WEBINAR

Getting Ready for the 2022
Proxy and Reporting Season:
What Can We Learn from 2021?

October 13, 2021

Moderator: Meredith Cross

Speakers: Ciara Baker, Krystal Berrini, Lillian Brown and Kilian Moote

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WEBINAR

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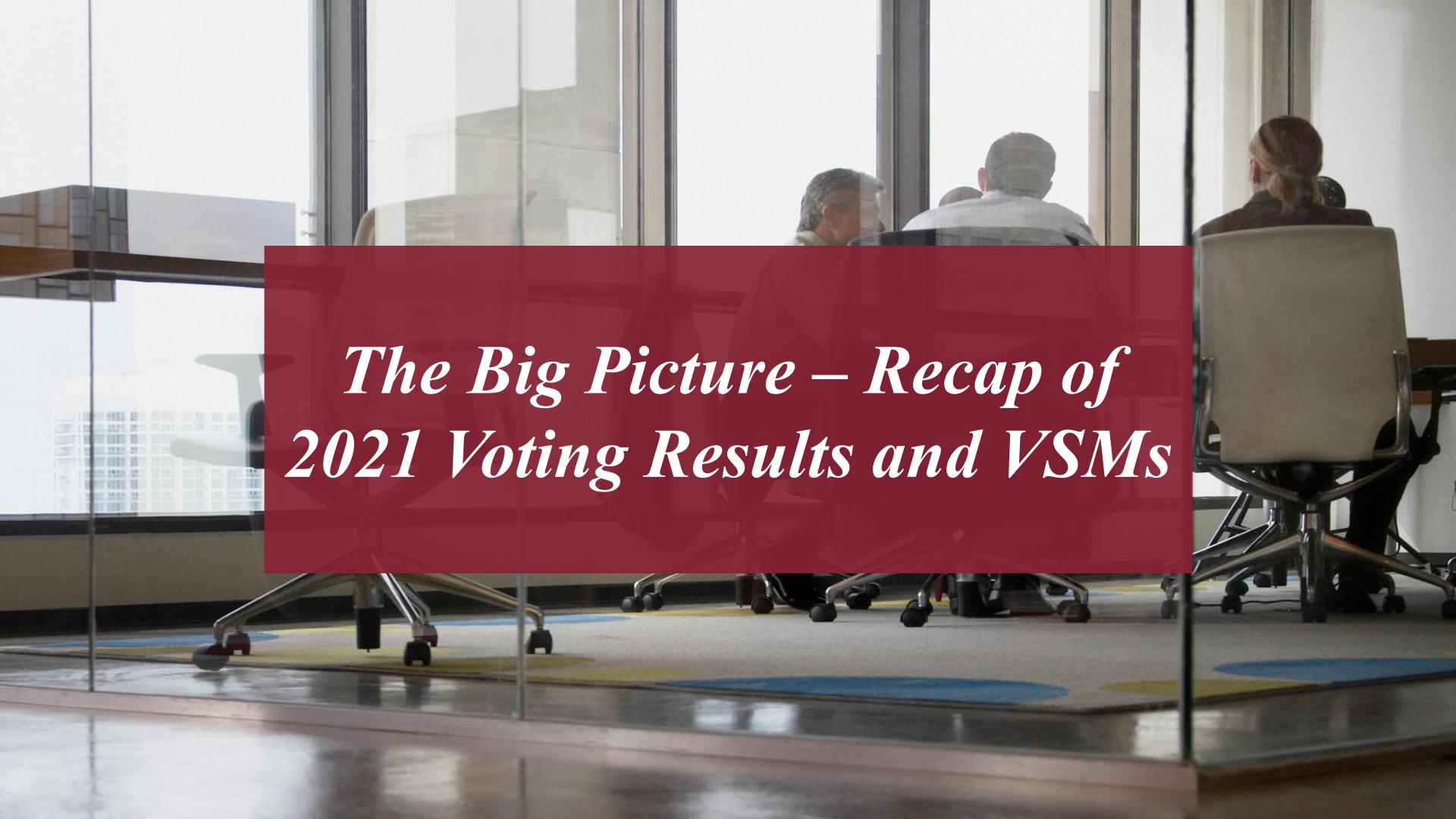
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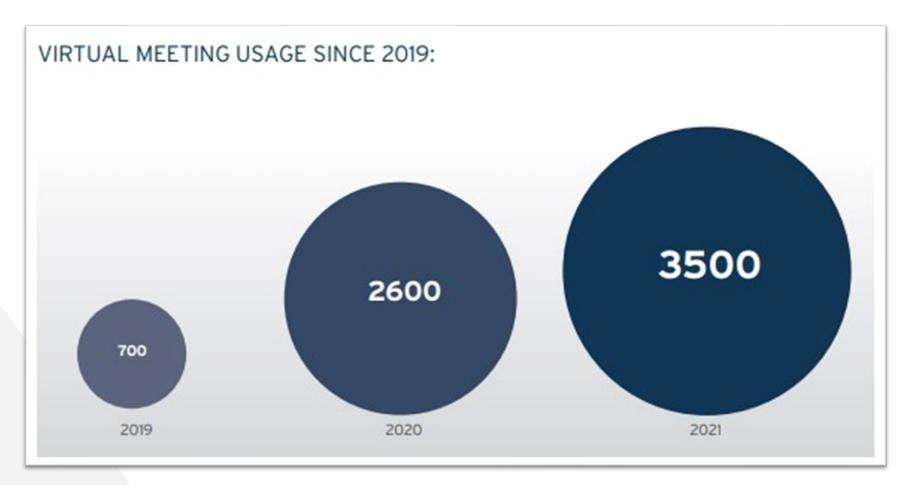


