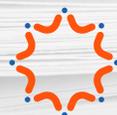


2018

# SEASON REVIEW

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**U.S. SHAREHOLDER PROPOSALS**



GLASS LEWIS



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Glass, Lewis & Co. ("Glass Lewis") is the leading independent governance analysis and proxy voting firm with a global client base of 1,300+ institutions that collectively manage more than US\$35 trillion in assets. Glass Lewis empowers institutional investors to make sound voting decisions at more than 23,000 meetings a year by uncovering and assessing governance, business, legal, political and accounting risks at issuers across approximately 100 markets. Glass Lewis is a portfolio company of the Ontario Teachers' Pension Plan Board ("OTPP") and Alberta Investment Management Corp. ("AIMCo"), two of the largest pension plan investors in the world.

Glass Lewis has been providing in-depth proxy research since 2005. Our research is based solely on publicly available information, but we believe engaging with companies is an important means to enhance our analysis by providing greater insight into the realities of the company, industry and market. In turn, this enables us to provide better-informed, more pragmatic research for our clients. We also believe it allows companies to better understand the role of proxy advisors in the corporate governance framework and our policies.

Glass Lewis also facilitates direct engagement through the web-based Meetyl platform. Meetyl is changing the way institutional investors and companies engage with each other to schedule everything from individual corporate governance meetings to multi-city non-deal road shows. Meetyl's live global community of over 3,000 dedicated corporate access and corporate governance professionals represent more than 2,000 institutions and companies globally.

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As the leading independent provider of governance services to the world's institutional investors, Glass Lewis is committed to ongoing engagement with all market participants. Investors and companies can contact Glass Lewis at any time at [info@glasslewis.com](mailto:info@glasslewis.com). You can also access a wealth of free resources and tools such as our guidelines, our engagement policy, request a meeting, report an error, or submit filings at our dedicated engagement portal at <http://www.glasslewis.com/issuer-overview/>.

## REPORT METHODOLOGY

In this analysis, all calculations regarding shareholder support for both management and shareholder proposals represent the total votes “for” a given proposal over the total votes “against” the proposal and exclude abstentions and broker non-votes. We have also excluded shareholder proposals at certain special and contested meetings, as those proposals are often duplicated or are highly specific to firm operations and management.

We have also excluded certain proposals related to specific business transactions (e.g., self-tender offers and termination of management and advisory agreements) as they are commonly transactional in nature and do not specifically relate to environmental, social, compensation or governance issues.

Lastly, we recognize that environmental, social, compensation and governance-related shareholder proposals are not always mutually exclusive. As such, we have endeavored to classify proposals suitably, while acknowledging the existence of crossover classifications.



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# Overview

## OVERVIEW

Although shareholder activism continues to make headlines and the focus on ESG issues continues to become more mainstream, the number of shareholder proposals going to a vote continues to decline: Glass Lewis reviewed 433 proposals in 2018, down from 453 in 2017 and 585 in 2015. Moreover, of the 433 proposals submitted to corporate ballots this year, 13 were withdrawn or were not presented by proponents (compared to 12 in 2017).

The disconnect between growing interest in shareholder rights and activism and the declining number of proposals going to vote is a trend that's been developing since at least 2011, and for a variety of reasons. To some extent, shareholder proposals are simply less relevant than in prior years because of increased investor engagement. As a result of these enhanced dialogues with issuers, investors have often been able to avoid the shareholder proposal process in order to effect certain changes that had traditionally been undertaken through the submission of resolutions. This, arguably, has also contributed to the increasingly diminishing number of shareholder

## SHAREHOLDER PROPOSALS BY CATEGORY

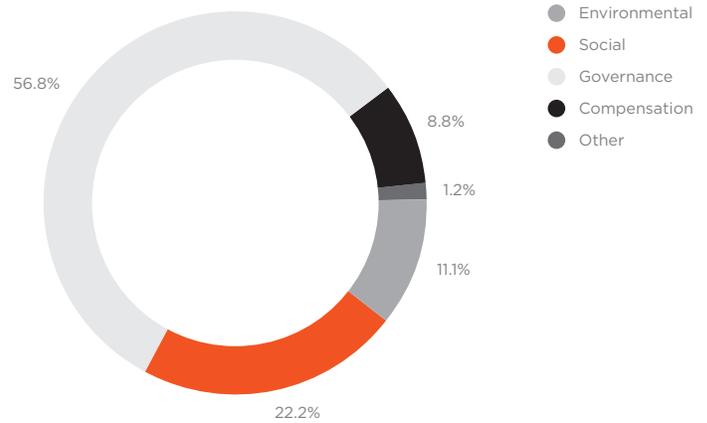


Figure 1.1

proposals that go to a vote each year, as dialogues have encouraged companies to produce disclosure or take actions that once were largely only accomplished through the more antagonistic shareholder proposal process.

However, not all of the decline is organic. Looking beyond the shift of shareholder influence from proxy season to engagement season, regulators and leg-

## SHAREHOLDER SUPPORT VS. GLASS LEWIS RECOMMENDATIONS

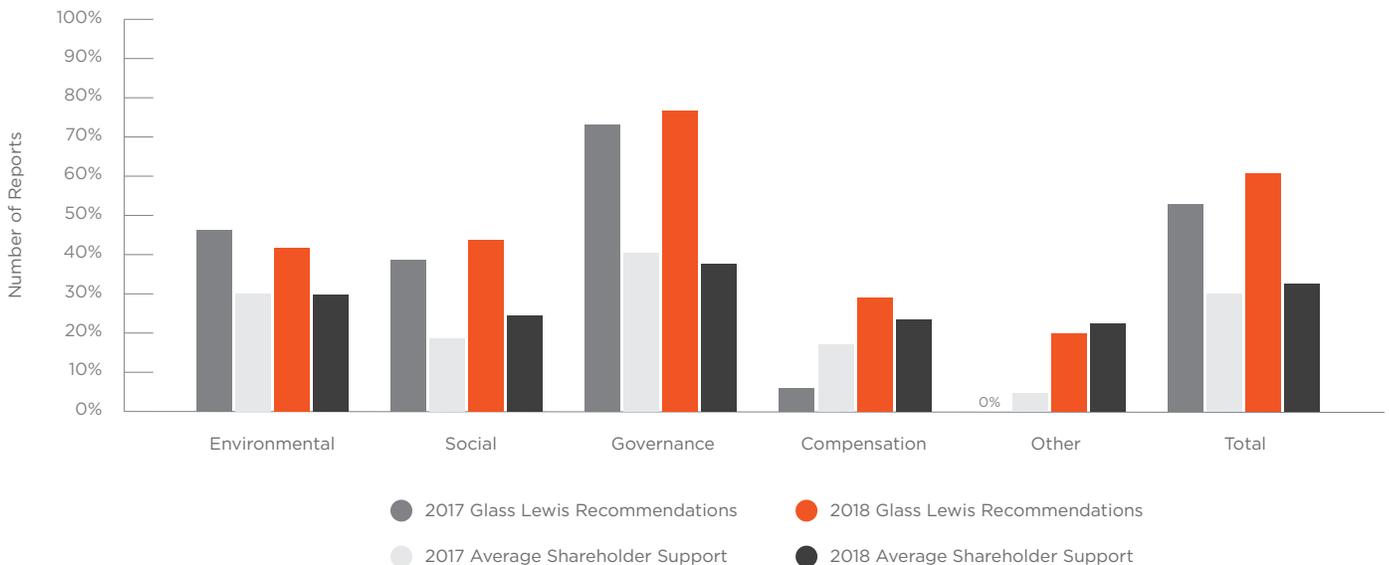


Figure 1.2

isulators appear focused on curbing shareholders' ability to submit these resolutions. For example, in November 2017, the SEC issued [guidance](#) concerning companies' ability to exclude shareholder proposals. The first item addressed the "ordinary business" exemption, which has generally made an exception for proposals that address ordinary business matters, but that nonetheless focus on a policy issue that is sufficiently significant. In these instances, the SEC determined that the board is generally in a better position to "analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote." As such, the SEC stated that, going forward, it would expect a company's no-action request (a company's petition to the SEC to exclude a shareholder proposal from its ballot) to include a discussion "that reflects the board's analysis of the particular policy issue raised and its significance," as such an analysis of these matters "will greatly assist the staff with its review of no-action requests." Accordingly, it is increasingly likely that the SEC will defer to the board on the significance of the policy issues raised by shareholder proposals submitted to the company.

The new guidance also addressed the "economic relevance" exception, an exclusion with which the SEC had only infrequently agreed. However, the SEC stated that, going forward, its analysis would focus on a proposal's significance to the company's business when it otherwise relates to operations that account for less than 5% of total assets, net earnings and gross sales. As a result, where the significance to a company's business is not apparent on its face, the proposal may be excludable unless the proponent demonstrates that it is "otherwise significantly related to the company's business." However, the SEC stated that, when evaluating significance, the staff will consider the proposal in light of the "total mix" of information about the issuer.

In addition, HR 5756, a house bill introduced in May 2018, sought to adjust the resubmission thresholds for shareholder proposals. Under this regulation, the threshold for first-year resubmissions (or the second year the proposal went to a vote) would double from 3% to 6% support, more than double from 6% to 15% support for second-year resubmissions and triple from 10% to 30% for proponents seeking to resubmit a proposal for the third time. Although the future of this regulation is currently unclear, it does demonstrate one of the many obstacles being placed in front of shareholder proponents.

The confluence of these events has and could continue to result in even more depressed numbers of proposals going to a vote. However, while the number of these proposals has been and may continue to go down, the attention paid to and the shareholder support for a variety of different types of shareholder proposals has significantly increased. As will be discussed throughout this report, a number of first-time shareholder proposals on topics ranging from firearms to opioids received majority shareholder support. In addition, we continued to see strong shareholder support for climate change proposals and those asking companies to report on certain environmental or sustainability-related issues.

## AVERAGE SHAREHOLDER SUPPORT

Average support for shareholder proposals increased slightly in the last year, from 30.2% to 32.5%. However, while the average support has increased, the proportion of majority supported shareholder resolutions has decreased on a year-over-year basis; in 2017, nearly 14% of proposals that went to a vote received majority shareholder support, while in 2018, this proportion dropped to 10.9%. Likely, the reason for the decrease in majority-supported proposals is the submission of fewer proposals that traditionally receive significant shareholder support, such as those requesting that companies adopt a declassified board structure, majority voting in director elections or proxy access.

In their place were a significant number of special meeting proposals, many of which received strong shareholder support, but only seven (11%) of which received majority shareholder support. In fact, governance was the only shareholder proposal category

### MAJORITY-SUPPORTED SHAREHOLDER PROPOSALS

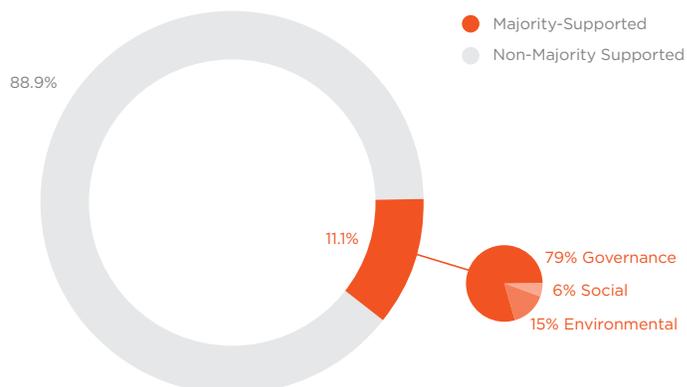


Figure 1.3

to show a decrease in average support from the prior year (average support dropped from 40% to 37%). However, shareholder sentiment for environmental, social and compensation-related issues has increased in the last several years. Average support for all the aforementioned categories increased between 2017 and 2018, with the most notable jump being in socially-related proposals. These proposals received average support of 25% in 2018, up from 19% the previous year. This is likely a result of better-targeted proposals and is also likely due to fewer “Trojan Horse” proposals, and the strong support given to some of these proposals.

The proportion of proposals for which Glass Lewis recommended support increased fairly dramatically in the last year. Historically, Glass Lewis has supported approximately half of all shareholder proposals, and 2017, when we recommended support for 52% of all shareholder proposals, was no exception. In 2018, however, Glass Lewis recommended support for 61% of these proposals. The most notable increase in Glass Lewis’ recommended support was for compensation-related shareholder proposals. In 2017, we recommended in favor of only 6% of proposals. However, in 2018, we recommended in favor of 30% of these proposals. This is mostly as a result of our support for the adoption of clawback policies, after refraining from recommending support for any such proposals in 2017. As discussed later in this report, this reflects the changing regulatory environment, rather than a change to our policies. Our recommended support for governance-related proposals also increased; we recommended support for 77% of these proposals,

up from 73% the prior year. This was largely due to the fact that shareholders submitted fewer “fix it” proxy access proposals and significantly more special meeting shareholder proposals, the latter of which we tend to recommend in favor. Glass Lewis’ recommended support for environmental proposals, however, dropped slightly from 46% in 2017 to 42% in 2018. This is likely due to the submission of far fewer climate-change related shareholder proposals, of which, as discussed later in this report, Glass Lewis has tended to recommend in favor.

