualquier puesto laboral que otra, para lo cual es necesario darle la oportunidad, así como una correcta y continua supervisión y asesoramiento individualizado”.



El 81,8% de plantilla son personas con discapacidad.

El Programa Incorpora de la Obra Social La Caixa generó 23.000 empleos en más de 8.000 empresas de toda España

THE COST OF *climate change*



As featured in
The CEO Magazine
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CHANGING WEATHER
PATTERNS MIGHT
NOT INSTANTLY RAISE
CONCERNS FOR
YOUR BUSINESS,
BUT THE COST COULD
BE ASTRONOMICAL.

WORDS • ALEXANDRA CAIN

No-one can deny that the seasons are changing, but the impact climate change has on business also needs to be acknowledged and factored into the C-suite's decision-making. The Taskforce on Climate-related Financial Disclosures has galvanised debate on how businesses should measure and disclose their risks.

The TCFD is now widely accepted as a leading framework CEOs can use to report the potential positive and negative financial impacts their activities may cause to the environment.

Its emphasis on using scenarios as a way of discussing potential risks is a more sophisticated way of talking about climate change than using quantitative methods only, although these are still important.

While the taskforce is a step in the right direction, according to ratings agency MSCI ESG Research, only 60 per cent of

companies report Scope 2 greenhouse gas emissions, which are indirect emissions from the generation of the electricity purchased and consumed by an organisation. So there's still a long way to go.

Executive Director of MSCI ESG Research Michael Salvatico says for those businesses that are yet to disclose climate change risks, the starting point is carbon emissions.

"Companies are paying more attention to their carbon emissions, from both a risk perspective and an opportunity perspective. They are looking for opportunities to reduce emissions or find alternatives such as renewable sources of energy or locating operations in energy-efficient rated buildings," Salvatico says.

"But we're still behind where we need to be to have the best available information as an investor, to understand

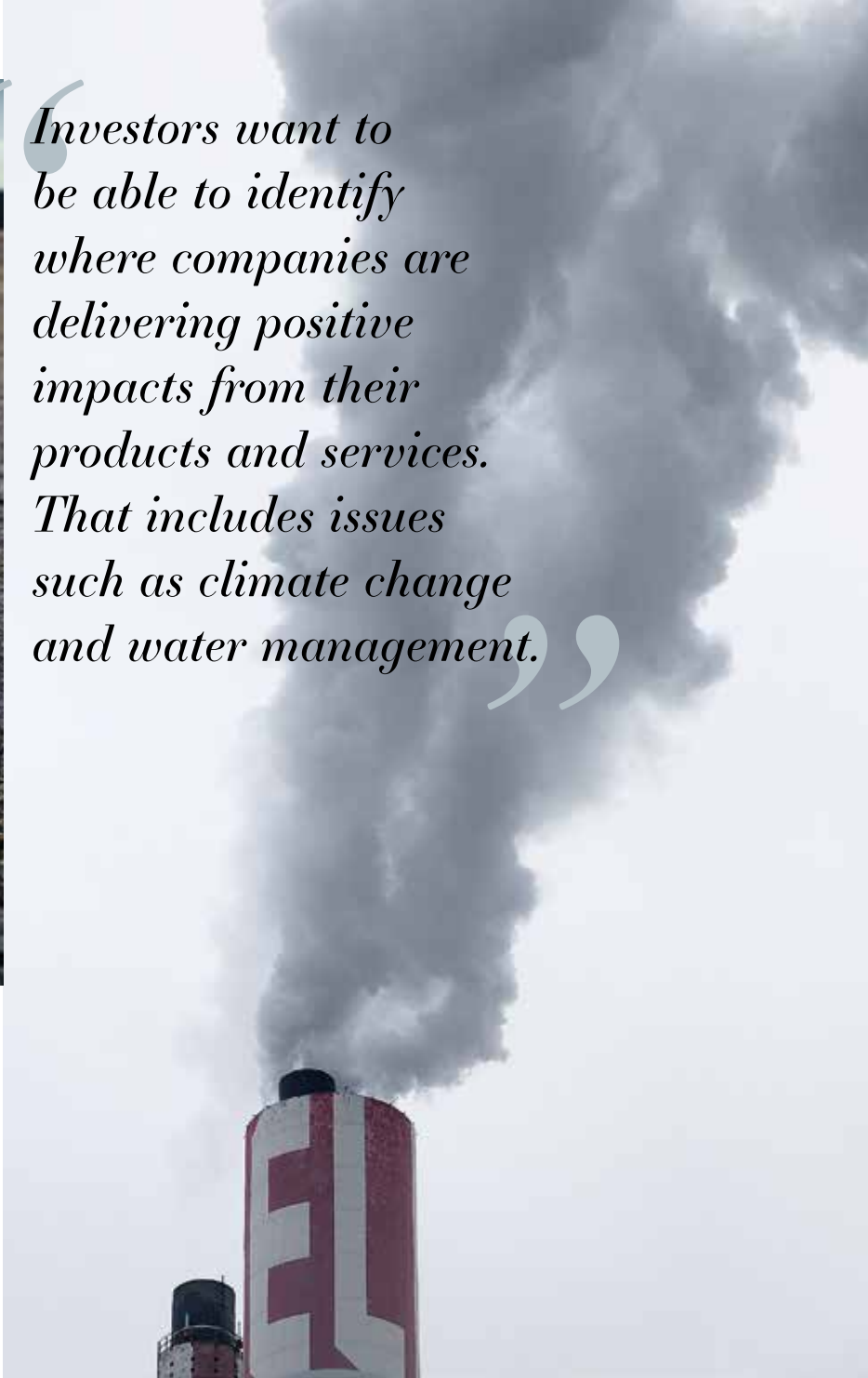
individual companies' exposures or strategies. That means we have to produce estimates for these companies. We have very sophisticated estimation models, but only if a company releases its reported data accurately and across all of its operations," he adds.

MANAGING RISK EXPOSURE

While emissions are a starting point, investors are no longer using carbon emissions alone to analyse companies' climate risks. "We want to understand how businesses manage their climate risk exposures across their emissions as well as their exposure to fossil fuels, whether that's through ownership of reserves or through other factors like transport, pipelines or distribution. We want to know the exposure to which assets are potentially stranded [rendered »



Investors want to be able to identify where companies are delivering positive impacts from their products and services. That includes issues such as climate change and water management.



uneconomic by regulation or technological change],” Salvatico explains.

The energy efficiency of their buildings and whether the company is exposed to sea level rises or storms are other risks investors want to know about.

California-based Courteney Keatinge, Director, environmental, social and governance research with proxy advisory service Glass Lewis, says CEO support is essential if a business is serious about measuring its climate change risks.

“This is all about company culture and tone at the top. If the CEO takes this seriously, management will too,” she says.

Keatinge says it’s important for CEOs to surround themselves with people who can educate them on climate change measurement and risk analysis.

“A talented chief scientist will be able to explain material risks in plain language. It’s also important for CEOs to stay on top of regulatory trends and reputational issues around climate change,” she adds.

One reason businesses have been slow to embrace climate change risk measurement and disclosure is because it’s so complex and the risks are different for every business. This is why scenario analysis is now an important part of breaking down the information.

“Scenario analysis enables the business to consider multiple views on its climate change risks and allows a diverse range

of opinions from across the business as well as external forces coming into the business to be heard and stress tested,” says Peter Holt, General Manager of strategy and policy for carbon management consultancy Energetics.

SETTING THE SCENE

Scenario analysis allows the business to consider and demonstrate the potential range of situations that could affect the business, covering technology, regulation and physical impacts of global warming. Ian Woods, AMP Capital’s Head of ESG and investment research, says this helps businesses deal with the uncertainties replete in climate change disclosures. For instance, no business can have a clear line of sight into how



different countries might price and tax carbon emissions in the future.

“That’s the point of scenario analysis. If you demonstrate you’ve covered a spectrum of possible outcomes, it doesn’t really matter if you haven’t covered them all because you can be confident your business is going to be resilient through any of the outcomes you have considered,” Woods explains.