VSMs – Most Companies That Held Virtual Meetings in 2020 Did So Again in 2021

- 3,766 out of 5,380 annual or special meetings in the U.S. were held in a virtual format (ISS, Proxy Season Review: 2021)
- 34% Y-o-Y increase in VSMs from 2020 to 2021
- Vast majority of street name holders will be able to vote their proxies at virtual meetings going forward, regardless of platform

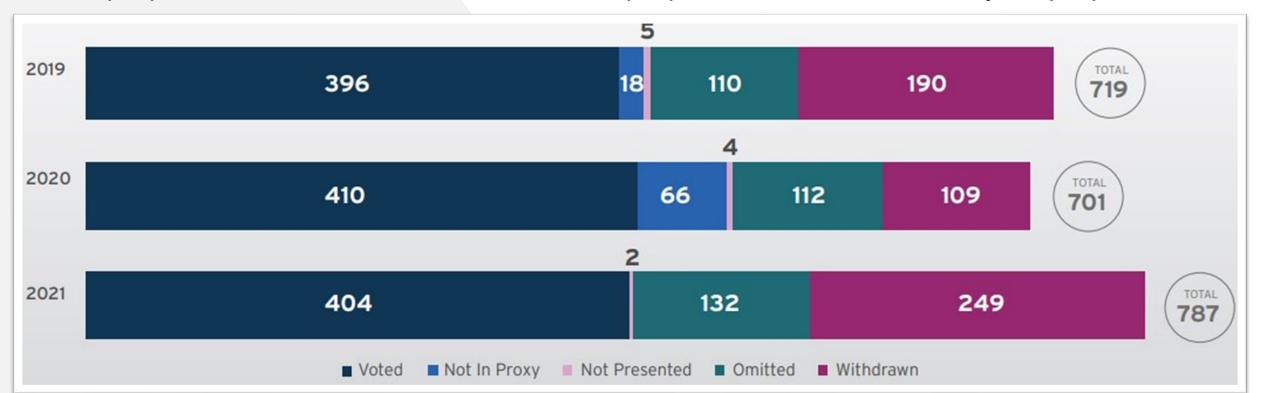
70% of shareholder meetings were virtual