## PROponents

As with previous years, individual investors submitted the most shareholder proposals. However, these proponents, which include individuals including John Chevedden, James McRitchie and Kenneth Steiner, submitted significantly more proposals in

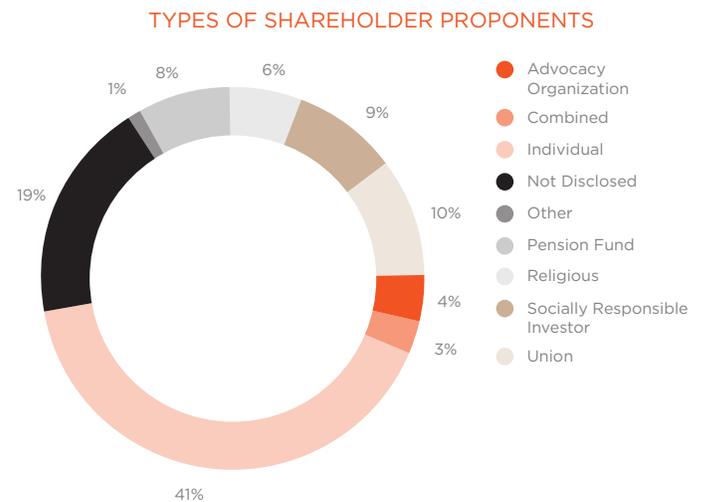


Figure 1.4

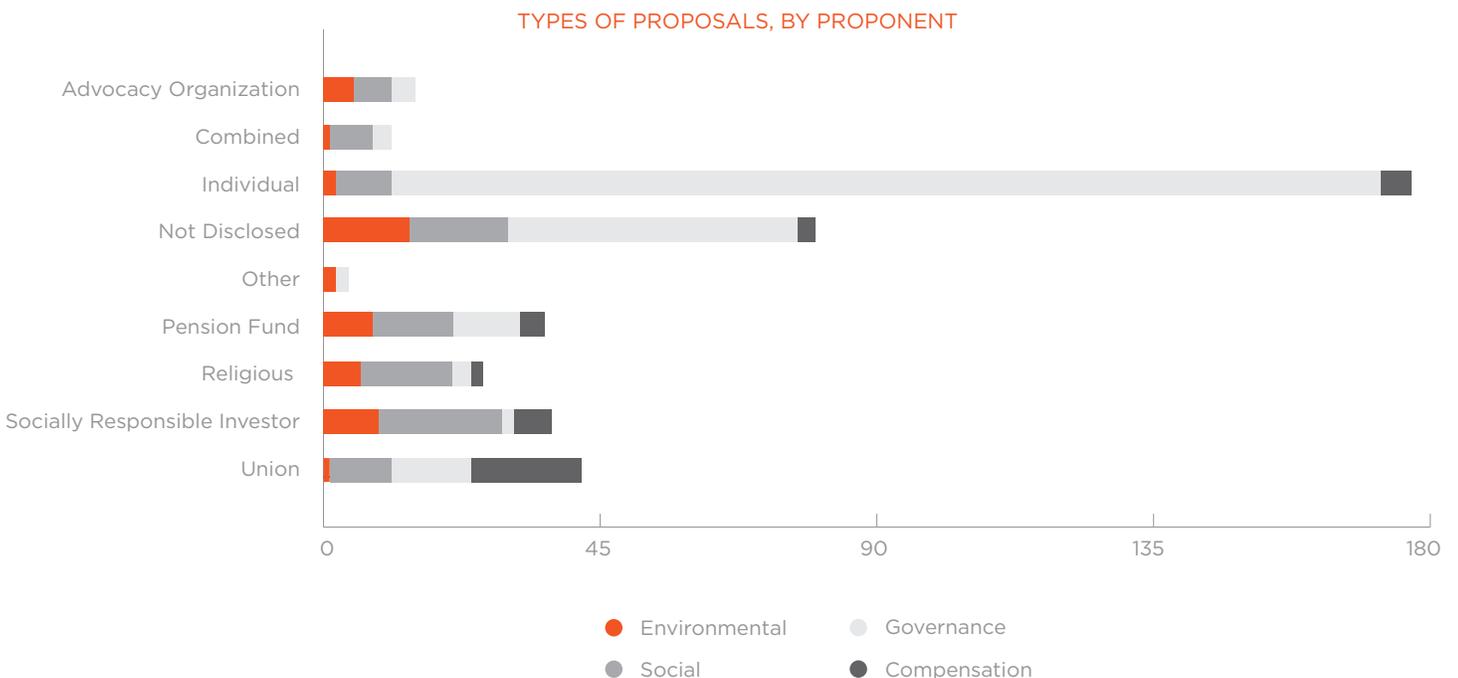


Figure 1.5

SUPPORT FOR SHAREHOLDER PROPOSALS, BY PROPONENT

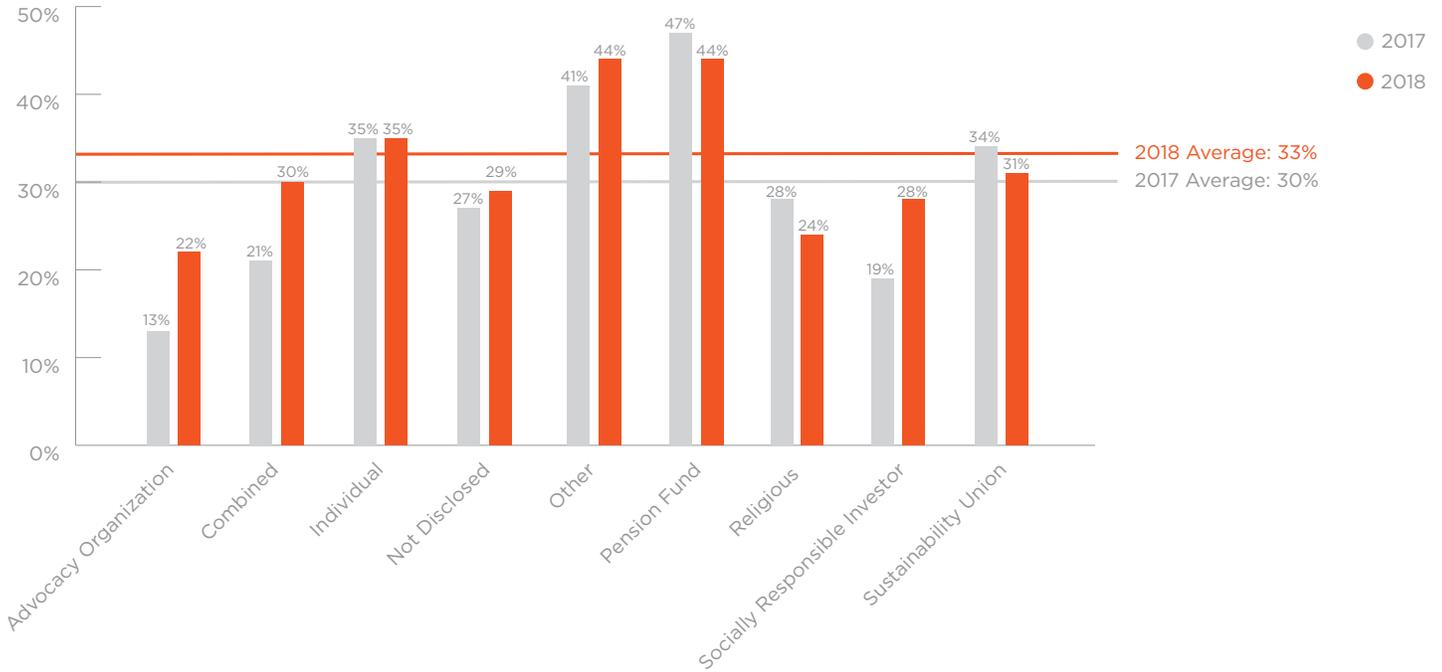


Figure 1.6

2018 (179 resolutions, comprising 41% of all proposals reviewed) than in previous years (128 proposals in 2017, comprising 28% of all proposals reviewed). As discussed later in this report, the steep rise in the prevalence of proposals submitted by individual proponents is due to the submission of a dramatically increased number of shareholder proposals requesting that companies adopt or lower special meeting thresholds.

For at least the last three years, proposals submitted by pension funds have received the highest average support relative to other types of proponents. However, this support is gradually decreasing; aver-

age support dropped from 51% to 47% and then 45%, respectively, over the last three years. On the other hand, average support for proposals submitted by socially responsible investors, such as Trillium Asset Management or NorthStar Asset Management, and advocacy organizations (such as PETA or the National Center for Public Policy Research) increased significantly. The latter is due to the unprecedented levels of support given to what are commonly referred to as Trojan Horse proposals submitted by the National Center for Public Policy Research (for more information on this topic, please see the “Trojan Horse Proposals” section of this report).

# Governance

## BOARD COMPOSITION

Over the last several years, investors have increasingly focused on board composition. This focus has expanded from commonly discussed issues, such as board gender diversity, and has grown to include issues of tenure, age, diversity of thought and experience, and outside director commitments. The increased interest in board composition has become a frequent topic of discussion during shareholder engagements, where companies are often asked questions regarding how boards are performing self-assessments, evaluating outside commitments and ensuring that potential nominees and existing directors' skill sets match with the needs of the company.

The focus on skills and diversity has also resulted in a focus on director skills matrices. While a handful of companies produced these matrices in 2017, during the 2018 season, there was a proliferation of company disclosure concerning director skills and experiences, much of which was contained in a skills matrix. The impetus, arguably, for this widespread practice was the New York City [Comptroller's Board](#)

## GOVERNANCE SHAREHOLDER PROPOSALS

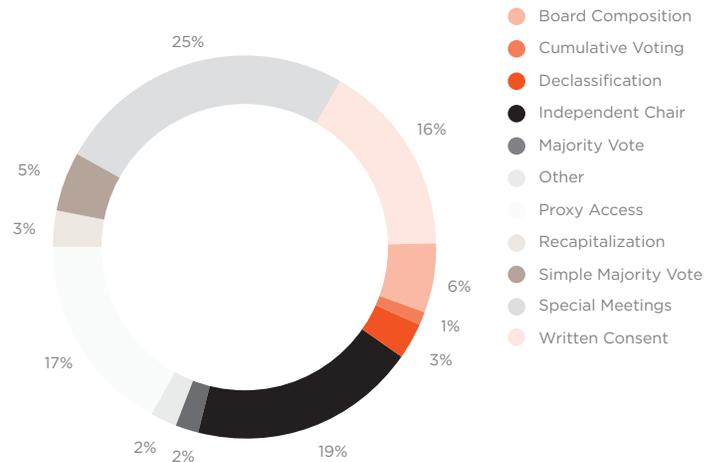


Figure 2.1

Accountability Project 2.0. The original Board Accountability Project, which was launched just prior to the 2015 proxy season, was focused on (and successful in) the widespread adoption of proxy access. However, the Board Accountability Project 2.0 called on the boards of 151 U.S. companies to disclose the race and gender of their directors, along with board

## AVERAGE SUPPORT FOR GOVERNANCE PROPOSALS

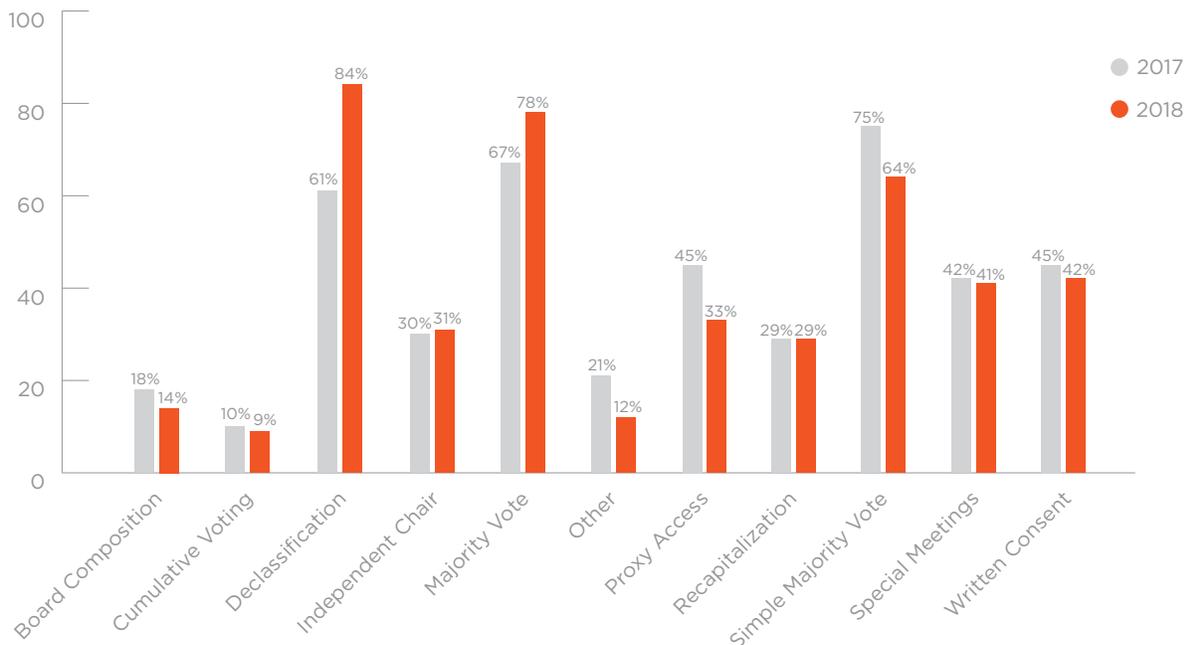


Figure 2.2

members' skills, in a standardized "matrix" format. Although there has been some reticence on behalf of companies and investors in placing race and gender next to skills and expertise, under the premise that ones' gender and race are not "skills," many investors have embraced enhanced diversity on the issues addressed by the initiative.

Unlike the original Board Accountability Project, the most recent initiative was largely spread through a campaign of letters sent to companies, rather than shareholder proposals. However, the New York City Comptroller did file one shareholder proposal in 2018, requesting that **Exxon Mobil Corporation** provide a matrix, similar to that requested in its letter to companies. This proposal received support from only 16.5% of shareholders. However, it is not clear if in the coming years the Comptroller is planning to again use the shareholder proposal process to further its goal of enhancing diversity disclosure.

