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ABOUT THE AUTHORS

Heidi Welsh, the founding executive director of the Sustainable Investments Institute (Si2), has analyzed corporate responsibility issues for more than 30 years. Starting at the Investor Responsibility Research Center in 1987, she provided detailed coverage of shareholder advocacy and monitored corporate compliance with a fair employment code in Northern Ireland for 16 years. In addition, she co-authored CDP's S&P 500 report in 2007, headed up sustainability research within a unit of what is now MSCI, and consulted on Global Reporting Initiative guidelines. Welsh is the lead author of several Si2 studies about corporate political activity governance and spending. She received her B.A. from Carleton College, cum laude, and an M.S. from the Institute for Conflict Analysis and Resolution at George Mason University.

Michael Passoff is the founder and CEO of Proxy Impact, a shareholder advocacy and proxy voting service for sustainable and responsible investors (SRIs). Michael has over 25 years of experience in corporate social responsibility, shareholder advocacy, and philanthropy. For more than a decade Michael served as the Senior Program Director for the *As You Sow* Foundation's Corporate Social Responsibility Program. In 2005 he founded the *Proxy Preview* to alert foundations, SRIs, pension funds, labor, and faith-based communities to upcoming shareholder resolutions that are relevant to their mission. Michael has led and participated in more than 400 shareholder dialogues and resolutions on environmental, social and governance issues. His shareholder advocacy work led him to be named as one of 2009's "100 Most Influential People in Business Ethics" by Ethisphere Magazine and he also received the Climate Change Business Journal award for a shareholder campaign that achieved the first majority vote for a climate resolution and prompted greenhouse gas emission reductions and renewable energy development at public utilities.

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2020 Milvia St., Suite 500 • Berkeley, CA 94704 • 510.735.8158 • www.asyousow.org

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Updates on Information in *Proxy Preview*

Information about the proposals and companies mentioned in the *Proxy Preview* was accurate as of February 24, 2022. Many ongoing negotiations between companies and proponents, plus action at the Securities and Exchange Commission, will change the final tally of proposals that will appear in proxy statements for investors to consider. *Proxy Preview* is unable to provide updates about the ongoing status of all 529 proposals—for updates on proposals at select companies, follow our Proxy Season Updates at www.proxypreview.org.

LETTER FROM THE PUBLISHER

The record-breaking 2021 proxy season suggests that a major power shift is well under way. Investors clearly emphasized that boards report to shareholders and accurate information is required. We must stand together as investors to transform the current extractive economy into the emerging regenerative economy based on justice and sustainability. It not optional. It is a survival imperative.

Shareholder action is surging even as we grapple with new SEC restrictions, pandemic-induced market volatility, climate change impacts on every balance sheet, a polarized political landscape, the Russian war against Ukraine, and ever more interwoven global supply chains.

Investors have filed 100 more shareholder resolutions than last year at this time, breaking yet another record. The attempt to silence shareholder voices has, instead, prompted them to get louder. This uprising is occurring while investors and fiduciaries increasingly understand that systemic risk affects all players in the capital markets, inspiring leading companies onto the path of serving all stakeholders. ESG investing is booming because it promises less risk, but also brings with it the perils of greenwashing. We clearly need assurance systems for all disclosed material information that provide all market players with truly comparable data.

The zeitgeist of resolutions in 2022 involves transformation in three main areas: 1) Climate change affects each company and its supply chain, employees, and customers. Every company must cut emissions in half by 2030, and leading companies already are on the way. 2) Racial justice, gender equality, diversity, and equity are critical to every company needing to attract and retain the best and brightest. Companies are getting on the path by using clear metrics to quantify the problem and take action. 3) Polarized politics have made election spending riskier. In the past, companies bought both sides of the aisle. Now, with a deeply divided country and a nationwide set of stakeholders with clashing views, some are choosing to simply cut off the flow of money while others are challenged to explain incongruent corporate policies and political spending.

Responsible, sustainable corporate behavior is predicated on accurate, verified disclosure. Most shareholder proposals ask for information, so shareholders can understand how far their companies need to travel. Any issue that is "material" – what a reasonable investor requires to make investment decisions – is therefore "financial," and related data should be third-party verified. Board audit committees need to step up efforts to oversee ESG disclosures, making sure reports are accurate and timely, so the full picture of investor risks and opportunities are revealed.