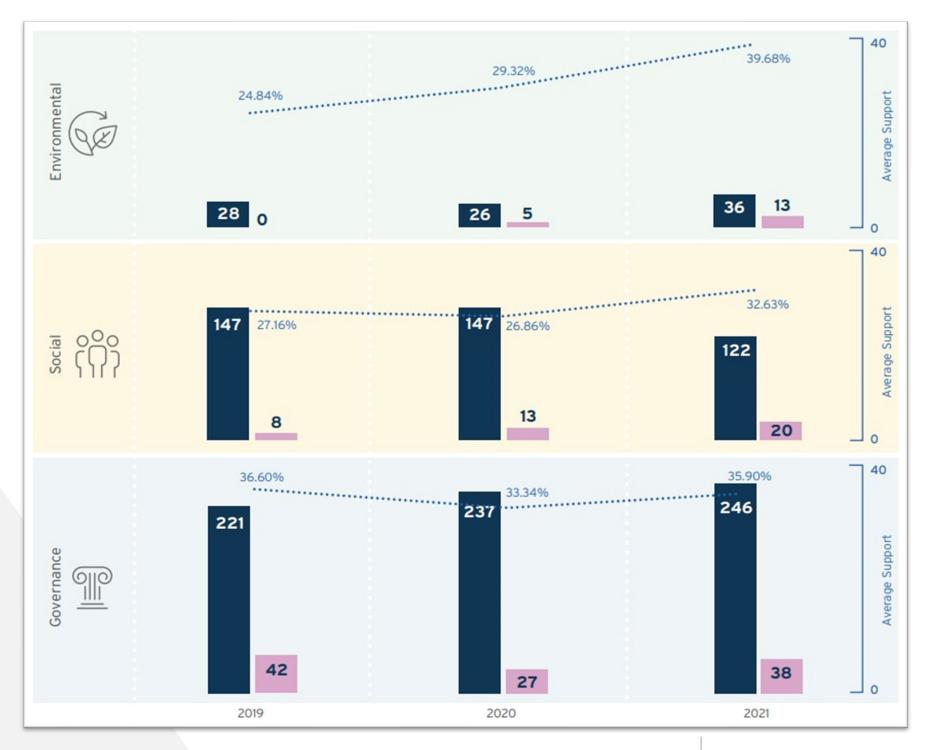
An Unprecedented Year – Record High Submission Levels, Average Support Levels and Passage Levels

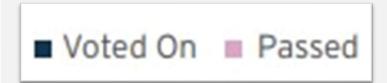
- The number of proposals submitted in each category has increased since 2019, with environmental proposals increasing most dramatically by almost 25%; social and governance proposals increased by 14% and 7%, respectively
- A total of 71 passing shareholder proposals, compared to 45 in 2020 and 50 in 2019
- 249 withdraws, more than double the amount from the previous year
- No-action relief, relatively steady, representing approximately 17%, 16% and 15% of all proposals for 2021, 2020 and 2019, respectively
- Of the 787 proposals submitted, 70% or 596 of the proposals were submitted by 10 proponents



An Unprecedented Year – Average Support Increased Across All ESG Proposals

- Almost 1 in 3 environmental shareholder proposals voted upon passed; average support across voted proposals exceeded 39%
- 33 environmental and social proposals received majority support and passed*, the highest number on record and an 83% increase compared to the 2020 proxy season







Increased Institutional Scrutiny on ESG

Investor	ESG in Proxy Guidelines	Board Diversity Guidelines	
BlackRock	Y	Y	
State Street	Y	Υ	
Vanguard	Y	Υ	
Dimensional Fund Advisors	Υ	No specific guideline	
American Funds/Capital Group	Υ	No specific guideline	
Fidelity	Υ	Y	
Invesco	Υ	Y	
JP Morgan	Υ	Y	
Legal & General	Y	Y	
Northern Trust	Υ	Υ	
Nuveen	Y	Y	
T. Rowe Price	Υ	Υ	

- State Street Global Advisors beginning in 2022 will vote against directors in its portfolio if the company's R-Factor™ score places them in the bottom 30th percentile of their industry
- Fidelity International will begin to vote against the management of its portfolio companies on the basis of climate change and gender diversity
- BlackRock voted against 255 directors and against 319 companies for climate-related concerns with the potential to negatively impact long-term shareholder value