## DIVERSITY

Despite the significant focus from investors on board diversity, there were limited shareholder proposals on this topic, most of which met with only moderate success. In 2017, Glass Lewis reviewed nine board diversity-related shareholder proposals, two of which received majority shareholder support. In 2018, we only reviewed four such proposals, one of which was withdrawn and the rest of which received between 15.4% and 33.2% support. However, two companies that received the proposal, **Pilgrim's Pride Corporation** and **Discovery, Inc.**, either have a dual class share structure that artificially depresses the vote result or significant inside ownership. As such, outside shareholder support for these measures was higher than it appears at first glance. The proposals at the aforementioned companies respectively received 91.9% and 48.7% unaffiliated shareholder support. Despite the difference in outcomes and volume of these proposals on a year over year basis, average shareholder support was relatively constant between 2017 and 2018 at 26% and 25%, respectively.

In one of the more notable instances, the proposal at **Amazon.com Inc.**, which had a relatively high proportion of women on its board relative to its technology industry peers, was withdrawn prior to going to a vote as a result of corporate commitments. Amazon committed to adopting a "Rooney Rule" style policy, whereby it will ensure that the initial list of candidates from which new director nominees are chosen include qualified women and minority candidates.

Ultimately, however, diversity has recently been a topic at the forefront of issuers and investors minds, and has, accordingly, been a frequent topic in corporate engagements. Moreover, the number of companies without any women on their boards has dropped significantly in the last several years, thanks, in part, to large asset managers such as BlackRock and State Street implementing voting policies targeting boards that are not sufficiently gender diverse. However, given the relative dearth of proposals on this topic going to a vote, it may be that issues of diversity are being more effectively addressed through engagement rather than through the shareholder proposal process.

## ENVIRONMENTAL EXPERTISE/CREATION OF A COMMITTEE

Other proposals related to board composition often requested the formation of a board committee (typically focused on human rights), or that the board ensure that it appointed a director with specific environmental or climate change expertise to the board. These proposals did not fare all that well with shareholders, receiving average shareholder support of 6% and 14%, respectively.

Glass Lewis generally does not support shareholder proposals concerning the specific composition of the board. We do not generally believe that companies should be required to appoint a director with potentially deep, but narrow, experience, who may not have a holistic understanding of a company or industry and its attendant risks. Further, we generally believe that the construction of board committees is a task better exercised by the board and typically give boards wide latitude with respect to this issue.

In 2018, however, Glass Lewis did recommend in favor of one proposal requesting that **Facebook Inc.** issue a report discussing the merits of establishing a risk oversight board committee. We were ultimately concerned with how Facebook was handling a variety of risks related to its content and the governance thereof. Further, Facebook's audit committee, which it stated had oversight of many of the risks identified by the proposal, was not sufficiently independent and thus not able to effectively oversee such risks. Accordingly, we believed that adoption of the resolution would benefit shareholders. Largely as a result of Facebook's capitalization structure, it only received nominal support of 11.6%.

## BOARD OVERSIGHT OF CLIMATE CHANGE

As climate change continues to present risks to companies, investors are increasingly focused on the board oversight afforded to the issue and ensuring climate-competent boards. For example, one of the reasons that companies were targeted for proxy access by the New York City Comptroller was on account of their exposure to climate change-related risks (the other reasons were excessive executive compensation and a lack of board diversity). In a logical extension of this focus, one of the stated purposes of the Board Accountability Project 2.0 was to put pressure on companies to make their boards “more diverse, independent, and climate-competent, so that they are in a position to deliver better long-term returns for investors.” Further, a central tenant of the Task Force on Climate-related Financial Disclosures (“TCFD”), which is discussed in detail later in this report, is to ensure appropriate governance — including board-level oversight — of climate change issues.

Given this focus, it is unsurprising that companies have begun to be targeted by investors on account of their oversight of climate change-related issues. In 2018, shareholders of **Old Republic International Corporation** voted on a proposal requesting that the board establish oversight of risks and opportunities posed by climate change. Glass Lewis recommended in favor of this resolution, which received 48.6% shareholder support, as we believed it would send a strong message to the board that ensuring top-level oversight of climate change is an important component of safeguarding shareholder value. We also had significant governance concerns with the board, which had recently failed to implement two shareholder proposals that received over 74% support (on majority voting and proxy access), and to remove a director who received over 60% withhold votes. This lack of responsiveness influenced our recommended support for the resolution, and also likely resulted in higher support from shareholders.

## BOARD DECLASSIFICATION

Over the last decade, the boards of most large companies have moved from a classified structure to one where every director stands for election on an annual basis. Companies that have not adopted a declassified leadership structure are commonly viewed as outliers in this regard and shareholders are often willing to support a move to an annual election structure. Only six of the nine proposals submitted in 2017 requesting that companies adopt an annual

election process received majority shareholder support. However, in 2018, all of the declassification of the board proposals submitted to a shareholder vote received majority shareholder support, with the lowest (67.3%) at **Axon Enterprises, Inc.** and the highest (94%) at **Hecla Mining Company**. It’s worth noting that the boards of Hecla Mining and **Whitestone REIT** neither recommended that shareholders support or oppose the proposals, indicating broad corporate and investor support for adoption of a declassified board structure.

## ELIMINATING SUPERMAJORITY VOTE PROVISIONS

Glass Lewis is of the belief that most items should be subject to a simple majority vote standard. We believe that that supermajority vote standards can prevent shareholders from implementing important governance measures that are in their best interests. Shareholders generally agree with this sentiment; proposals requesting that companies eliminate their supermajority vote standards commonly receive significant shareholder support. While average support for these proposals dropped from 75% in 2017 to 64% in 2018, with two proposals failing to receive majority support, it should be noted that the failing proposals were at **Alphabet Inc.** and **Facebook, Inc.**, where they received 8.7% and 20.7% support, respectively. The results reflect these companies’ significant inside ownership and dual-class voting structure; thus, despite the year-to-year decline, we still view shareholder support for this measure to be strong.

## INDEPENDENT CHAIR

For the past several years, shareholder proposals requesting that companies appoint an independent chair have been among the most frequent governance-related proposals voted on at annual meetings, and 2018 was no exception.

Investors and researchers have varied opinions on this issue, as evidence that the appointment of an independent chair leads to increased firm value is inconclusive. While Glass Lewis is generally supportive of companies adopting policies that ensure the chair is an independent director (we supported 89% of these proposals in 2018), average shareholder support for these measures has remained at approximately 30% for the last four years. While a number of these proposals receive strong shareholder support, they rarely pass. In both 2017 and 2018, none of these proposals received majority shareholder support. The highest support for this measure in the last

year was at **Celgene Corporation**, where the resolution received 48.2% support.

Generally, the proponents of these proposals are individual investors. However, in the past year, several religious investors and union proponents have taken up the cause, with companies in the healthcare sector disproportionately targeted (10 of the 47 proposals we reviewed in 2018 were submitted at healthcare companies).

## MAJORITY VOTE FOR DIRECTOR ELECTIONS

Majority voting in director elections is a shareholder right supported by the vast majority of investors. Given this favorable view, it is unsurprising that shareholder proposals on this topic often receive significant shareholder support. Further, it is common for companies to either recommend in favor of these proposals or for companies to provide no vote recommendation to investors. This often leads to significant shareholder support. As in previous years, shareholders were generally supportive of the handful of majority voting proposals submitted to companies in 2018. Only a proposal at **Kaman Corporation**, which received 39.2% support, received less than 71% support.

Two majority voting proposals submitted in 2018 were especially notable. A majority voting proposal was submitted to **Hospitality Properties Trust**, which had already adopted a majority voting standard for director elections. However, after John Harrington, a trustee of the company, received over an 80% withhold vote, he continued to serve as a holdover trustee. Although he ultimately resigned from the board, the remaining members of the board and the nominating committee determined to re-elect Mr. Harrington to the board despite strong shareholder opposition to his continued service. Glass Lewis recommended in favor of the majority voting proposal because we believed that shareholders should strongly signal their concern with a number of governance issues at the company, including its reappointment of a director who failed to receive majority shareholder support.

In addition, for the second year in a row, the SEIU proposed a binding bylaw amendment that would require **Netflix, Inc.** to adopt a majority voting standard. Although binding proposals are common, and often required, in other markets, U.S. shareholder proponents often favor nonbinding, or precatory, resolutions. The dramatic move to propose a binding resolution came after Netflix had consistently ig-

nored significant shareholder support on a number of governance resolutions. Nonbinding shareholder proposals requesting that Netflix adopt a majority vote standard for director elections received majority shareholder support at four consecutive annual meetings, with the 2016 version receiving 88% shareholder support. The binding proposal received 63% and 71% votes cast in 2017 and 2018, respectively. However, in each instance, it fell short of the requisite support of 67% of shares outstanding.

## PROXY ACCESS

In 2015 and 2016, shareholder proposals requesting that companies adopt a mechanism for large, long-term investors to nominate director candidates to management's proxy (proxy access) were the most popular shareholder proposal submitted. However, in the past two years their number nearly halved, from 81 in 2016 to 41 in 2018.

In the past two years, proxy access shareholder proposals have taken two forms: (i) those requesting that companies adopt a proxy access right for shareholders; and (ii) those requesting that companies amend their existing proxy access bylaws to conform more closely with the original SEC rule on the topic ("fix it" proposals). The vast majority of companies who have adopted proxy access have coalesced around a standard "3/3/20/20" bylaw amendment, whereby these companies would allow a group of up to 20 investors owning 3% of shares for 3 years to nominate up to 20% of the board. In comparison, the original SEC rule would have allowed an unspecified (thus, presumably, unlimited) number of shareholders owning 3% of shares for 3 years the ability to nominate 25% of the board.

### PROXY ACCESS SHAREHOLDER PROPOSALS

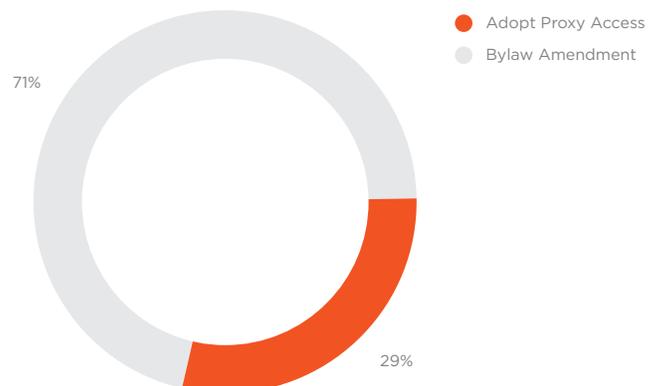


Figure 2.3

## SUPPORT FOR PROXY ACCESS SHAREHOLDER PROPOSALS

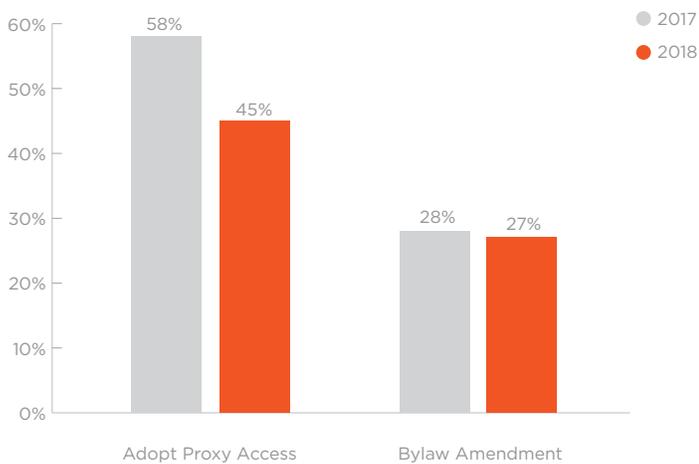


Figure 2.4

Although the requests of most proxy access shareholder proposals do not place a limit on the number of shareholders who are able to aggregate their shares to make up the 3% ownership threshold and would allow these shareholders to nominate 25% of the board, it appears that most investors are comfortable with the 3/3/20/20 bylaws adopted by most companies. This is evidenced by the significantly lower support for “fix it” proposals. While proposals requesting that companies adopt proxy access received average support of 45%, “fix it” proposals received average support of only 27%. Further, it appears that support for this measure has tempered in the last several years. While 65% of proxy access proposals received majority support in 2017, only 33% such proposals received over 50% support in 2018.

Consistent with previous years, no “fix it” proposals received majority shareholder support. Despite the lower shareholder support, “fix it” proposals have begun to overshadow proxy access proposals; in 2018, fix it proposals comprised nearly 70% of all proxy access proposals. This is likely due to the wide adoption of proxy access (nearly 70% of the S&P 500 have adopted some form of proxy access), leading to fewer targets of proxy access proposals.

Glass Lewis is generally supportive of proposals requesting that companies adopt proxy access. Consistent with this support, we recommended in favor of all such proposals in 2018. However, we did not recommend support for any of the “fix it” proposals, as we found that the targeted companies had all adopted reasonable proxy access bylaw amendments that did not unnecessarily restrict shareholders’ ability to exercise this right.

The profile of the proponents of the two types of proxy access proposals have changed in the last

several years. While pension funds historically proposed the vast majority of proxy access shareholder proposals, in 2018, individual investors proposed the majority. For “fix it” resolutions, individuals have historically been the sole type of disclosed proponent.

## SPECIAL MEETINGS

2018 was arguably the year of the special meeting. The most recent proxy season saw 62 shareholder proposals requesting that companies adopt a special meeting right, or that they lower the ownership threshold for their existing shareholder meeting right, making this the most popular shareholder proposal topic of the 2018 proxy season. The number of these proposals has increased significantly from the previous two years, when we reviewed 18 and 23 such proposals, respectively.