Holt says a multidisciplinary approach is required. “What we’re seeing is collaboration between the risk management, strategy and sustainability functions, along with finance. But one blind spot is the potential impact of climate change on markets. Multinationals need more time to synthesise the information, and that’s what’s happening at the moment.”

It’s essential for CEOs to be closely involved in this process. Michael Chandler, Governance Director of corporate governance consultancy Morrow Sodali, says the CEO needs to be involved in the stakeholder engagement process the company conducts when assessing the materiality of environmental risks and opportunities.

“Where most CEOs go wrong is by looking at how other companies report these risks, which is not a very good strategy. In the first instance, they need to do a thorough assessment of the company’s individual risks, which requires considerable input from shareholders and key stakeholders such as customers, suppliers and environmental groups,” he says.

BOTTOM LINE EXPOSURE

Another area of concern, says Woods, is equity disclosures. “What’s important is to understand equity exposures, not just operational exposures.”

For instance, a business may disclose carbon emissions on a power plant it owns and runs, but it may fail to disclose emissions for an investment it owns in a business that operates a fleet of diesel trucks.

“As a CEO, you really want to know what your bottom line exposure to emissions is from an equity perspective,” he adds.

Ultimately, managing a business’s climate change risk is about good governance.

Says Salvatico: “We want to know what risk management means through the disclosure of metrics around exposures; that companies have targets on those metrics; and that they’re producing performance gains to those targets.

“Investors have moved on. They’re now focused on the resilience of companies in climate risk transition. Investors want to be able to identify where companies are delivering positive impacts from their products and services. That includes issues such as climate change and water management.”

The businesses that do this well will achieve a lower cost of capital and attract funds more easily. Those that don’t will ultimately find it harder to compete and investors will discount their stock. It’s a business case no CEO can ignore. ■

Fondi sempre più attivi contro i superstipendi

ANDREA GRECO, MILANO

Il calendario manda in archivio – oggi – la primavera, non calda per il meteo ma per l'intreccio tra elezioni politiche e fiducia degli investitori sull'Italia quotata. L'analisi dei dati della stagione assembleare appena chiusa a Piazza Affari mostra qualche sorpresa e la crescente pressione dei fondi istituzionali su chi guida e possiede le quotate. Costante è la presenza dei gestori nel capitale, malgrado i rivolgimenti politici; maggiore è il dissenso sulle politiche di remunerazione e sui piani di incentivazione, osteggiati in media da un azionista di minoranza su tre. Sono percentuali che manager e padroni dovrebbero studiarle perché si tratta dei tipici campanelli d'allarme per la dialettica sociale, spesso forieri di incursioni aggressive come nel caso, fresco ma ormai di scuola, di Telecom Italia. Intanto si sfata il mito delle «elezioni che tengono lontano chi investe». Alle assemblee di Piazza Affari quest'anno ha partecipato il 31,40% medio degli investitori istituzionali, più del 29,5% dell'anno scorso. È una dinamica simile a quella vista durante le elezioni politiche 2013: allora i fondi in assemblea furono il 20,4% del totale, contro un 19,8% dell'anno prima. Per giunta in entrambi i casi dall'urna non sono uscite maggioranze chiare, anzi fumi di incertezza. Tra un'elezione senza vincitori e l'altra i fondi hanno continuato a crescere nelle quotate nostrane, e i proprietari a calare: nel 2018 le minoranze hanno pesato per un 31,4% medio (29,4% l'anno prima), che si confronta con il 35,6% medio dei soci di riferimento (era il 36,2%). Tanta possanza da parte del mercato si è dispiegata soprattutto nel dissenso alle politiche di remunerazione dei vertici, che per la prima volta superano il terzo degli investitori, mentre l'altro 65% delle minoranze ha votato a favore. Si tratta di una media del pollo però: in almeno nove blue chip oltre metà ha votato contro, con Ferragamo, Recordati, Pirelli, Poste, Unipol, UnipolSai maglie nere con oltre il 70% di contrari o astenuti. D'altro canto, società come Fineco, Prysmian, Unicredit, Intesa Sanpaolo hanno avuto il consenso dei nove decimi degli istituzionali. In ogni caso – a parte per le banche – si tratta di voto consultivo: buono per fare pressione su manager e padroni. A guidare la tendenza sono stati i grandi consulenti distributori di «consigli per il voto» (proxy): l'anno scorso diffusero un 51,8% di raccomandazioni negative sulle politiche di remunerazione, quest'anno si è saliti al 54,3%. Altro tasto dolente sono i piani di incentivazione aziendali, su cui i consulenti hanno suggerito ai gestori di opporsi in oltre metà dei casi. E qui il voto è vincolante, anche perché per far approvare le azioni al servizio dei piani servono due terzi dei partecipanti all'assemblea. Se ne sono accorti i dirigenti di Moncler, dov'è saltata la delibera

**I soci istituzionali
che bocciano compensi
e bonus nelle assemblee
di Piazza Affari
crescono al 34%**

per l'aumento di capitale a supporto del piano azionario al 2020. Le criticità più frequenti sugli incentivi, dati alla mano, sono: scarsa trasparenza sugli obiettivi, tempistiche, facoltà di bonus discrezionali, buonuscita superiori a due annualità. «Nel 2018 gli investitori hanno intensificato ulteriormente il livello di attenzione determinando un più elevato

livello di aspettative, specie sui compensi di vertice: e spesso un dissenso reiterato rappresenta un invito per altri tipi di investitori più aggressivi», nota Fabio Bianconi, consulente di Morrow Sodali. Entro giugno 2019 il governo Conte sarà chiamato a recepire la direttiva Ue 2017 sui diritti degli azionisti, che potrebbe trasformare in vincolante il voto d'assemblea sulle remunerazioni (in Italia lo è già solo per le banche) e introdurre un voto non vincolante sulla consuntivazione dei piani, quella parte che dettaglia i legami tra compensi e risultati. Sarà un primo banco di prova della sensibilità rispetto a mercati, investitori e sostenibilità delle quotate

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FOTO GRAMMA

L'immagine

Genish: nel cda Tim qualcuno diffonde voci false

«Alcuni membri del cda sono molto indaffarati a diffondere congetture che minano la capacità di Tim di raggiungere i suoi obiettivi». Queste le parole dell'ad Amos Genish che ieri ha ribadito di essere impegnato nel rilancio del gruppo fino al 2020. Anche Vivendi, in una nota, aveva già accusato il nuovo cda, minacciando di voler riequilibrare la governance a suo favore, e qualcuno scommette che l'occasione potrebbe presentarsi in autunno con l'assemblea per nominare i revisori

Y&R

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Se il cda la fa da padrone

GOVERNANCE Unicredit è stata l'ultima a farlo: la lista dei consiglieri proposta dal board è ormai un trend. Dà trasparenza, ma si rischia l'autoreferenzialità. Modello percorribile? Sì, almeno per le banche

di Manuel Follis

Che quello delle liste presentate dal consiglio d'amministrazione stia diventando un trend lo ha confermato l'assemblea del 12 aprile di Unicredit, quando la riunione degli azionisti della banca ha visto la presenza di due rappresentanze: una espressione del board e una di Assogestioni. L'istituto con sede in Piazza Gae Aulenti si è così aggiunto a un elenco per ora non folto, che comprendeva già Bper e Prysmian, di aziende che hanno votato candidati espressi dal board, e che un gruppo come Unicredit abbia fatto questa scelta è sintomatico.

«Si tratta sicuramente di una tendenza», spiega Fabio Bianconi, director di Morrow-Sodali, società internazionale specializzata in attività di corporate advisory, attività assembleare e proxy, «e in generale si tratta di una prassi che ben si adatta alle società che hanno la vocazione da public company o comunque che non hanno un forte azionista di riferimento». Va detto, aggiunge Bianconi, che «se non prevista, deve essere approvata una specifica modifica statutaria per introdurre la possibilità per il board di presentare una sua lista, modifiche che non sono mai banali». I dati di Morrow Sodali sulle 34 società del Ftse Mib (escludendo però le società di diritto estero come Ferrari, Exor, Fca, Cnh, StMicroelectronics e Tenaris) indicano che già 12 aziende prevedono nelle disposizioni statutarie la possibilità che il cda uscente presenti una lista. Tra queste ci sono cin-

que banche (Bper, Banco Bpm, Banca Generali, Mediobanca e Unicredit) e tre società partecipate dall'azionista pubblico (Eni, Enel e Leonardo).