Amendments to SEC Proxy Rules

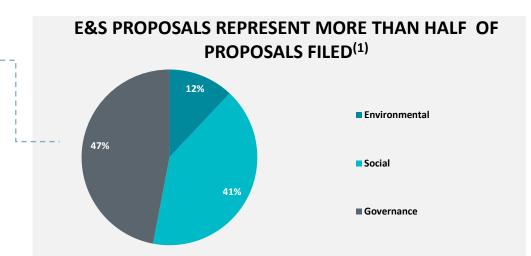
- September 2020 amendments to shareholder proposal rule
 - Replaced (subject to certain phase-in rules) requirement to hold at least \$2,000 or 1% of a company's securities continuously for at least one year with three alternative thresholds requiring a shareholder to demonstrate continuous ownership of at least:
 - \$2,000 of the company's securities for at least three years
 - \$15,000 of the company's securities for at least two years
 - \$25,000 of the company's securities for at least one year
 - Proponents must offer to meet with the company to discuss their proposal
 - SEC also increased level of support a proposal that does not pass must receive to be eligible for resubmission at a future meeting
- July 2020 amendments regarding proxy advisory firms that codified SEC's view that proxy voting advice is subject to the proxy solicitation rules and provided conditioned exemptions from the proxy solicitation rules relied on by proxy advisory firms being reconsidered by SEC and, in the meantime, will not be enforced



Investors Shift From Only Supporting Proposals that Prompt Action to Also Supporting Proposals That Accelerate Progress

E&S Proposals Remained Prevalent, with New Variations Gaining Prominence

- > Continuing a multi-year trend, E&S-themed proposals continued to represent over half of all proposals filed in 2021
- > New proposals emerged and others grew in prominence:
 - **Say-on-Climate (new):** seeks annual advisory vote on climate transition plans
 - Racial equity audits (new): seeks third-party audits to assess how companies promote racial equity in the workplace
 - EEO-1: surge in proposals filed requesting EEO-1 report disclosure to encourage comparable workforce diversity data



Higher-than-Ever Vote Outcomes Reflect Growing Investor Propensity to Support Action on E&S Topics

Record Number of Majority
Supported E&S Proposals

34 in 2021 vs 17 in 2020 Average Support for Notable E&S Proposals⁽¹⁾

70% EEO-1 disclosure 58% Plastics

61% Climate-Related lobbying 48% GHG / climate

31% Racial equity audits

Takeaway

✓ The spotlight on investor voting records will sustain high support on E&S shareholder proposals.

⁽¹⁾ ISS Voting Analytics as of June 30th, 2021. Reflects year-to-date data for Russell 3000 companies. "E&S" refers to all proposals related to environmental, social or political contributions/lobbying-related topics.

Investor Demands for Corporate Action on Climate Change Expand Beyond Disclosure to Aligning Business Strategy to Achieve Net-Zero Emissions

Increasing Pressure on Companies to Act on Climate Change through Strengthened Policies and Campaigns⁽¹⁾

BlackRock

Expects disclosure of a plan to align business model with a net-zero economy and of scopes 1-3 GHG emissions; continued focus on SASB and TCFD reporting



New **Net-Zero Company Benchmark** assesses target company progress in the transition to the net zero future, and informs engagement and campaigns

NET ZERO ASSET MANAGERS INITIATIVE

Signatories commit to **driving real economy emissions reductions** within the sectors and companies in which they invest



Sent letters to 75 companies asking for net-zero transition plans inclusive of a Say on Climate vote with plans to target hundreds of companies

Shareholder Proposal Outcomes Demonstrate that Investors Seek Action Beyond Disclosure

67%

Average support for 3 shareholder proposals asking oil and gas companies to set GHG targets and/or reduce emissions – including Scope 3⁽²⁾

HOW ARE COMPANIES RESPONDING?