The issue of shareholders’ ability to call a special meeting started off on a contentious note at the beginning of the 2018 proxy season. Though, in previous years, there have been instances of conflicting management and shareholder proposals, a number of which related to shareholders’ ability to call a special meeting, the SEC’s recent determination concerning its handling of conflicting proposals resulted in significant investor consternation during the most recent proxy season. After receiving shareholder proposals requesting that they lower their existing special meeting thresholds, a number of companies determined to ratify their current special meeting bylaws and then petitioned the SEC for no-action relief. Unlike previous years, the SEC allowed these companies, which included **CF Industries Holdings, Inc., The AES Corporation, JPMorgan Chase & Co., and eBay Inc.**, to exclude the shareholder proposal, so long as they informed shareholders in their proxy statement that a vote in favor of ratifying the existing special meeting right is “tantamount to a vote against a proposal lowering the threshold.”

Shareholders at **Skyworks Solutions Inc.** didn’t even have a special meeting right until four months before the meeting. However, in response to a 10% special meeting shareholder proposal, Skyworks’ board unilaterally adopted a 25% threshold, which it proceeded to ratify at its annual meeting, to the exclusion of the shareholder proposal.

Although a number of companies submitted management proposals in order to exclude shareholder proposals, several companies placed both management and shareholder proposals up for a vote. This was the strategy taken by six companies dur-

## SUPPORT FOR SPECIAL MEETING PROPOSALS

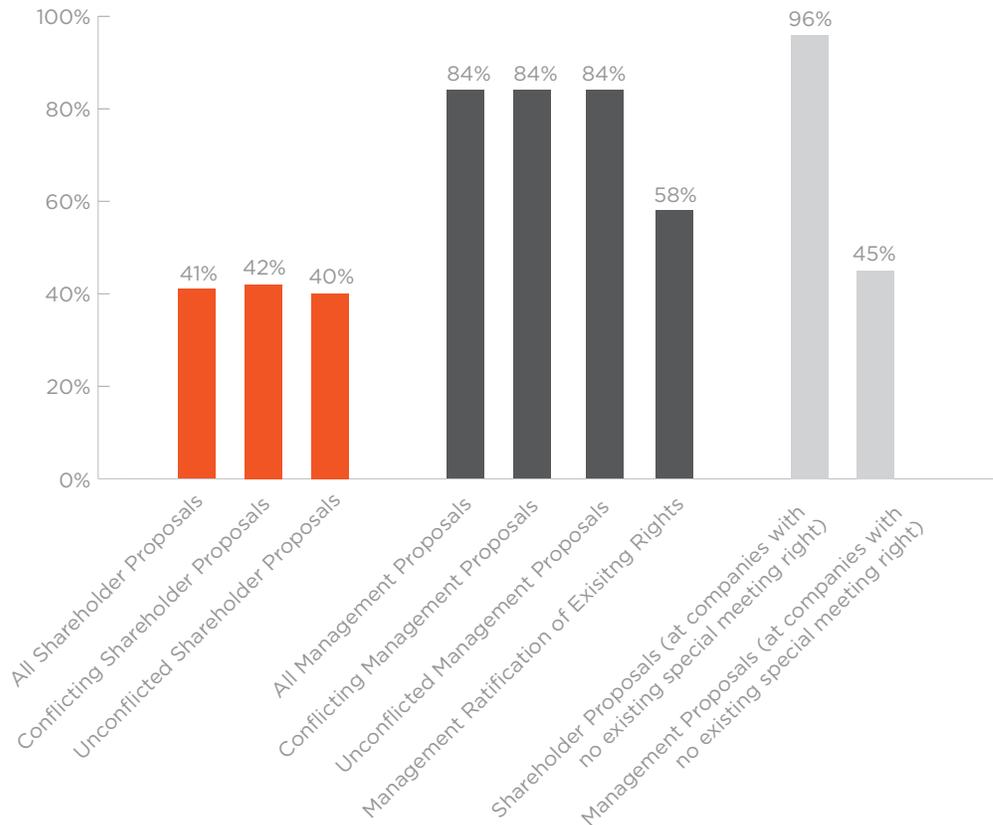


Figure 2.5

ing the first half of 2018: **American Airlines Group, Anthem, Inc., CBRE Group, Inc., Quest Diagnostics Incorporated, Marriott International, Inc., and Spirit AeroSystems Holdings, Inc.** Only one of these management proposals, at Spirit AeroSystems, failed to receive at least majority support; the proposal only received 42.5% support. Further, the shareholder proposal at Spirit AeroSystems was the only one of the conflicting proposals to receive greater than majority shareholder support (65.6%). With the exception of this outlier, shareholders appeared to largely favor management proposals; save Spirit AeroSystems and Marriott (which received 75.5% support), all management proposals received greater than 92% shareholder support. However, the vast majority of the shareholder proposals also received fairly significant shareholder support. With the exception of American Airlines (which received 18.7% support) and Quest Diagnostics (where the proposal did not go to vote, as the proponent failed to present it at the annual meeting), all proposals received over 35% support. As such, it appears that a number of shareholders voted in favor of both the management and shareholder proposals at these companies.

For the most part, it does not appear that these tactics had a significant impact on shareholder voting, which remained fairly consistent: Overall, all manage-

ment proposals received 84% average support and all shareholder proposals received 41% support. Conflicting management proposals also received average support of 84% and the shareholder proposals placed up against these proposals received average support of 42%. However, shareholders did appear to strongly object to the exclusion of shareholder proposals and the ratification of existing rights; these management proposals only received average support of 58%.

Shareholders have myriad views on the appropriate threshold for shareholders' ability to call a special meeting. Some shareholders, typically large asset managers, prefer a 25% special meeting threshold. However, others in the investment community, Glass Lewis included, believe that a lower special meeting threshold better allows shareholders the very important ability to address matters outside the annual meeting cycle. In most cases, we believe that a 10-15% threshold is desirable. Given this belief, when presented with a management and shareholder proposal concerning the special meeting threshold, we generally recommended that shareholders support the lower special meeting right and vote against the higher special meeting right or the ratification of such right. However, where special meeting rights are not yet available to shareholders and two conflicting

proposals are on the ballot (for example, at American Airlines, Anthem and Marriott in 2018), we recommended that shareholders support the shareholder proposal, which contained the lower special meeting right and abstain from, rather than vote against, the higher right proposed by management.

## WRITTEN CONSENT

Glass Lewis strongly supports the right of shareholders to act by written consent, provided that the provision specifies that a majority of outstanding shares must support the requested action. We believe that this is a reasonable threshold that will prevent abuse and the waste of corporate resources while enabling shareholders to take action on important matters that arise between annual meetings. As Glass Lewis typically supports measures that protect shareholder interests and that make boards more accountable to shareholders, we recommended in favor of the vast majority of these proposals.

In 2015, we reviewed 35 shareholder proposals requesting that companies adopt a shareholder right to act by written consent. For the past two years there was a precipitous decline in the number of these proposals (16 and 14, respectively) before rising again; in 2018, we reviewed 39 proposals requesting that companies grant shareholders this right. Further, while two written consent shareholder proposals received majority shareholder support in 2015, no such proposals passed in either 2016 or 2017. In 2018, however, six of these proposals received over 50% shareholder support. Interestingly, despite the significant increase in majority-supported proposals, average shareholder support for these measures has dropped from 45% in 2017 to 42% in 2018.

One proposal requesting that **L3 Technologies, Inc.** adopt written consent received 86.4% support. However, this proposal was interesting on a number of accounts. In 2016, largely due to unclear language from the proponent, a shareholder proposal requesting the elimination of supermajority vote standards was interpreted by the board as a proposal requesting that the company's written consent bylaw be amended by the proposal. Although L3 does not have supermajority vote requirements for bylaw amendments, it does require unanimous approval for shareholder written consent, and this stipulation, written into L3's articles of incorporation, could not be amended without the unanimous consent of all shareholders entitled to vote on the matter. Partially on account of the board determining to not make a recommendation with respect to the proposal, the shareholder resolution received 66.9% shareholder support. In response, L3 submitted a management proposal to shareholders that attempted to eliminate the requirement of a unanimous vote of all outstanding shareholders to amend the written consent provision in its articles. Given the requirement of unanimous support, it is not at all surprising that the proposal resoundingly failed to pass despite receiving approval from 98% of the votes cast at the 2017 meeting. In 2018, a shareholder proposal was again submitted. This time, the proposal directly addressed the issue of written consent and the board recommended that shareholders vote in favor of the measure, contributing to 86% support. However, given the unrealistic level of support needed to amend L3's written consent provisions, this is likely to be an ongoing but unwinnable battle for shareholders.

# Compensation

For the past several years, compensation-related shareholder proposals have been on the decline. Between 2015 and 2018, the number of compensation-related shareholder proposals we reviewed dropped from 86 to just 37. This could signal a broad move away from the shareholder proposal process as a means of effecting change in companies' compensation plans. This move is likely due to the combination of two factors: (i) the 2011 introduction of a shareholders' ability to vote on say on pay proposals; and (ii) the significant rise in shareholder engagement. It appears that many of the issues that were once addressed by shareholders through the shareholder proposal process are now being addressed through companies' engagement with shareholders.

Another notable trend in compensation-related shareholder proposals is that the vast majority of these proposals now deal with environmental or social issues. While the majority of compensation-related shareholder proposals have historically addressed issues such as stock retention requirements or change in control policies, these proposals are now encouraging companies to establish a link between

compensation and environmental or social issues, or are ensuring that companies' compensation policies have socially responsible considerations. This appears to follow a broader trend of investors' growing interest in environmental and social considerations.

Compensation is still a pressing issue to which investors pay close attention. However, in the last seven years, shareholders have grown more comfortable

COMPENSATION SHAREHOLDER PROPOSALS

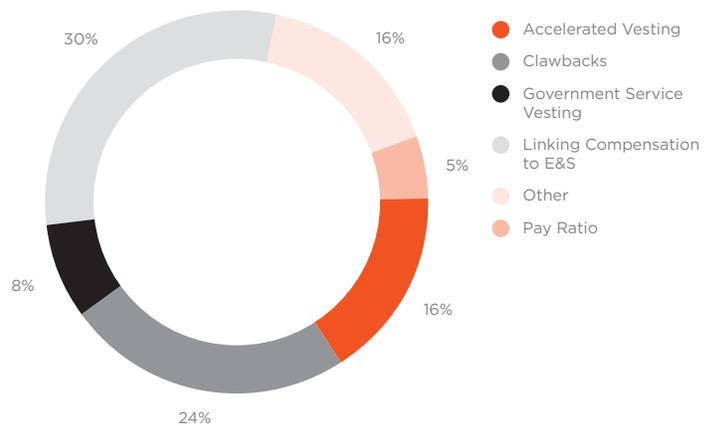


Figure 3.1

SUPPORT FOR COMPENSATION SHAREHOLDER PROPOSALS

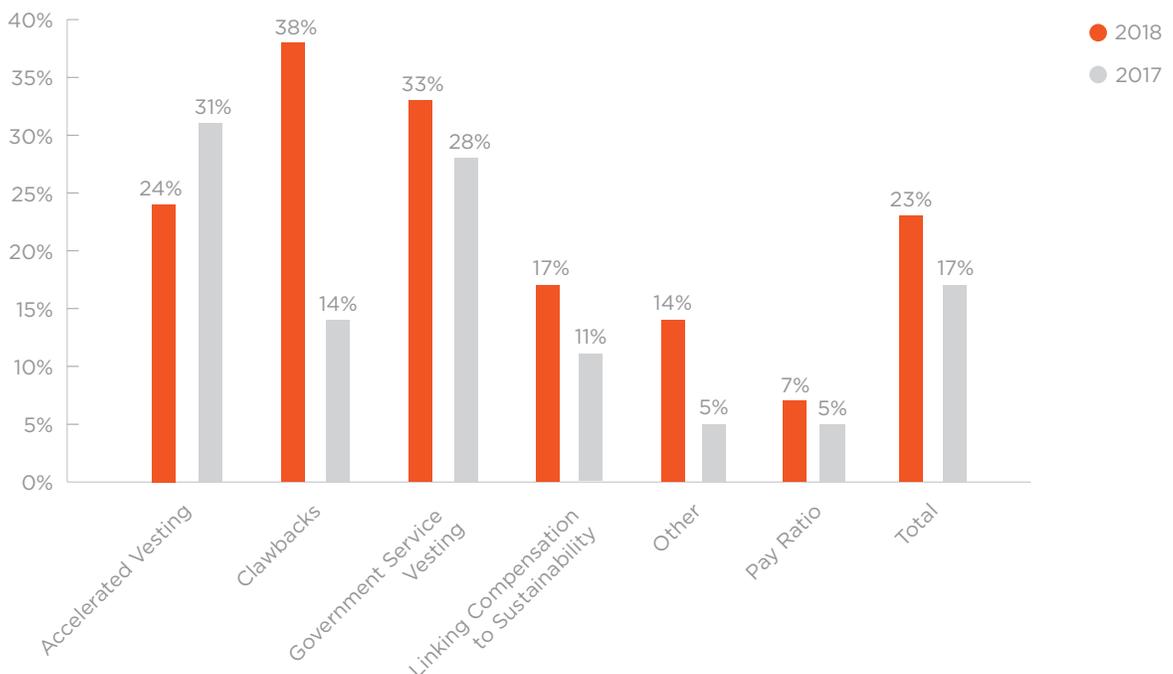


Figure 3.2

evaluating companies' compensation programs, and companies have enhanced policies to conform with investors' expectations, as a result of say on pay proposals and compensation-related engagements. As such, it appears that the new frontier in compensation-related matters is how companies are incentivizing and rewarding sustainable corporate performance.

## ACCELERATED VESTING OF SHARES FOLLOWING A CHANGE IN CONTROL

Traditionally one of the more popular compensation-related shareholder proposals has requested that companies prohibit the accelerated vesting of equity awards upon a change in control. As with other types of compensation-related shareholder proposals, we have seen a steep decline in the number of these proposals: from 29 in 2015, to just 24 over the past three years, including 6 in 2018.