Di recente, però, soltanto tre aziende hanno presentato una lista del cda, ovvero le già citate Prysmian (2018), Unicredit (2018) e Bper (2018). In due casi su tre (Prysmian e Unicredit) Iss ha raccomandato di sostenere questa lista, sempre in due casi su tre (Unicredit e Bper) Glass Lewis ha raccomandato il voto a favore, mentre Frontis ha suggerito il voto favorevole alla lista del cda per tutte e tre le società. Come mai queste raccomandazioni favorevoli da parte dei principali proxy advisor? In parte perché la procedura della candidatura di una lista proposta dal cda pone molta enfasi al processo di costituzione del gruppo da nominare, con grande attenzione ai candidati e al processo di selezione. Una trafilata che ai fondi e in generale ai puristi del mercato appare finalmente trasparente e molto lontana da logiche clientelari o di appartenenza. Nei casi di liste del board la disclosure sulle

procedure adottate è molto alta e infatti sia Unicredit sia Prysmian hanno anche assunto società di head hunting come consulenti esterni. «Di sicuro aumenta la trasparenza», commenta Bianconi. «Per esempio è interessante notare come viene utilizzato il parere quali-quantitativo redatto dal cda uscente, che permette di interrogarsi sulle skill in base alle quali selezionare i candidati del futuro». Il trend quindi potrebbe continuare, ma su quali società? Fermo restando l'identikit for-

nito dall'esperto di Sodali il pensiero corre ai gruppi bancari, che sono quelli potenzialmente meglio strutturati (visto l'azionariato spesso diffuso) per poter optare per un'indicazione del cda, ma anche società molto simili a public company come Ovs o Azimut, oppure la stessa Telecom Italia, che di recente è stata al centro di uno scontro tra grandi azionisti, ma che manca di un azionista con più del 30%.

Attenzione però: il fenomeno delle liste proposte dal board ha anche i suoi detrattori. C'è chi è preoccupato che si possa arrivare all'eccesso (vicino al modello Usa) tale per cui un manager particolarmente carismatico o di successo può sostanzialmente diventare un co-padrone dell'azienda, riscuotendo ampi consensi in assemblea per la lista proposta dal cda. Il pericolo, quindi, starebbe nella potenziale autoreferenzialità di una lista del board. Nel complesso, questa dinamica si abbina a una sempre crescente partecipazione da parte delle minoranze in assemblea. Sono in aumento per esempio i voti negativi sulle politiche di remunerazione, così come sono in aumento le assemblee nelle quali si sono presentate più di due liste. Lo standard al momento prevede una candidatura del socio di riferimento e un elenco di nomi forniti da Assogestioni, ma nel caso di Prysmian, Salini-Impregilo o Tod's le liste erano tre e in quello di Igd addirittura quattro. Anzi, nei casi di Tod's e Igd i rappresentanti di Assogestioni sono stati superati da quelli di altri rappresentanti (rispettivamente Global Luxury Investments e Gwm) a testimonianza del crescen-

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te attivismo da parte di altri soggetti, attivismo confermato anche dalla lista presentata da Inarcassa in Salini-Impregilo. (riproduzione riservata)

DAI CANDIDATI DEL CDA ALLE ASSEMBLEE CON TANTE LISTE

2 LISTE PRESENTATE

Emissione	Quorum	Azionista di Riferimento	% Lista 1	% Lista 2°
♦ Bper	45,22%	n.d.	33,18%	11,99%
♦ UniCredit	65,00%	n.d.	58,23%	4,60%

* Lista n1 presentata in Prysmian da cda uscente, in Salini da Salini Costruttori, in Tod's da Divi Finanz.

** Lista presentata in Prysmian da Tamburi, in Salini da Inarcassa, in Tod's da Global Luxury Inv.).

° Lista Assogestioni

3 LISTE PRESENTATE

Emissione	Quorum	Azionista di Riferimento	% Lista 1*	% Lista 2°	Altra**
♦ Prysmian	62,01%	n.d.	38,47%	17,77%	4,41%
♦ Salini Impregilo	75,39%	67,06%	69,60%	4,45%	1,29%
♦ Tod's	76,44%	59,90%	60,24%	5,89%	9,96%

4 Liste Presentate

Emissione	Quorum	Azionista di Riferimento	% Lista 1	% Lista 2	% Lista 3	% Lista 4°
♦ Igd	74,35%	40,92%	44,36%	12,03%	12,78%	5,00%



How Fitbits Are Helping Police Solve Violent Crimes

By CHRISTINE HAUSER

The last time Anthony Aiello spoke to his stepdaughter, he took homemade pizza and biscotti to her house in San Jose, Calif., for a brief visit. Mr. Aiello, 90, told investigators that she then walked him to the door and handed him two roses in gratitude.

But an unnoticed observer in the house later revealed that their encounter ended in murder, a police report said.

Five days afterward, Mr. Aiello's stepdaughter, Karen Navarra, 67, was discovered by a co-worker in her house with fatal lacerations on her head and neck. She had been wearing a Fitbit fitness tracker, which investigators said showed that her heart rate had spiked significantly around 3:20 p.m. on Sept. 8, when Mr. Aiello was there.

Then it recorded her heart rate slowing rapidly, and stopping at 3:28 p.m., about five minutes before Mr. Aiello left the house, the report said.

Mr. Aiello was arrested last week on murder charges and booked into the Santa Clara County Jail, the San Jose Police Department said. On Thursday, he will appear in court in the Hall of Justice in San Jose, according to the Santa Clara County district attorney's office.

While originally intended to motivate people to take control of their fitness and health, fitness devices have found their way into the technology toolbox that law enforcement experts use to solve crimes, alongside videos, GPS devices and cellphones.

Fastened to a person's body, the devices have a unique front-row seat to their hosts' lives, inadvertently documenting both mundane and perilous encounters as they record heartbeats, sleeping patterns and physical exertion.

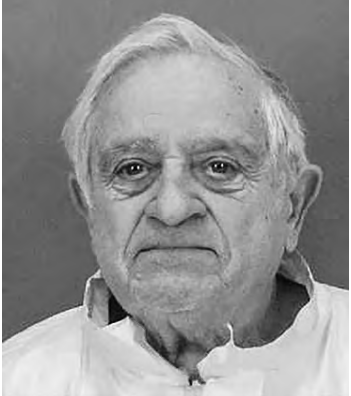
Fitbit location data factored into a sexual assault case in Pennsylvania in 2015 and a personal injury case in Canada in 2014. A Garmin Vivosmart GPS recorded a woman's struggle with an attacker in Seattle in 2017. The same year, investigators used data from the Fitbit of a Connecticut woman to charge her husband with murder.

This year, investigators in Iowa, with the help of F.B.I. experts, sifted through data from the Fitbit of Mollie Tibbetts, a 20-year-old student who was missing for about a month before her body was discovered in August. Surveillance video led them to a 24-year-old man who was charged with murder.

"From doorbell security footage to Fitbit, technology engineered to solve some of life's issues are solving serious crimes," said Jeff Rosen, the district attorney for Santa Clara County. "We are continually inspired by law enforcement investigators who are thinking outside of the box."

In the San Jose case, the police said their investigation used a combination of video surveillance and data from Ms. Navarra's Fitbit, an Alta HR device, which she wore on her left wrist and synchronized with a computer in her home, where she lived alone.

On Sept. 13, a co-worker of Ms. Navarra's went to the house to check on her because she had not showed up for her job at a phar-



SAN JOSE POLICE DEPARTMENT

Anthony Aiello faces charges.

macy, the report said. The front door was unlocked, and she discovered Ms. Navarra dead, slouched in a chair at her dining room table.

She had lacerations on her head and neck, and a large kitchen knife was in her right hand, the report said. Blood was spattered and uneaten pizza was strewn in the kitchen. The coroner ruled the death a homicide.

Detectives then questioned Ms. Navarra's only known next-of-kin, her 92-year-old mother, Adele Aiello, and Mr. Aiello. Mr. Aiello told the authorities he had dropped off the food for his stepdaughter and left her house within 15 minutes, but he said he saw Ms. Navarra drive by his home with a passenger in the car later that afternoon.