800+

companies globally have set a "science-based target" to reduce GHG emissions in line with the Paris Agreement⁽³⁾ 1,500+

Companies globally have pledged to reach net zero around midcentury⁽⁴⁾

Takeaway

Companies that do not set net-zero emissions targets may be held accountable by investors who are taking steps to meet portfolio decarbonization commitments

⁽¹⁾ Information on investor policies and initiatives sourced from public materials and statements

⁽²⁾ ISS Voting Analytics as of June 30th, 2021. Reflects year-to-date data for Russell 3000 companies

⁽³⁾ Science Based Targets Initiative, accessed July 2021.

^{(4) &}quot;The Energy & Climate Intelligence Unit and Oxford Net Zero, "Taking Stock: a global assessment of net zero targets"; reporting as of March 2021

Social Proposals

Average support for social proposals increased to 33.3%, up from 27% the prior two years

Board Director Qualifications

Board Diversity

■ Employee Arbitration

- 122 socially-focused shareholder proposals went to a vote during 2021, with 149 withdrawals
- 20 social proposals passed in the 2021 season, and consistent with those voted, the majority that passed related to political spending and diversity-related matters

S&P1500 Social Proposals Voted by Type

Political Lobbying Political Contributions 23 ■ EEO/D&IE/Employment Diversity Reporting Human Rights Related 8 ■ Miscellaneous/Other 20 ■ Labor Discrimination/Racial Equity ■ Gender Pay Gap and Pay Disparity 12 ■ Safety/Toxicity/Public Health ■ Compensation/Link Executive Pay to Social Criteria 12 13 ■ Pandemic/COVID-19 Related 12

S&P1500 Social Proposals Voted That Passed



- Proposals relating to political spending accounted for almost 35% of proposals, and proposals relating to workforce diversity, racial equity and human rights each accounted for approximately 10% of proposals voted
- Consistent with prior year, 73
 proposals were filed related to
 political spending. Of the 43
 proposals voted upon this year, six
 political contributions and four
 lobbying proposals passed



"S" Spotlight – Diversity, Equity & Inclusion

62 of the social proposals withdrawn related to DEI, which was over 40% of the social withdraws

- Between proposal withdrawals and majority-supported proposals, EEO-1 disclosure transitioned from a minority to majority practice within the S&P 100
- Exponential growth in submissions: increase to 90 proposals in 2021, up from only 15 proposals in the 2019
- Average support for these proposals also increased dramatically year-over-year

EEO/DEI/Employ Diversity Disclosure

Voted - Failed Voted - Avg SH Support		38.4%	35.2%	55.2%
		5	8	7
	Voted - Passed	2	4	6
Totals		15	36	90
Voted		7	12	13
Withdrawn		7	8	62
Omitted		0	4	14
Not Presented		0	0	0
Not in Proxy		1	12	1
		2019	2020	2021



Targeted Campaign Strategies Attract Attention

Investors are escalating their use of 'Vote No' campaigns, exempt solicitation filings and social media to create awareness among institutional, retail and employee audiences 444

Over 220 exempt solicitation filings were made in 2021 YTD⁽¹⁾

- Many of these filings encourage investors to vote for shareholder proposals or against targeted directors based on E&S topics including board diversity, racial equity, climate change, opioid accountability, and/or failure of oversight role
- A subset of campaigns encourage votes against Say-on-Pay

Proponents are strategically deploying enhanced resources, increasing attention from multiple stakeholders

- Enhancing filings from simple letters to sophisticated presentations
- Conducting campaigns across multiple ballot items
- Engaging directly with large institutional investors and proxy advisors
- Using social media to expand reach to retail shareholders

Exempt solicitations combined with targeted campaigns can have a meaningful influence on vote outcomes

- 20 shareholder proposals subject to a targeted campaign in 2021 YTD received majority support
- 10 directors targeted by a campaign in 2021
 YTD received less than 80% support
- Proxy advisors have changed recommendations to support campaigns after exempt solicitation filings

Investor Group	Filings in 2021 YTD ⁽¹⁾	Focus
Investment Group	29	Vote for racial equity audit shareholder proposals and vote against directors due to oversight concerns
majorityaction	22	Vote against directors due to record on climate risk
AS YOU SOW	20	Vote for climate risk and D&I-related shareholder proposals