Glass Lewis generally recommends in favor of these proposals if a company has a single-trigger change in control provision, whereby shares automatically vest upon a change in control even if executives retain their jobs. Conversely, if a company has adopted a double-trigger change in control policy (requiring executives to lose their jobs as a result of a change in control for payouts to occur), we will often refrain from recommending support for these proposals. While in 2014, we recommended in favor of 40% of these proposals, we recommended in favor of 20% in 2017, and in 2018 we did not recommend in favor of any proposals requesting that companies prohibit the accelerated vesting of shares upon a change in control. This significantly lowered recommended support follows a broader trend of companies adopting more comprehensive change in control provisions, and in particular the growth of double-trigger policies: in 2018, only 36% of companies have single-trigger vesting provisions, the majority of which are contained in legacy-only provisions, whereas in 2015, 48% of companies had single-trigger change in control provisions.

Given that in 2018 these proposals were exclusively submitted at companies with double-trigger change in control policies, it is unsurprising that shareholder support for these measures has declined. While average support for these measures had consistently remained between 31% and 35% from 2013 to 2017, in 2018, average support for these proposals was only 24%.

## CLAWBACKS

Just one year on from the sales practices scandal at Wells Fargo, and in the midst of the #MeToo movement, issues related to clawback policies are incredibly relevant to companies and their shareholders. In 2018, we reviewed nine proposals dealing with recoupment, one of which, at **Caterpillar Inc.**, was not presented at its annual meeting. This is a slight increase from 2017, when we reviewed six such proposals.

Most of these proposals requested that companies amend their clawback policies to provide that the compensation committee will consider application of the policy if (i) there has been conduct resulting in a material violation of law or Company policy that causes significant financial or reputational harm to the company and (ii) the senior executive engaged in such conduct failed in his or her responsibility to manage or monitor conduct or risks. These proposals also asked that the companies disclose the circumstances of the recoupment if either required by law or if the compensation committee determined that disclosure was in the best interests of the company and its shareholders.

Further, a proposal at **AmerisourceBergen Corporation** requested that the board disclose annually whether in the previous year it had recouped any incentive compensation or caused a senior executive to forfeit an incentive compensation award as a result of applying its clawback policy. Glass Lewis generally supports such proposals, as it is our belief is that clawback policies are only meaningful and effective when used, and that shareholders generally benefit from increased disclosure with respect to the actions that companies have taken in connection with their clawback policies.

We refrained from recommending support for one proposal at **Verizon Communications, Inc.**, which essentially requested that the clawback policy be strengthened to state that "conduct" rather than "willful misconduct" may trigger application of the policy. Upon review, we did not believe that the proposed changes would result in meaningful changes to Verizon's current recoupment policy, which allows the human resources committee to recoup compensation awarded in the event of reputational harm.

With the exception of the proposal at Verizon, Glass Lewis recommended support for all proposals asking companies to adopt these enhanced clawback policies. As has been seen with other corporate

scandals, companies and their shareholders can face material losses from more than just financial restatement caused by individuals engaged in knowing and intentional fraudulent or illegal conduct. Given that the companies that were targeted generally only included this provision in their clawback policies, we believed that expanding the policies to include financial and reputational harm was warranted. However, this is a departure from previous years, when we generally did not recommend in favor of such proposals. The change reflects the current regulatory environment; we previously believed that the clawback rules promised under Dodd-Frank would provide for fairly robust protections and, with SEC regulations pending, we did not believe that it was especially useful for companies to adopt policies requested by shareholder proposals. However, under the Trump administration, these clawback rules have landed in purgatory. With no regulatory solution on the horizon, we believe that companies should reevaluate their clawback policies in light of new market standards and trends.

Average shareholder support for these proposals also increased significantly. In 2018, average support was 38% and support levels ranged from 26.9% (at **XPO Logistics, Inc.**) to 48.2% (at **The TJX Companies, Inc.**). In 2017, average support for these proposals was only 14%. However, excluding several distinct proposals requesting that certain banks adopt a clawback policy requiring the deferral of awards for ten years to ensure the absence of monetary penalties, in 2017, these proposals averaged 23.6% support. As such, it appears that shareholders are generally pushing for more progressive clawback policies and that they are not necessarily anticipating the SEC to require more robust clawback policies in the near future.

## LINKING COMPENSATION TO SUSTAINABILITY

Similar to 2017, during the 2018 proxy season, the highest proportion of compensation-related proposals dealt with tying executive compensation to certain environmental or social factors. However, none of these proposals received significant shareholder support, though average support did increase from the previous year. On average, these proposals received 17% support, up from 11% the previous year. The lowest support (6%) was for a proposal at **Wells Fargo & Company** requesting that it “engage multiple outside independent experts or resources from the general public to reform its executive compensation policy with social responsibility.” The highest

support (28.2%) was for a proposal at **Biogen Inc.** requesting that it report to shareholders on the extent to which risks related to public concern over drug pricing strategies are integrated into its incentive compensation policies.

The latter of these proposals was a novel approach to a topic that has been of concern to the proponents for a number of years. Issues related to drug pricing have commonly been a subject of shareholder proposals, but rarely have these proposals been tied to issues of executive compensation. For example, historically, proponents have requested that companies have been asked to report on risks associated with certain drug pricing strategies. In 2017, these proponents submitted proposals requesting that certain drug companies issue reports listing average annual price increases for their top-selling drugs and that they state their rationale for the increases. However, the SEC allowed these companies to exclude these resolutions on the basis that they interfered with ordinary business. As a result, the proponents reformulated their request and submitted the proposals requesting more information on how the pricing of drugs is linked to executive compensation at five companies. On average, these proposals received average support of 19.4%.

Glass Lewis reviews proposals requesting that companies establish a link between compensation and environmental or social factors on a case-by-case basis. When making a vote recommendation, we consider a number of factors including the targeted company’s current executive compensation plan, the specific request of the proposal and the company’s exposure to environmental or social risks. Similar to the previous year, in 2018, Glass Lewis supported only one of these proposals: a proposal requesting that **Expeditors International of Washington, Inc.** prepare a report assessing the feasibility of integrating sustainability metrics into its executive compensation program. Given the company is a non-asset owning logistics provider, the company had a relatively limited environmental impact, and thus fairly low exposure to attendant risks. Further, the proponent failed to identify (and we found no evidence of) the company’s lack of attention to environmental or social issues. Nonetheless, we supported the proposal after identifying problems with the structure of the company’s compensation plan. Ultimately, we believed that shareholders would likely benefit from Expeditors’ consideration of adding new, performance-based metrics into its compensation plan and for all NEOs.

# Environmental & Social

## ENVIRONMENTAL SHAREHOLDER PROPOSALS

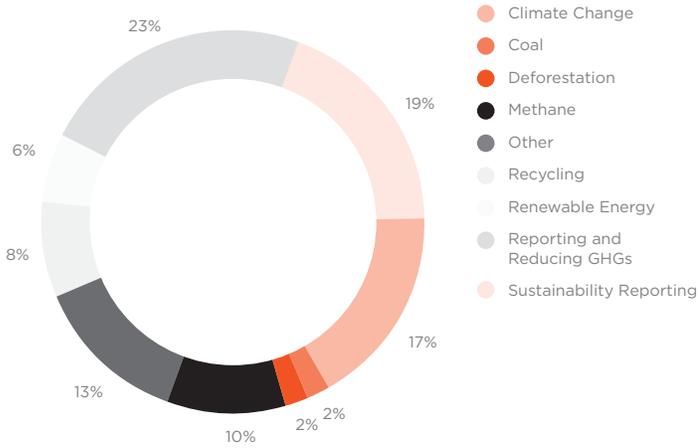


Figure 4.1

## SOCIAL SHAREHOLDER PROPOSALS

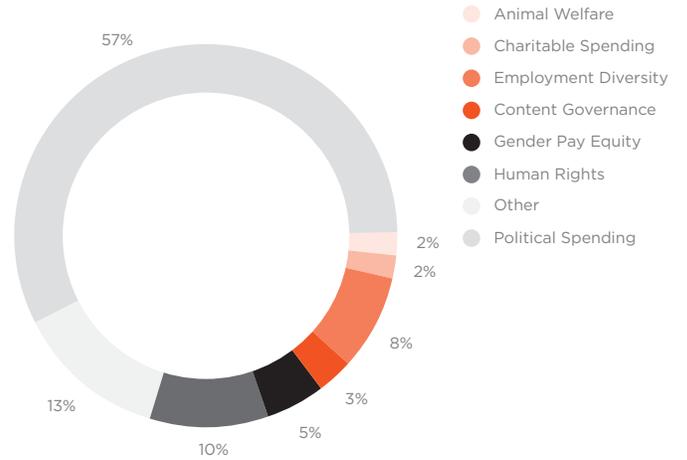


Figure 4.3

## SUPPORT FOR ENVIRONMENTAL SHAREHOLDER PROPOSALS

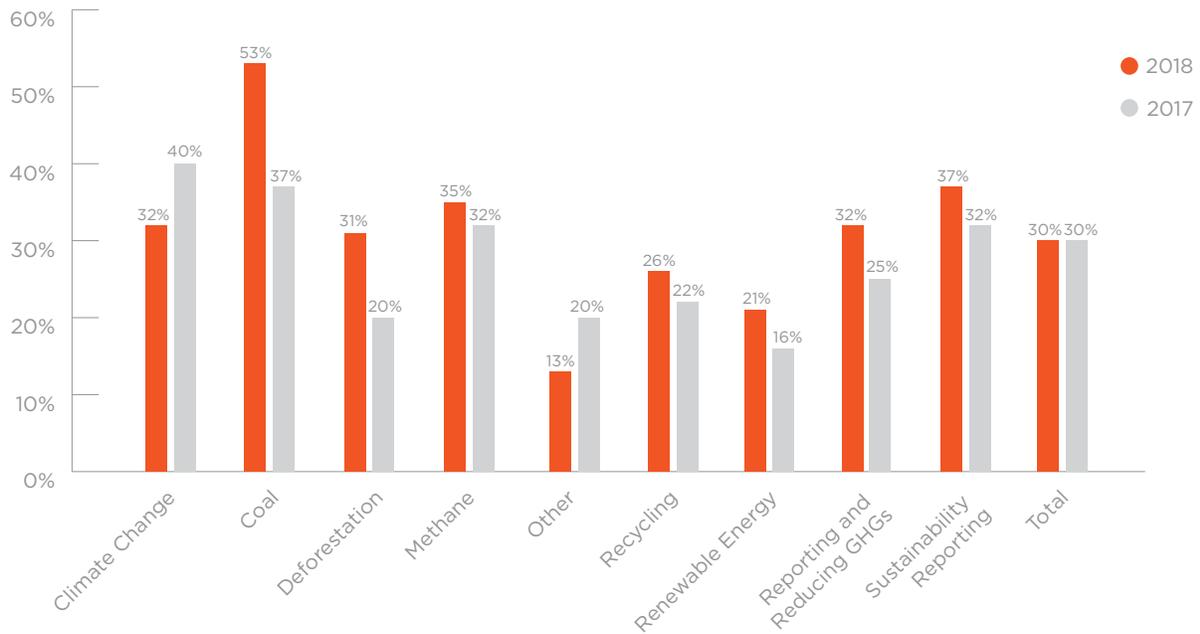


Figure 4.2

## SUPPORT FOR SOCIAL SHAREHOLDER PROPOSALS

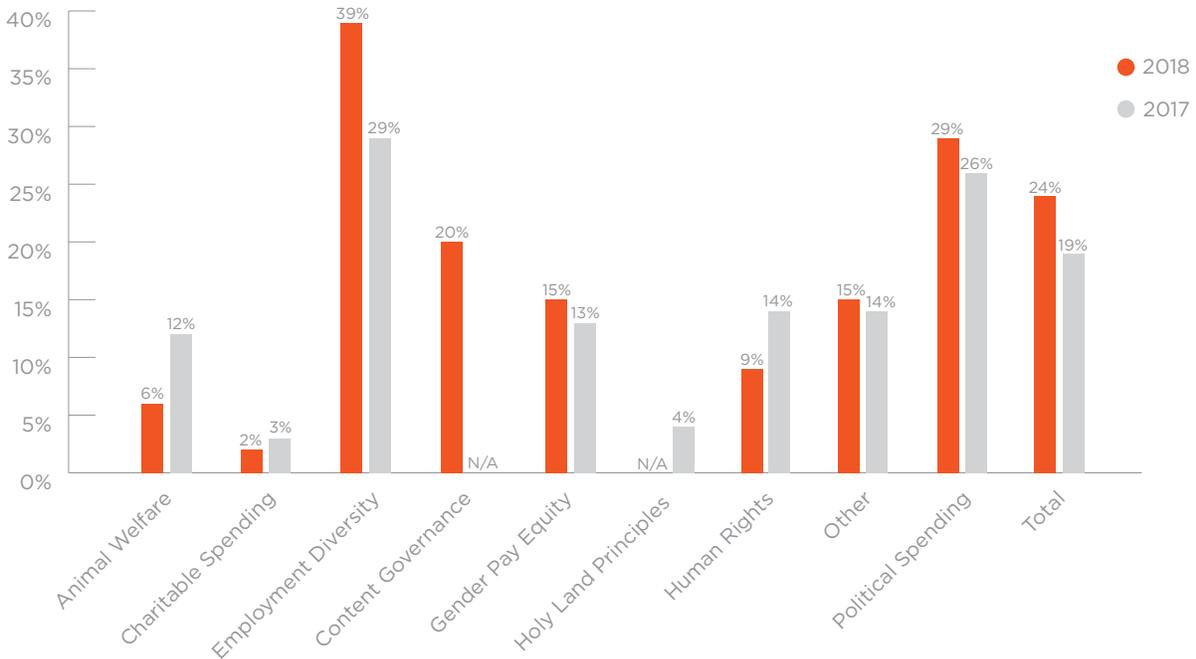


Figure 4.4

## CLIMATE CHANGE

Climate change has been one of the most pressing issues facing investors in recent years. For a number of years, shareholders have proposed resolutions requesting additional disclosure concerning companies' scenario planning against a range of low-carbon scenarios, particularly the 2°C scenario outlined in the 2015 Paris Climate Accords. In 2015, Glass Lewis reviewed 14 shareholder proposals requesting additional reporting on climate-related issues. However, by 2017, 21 such shareholder proposals went to a vote, receiving average shareholder support of 40%. Moreover, prior to last year, no climate change-related shareholder proposal had ever received majority support, but that year three such proposals received over 50% approval. This increased support is indicative of the interest and support behind a number of these initiatives and the growing realization that issues related to climate change pose significant risks to investors and the companies in which they invest.