Investigators obtained a search warrant and retrieved the Fitbit data with the help of the company's director of brand protection, Jeff Bonham, the police report said.

On Wednesday, Fitbit declined to comment on the case but shared a copy of its privacy policy, which says in part that the company complies with legal processes, including search warrants and court orders, when it shares data.

When Ms. Navarra's Fitbit data was compared with video surveillance from her home, the police report said, the police discovered that the car Mr. Aiello had driven was still there when her heart rate stopped being recorded by her Fitbit.

Bloodstained clothes were later found in Mr. Aiello's home, the document said. He was arrested on Sept. 25.

Mr. Aiello was "confronted" with the Fitbit information during questioning, said Brian Meeker, a San Jose police detective. "After explaining the abilities of the Fitbit to record time, physical movement, and heart rate data, he was informed that the victim was deceased prior to his leaving the house," Detective Meeker said in the report.

Mr. Aiello said that could not be true, insisting Ms. Navarra had walked him to the door, and he suggested that someone else could have been in the home, the report said.

"I explained that both systems were on internet time, and there was no deviation," Detective Meeker said.

After they finished their questions, detectives left Mr. Aiello alone in the interview room. He began talking to himself, the report said, saying repeatedly, "I'm done."

EBay Claims Amazon Tried To Poach Its Biggest Sellers

By KAREN WEISE

SEATTLE — EBay claims Amazon has illegally tried to lure top sellers off its marketplace by exploiting its internal messaging system.

The e-commerce site said it was tipped off to the situation last month by an eBay seller who had been contacted by an Amazon representative. An early investigation by eBay found at least 50 Amazon representatives had sent hundreds of solicitation messages over the last several years. The Amazon contacts came from multiple countries, including the United States and Britain.

EBay sent a cease-and-desist letter to Amazon on Monday outlining its claims. The Amazon representatives, eBay said, seemed to know that their use of its messaging system violated the company's terms of service.

"Ebay does scan for key terms and they don't exactly like us poking around," one message read. "Honestly the easiest way to communicate about this would be on the phone." Other messages involved weird phrasings that seemed intended to evade detection, such as avoiding using the word "Amazon," and instead writing "a-m-a-z-o-n Australia" or "A.M.Z.N."

An Amazon spokeswoman said the company was conducting a thorough investigation of the claims.

Amazon's use of eBay member accounts and messaging for purposes other than buying and sell-

ing products was illegal under California law that prohibits the misuse of private computer systems, eBay said.

"We have demanded that Amazon end its unlawful activity, and we will take the appropriate steps, as needed, to protect eBay," the company said in a statement.

The Wall Street Journal reported on the cease-and-desist letter earlier Wednesday.

Since starting out as a pioneering online auction company, eBay has moved into more traditional e-commerce sales. Today, it says 89 percent of goods bought on eBay are at a fixed price — making it more of a direct competitor with Amazon and adding to concern that its rival was trying to poach top sellers.

Amazon is adding to the breadth and depth of the products on its website by attracting third-party merchants. That lets Amazon tie up less of its resources in holding inventory waiting to be sold, but it also places extra pressure on the company to attract sellers that offer the merchandise that it believes customers want.

Amazon charges for various services, such as selling, distribution and advertising. Last year, for the first time, more than half of the units sold on its website were from third-party sellers.

While some sellers list on both Amazon and eBay, as well as other sites, others opt to pick a primary marketplace. eBay says it has more than a billion product listings at any given time.

This announcement is neither an offer to purchase nor a solicitation of an offer to sell Shares (as defined below). The Offer (as defined below) is made solely pursuant to the Offer to Purchase, dated October 4, 2018, and the related Letter of Transmittal, and any amendment or supplement to such Offer to Purchase or Letter of Transmittal. Purchaser is not aware of any state where the making of the Offer is prohibited by any administrative or judicial action pursuant to any valid state statute. If Purchaser becomes aware of any valid state statute prohibiting the making of the Offer or the acceptance of the Shares pursuant thereto, Purchaser will make a good faith effort to comply with that state statute or seek to have such statute declared inapplicable to the Offer. If, after a good faith effort, Purchaser cannot do so, Purchaser will not make the Offer to, nor will tenders be accepted from or on behalf of, the holders of Shares in that state. Except as set forth above, the Offer is being made to all holders of Shares. In any jurisdiction where the securities, "blue sky" or other laws require the Offer to be made by a licensed broker or dealer, the Offer will be deemed to be made on behalf of Purchaser by one or more registered brokers or dealers licensed under the laws of such jurisdiction to be designated by Purchaser.

Notice of Offer to Purchase All Outstanding Shares of Common Stock

of
Senomyx, Inc.

at

\$1.50 Per Share of Common Stock, Net in Cash

by

Sentry Merger Sub, Inc.

a wholly owned subsidiary of

Firmenich Incorporated

Sentry Merger Sub, Inc., a Delaware corporation ("Purchaser") and a wholly owned subsidiary of Firmenich Incorporated, a Delaware corporation ("Parent"), is offering to purchase for cash all outstanding shares of common stock, par value \$0.001 per share (the "Shares"), of Senomyx, Inc., a Delaware corporation (the "Company"), at a price per Share of \$1.50 (such price, as it may be amended from time to time in accordance with the Merger Agreement (as defined below), the "Offer Price"), net to the seller in cash, without any interest thereon and less any applicable withholding taxes, upon the terms and subject to the conditions set forth in the Offer to Purchase (together with any amendment or supplement thereto, the "Offer to Purchase") and in the related Letter of Transmittal (together with any amendment or supplement thereto, the "Letter of Transmittal" and, together with this Offer to Purchase, the "Offer"). If your Shares are registered in your name and you tender directly to Computershare Trust Company, N.A. (the "Depository"), you will not be obligated to pay brokerage fees or commissions or, subject to Instruction 6 of the Letter of Transmittal, transfer taxes on the purchase of Shares by Purchaser pursuant to the Offer. If you hold your Shares through a broker, dealer, commercial bank, trust company or other nominee, you should consult such institution as to whether it charges any service fee or commission.

The Offer is being made pursuant to the Agreement and Plan of Merger, dated as of September 16, 2018 (together with any amendment or supplement thereto, the "Merger Agreement"), among Parent, Purchaser and the Company, pursuant to which, after the completion of the Offer and the satisfaction or waiver of certain conditions, Purchaser will be merged with and into the Company pursuant to Section 251(h) of the Delaware General Corporation Law (the "DGCL") as soon as practicable without a vote on the adoption of the Merger Agreement by the Company's stockholders, with the Company continuing as the surviving corporation (the "Merger"). The Merger Agreement is more fully described in the Offer to Purchase.

THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, EASTERN TIME, ON NOVEMBER 2, 2018 (ONE MINUTE AFTER 11:59 P.M., EASTERN TIME, ON NOVEMBER 1, 2018), UNLESS THE OFFER IS EXTENDED OR EARLIER TERMINATED.

The Offer is not subject to any financing condition. The Offer is, however, subject to the following conditions, among others:

- there being validly tendered (and not validly withdrawn) Shares that, considered together with all other Shares (if any) beneficially owned by Parent or any of its wholly owned subsidiaries (including Purchaser), represent one more than 50% of the total number of Shares outstanding at the time of the expiration of the Offer (such condition, the "Minimum Condition");
- if applicable, any consent, approval or clearance with respect to, or terminations or expiration of any applicable mandatory waiting period (and any extensions thereof) imposed under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder (the "HSR Act") must have been obtained, must have been received or must have terminated or expired, as the case may be;
- the absence of any temporary restraining order, preliminary or permanent injunction or other order preventing the acquisition of or payment for Shares pursuant to the Offer, or any law or order which directly or indirectly prohibits, or makes illegal, the acquisition of or payment for Shares pursuant to the Offer, or the consummation of the Merger;
- the accuracy of representations and warranties made by the Company in the Merger Agreement, subject to the materiality and other qualifications set forth in the Merger Agreement; and
- the compliance and performance of the Company in all material respects with all of its covenants and agreements required to be complied with or performed by it under the Merger Agreement.