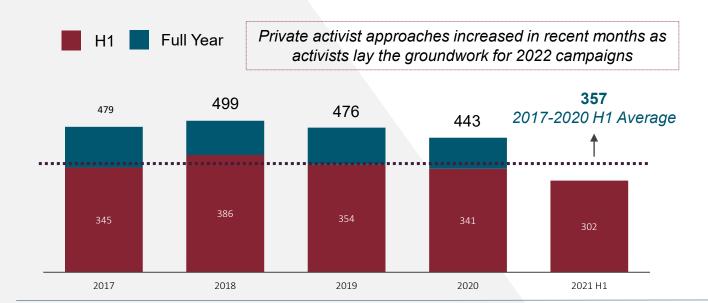


Targeted campaigns, highlighted through social media, are likely to increase in prevalence and effectiveness

Shareholder Activism Landscape Continues to Evolve

Though fewer companies were subject to public agitation in 2021 H1, activism has rebounded with ESG emerging as a central component of activism campaigns

US COMPANIES SUBJECTED TO PUBLIC ACTIVISM



ESG INCREASINGLY CENTRAL TO CAMPAIGNS

- Activists increasingly feature ESG as a key pillar of their core investment thesis to garner broad shareholder support
- Recent campaigns highlighted climate-change impact, diverse board representation and inclusive workplace environments
- Strong ESG programs are necessary but not sufficient to fend off activists. A robust investor engagement program, combined with disciplined capital allocation, consistent execution and strong shareholder returns, is critical to successful defense

KEY 2021 CAMPAIGNS WITH ESG FACTORS AT THE FOREFRONT

Climate Risk

Diversity & Inclusion

Stakeholder Capitalism



CALSTRS

- Small activist successfully paired critiques regarding the board's oversight of clean energy and climate
- The perception of Exxon as unresponsive to investors. combined with the market-wide investor focus on climate risk, were key to an unprecedented campaign win

expertise with core economic concerns



- Activist unsuccessfully sought to use diversity, equity & inclusion (DEI) concerns as the centerpiece of its second consecutive fight at TEGNA
- Long-standing focus and engagement on board oversight of human capital management and DE&I built credibility ahead of ESG-centric activist attack

BLUEBELL | CAPITAL | A ARTISAN PARTNERS

- Activists successfully advocated for ouster of CEO and chair (and separation of the roles) despite Danone's sustainability leadership
- Messaging that purpose-driven strategy did not "strike the right balance between shareholder value creation and sustainability" was effective given Danone's poor stock price performance

Takeaway

Companies should prepare for activists to incorporate ESG vulnerabilities into their economic agendas and assessment of director skills with strategy as they establish targets for 2022 campaigns

Exxon/Engine No. 1 Represents an Activism Paradigm Shift

Engine No 1. secured broad-based investor support by closely integrating a core economic thesis criticizing poor capital allocation with a perceived failure of the company to effectively engage with investors and respond to key ESG factors

-The Exxon/Engine No. 1 Fight-

ExonMobil



- Engine No. 1, a 0.02% shareholder of Exxon, achieved a seminal win this May, securing 3 board seats amidst a heavily contested, highly-public, ESG-focused proxy fight
- Outcome achieved despite a number of commitments by Exxon, including enhanced climate change strategy and significant board refreshment (addition of 3 directors in the midst of the campaign and a commitment to add 2 directors with energy and climate expertise in the coming year)
- Engine No. 1 garnered unprecedented support from the following shareholder constituencies⁽¹⁾:

BlackRock.