As a result of this strong interest in and support of climate change reporting, in the last year we witnessed the rapid adoption of 2°C scenario analysis reporting by companies in the utilities and energy sectors. During the 2017 season, only a handful of companies had produced any type of reporting concerning these issues. However, by the beginning of the 2018 season, not only did **Exxon Mobil Corporation**, **PPL Corporation**, and **Occidental Petroleum Corporation** (the

## SUPPORT FOR CLIMATE CHANGE PROPOSALS

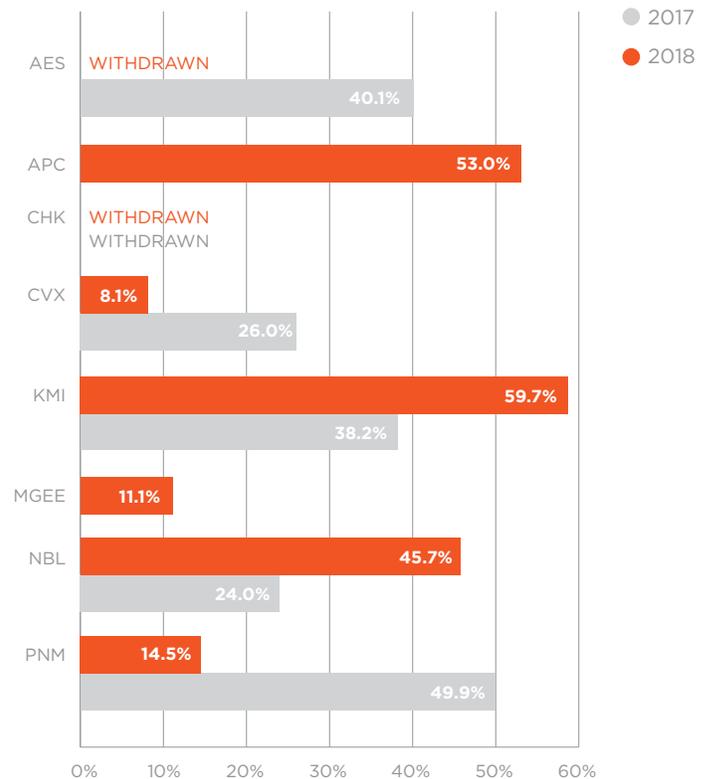


Figure 4.5

three companies that received majority support on shareholder proposals in 2017) produce thorough 2°C scenario reports, a number of other companies had also begun to provide similar disclosure. The rise in disclosure was aided by the reporting recommendations produced by the Financial Stability Board's TCFD. These recommendations, which were finalized in July 2017, provided companies with a framework for voluntary, consistent, climate-related financial risk disclosure for use by companies in providing information to investors, lenders, insurers, and other stakeholders. The recommendations center around four areas: (i) disclosure of an organization's governance around climate-related risks and opportunities; (ii) disclosure of the actual and potential impacts of climate-related risks and opportunities on the organization's businesses, strategy, and financial planning where such information is material; (iii) disclosure of how the organization identifies, assesses, and manages climate-related risks; and (iv) disclosure of the metrics and targets used to assess and manage relevant climate-related risks and opportunities where such information is material.

In the last year, the TCFD recommendations have received the backing of a wide variety of investors and companies. In addition, a number of organizations, including the Sustainability Accounting Standards Board ("SASB"), CDP (fka Carbon Disclosure Project), and the Global Reporting Initiative (the leading framework for sustainability reporting) have endorsed and aligned their reporting to more closely match that recommended by the TCFD. Given the support for these recommendations by investors, companies and standard setters, it is unsurprising that many companies that have chosen to provide climate-related reports are doing so in accordance with or in general alignment with the TCFD recommendations.

Given the support for TCFD reporting and the overwhelming success of many climate change initiatives in the previous year, investors braced themselves for an onslaught of climate-related proposals during the 2018 season. However, only eight climate-related proposals made it to corporate ballots, two of which (submitted at **The AES Corporation** and **Chesapeake Energy Corporation**) were withdrawn prior to going to a vote. The sudden drop in the number of these proposals going to a vote is likely due to companies' proactive response to this issue and their willingness to engage with shareholder proponents. All but one of the proposals submitted in 2018 requested that companies produce an assessment of the long-term portfolio impacts of scenarios consistent with the in-

ternationally recognized goal of limiting the global increase in temperature to 2°C. The other proposal, submitted at **Chevron Corporation**, requested that the company issue a report describing how it "could adapt its business model to align with a decarbonizing economy by altering its energy mix to substantially reduce dependence on fossil fuels, including options such as buying, or merging with, companies with assets or technologies in renewable energy, and/or internally expanding its own renewable energy portfolio, as a means to reduce societal greenhouse gas emissions and protect shareholder value."

Support for these proposals varied widely, which we view as a sign of shareholders' sophistication and nuance with respect to their votes on this issue. The proposal at Chevron received only 8.1% support, which is unsurprising given the significant reporting already produced by the company on issues related to climate change and its 2°C analysis reporting. The remaining five proposals, on average, received 31% support, with two proposals at **Anadarko Petroleum Corporation** and **Kinder Morgan, Inc.** receiving majority shareholder support. In addition, **Noble Energy, Inc.**, which received 24% on a similar resolution in 2017, received 45.7% support for the 2018 resolution. However, the other two proposals, submitted at **MGE Energy, Inc.** and **PNM Resources, Inc.**, received 11.1% and 14.5% support, respectively. It is likely that these two companies received such relatively low support for this typically popular measure as a result of their existing business plans and disclosure. Both companies, which operate as utilities, had made significant emissions reductions commitments in recent years. For example, MGE had recently set two goals: (i) reduce carbon emissions by 40% from 2005 levels by 2030, consistent with the U.S. emissions targets for the 2030 time frame established as part of the Paris Agreement; and (ii) increase renewable energy so that it is supplying 30% of retail electric sales with renewable energy by 2030. Similarly, PNM (which received 49.9% support on a similar proposal in 2017) had recently enhanced its disclosure of climate-related considerations. In addition, it had stated its intention to completely divest from its coal generation by 2035 and stated that its current plans were aligned with the Clean Power Plan (a now-defunct Obama-era regulation that was intended to curb emissions from utilities in order to allow the U.S. to meet its goals under the Paris Climate Accord). Accordingly, we view these vote results as evidence that investors are closely evaluating these issues and the unique circumstances at each company where climate-related proposals have been submitted.

Glass Lewis recommended in favor of all but two climate proposals, at MGE Energy and Chevron. We recommended support for the proposal at PNM with some reticence, noting the company's increased disclosure and commitments. Ultimately, however, we believed that, given the nearly majority support for a similar proposal in 2017, enhanced disclosure would ensure more alignment with PNM's utility peers and that a more tailored response to a potential two-degree scenario would be beneficial to shareholders.

## EMISSIONS REDUCTIONS AND RENEWABLE ENERGY

### CAFE STANDARDS

Corporate Average Fuel Economy ("CAFE") standards, which are regulated by a number of federal and state agencies, including the Environmental Protection Agency ("EPA"), were established in 1975 and have been steadily increased since their adoption in order to improve automotive efficiency. Under the Trump administration, there have been several regulatory attempts, largely on behalf of the EPA, to roll back the Obama-era CAFE standards for 2022-2025 models. In order to mitigate the environmental impact of this attempted rollback of regulations, some socially responsible investors have engaged automakers in order to ensure that these companies are ensuring maximum fuel efficiency. As a result, in 2018, shareholders at both **Ford Motor Company** and **General Motors Co.** voted on a proposal requesting that the companies report on whether their fleet GHG emissions through 2025 will increase due to the industry's weakening of CAFE standards or, conversely, how they plan to retain emissions consistent with current CAFE standards, to ensure their products are sustainable in a rapidly decarbonizing vehicle market.

These proposals received 26.9% and 12.8% support at General Motors and Ford, respectively. Support for these measures was relatively high given that it was a first-year proposal and that Ford's dual-class share structure artificially depresses the vote results. Glass Lewis, however, did not recommend that shareholders support these proposals. We recognize that changes in regulation or market conditions can have a significant impact on companies and their operations, and that companies must stay flexible and responsive to changing demands. However, we were concerned that the uncertainty of the regulations governing fleet emissions and vehicle standards could present challenges for the companies in estimating fleet emissions through 2025. In addition, both companies had provided thorough disclosure

concerning the risks faced on account of regulatory changes and the steps they were taking to minimize fleet vehicle emissions.

### METHANE EMISSIONS

In recent years, there has been an increased focus on ensuring that companies are managing and, to the best extent possible, mitigating their methane emissions. Not only are methane emissions exponentially more potent than carbon emissions, but there may also be significant financial incentives for companies to mitigate the losses experienced through unintentional methane emissions, as such emissions represent product that could otherwise be sold. Moreover, there have been a variety of regulatory initiatives aimed at curbing methane emissions in the last several years. Although some of these regulations have been rolled back under the Trump administration, many local and state laws exist regulating companies' methane emissions, meaning that companies still face relatively significant regulatory risks with respect to this issue. As a result of the aforementioned risks, many investors have taken a keen interest in how companies are managing this issue and have increasingly been supporting shareholder proposals requesting additional disclosure on this topic, as evidenced by 37% average support for these measures. Further, in 2018, one such proposal, at **Range Resources Corporation** received majority shareholder support (50.3%). Additionally, as a result of enhanced reporting, another proposal, submitted at **Dominion Energy, Inc.** was withdrawn by the proponent prior to the meeting.

In each 2017 and 2018, Glass Lewis reviewed five shareholder proposals directly related to methane emissions. In 2018, we recommended that shareholders support proposals at Chevron Corporation (which received 45% support), Kinder Morgan, Inc. (which received 38% support) and Range Resources Corporation (see above). However, we did not recommend that shareholder support a proposal at Berkshire Hathaway Inc. nor did we initially recommend in favor of the proposal at Dominion Energy prior to its withdrawal. In the latter instance, we found Dominion's existing disclosure concerning its methane initiatives to be sufficient. With respect to Berkshire Hathaway, we found the proposal, which was submitted for the second year in a row, to be poorly crafted. This proposal requested that the firm disclose its policies, actions and plans to measure, monitor, mitigate, disclosure and set quantitative reduction targets for methane emissions resulting from all operations under its financial or operational control. Although Berkshire

Hathaway does have some exposure to risks related to its methane emissions as a result of its energy and utility subsidiaries, it has over 60 companies as a part of its portfolio. As such, we determined that the request was too broad, that the disclosure and policies requested by the proposal would be overly burdensome, and that adoption of the proposal would not necessarily benefit shareholders.

## RENEWABLE ENERGY

Given investors' focus on issues related to climate change, it is unsurprising that, over the past several years, a number of proponents have requested that companies adopt renewable energy goals or report on the feasibility of doing so. In 2017 we reviewed five such proposals, which, on average, received 16% support. In 2018, three proposals concerning renewable energy generation were on company ballots. One of these proposals, at **Community Health Systems, Inc.**, was not presented at the annual meeting. The other two proposals, at **MGE Energy, Inc.** and **The Kroger Co.** received 10.7% and 31.4% support, respectively.

## REPORTING AND REDUCING GHG EMISSIONS

For many years, shareholders have proposed resolutions requesting that companies adopt GHG reduction targets. Particularly given the increased focus on issues related to the environment and climate change, it is unsurprising that shareholders are continuing to press companies to take steps to minimize their environmental impacts. However, there has been a shift in how shareholders are approaching this issue, the most notable of which is the targeting of these proposals. Traditionally, these proposals had been targeted at companies operating in the oil and gas industry or in heavily emitting industries, such as utilities. However, in recent years, proponents have begun submitting proposals at less emissions-intensive companies. For example, in 2018, this proposal was submitted at **C.H. Robinson Worldwide, Inc.** (a non-asset-owning logistics company), **Fluor Corporation** (a services holding company whose facilities consist primarily of office space) and **L3 Technologies, Inc.** (a contractor and provider of communication systems). One of the most notable proposals was at **Genesee & Wyoming Inc.**, a company that owns and leases freight railroads. At its 2018 annual meeting, the board made no recommendation to shareholders on how to vote on this resolution, which usually is an implicit nod of support for the resolution. As a result, the proposal received 57.2% support

Although we generally support shareholder requests to improve disclosure on material sustainability issues, Glass Lewis typically believes that shareholders should not be involved in the day to day management of a company's business. Given this belief, we often find that shareholder proposals requesting that companies set emissions reductions goals overstep the boundary between the purview of shareholders and that of the board. However, Glass Lewis reviews these proposals on a case-by-case basis, taking into account the materiality of emissions to the company in question, as well as the wording of the requests of the resolution. In certain circumstances, particularly when emissions present a material issue for companies, setting GHG emissions reduction targets can significantly affect the way a company operates.