Parent and Purchaser may waive any condition, in whole or in part, except for the Minimum Condition (which may be waived only with the consent of the Company), at any time and from time to time, subject to the terms of the Merger Agreement. A more detailed discussion of the conditions to consummation of the Offer is contained in the Offer to Purchase.

THE BOARD OF DIRECTORS OF THE COMPANY UNANIMOUSLY RECOMMENDS THAT YOU TENDER ALL OF YOUR SHARES INTO THE OFFER.

After careful consideration, the Company's board of directors unanimously (a) determined that the Merger Agreement and the transactions contemplated thereby, including the Offer and the Merger, are advisable and fair to, and in the best interest of, the Company and its stockholders, (b) agreed that the Merger will be effected under Section 251(h) of the DGCL, (c) approved the execution, delivery and performance by the Company of the Merger Agreement and the consummation of the transactions contemplated thereby, including the Offer and the Merger, and (d) resolved to recommend that the stockholders of the Company tender their Shares to Purchaser pursuant to the Offer.

The purpose of the Offer and the Merger is for Parent and its affiliates, through Purchaser, to acquire control of, and the entire equity interest in, the Company. Following the consummation of the Offer, subject to the satisfaction or waiver of the conditions set forth in the Merger Agreement, Purchaser intends to effect the Merger in accordance with Section 251(h) of the DGCL.

No appraisal right is available to holders of Shares in connection with the Offer. However, if the Merger takes place, stockholders who have not tendered their Shares in the Offer and who comply with applicable legal requirements will have the appraisal rights specified in the DGCL.

Upon the terms and subject to the conditions of the Merger Agreement, if the Minimum Condition is satisfied and Purchaser accepts Shares for payment pursuant to the Offer, the Merger will be consummated, in accordance with Section 251(h) of the DGCL, as soon as practicable after Purchaser accepts for payment Shares tendered pursuant to the Offer, without any action or vote on the part of the stockholders of the Company.

Purchaser expressly reserves the right to increase the Offer Price or to waive or make any other changes to the terms and conditions of the Offer, including the conditions to the Offer. However, except as otherwise expressly provided in the Merger Agreement, without the prior written consent of the Company, Purchaser is not permitted to (i) decrease the Offer Price; (ii) change the form of consideration payable in the Offer; (iii) decrease the maximum number of Shares sought to be purchased in the Offer; (iv) impose conditions to the Offer in addition to the Offer Conditions; (v) amend or modify any of the Offer Conditions in a manner that adversely affects, or would reasonably be expected to adversely affect, any holder of Shares in its capacity as such or that would, individually or in the aggregate, reasonably be expected to prevent or delay the consummation of the Offer or prevent, delay or impair the ability of Parent or Purchaser to consummate the Offer, the Merger or the other transactions contemplated by the Merger Agreement; (vi) change or waive the Minimum Condition; (vii) extend or otherwise change the Expiration Date (as defined below) in a manner other than as required or permitted by the Merger Agreement; or (viii) provide any "subsequent offering period" within the meaning of Rule 14d-11 promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act").

The Offer is scheduled to expire at 12:00 a.m., Eastern Time, on Friday, November 2, 2018 (one minute after 11:59 p.m., Eastern Time, on November 1, 2018) (the "Expiration Date"), unless Purchaser shall have extended the period during which the Offer is open in accordance with the Merger Agreement, in which event "Expiration Date" will mean the latest time and date at which the Offer, as so extended by Purchaser, will expire).

Purchaser has agreed in the Merger Agreement that, subject to its rights to terminate the Merger Agreement in accordance with its terms, if as of the then-scheduled Expiration Date, any condition to the Offer is not satisfied and has not been waived, Purchaser may, in its discretion, extend the Offer on one or more occasions (for an additional period of up to ten business days per extension), to permit such condition to the Offer to be satisfied. In certain circumstances, Purchaser is required by the terms of the Merger Agreement to extend the Offer beyond the initial Expiration Date. Subject to its rights to terminate the Merger Agreement in accordance with its terms, Purchaser must extend the Offer (i) as required by applicable legal requirements, any interpretation or position of the U.S. Securities and Exchange Commission, the staff thereof or the NASDAQ Global Stock Market applicable to the Offer, (ii) if applicable, until any waiting period (and any extension thereof) under the HSR Act has expired or been terminated and (iii) if any condition to the Offer (other than the Minimum Condition) is not satisfied by the then-scheduled Expiration Date and the Company requests that the Offer be extended to permit satisfaction of such condition to the Offer. In addition, if the Minimum Condition is not satisfied by the then-scheduled Expiration Date but all other conditions to the Offer (other than the condition to the Offer requiring delivery of an officers' certificate by the Company) have been satisfied, then at the request of the Company, Purchaser must extend the Offer on up to two occasions for an additional period of up to ten business days per extension to permit the Minimum Condition to be satisfied. However, in no event will Purchaser be required to, and without the Company's consent, Purchaser will not, extend the Offer beyond January 15, 2019.

Any extension, waiver or amendment of the Offer, or delay in acceptance for payment or payment, or termination of the Offer will be followed, as promptly as practicable, by public announcement thereof, such announcement in the case of an extension to be issued not later than 9:00 a.m., New York City time, on the next business day after the previously scheduled expiration time of the Offer in accordance with the public announcement requirements of Rules 14d-4(d), 14d-6(c) and 14e-1(d) under the Exchange Act.

Because the Merger will be governed by Section 251(h) of the DGCL, Purchaser does not expect there to be a significant period of time between the consummation of the Offer and the consummation of the Merger, and expects the Offer and the Merger to be consummated on the same day.

For purposes of the Offer, Purchaser will be deemed to have accepted for payment, and thereby purchased, Shares validly tendered, and not properly withdrawn, prior to the expiration time of the Offer if and when Purchaser gives oral or written notice to the Depository of Purchaser's acceptance for payment of such Shares pursuant to the Offer. Upon the terms and subject to the conditions to the Offer, payment for Shares accepted for payment pursuant to the Offer will be made by deposit of the purchase price therefor with the Depository, which will act as paying agent for the tendering stockholders for purposes of receiving payments from Purchaser and transmitting such payments to the tendering stockholders. **Under no circumstance will interest be paid on the Offer Price for Shares, regardless of any extension of the Offer or any delay in making payment for Shares.**

In all cases, payment for Shares tendered and accepted for payment pursuant to the Offer will be made only after timely receipt by the Depository of (a) certificates representing such Shares or confirmation of the book-entry transfer of such Shares into the Depository's account at The Depository Trust Company ("DTC") pursuant to the procedures set forth in Section 3 of the Offer to Purchase, (b) a Letter of Transmittal (or facsimile thereof), properly completed and duly executed, with any required signature guarantee and any other document required by the Letter of Transmittal or, in the case of a book-entry transfer, an Agent's Message (as defined in Section 3 of the Offer to Purchase) in lieu of the Letter of Transmittal, and (c) any other document required by the Letter of Transmittal or any other customary document required by the Depository.

Shares tendered pursuant to the Offer may be withdrawn at any time prior to the expiration time of the Offer. Further, if Purchaser has not accepted Shares for payment by December 3, 2018, they may be withdrawn at any time prior to the acceptance for payment after that date.

For a withdrawal of Shares to be effective, a written or facsimile transmission notice of withdrawal must be timely received by the Depository at one of its addresses set forth on the back cover of the Offer to Purchase. Any notice of withdrawal must specify the name of the person having tendered the Shares to be withdrawn, the number of Shares to be withdrawn and the name of the registered holder of the Shares to be withdrawn, if different from that of the person who tendered such Shares. The signature(s) on the notice of withdrawal must be guaranteed by an Eligible Institution (as defined in the Offer to Purchase), unless such Shares have been tendered for the account of any Eligible Institution. If Shares have been tendered pursuant to the procedures for book-entry transfer as set forth in Section 3 of the Offer to Purchase, any notice of withdrawal must specify the name and number of the account at DTC to be credited with the withdrawn Shares. If certificates representing the Shares have been delivered or otherwise identified to the Depository, the name of the registered owner and the serial numbers shown on such certificates must also be furnished to the Depository prior to the physical release of such certificates.