Activists Expected to Attempt to Replicate Engine No. 1's Success Across All Industries

Activists will increasingly look to exploit vulnerabilities where ESG and business strategies are not aligned – regardless of industry

- Actions that companies can take to stay ahead of ESGfocused activism include:
 - Ensure the board has the necessary skills and expertise to oversee and evaluate company's business strategy – including the risks and opportunities presented by ESG factors such as the energy transition
 - Link ESG strategy to sustainable growth and profitability drivers with messaging that resonates with investors
 - Maintain a robust shareholder engagement program, and demonstrate responsiveness to feedback across ESG-related topics

Takeaway

✓ A small shareholder can drive substantial change when its message reflects long-standing, unaddressed concerns raised across a company's shareholder base

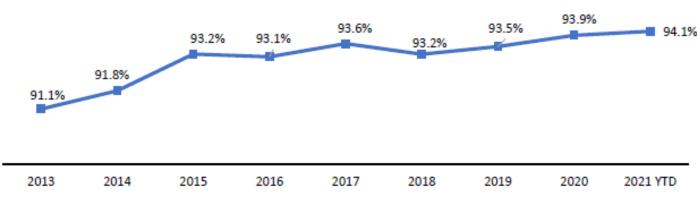


Compensation 2021 – Equity Plan Proposals

- Though equity plan proposals declined significantly in 2018 in the wake of the repeal of the performance-based compensation exception to IRC Section 162(m), proposals have increased year-over-year since then. Equity plan proposals on the ballot increased 9.5% from 2020 to 2021
- Average support for equity plan proposals in 2021 was flat relative to 2020 but median support reached 94.1% during 2021 while the failure rate fell to 0.8% (down from 1.3% in 2020)
- Focus on plan features when amending or implementing an equity plan continues to be on minimum vesting provisions; terms relating to change in control treatment; liberal share recycling; broad-based discretionary acceleration provisions, etc. Care must also be taken to avoid introducing or implementing problematic pay provisions in the plan
- Interestingly, evergreen provisions appear to be on the rise.
 This seems, however, to be a function of the rise of SPAC transactions

Support for equity compensation plans steady

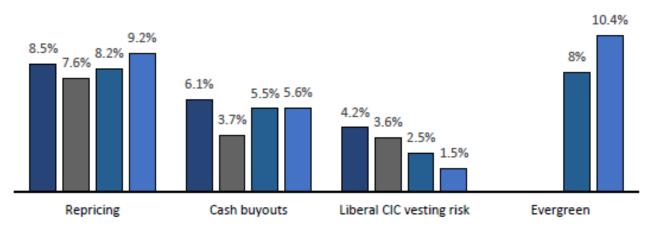
median support level for equity compensaiton plans, Russell 3000



Source: ISS Governance Research & Voting

Prevalence of problematic equity plan provisions varied

proportion of equity plan proposals with problematic provisions, all US companies



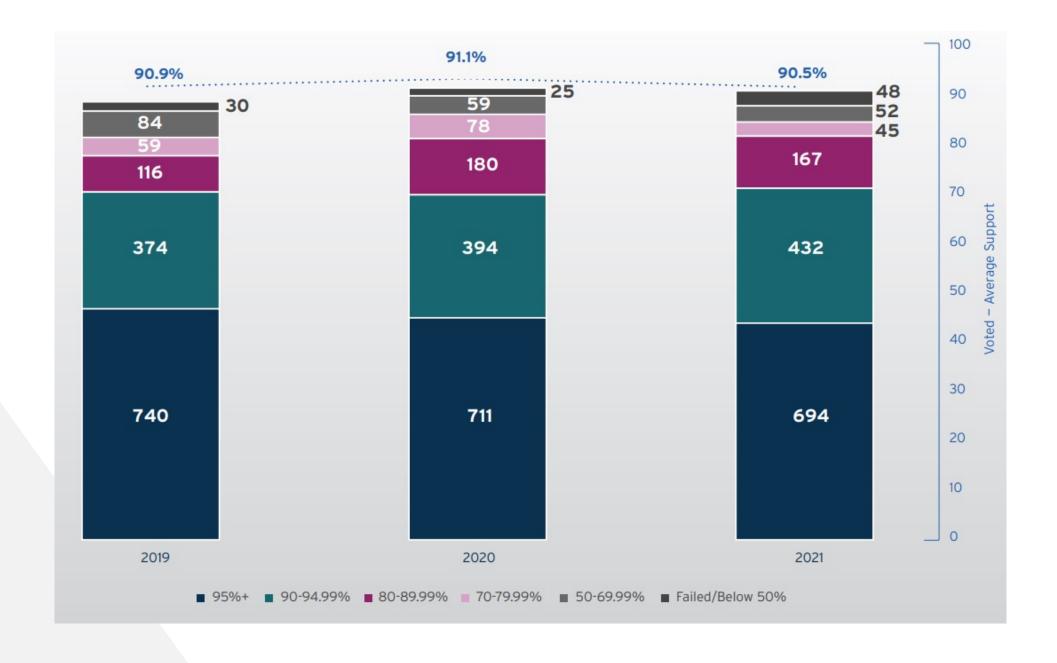
Source: ISS Governance Research & Voting ■ 2018 ■ 2019 ■ 2020 ■ 2021