## FIREARMS

The mass shooting at a high school in Parkland Florida in February 2018 focused renewed attention on the issue of gun violence from regulators, the media and investors. A number of companies, including **Walmart Inc.** and **Dick's Sporting Goods, Inc.**, placed new restrictions on their sale of firearms. In addition, several companies cut their ties to the National Rifle Association. Some of the most notable actions, however, came from investors; both State Street and BlackRock announced that they would be engaging with weapons manufacturers and distributors on the issue of gun violence. This engagement held significant weight for these companies considering their size and that BlackRock was the largest shareholder in gun manufactures **Sturm, Ruger & Company** and **American Outdoor Brands Corporation**.

In February 2018, it appeared as though shareholders would be voting on up to three firearm related shareholder proposals at American Outdoor Brands, Dicks Sporting Goods, and Sturm Ruger. However, only one of these proposals, at Sturm Ruger, went to a vote. This proposal requested that the company issue a report on the company's activities related to gun safety measures and the mitigation of harm associated with gun products, including: (i) evidence of monitoring of violent events associated with products produced by the company; (ii) efforts underway to research and produce safer guns and gun products; and (iii) an assessment of the corporate reputational and financial risks related to gun violence in the United States.

In addition to the shareholder proposal, a number of shareholders, including Amalgamated Bank and Majority Action, expressed significant concerns with Sturm Ruger's performance and risk oversight. Both

investors also took issue with the reelection of Sandra S. Froman to the board. Ms. Froman, who sat on the risk oversight, compensation and nominating and corporate governance committees of the board and was the board's only female director, also held a lifetime appointment to the NRA Executive Council. Majority Action noted a number of concerns with Ms. Froman's biographical history, noting her work as a research assistant to William Shockley, a Stanford University Professor who was both a Nobel-Prize winning physicist and was described by the Southern Poverty Law Center as "an ardent eugenicist whose theories of black racial inferiority eventually made him an academic pariah." The vote-no campaigns did little to affect Ms. Froman's shareholder approval (while she had the second-lowest approval of any director up for election, she still received 97.9% support). However, a strong majority of shareholders supported the shareholder resolution, which received 68.8% support.

Glass Lewis recommended in favor of the shareholder resolution for a variety of reasons. We did not find it reasonable to expect Sturm Ruger to monitor all violent events associated with its products (as it was reported in 2017 that there were 61,610 total gun-related incidents, including 346 mass shootings, which resulted in 15,613 deaths and 31,222 injuries in the United States). Nonetheless, we were concerned with Sturm Ruger's management of reputational risks. Notably, in its most recent 10-K, the company only identified the misconduct of its employees or contractors and cybersecurity threats as posing a risk to its reputation. However, given that Remington, another gun manufacturer, had recently declared bankruptcy, in part because of a lack of willing purchasers and investors on account of its involvement in the manufacture of guns, we believed that additional reporting on the issue was warranted.

## GENDER PAY EQUITY

In 2016, a relatively novel shareholder proposal requesting additional information on how **eBay Inc.** was closing its gender pay gap received majority shareholder support. This result was all the more notable given that the proposal was first submitted at eBay just one year prior and received much lower support. It is fairly common for shareholder proposals to receive low support in the first years after they are introduced. Even the SEC has recognized this fact, and has lower resubmission guidelines for shareholder proposals in the first and second years they are presented at companies. Moreover, prior to 2015, the issue of gender pay equity had not been

raised by a shareholder proposal since 2007. As such, it was a surprise when support for the eBay shareholder resolution shot up from 8.5% in 2014 to 51.2% just one year later.

In 2015, eBay was the only tech company where shareholders voted on proposals requesting reporting on the steps it was taking to reduce the pay gap. However, in 2016, two of eBay's peers — Alphabet Inc. and Facebook — were also being targeted with this proposal. In 2017, the proposal was also submitted to certain financial institutions, including **Bank of America Corporation** and **JPMorgan Chase & Co.** While all other proposals dealt exclusively with gender pay inequity, a proposal at **The TJX Companies, Inc.** requested information on how the firm was minimizing any gender or racial pay gap.

Ultimately, these proposals fared relatively poorly, particularly given the overwhelming support at eBay in 2015. The 13 proposals submitted to companies in 2017 received average shareholder support of 13%. However, despite this low support, a number of companies, many in the financial sector, took action on this issue between the 2017 and 2018 proxy seasons. As a result, there was a steep decline in the number of these proposals submitted. Ultimately, shareholders voted on five proposals concerning the gender or racial pay gap, which received average shareholder support of 15%. The lowest support (6.8%) was for a proposal at **Walmart Inc.** requesting a report demonstrating that it did not have any racial or ethnic pay gaps. The highest support in 2018 (26.8%) was for a resubmission of the aforementioned proposal at The TJX Companies.

Glass Lewis has been generally supportive of these proposals, as we believe that they address a critical component of how companies are managing their human capital. We believe that an inattention to this issue could result in a decline in worker productivity, a rise in turnover, lawsuits, fines and reputational harm. As such, we believe that companies should be monitoring and managing issues of pay equity. Accordingly, Glass Lewis recommended in favor of the majority of these proposals in 2018. We refrained from recommending support for a gender pay gap proposal at **Express Scripts Holding Company**, which had already established a pay equity policy and had provided what we believed to be sufficient disclosure concerning how it was managing the issue. We also refrained from recommending support from a proposal requesting that **Facebook, Inc.** report on policies and goals to reduce its gender pay gap. Given that Facebook stated that it did not have

a pay gap, we did not believe that requesting a report on what it was doing to reduce the non-existent gap would benefit shareholders. Although we would have preferred enhanced disclosure concerning how it determined that there was no gender pay gap and what steps it was taking to ensure that the pay gap remains closed, these were not requests of the resolution. As such, we did not believe that the request was appropriate given the company's current circumstances.

## HUMAN RIGHTS

In recent years, investors have increasingly been raising concerns regarding companies' human rights related risks and considerations, particularly with regard to companies' supply chains. However, despite increased investor attention to these issues, only a handful of companies have faced shareholder proposals concerning human rights issues in the past several years. In both 2016 and 2017, we reviewed 10 proposals related to human rights issues, and in 2018, we reviewed nine such proposals.

On average, shareholder proposals dealing with human rights-related issues received very low shareholder support. The highest support (19.9%) was for a proposal at **Monster Beverage Corporation** requesting that it report on the criteria and analytical methodology to determine its conclusion of "minimal risk" of slavery and human trafficking in its sugarcane supply chain. The only other two proposals that received over 10% shareholder support were at (i) **Motorola Solutions Inc.**, requesting that it issue an annual report on the specific remedial efforts taken to ensure that its global supply chain is free of forced or bonded labor, including any efforts to reimburse workers for recruitment fees paid in violation of company policies; and (ii) **American Water Works Company, Inc.**, requesting that it report on its impacts and responses on the human right to water and sanitation.

Further, there was not a consistent theme to the proposals presented in the 2018 season. For example, **Chevron Corporation** received a proposal concerning its doing business with governments complicit in genocide, which received 7.3% support. In addition, there were two proposals dealing with Indigenous Peoples' rights, at **Citigroup Inc.** and **PayPal Holdings, Inc.**, each receiving under 6% support.

## OPIOIDS

The opioid epidemic has been one of the most pressing issues facing regulators, and American society more broadly. The crisis has resulted in a significant toll on public resources and has had a devastating impact on many communities across the country. As regulators seek answers to this crisis, the root cause of the opioid epidemic has been tied back to the pharmaceutical industry and its involvement in the manufacturing, distribution, and sale of these drugs. Accordingly, companies with any involvement in this crisis have come under significant regulatory, media and investor scrutiny, leading to myriad attendant risks. Therefore, it was unsurprising that two pharmaceutical companies involved in the distribution and production of opioids faced a shareholder proposal requesting that they provide information concerning the governance measures implemented to more effectively monitor and manage financial and reputational risks related to the opioid crisis. These proposals were submitted by the Investors for Opioid Accountability, a coalition of investors that includes state treasurers, publicly elected comptrollers, asset managers, faith-based public funds, and labor funds.

Glass Lewis recommended in favor of resolutions at both **Depomed, Inc.** and **AmerisourceBergen Corporation**, as we believed that the production of a comprehensive report on the governance response to the opioid epidemic could provide shareholders with valuable information regarding how they were managing and mitigating attendant regulatory, financial, and reputational risks.

These proposals received significant shareholder support, particularly given that this was the first time they had been put before shareholders. The proposal at AmerisourceBergen received 41.2% support, while the proposal at Depomed received majority shareholder support (62.3%).

## POLITICAL CONTRIBUTIONS

For the last eight years, issues related to corporate political spending have been among the most frequent proposals to go to a vote. Given the attention paid to elections and corporate influence in politics, it is unsurprising that disclosure of companies' political spending has been a significant focus of investors in recent years. Accordingly, shareholders have been consistently engaging companies on this issue and filing shareholder proposals requesting additional disclosure of their corporate political spending. The majority of the proposals filed on this topic request

POLITICAL SPENDING PROPOSALS

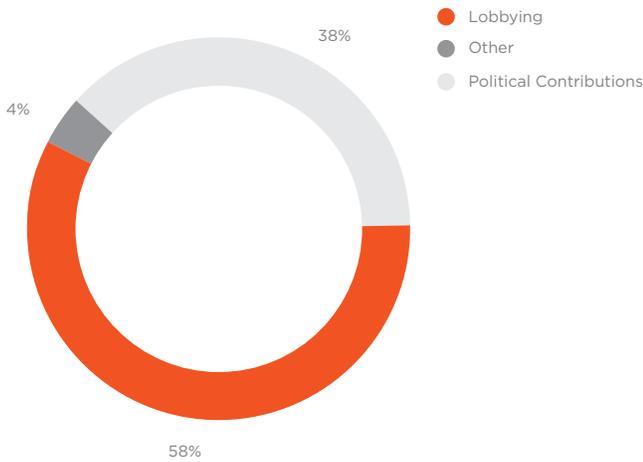


Figure 4.6

that companies produce either a report on their electioneering expenditures or on their lobbying activities.

In 2018, 38% (up from 31% in both 2016 and 2017) of all political spending proposals requested that companies provide a semi-annually updated report that disclosed a specific accounting of political contributions and the policies and procedures related thereto. The majority of these proposals requested that companies disclose monetary and non-monetary direct and indirect political contributions and expenditures, the identity of the recipient of such expenditures, the title of individuals responsible for decision making, and any related policies and procedures that govern such contributions.

The majority (58%) of all political spending proposals requested that companies provide semi-annual reporting regarding their lobbying activities and expenditures. The proportion of these proposals decreased slightly from 2017, when they represented 61% of political spending proposals. However, it is still a significant increase from 2012, when these proposals only represented 28% of political spending proposals. Lobbying proposals generally request that companies disclose: (i) policies and procedures governing direct and indirect lobbying and grassroots lobbying communications; (ii) payments made for the purpose of direct or indirect lobbying or grassroots lobbying communications and the recipients of such payments; (iii) memberships in and payments to any tax-exempt organization that writes and endorses model legislation; and (iv) a description of the board and management oversight of lobbying expenditures.

Glass Lewis generally believes that increased disclosure of corporate political spending benefits shareholders by allowing them to weigh the risks and benefits of such spending. Further, we believe that companies should generally disclose information regarding the policies and procedures employed when they make these spending decisions, and believe that the board should maintain an active role in the oversight of the spending process.

Since 2013, Glass Lewis has recommended that shareholders vote for an increasing proportion of

SUPPORT FOR CORPORATE POLITICAL SPENDING SHAREHOLDER PROPOSALS

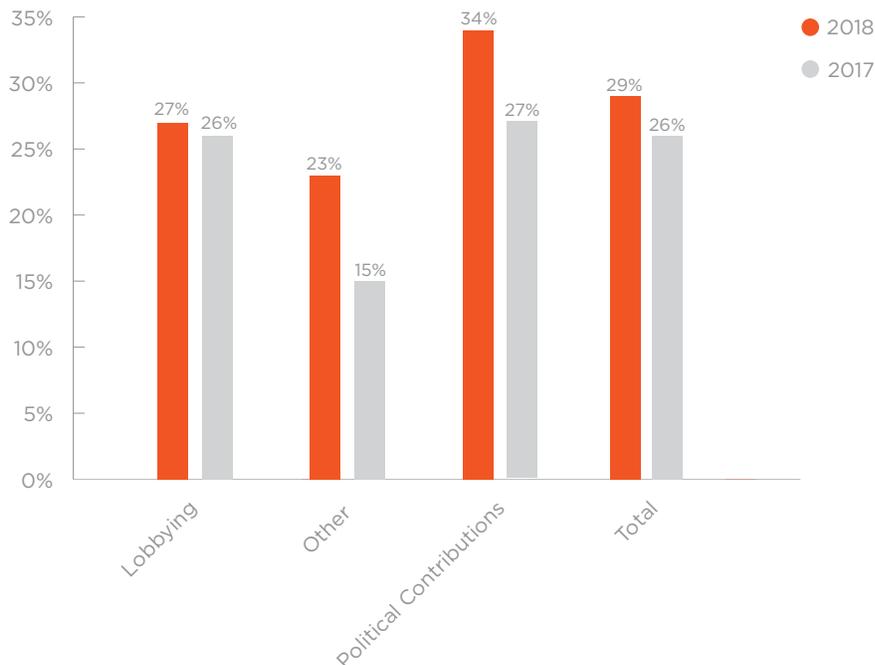


Figure 4.7

these proposals. In 2013, we recommended in favor of 37% of these proposals, and in the last two years, we've recommended in favor of more than half of these proposals (55% and 58%, respectively). One of the reasons for this increased support over the past several years is the larger trend of companies' enhanced disclosure of their corporate political spending, which further highlights outliers that have not provided clear disclosure on this issue. Given the dynamic environment surrounding political contributions disclosure, companies must carefully monitor their own disclosure relative to that provided by others in the industry in order to ensure that they are not lagging their peers.