All questions as to the form and validity (including time of receipt) of any notice of withdrawal will be determined by Purchaser or Parent, in its sole discretion, which determination will be final and binding. No withdrawal of Shares will be deemed to have been properly made until all defects and irregularities have been cured or waived. None of Purchaser, Parent or any of their respective affiliates or assigns, the Depository, the Information Agent (defined below) or any other person will be under any duty to give notification of any defect or irregularity in any notice of withdrawal or incur any liability for failure to give such notification. Withdrawals of tenders of Shares may not be rescinded, and any Shares properly withdrawn will be deemed not to have been validly tendered for purposes of the Offer. However, withdrawn Shares may be retendered by following one of the procedures for tendering Shares described in Section 3 of the Offer to Purchase at any time prior to the expiration time of the Offer.

The information required to be disclosed by paragraph (d)(1) of Rule 14d-6 under the Exchange Act is contained in the Offer to Purchase and is incorporated herein by reference.

The Company has provided Parent with the Company's stockholder list and security position listings for the purpose of disseminating the Offer, the related Letter of Transmittal and other related materials to holders of Shares. The Offer to Purchase and related Letter of Transmittal will be mailed to record holders of Shares whose names appear on the Company's stockholder list and will be furnished, for subsequent transmittal to beneficial owners of Shares, to brokers, dealers, commercial banks, trust companies and similar persons whose names, or the names of whose nominees, appear on the stockholder list or, if applicable, who are listed as participants in a clearing agency's security position listing.

The receipt of cash for Shares in the Offer or the Merger will be a taxable transaction for United States federal income tax purposes and may also be a taxable transaction under applicable state, local or foreign tax laws. Stockholders should consult their own tax advisors as to the particular tax consequences of the Offer and the Merger to them. For a more complete description of certain material U.S. federal income tax consequences of the Offer and the Merger, see Section 5 of the Offer to Purchase.

The Offer to Purchase, the related Letter of Transmittal and the Company's Solicitation/Recommendation Statement on Schedule 14D-9 contain important information and should be read carefully and in their entirety before any decision is made with respect to the Offer.

Questions and requests for assistance may be directed to Morrow Sodali, the information agent in connection with the Offer (the "Information Agent"), at its telephone number, email address and/or address set forth below and on the back cover of the Offer to Purchase. Requests for additional copies of the Offer to Purchase, the related Letter of Transmittal and other tender offer materials may be directed to the Information Agent or to brokers, dealers, commercial banks or trust companies. Such copies will be furnished promptly at Purchaser's expense. Purchaser will not pay any fee or commission to any broker or dealer or any other person (other than the Information Agent or the Depository) for soliciting tenders of Shares pursuant to the Offer.

The Information Agent for the Offer is:

**M O R R O W
S O D A L I**

509 Madison Avenue
New York, NY 10022

Stockholders Call Toll Free: (800) 662-5200
E-mail: SNMX@morrow sodali.com

October 4, 2018

Fondi attivisti, il business ora è mediare tra soci e cda

ANDREA GRECO, MILANO

La dialettica tra manager e investitori rende prezioso un nuovo tipo di advisor. E le banche drizzano le antenne

In tempi di azionariati sempre più fragili delle società quotate, dove impazza l'investitore attivista, c'è un consulente sempre più strategico. Lo si potrebbe chiamare "mediatore culturale" tra soci e manager, un tecnico che mette in una matrice rapporti consolidati, una base di dati e analisi da accendere alla bisogna e un dialogo sui temi della governance con gli investitori. Poi consiglia agli alti dirigenti come farsi ben volere dal mercato, che ha sempre più peso nel capitale delle aziende.

Il mestiere si è sviluppato vent'anni fa dalla conta di voti e deleghe assembleari, ma si sta ritagliando uno spazio nobile nel magma consulenziale. E fa gola a molti, come attestano le mosse di tanti e diversificati operatori - dalle banche d'affari (Morgan Stanley, Goldman Sachs, Lazard le più attive) a piattaforme dati come Thomson Reuters o Nasdaq, dai consulenti strategici come i quattro big della revisione alle agenzie internazionali di relazioni al pubblico o con gli investitori. Molti tra loro si organizzano per occupare la nicchia, sia aggiungendo nuovi servizi all'interno sia comprando società sul mercato, in un consolidamento globale partito da poco ma che per gli addetti ai lavori sarà inevitabile. E **Morrow Sodali**, capofila del settore con il 65% del mercato italiano e un posizionamento negli Usa (da cui trae metà dei ricavi) si candida a un ruolo primario.

Per ora la nicchia vale solo una frazione del vortice di miliardi incassato da tutti i "consiglieri del principe": il fatturato mondiale è stimato sui 2 miliardi di dollari l'anno, un quarto in Europa e 30 milioni in Italia. Ma è un ambito in movimento, e il valore di questi operatori, più che sui multipli odierni, andrà misurato su quelli che potranno raggiungere se incastonati nelle strutture di colossi tipo quelli citati. La cronaca recente del resto ha mostrato quanto sia prezioso un buon rapporto con gli investitori, e un'accorta "conta dei pesi" assembleari, sia nelle campagne degli attivisti per indirizzare le strategie manageriali, sia nelle contese tra soci per il controllo di un gruppo (si pensi a Bayer-Monsanto e a Telecom Italia-Elliott, o al recente attacco di certi fondi al comando di Marc Zuckerberg in Facebook).

Due mesi fa l'acquisizione di Camberview, una piccola società di questa nicchia fondata nel 2012 a San Francisco, ha confermato la vitalità del settore, dando un valore aggiornato - e piuttosto elevato - all'oggetto delle mire del compratore. Camberview, nata dall'idea di un banchiere di Goldman Sachs e di un veterano del fondo chiuso Blackrock, è stata comprata da Pjt, banca d'affari recentemente quotata a Londra per occuparsi di fusioni societarie, che ha accettato di pagare 165 milioni di dollari, un multiplo a due cifre del margine operativo lordo, per aggiudicarsi l'opera di circa 40 persone e il loro

"accesso" a 180 cda, metà dei quali nella classifica Fortune 100.

In Italia il mercato è dominato dal gruppo nato nel 2016 quando la domestica Sodali ha rilevato l'americana Morrow, in una sorta di reverse merger che ha creato un gruppo regolato negli Usa ma con cuore italiano. Un gruppo che sui multipli pagati per Camberview varrebbe oltre 500 milioni, e che non nasconde la voglia di crescere. Per esempio in Germania, dove queste attività sono da sempre sotto l'egida di Deutsche Bank, ma si ritiene che l'andazzo cambierà dopo il riassetto (in corso) del gigante malato. Proprio in Germania **Morrow Sodali** sta comprando un team e le sue attività dalla rivale Df King (controllata da Ast, ex azienda di back office Usa). Anche in Francia il mercato è parcellizzato, come eredità dei servizi storicamente offerti dalle maggiori banche locali. «Fidia Holding ha investito in **Morrow Sodali** nel 2016 quando era principalmente focalizzata in Europa - racconta Fabrizio Arengi Bentivoglio, ad di Fidia Holding e suo primo azionista -. Oggi è un gruppo globale con presenza diretta in Usa e Australia, attivo in 35 mercati. Non solo siamo soddisfatti del rapido sviluppo, ma siamo disponibili a continuare a sostenere la società nei modi più opportuni, anche con l'apertura ad altri soci istituzionali che possano sostenere il modello di business».

In Italia il diretto rivale è George-son, che ha un terzo del mercato

ed è stato comprato dal gruppo australiano Computershare (anche qui un back office buttatosi nella nicchia). Georgeson Europa fu fondato da Alvis Recchi, manager poi passato a **Morrow Sodali** dove oggi è ad e azionista insieme ad al-

tri manager. La tentazione di unire le forze dei due marchi, al di là dei moti affettivi, c'è: ma saranno le forze in campo a disegnare le direttrici del consolidamento, anche perché i due gruppi sembrano al momento sia predatori sia prede

per eventuali nuovi entranti. «Più i cda si responsabilizzano su temi come ambiente, sociale, governan- ce, più la capacità di comunicare con gli azionisti e capirne le attese diventa importante», dice Recchi.