Compensation 2021 – Changes in Tax Laws

- <u>What We Know</u>: American Rescue Plan Act of 2021 ("ARPA"), enacted in March 2021, further extended the reach of the Section 162(m) deduction limitation by expanding—effective for tax years beginning after December 31, 2026—the definition of "covered employees" to include an additional "five highest paid employees"
- What We Don't Know: Tax Provisions in the Reconciliation Bill
 - Acceleration of the ARPA effective date to 2022 and potential expansion of definition of "covered employees" still further
 - Implementation of provisions that didn't make it into the Tax Cuts and Jobs Act (e.g., IRC Section 409B)
 - Changes in tax rates

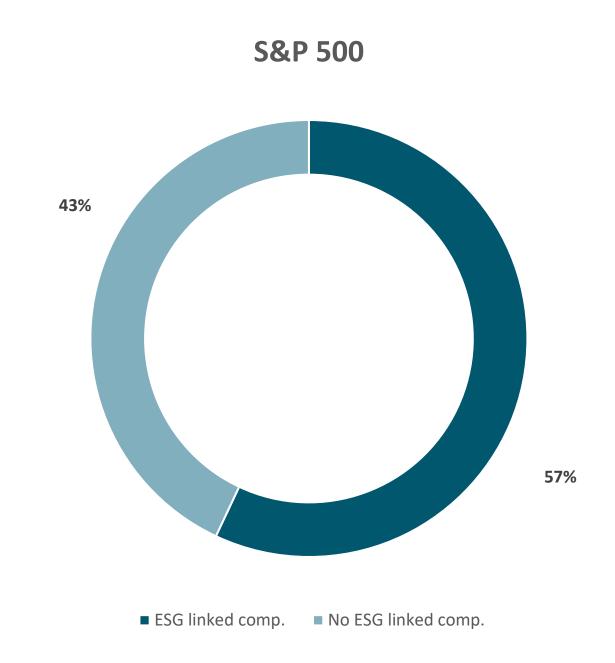
Compensation 2021 - Say on Pay Support Levels

- Overall, the S&P 1500's 2021 say-on-pay vote results were in-line compared to 2020, with approximately 91% average votes cast in favor in both years. The number of S&P 1500 companies receiving greater than 90% vote support rose year-over-year, up from 75% in 2020 to 78% in 2021
- The failure rate for S&P 1500 companies in 2021 increased sharply to 3.3% (48 companies), compared to 1.7% (25 companies) in 2020. However, the S&P 1500 companies with "red zone" results (those receiving between 50% to 70% vote support), decreased from 4.4% in 2020 to 3.6% in 2021
- ISS recommended "Against" 9.5% of S&P 1500 companies' say-on-pay proposals, up from 8.3% in 2020. Across the S&P 500 companies, ISS's negative recommendations decreased to 10.5% in 2021, from 11.8% in 2020



Compensation 2021 – Covid-19 & ESG

- With business uncertainty making goal-setting difficult, compensation committees often made adjustments to the annual incentive programs and the use of discretionary bonuses increased
- Mostly adjustments to the in-progress long-term incentive awards that were seen to be more problematic and met with investor disapproval
- ISS identified* concerning adjustments to in-progress long-term incentives at nearly half of the S&P 500 companies that failed to receive majority support for say-on-pay
- ISS also noted* prevalence of one-time awards at S&P 500 companies with failed say-on-pay proposals



28% of companies use DEI metrics







Questions

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