We take a case-by-case approach in analyzing each proposal, resulting in varied voting recommendations. When evaluating these proposals, Glass Lewis considers, among other things: (i) the level of oversight afforded to corporate political spending; (ii) the disclosure currently provided by the target company; and (iii) the level of disclosure and oversight of political spending provided by a company's peers. For example, we would recommend support for a proposal if a company did not maintain explicit board oversight of its political spending. Conversely, we may have recommended voting against such a proposal if a company had disclosure that was in line with or superior to that provided by its peers.

Overall, in 2018, these proposals received an average of 29% support (26% in 2017). Historically, on average, those proposals requesting a report on a company's electioneering expenditures have fared better with shareholders than those requesting reports on lobbying, and 2018 was no exception. Proposals requesting political contributions disclosure received 34% average shareholder support, and those requesting disclosure on lobbying received 27%, (27% and 26%, respectively, in 2017). Typically, a handful of these proposals receive majority shareholder support, though in 2017, none of these proposals received over 50% support. The highest support for these proposals was seen at FirstEnergy Corp. and NextEra Energy, Inc., where both proposals received 41%. However, in 2018, one proposal, requesting additional disclosure on The Boeing Company's lobbying expenditures, received 50.0% support.

## SUSTAINABILITY REPORTING

As sustainability reporting has become more commonplace among companies of all sizes and industries, companies who have failed to provide any meaningful reporting on their environmental and so-

cial impacts and practices are becoming more significant outliers. Given their outlier status, shareholders appear to be more willing to support initiatives to improve certain companies' sustainability reporting. In each of 2016 and 2017, shareholder proposals requesting that companies produce a sustainability report received average support of 32% and one such proposal received majority support (**CLARCOR Inc.** and **Pioneer Natural Resources** in 2016 and 2017, respectively). In 2018, these proposals averaged 37% support and, of the nine proposals that went to a vote, two received majority support (**Kinder Morgan Inc.** and **The Middleby Corporation**), and two more came very close (**Acuity Brands, Inc.** and **American Financial Group, Inc.** received 49.8% and 48.4% support, respectively). In addition, one proposal, at **Cam-brex Corporation**, was withdrawn.

Glass Lewis recommended that shareholders support all of the sustainability reporting proposals submitted in the past year. All but one requested the production of a sustainability report, often referencing the GRI Sustainability Reporting Guidelines as a framework that companies should follow. A proposal at **Berkshire Hathaway Inc.** went further, requesting that it

SUPPORT FOR SUSTAINABILITY REPORTING SHAREHOLDER PROPOSALS

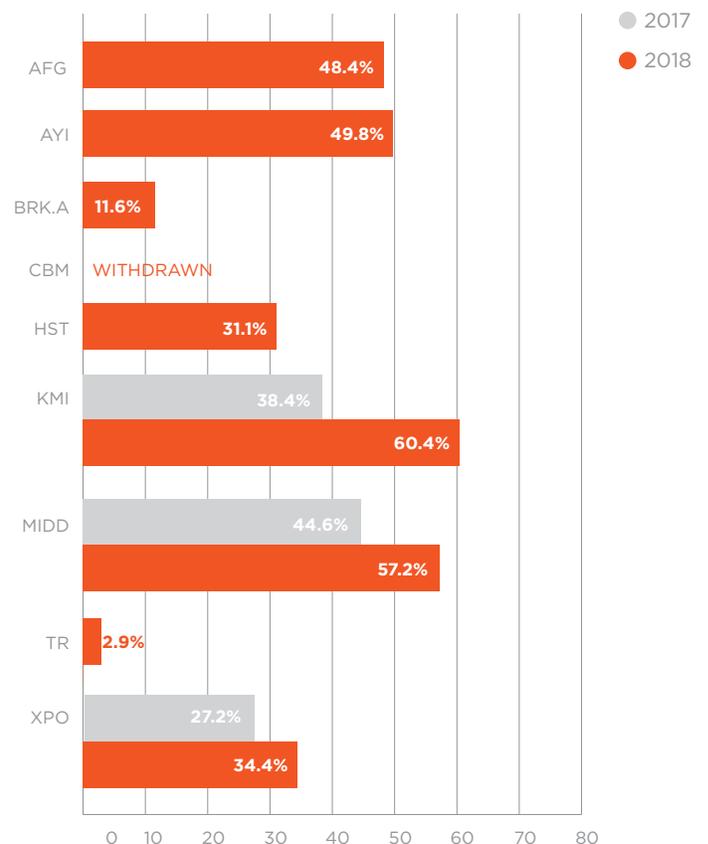


Figure 4.7

adopt a policy to encourage more of its subsidiary companies to issue annual sustainability reports. This proposal received the second-lowest support of all the sustainability reporting proposals (11.6%). However, these results are artificially depressed given Berkshire Hathaway's dual-class voting structure. The lowest support for this proposal was at **Tootsie Roll Industries, Inc.**, where it received 2.9% support. Similar to Berkshire Hathaway, Tootsie Roll has both 71.1% inside ownership and a dual-class voting structure. In both cases, the proposals received fairly strong support from unaffiliated shareholders; the proposal at Berkshire Hathaway received 23.9% and the proposal at Tootsie Roll received 69.5% unaffiliated shareholder support.

## TROJAN HORSE PROPOSALS

Every year, shareholders vote on a handful of "Trojan Horse" or "antisocial" shareholder proposals. The most frequent proponent of these proposals is the National Center for Public Policy Research ("NCP-PR"), a "conservative think tank and public policy institute covering Congress, insider political information, global warming and the environment, legal reform, Social Security, and campaign reform." Generally, proponents of Trojan Horse proposals are critical of companies' progressive efforts with respect to environmental and social issues. As such, these proposals are generally aimed at curbing those efforts.

In 2018, five of these proposals went to a vote, down from seven in 2017 and nine in 2016. Historically, these proposals have received minimal shareholder support. For example, the vast majority of the proposals submitted in 2017 did not even reach 3%, the support threshold required for a first year proposal to be resubmitted the following year. In fact, in 2017, the highest support was 4.7% for a proposal concerning **General Electric Company's** charitable contributions. However, in 2018, two of these proposals received over 21% support.

Proposals at **PG&E Corporation**, **Alphabet Inc.** and **salesforce.com, Inc.** concerning charitable spending, board composition and human rights, respectively, received under 2%. However, the NCPPR also submitted proposals to both General Electric and **Duke Energy Corporation** that closely mimicked lobbying proposals, which tend to receive relatively high shareholder support. However, the supporting statements for these proposals significantly differed from that submitted by more mainstream shareholder proponents. For example, while investors have traditionally shown concern regarding companies' membership in the Business Roundtable or the American Legislative Exchange Council ("ALEC"), the NCPPR proposals asserted that these companies "should be proud of [their] memberships in trade associations and non-profit groups that promote pro-business, pro-growth initiatives." The NCPPR stated that the companies' memberships in groups such as ALEC "should be applauded and endorsed by shareholders," and encouraged disclosure of the benefits of "involvement with groups that advocate for smaller government, lower taxes and free-market reforms." At Duke, where a substantially similar proposal (submitted by Mercy Investment Services, Inc., Trinity Health and the Benedictine Sisters of Virginia) received 33% support in 2017, the resolution received 34.6%. At General Electric, where a substantially similar proposal (submitted by the Philadelphia Public Employees' Retirement System) received 24.7% support, the resolution received 21.2% support.

Given this high support for proposals submitted by traditionally unpopular shareholder proponents, investors may be paying more attention to the message, rather than the messenger. Moreover, given the success of these proposals relative to other resolutions submitted by these groups, closely mimicking popular proposals could become a more common tactic of these Trojan Horse proponents.

# Appendix

Ticker	Company Name	Proposal Type	2018* Support	2017* Support	GL Rec.	Mgmt. Rec.	Proponent
<b>ENVIRONMENTAL PROPOSALS</b>							
AEE	Ameren Corporation	Coal Combustion Waste	53.2%	46.4%	For	Against	School Sisters of Notre Dame Central Pacific Province, As You Sow, Sisters of Charity of the Blessed Virgin Mary, Sisters of St. Joseph of Carondelet
APC	Anadarko Petroleum Corporation	Climate Change Reporting	53.0%		For	Against	The Park Foundation Inc.
GWR	Genesee & Wyoming Inc.	Reducing GHG Emissions	57.2%		For	Undetermined	Calvert Research and Management
KMI	Kinder Morgan, Inc.	Sustainability Reporting	60.4%	38.4%	For	Against	New York State Common Retirement Fund
KMI	Kinder Morgan, Inc.	Climate Change Reporting	59.7%	38.2%	For	Against	Zevin Asset Management, LLC on behalf of Trust R U/A
MIDD	The Middleby Corporation	Sustainability Reporting	57.2%	44.6%	For	Against	Trillium Asset Management, on behalf of Trillium Small/Mid Cap Fund and Plymouth Congregational Church of Seattle
RRC	Range Resources Corporation	Methane Emissions Reporting	50.3%		For	Against	Unitarian Universalist Association
<b>GOVERNANCE PROPOSALS</b>							
AAXN	Axon Enterprise, Inc.	Board Declassification	67.3%		For	Against	James McRitchie
CMI	Cummins Inc.	Special Meetings	50.7%		For	Against	Not disclosed
COST	Costco Wholesale Corporation	Simple Majority Vote	86.8%		For	Against	Not disclosed
CRM	salesforce.com, inc.	Simple Majority Vote	80.1%		For	Against	James McRitchie and Myra K. Young
CTSH	Cognizant Technology Solutions Corp.	Special Meetings	57.4%		For	Against	John Chevedden
DFS	Discover Financial Services	Simple Majority Vote	79.3%		For	Against	Myra K. Young
DWDP	DowDuPont Inc.	Simple Majority Vote	71.7%		For	Against	Not disclosed
EMN	Eastman Chemical Company	Written Consent	50.0%		For	Against	John Chevedden
FLT	FleetCor Technologies, Inc.	Board Declassification	88.4%		For	Against	John Chevedden
GILD	Gilead Sciences, Inc.	Written Consent	50.9%	48.5%	For	Against	James McRitchie
HL	Hecla Mining Company	Board Declassification	94.0%		For	Undetermined	Paul and Lisa Sala
HPQ	HP Inc.	Written Consent	50.6%		For	Against	Not disclosed
HPT	Hospitality Properties Trust	Majority Vote for Director Elections	89.8%		For	Against	UNITE HERE
HPT	Hospitality Properties Trust	Proxy Access	85.0%	84.8%	For	Against	The Comptroller of the City of New York
ILMN	illumina, Inc.	Board Declassification	84.8%		For	Against	James McRitchie
IVZ	Invesco Ltd.	Simple Majority Vote	80.9%		For	Undetermined	James McRitchie
JYNT	Joint Corp	Proxy Access	96.0%		For	Undetermined	Steven Colmar
KAMN	Kaman Corporation	Simple Majority Vote	59.2%		For	Against	John R. Chevedden
KSU	Kansas City Southern	Written Consent	52.7%		For	Against	James McRitchie and Myra K. Young
LLL	L3 Technologies, Inc.	Written Consent	86.4%		For	For	John Chevedden
LNC	Lincoln National Corporation	Special Meetings	51.5%		For	Against	Not disclosed
MAR	Marriott International, Inc.	Simple Majority Vote	65.3%		For	Against	The AFL-CIO Reserve Fund
MTW	Manitowoc Co., Inc.	Simple Majority Vote	78.9%		For	Against	John Chevedden
NFLX	Netflix, Inc.	Simple Majority Vote	84.8%	63.3%	For	Against	The California State Teachers' Retirement System

\*Excludes abstentions and broker non-votes

Ticker	Company Name	Proposal Type	2018* Support	2017* Support	GL Rec	Mgmt. Rec.	Proponent
NFLX	Netflix, Inc.	Majority Vote for Director Elections	71.7%	64.6%	For	Against	Services Employees International Union ("SEIU")
NFLX	Netflix, Inc.	Proxy Access	57.9%	54.1%	For	Against	Five New York City Retirement Systems, co-sponsored by the Connecticut Retirement Plans Trust Funds
NFLX	Netflix, Inc.	Special Meetings	57.4%		For	Against	Myra K. Young
NFLX	Netflix, Inc.	Written Consent	52.3%		For	Against	John Chevedden
NUAN	Nuance Communications, Inc.	Special Meetings	94.3%		For	Undetermined	Kenneth Steiner
NWL	Newell Brands Inc.	Written Consent	50.1%		For	Undetermined	John Chevedden
OMC	Omnicom Group Inc.	Special Meetings	50.3%		For	Against	John Chevedden
ORI	Old Republic International Corp.	Proxy Access	77.4%	74.6%	For	Against	The California Public Employees' Retirement System
R	Ryder System, Inc.	Simple Majority Vote	75.1%		For	Against	John Chevedden
SNR	New Senior Investment Group Inc.	Majority Vote for Director Elections	98.4%		For	Undetermined	The California Public Employees' Retirement System
SPR	Spirit AeroSystems Holdings, Inc.	Special Meetings	65.6%		For	Against	Not disclosed
TWOU	2U, Inc.	Majority Vote for Director Elections	86.6%		For	Against	The California Public Employees' Retirement System
UTMD	Utah Medical Products, Inc.	Majority Vote for Director Elections	80.5%		For	Against	The California Public Employees' Retirement System
WSR	Whitestone REIT	Board Declassification	86.9%		For	Undetermined	KBS

#### SOCIAL PROPOSALS

BA	The Boeing Company	Lobbying Report	50.0%	20.6%	Against	Against	Not disclosed
DEPO	Depomed, Inc.	Opioids	62.3%		For	Against	Calvert Research and Management, the UAW Retiree Medical Benefits Trust
RGR	Sturm, Ruger & Company, Inc.	Gun Safety	68.8%		For	Against	The Sisters of the Holy Names of Jesus and Mary of Marylhurst, Oregon

\*Excludes abstentions and broker non-votes

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