2016 evidenzia un emolumento per il Board mediano annuo di 76mila euro in UK, 90mila euro in Germania, sino ai 197mila della Svizzera! Ma è nel *come* che si riscontrano differenze sostanziali. In Svizzera e in Finlandia una parte delle *fee* annuali è pagata in azioni, così come in Germania è diffuso un variabile misto, basato sul cash e su strumenti finanziari, a condizione che siano legati a obiettivi di sostenibilità dell'impresa. Perciò una prima evidenza: le prassi internazionali non confortano la politica italiana della remunerazione fissa. Anche se le *guideline* dell'International Corporate Governance Network (ICGN) e la politica europea dell'International Services Shareholder (ISS) sconsigliano *performance award*.

In secondo luogo, la normativa che regola una società quotata italiana sulla materia fissa adempimenti e prudenze più che divieti. Le Raccomandazioni comunitarie consentono una remunerazione agli amministratori in termini di strumenti finanziari, purché legati al valore creato nel lungo

termine e all'obbligo di conservare le azioni sino al termine del mandato. Mentre l'articolo 114 bis del TUF sul punto non differenzia tra gli amministratori, limitandosi a fissare l'obbligo che i piani di compenso basati su strumenti finanziari per i componenti del consiglio di amministrazione, dipendenti e collaboratori siano approvati dall'Assemblea dei Soci.

Infine, l'articolo 6 del Codice di Autodisciplina contempla la possibilità di erogare una parte variabile, purché risulti una componente "non significativa" legata ai risultati economici dell'Emittente e non sia basata su azioni, salvo motivata decisione dell'Assemblea dei Soci. In definitiva il quadro normativo italiano non preclude (salvo nei settori finanziari regolati) un compenso *performance-based*.

Alla luce delle evidenze crediamo che il compenso possa essere ripensato in funzione delle specificità dell'impresa: del settore in cui opera, del modello di proprietà, della fase strategica. Riusciremo a meglio allineare l'interesse

LE OPINIONI DI...

Amministratori Esecutivi. Questo per svolgere al meglio il loro ruolo di "check and balance" e non cedere a tentazioni collusive. In ogni caso trovo complesso l'utilizzo di indicatori di performance legati all'impatto ambientale e sociale. Ma sono pronta all'ascolto. Colgo l'occasione per portare all'attenzione il tema dei compensi dei sindaci. Sarebbe ora di mettere mano alla politica di compenso di questa figura cruciale, migliorando il merito della competenza e disparità nello stesso ruolo.

Andrea Di Segni

Managing Director Morrow Sodali SpA



Nell'esperienza americana e anglosassone (UK e Australia) il contributo degli amministratori indipendenti è fortemente connotato

alla capacità di giudizio oggettivo e sempre più specialistico, stante la crescente complessità del business e della gestione degli stakeholder. Grande importanza viene poi riconosciuta al potenziale contributo dato da mix di skill, competenze, seniority e relazioni che tuttavia non sempre è facilmente identificabile. Da qui registriamo un crescente interesse, anche ai fini di *attraction*, nei confronti di schemi retributivi *challenging* anche sotto il profilo dell'*award*. Le limitazioni imposte da proxy advisor e alcuni grandi investitori all'utilizzo di compensi variabili per gli amministratori non esecutivi sta spingendo gli emittenti verso una riflessione più ampia, che coinvolge anche le modalità di erogazione del beneficio, prevedendo soprattutto per gli strumenti finanziari dei periodi di *lock-up* proprio nell'ottica di rendere più partecipe il Board nella generazione di risultati sostenibili nel lungo periodo.

Marco Valerio Morelli

Amministratore Delegato Mercer Italia, Presidente Assoconsult Confindustria



Uno dei cambiamenti negli ultimi anni nel mio mestiere di consulente è stata l'ascesa del ruolo dei Consiglieri Non Esecutivi, che sono diventati

miei interlocutori esercitando crescente potere di supervisione e controllo, arrivando a ruoli di indirizzo strategico (basti pensare a recenti casi di Public Company Italiana). Il forte richiamo sulla gestione del rischio, l'aumento della *compliance* - in particolare nel settore finanziario - la pressione degli investitori istituzionali hanno portato anche in Italia la simmetrica ascesa dei Consiglieri Non Esecutivi dentro il CdA e nell'ambito dei Comitati Endoconsiliari. A mio avviso questa evoluzione introduce una dinamica nei



3,1%

DEUTSCHE BANK

È la quota che ha preso l'hedge fund attivista Hudson Capital nella banca tedesca

43

MILIONI DI DOLLARI

Sono gli utili riportati da Spotify nel terzo trimestre del 2018, i primi profitti da quando esiste

Il caso

Borsa, stop ai “mister 5%”
è l'ora dei Patti mirati

VITTORIA PULEDDA, MILANO

Un tempo gli accordi di sindacato tra azionisti servivano per blindare reciprocamente il controllo delle società. Adesso, invece, da Recordati a Ferragamo e Pirelli, sono siglati per realizzare un'Opa o una alleanza industriale



Focus

LE BANCHE

Le grandi assenti tra i Patti di sindacato sono le banche, con le eccezioni di Ubi e Bper. In parte perché i colossi bancari italiani sono davvero public company, con gli azionisti storici, cioè le Fondazioni, ridotte a ruoli abbastanza contenuti. In parte perché probabilmente alcune banche non hanno ancora trovato un assetto definitivo. In questo secondo caso sono soprattutto le ex popolari ad essere chiamate in causa, dopo la trasformazione in spa. Non a caso le eccezioni, per quanto con quote relativamente piccole e con assetti altrettanto in via di sviluppo, sono proprio Bper e Ubi. Per loro - soprattutto Bper - e per le altre, è possibile che con il sedimentarsi del nuovo azionariato emergano anche fotografie e rapporti di forza tra i nuovi soci che portino anche alla scrittura di Patti di sindacato. C'è da dire, comunque, che i timori della vigilia - la paura di essere prontamente scalati, dopo la trasformazione in spa - non si sono materializzati.

1 Un impianto della Saipem nel Porto di Genova

2 Tralicci di Terna per il trasporto di elettricità in corso di manutenzione

3 Una fabbrica della Pirelli in Argentina, in provincia di Buenos Aires

S ettimane calde per il futuro del Patto di sindacato per antonomasia, quello di Mediobanca. Che si ricostruisca in forma “light” o che sparisca del tutto, si vedrà a breve. Ma comunque vada, si tratta di un passaggio simbolico, prima ancora che pratico: Piazzetta Cuccia infatti è l'essenza stessa del Patto di sindacato. Soprattutto per quelli storici: oggi i Patti di sindacato esistenti, relativi a 82 società, sono ancora un istituto ben vitale ma hanno ben poco in comune con quell'ottica. Da un punto di vista quantitativo lo strumento dei Patti ha ancora un suo rilievo, visto che la Consob l'anno scorso ha ricevuto ben 134 comunicazioni relative ai Patti, che riguardano 62 società quotate (ogni società può essere oggetto anche di più comunicazioni), di cui 44 relative a nuovi accordi e 24 relative ad annunci di scioglimento o al venir meno degli scopi previsti. «I Patti di sindacato sono serviti (a Enrico Cuccia, ndr) a mettere al riparo la Fiat, la Pirelli, l'Olivetti e gli altri grandi gruppi privati dall'influenza del capitalismo pubblico e in ultima istanza della politica», spiegò a suo tempo Giorgio La Malfa, presentando il suo libro su Cuccia.

Servirono anche - in tempi di capitalisti con pochi capitali - a blindare il controllo garantendosi reciproca stabilità, a via di partecipazioni incrociate e piccole quote sindacate tra loro, per far blocco. E se Cuccia fu il regista e Mediobanca stessa lo strumento per prendere quote nei principali gruppi dell'epoca, Salvatore Ligresti fu uno degli interpreti più fedeli di quella strategia, che non a caso gli valse il soprannome di “Mister 5%” per i piccoli pacchetti che acquistava nelle quotate, contribuendo alla loro blindatura.

I Patti di sindacato attuali hanno una fisionomia abbastanza diversa: servono quasi sempre per “fare” qualcosa piuttosto che per difendersi (anche se poi funzionano anche in quella direzione) e spesso sono finalizzati alla singola operazione (straordinaria) o ad un contesto particolare. Altro aspetto importante, contengono sempre più spesso indicazioni di governance. Anzi, sotto questo profilo molti ritengono che possano vivere una nuova primavera. «A differenza del passato, oggi i patti tendono a svolgere un ruolo importante e positivo - conferma Marcello Bianchi, vice direttore generale di Assonime - molto spesso vengono siglati per sviluppare un business con altri partner, per portare avanti progetti industriali e finanziari. Non valgono in versione difensiva ma di crescita, in una logica fondamentalmente industriale tra azionisti di controllo che sono già in grado di controllare la società, e nuovi soggetti che entrano a far parte di un disegno strategico».

I numeri

82

SOCIETÀ

Sono quelle quotate a Milano con almeno un patto di sindacato tra azionisti

44

ACCORDI

È il numero di nuovi patti comunicati alla Consob nel 2017

L'esempio più recente e di peso è forse quello di Essilor-Luxottica, dove gli accordi tra i due azionisti a monte (Essilor e Delfin) e tra Luxottica e il socio Armani, hanno dato origine a tre Patti parasociali, di cui l'ultimo venuto meno proprio con il lancio dell'Offerta pubblica di scambio (ora in corso). Stesso discorso, anzi ancora più netto, per Recordati, finalizzato alla vendita della maggioranza della società farmaceutica e al successivo lancio dell'Opa sul mercato. Patto parasociale e poi Opa anche per la piccola Mittel, in questo caso tra due azionisti che già avevano partecipazioni importanti. Esempi tipici - nel Ftse Mib - di Patti parasociali con forti connotati industriali anche quello tra la famiglia Ferragamo e il socio asiatico Peter K. C. Woo, o tra Camfin e Chem China per il gruppo Pirelli. O, ancora, i Patti tra le società dell'energia, nate da fusioni tra operatori locali.

Nella storia recentissima dei Patti di sindacato ce ne sono persino un paio firmati e non andati a buon fine, perché legati ad eventi specifici. Nel caso di Astaldi, l'ingresso del socio industriale giapponese Ihi era legato all'aumento di capitale e alla vendita del terzo ponte sul Bosforo, condizioni tutte saltate e ormai ampiamente superate dalla richiesta di concordato da parte del gruppo di costruzioni. Così come è stato annunciato - e poi parzialmente sterilizzato da Bankitalia - il Patto di sindacato tra Mincione, Volpi e Spinelli, che impegnava i tre soggetti a votare nell'assemblea del 20 settembre scorso la lista presentata da Mincione per il rinnovo dei vertici Carige.

Grande diffusione di Patti di sindacato anche tra le nuove quotazioni all'Aim, il mercato alternativo dei capitali, a Piazza Affari. In questo caso la logica della famiglia o del gruppo di manager che si affaccia in Borsa è - soprattutto - quella di non perdere il controllo post quotazione. Un meccanismo, però, che riguarda anche società blasonate o da tempo al listino, "assediate" dagli investitori istituzionali. «Per

I numeri

I PATTI IN PIAZZA AFFARI SULLE SOCIETÀ DEL FTSE MIB IN % SUL CAPITALE

SOCIETÀ	QUOTA DI CAPITALE CONTROLLATA DAL PATTO	PARTECIPANTI
a2a	42%	COMUNI DI BRESCIA E MILANO
AZIMUT <small>LA DIREZIONE PER INVESTIRE</small>	23,4%	FONDO PENINSULA, MANAGER, DIPENDENTI, PROMOTORI
<small>BANCA</small> mediolanum	51%	FAMIGLIA DORIS, FININVEST *
BPER: <small>Banca</small>	4,22%	68 AZIONISTI
Italgas	39,55%	CDP RETI, SNAM
LUXOTTICA	4,64%	ESSILOR LUXOTTICA, ARMANI **
MEDIOBANCA	28,47%	16 AZIONISTI ***
MONCLER	30,95%	RUFFINI PARTECIPAZIONI, EURAZEO
PIRELLI	56,87%	CHINA NATIONAL CHEMICAL CORPORATION, CAMFIN
RECORDATI	51,79%	FAMIGLIA RECORDATI, ROSSINI LUXEMBOURG ****
SAIPEM	42,9%	ENI, CDP EQUITY
<i>Salvatore Ferragamo</i>	60,71%	FERRAGAMO FINANZIARIA, MAJESTIC HONOUR LTD
snam	30,1%	CDP, STATE GRID
Terna	29,85%	CDP, STATE GRID
UBI <small>Banca</small>	3,11%	PATTO DEI MILLE (65 AZIONISTI)
Unipol <small>GRUPPO</small>	12,5%	PATTO UBI (171 AZIONISTI)
Unipol <small>GRUPPO</small>	30,05%	16 COOPERATIVE

(*) I diritti di voto di Fininvest sono parzialmente congelati

(**) Patto finalizzato al lancio dell'Ops

(***) Patto sciolto per effetto delle disdette pervenute da parte di Bolloré e Italmobiliare

(****) Patto finalizzato al lancio dell'Opa

FONTE: MORROW SODALI

Focus

I PATTISTI "PUBBLICI"

Tra i protagonisti dei Patti parasociali c'è la Cassa depositi e prestiti, attraverso i suoi bracci operativi Cdp Reti e Cdp Equity. La prima, Cdp reti, è un veicolo di investimento controllato al 59% dalla Cassa medesima, ma con una partecipazione significativa, al 35%, di State Grid, colosso cinese che è anche il maggior gruppo elettrico al mondo. Attraverso Cdp Reti la Cassa ha presenze in Snam (partecipata al 30,37%), Italgas (partecipata al 26,04%) e Terna (partecipata al 29,85%). Per le tre società i patti di sindacato riguardano in realtà i rapporti della società a monte, dunque di Cdp reti, tra i suoi due azionisti Cdp e State grid. Relativamente ad Italgas, esiste poi un patto di consultazione tra Cdp reti e Snam, che ha il 13,5% della società quotata. Infine per Saipem il Patto riguarda le azioni Eni (30,2%) e quelle di Cdp Equity (12,5%) si concentra sulla corporate governance della società, in particolare sulle regole per la nomina del consiglio di amministrazione.

molte società controllare l'assemblea potendo contare su una maggioranza intorno al 30% diventa difficile - commenta Fabio Bianconi, director Italia della società di advisory internazionale Morrow Sodali - in questi contesti avere un patto di sindacato finalizzato alla governance può essere un buon punto di caduta, un compromesso accettabile anche dal punto di vista degli investitori. Poi magari si parte dalle cariche sociali e lungo la strada questi patti evolvono in direzione della strategia aziendale. Ma se anche in Italia prendessero piede le liste proposte dal cda uscente, anche i patti per la governance verrebbero progressivamente meno».

L'evoluzione delle regole societarie influisce in modo significativo sui Patti: ad esempio, la diffusione del voto maggiorato ha in parte sostituito la necessità di assicurarsi il controllo stringendo un accordo scritto tra azionisti. Nell'ultimo triennio, 35 società hanno adottato questa disciplina.

L'altro nodo importante è che ci sia la massima trasparenza su questo tipo di accordi, a monte della società controllata. Molti passi avanti sono stati fatti, dopo il Testo unico della finanza. Ma qualche aspetto resta ancora da migliorare. «Se davvero si volesse intervenire sulla deriva che porta a svuotare il potere decisionale del consiglio di amministrazione si dovrebbe trovare una soluzione per dare pubblicità non solo ai patti di sindacato, come già avviene, ma anche alle decisioni che vengono prese in quella sede - puntualizza Luigi Bianchi, professore di Diritto commerciale alla Bocconi ed esperto di corporate governance - insomma, sarebbe auspicabile che ci fosse maggiore trasparenza su come si formano i processi decisionali. Un patto di sindacato sulle governance è contraddittorio con la volontà di dare centralità al consiglio: sapere come e dove si prendono le decisioni non elimina il problema ma toglie ipocrisia ai meccanismi».

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