We are on the cusp of systemic economic transformation. Investors feel the momentum, and so do company executives. Shareholders are pressing forward with new tactics, tired of talk, and demanding action at a scale appropriate to the risk. Employees in corporate retirement plans who are trapped in target-date passive index funds are demanding sustainable options. After years of being tied to asset managers' proxy voting policies, some investors can now use fractional shares to align their own voting and values. Finally, numerous tech startups are empowering retail shareholders to organize and wield their power.

Shareholders are organizing as never before to vote against boards that continue to use their wealth and privilege for epic destruction of the ecosystems upon which we all depend for survival. Shareholder democracy seems particularly critical this year given the attacks on civil society from authoritarians around the world. Companies that will not adopt and implement a climate transition plan; refuse to disclose and act on diversity, equity, and inclusion; oppose the eradication of systemic racism; continue to try and exert influence in politics; and will not implement the tenets of stakeholder capitalism will not win the loyalty of their customers and shareholders.

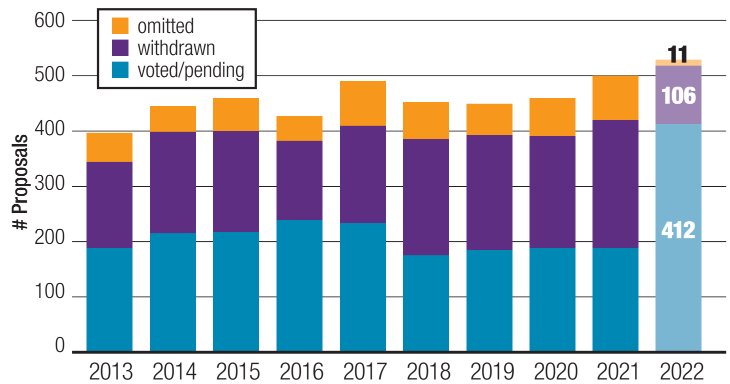
The message from shareholders to boards of directors is clear. Don't be left behind. The inflection point is now. Become a leader, get on the path and thrive, or prepare to wind down.

Andrew Behar
CEO, *As You Sow*

EXECUTIVE SUMMARY

Proponents have filed 529 shareholder resolutions on environmental, social and related sustainable governance issues for the 2022 proxy season, up more than 20 percent from last year at this time. Securities and Exchange Commission (SEC) staff have allowed the omission of only 11 proposals so far in response to company challenges, but 103 challenges remain to be decided (up from 74 in late February 2021). Proponents have already withdrawn 106 resolutions, and 412 were slated for votes as of late February, although this number will drop. *(Bar chart, right.)*

Environmental & Social Policy Shareholder Proposal Outcomes

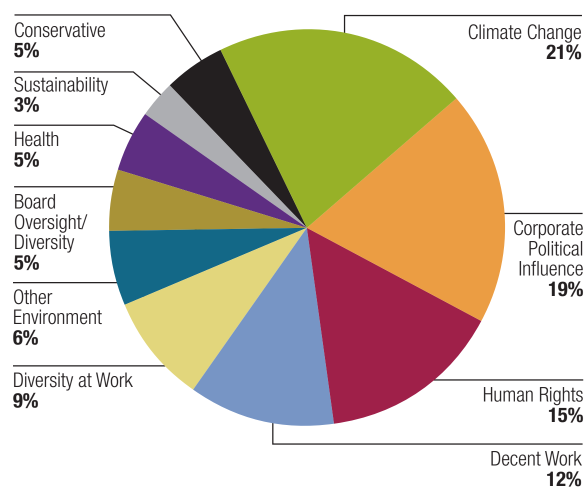


As of 2-24-22, Si2

Even though total filings are up dramatically, how many will go to votes remains uncertain for two key reasons. Last year's unprecedented number of high votes, including 39 majorities, could prompt more agreements and thus withdrawals. Further, because the SEC in November rescinded interpretative guidance that boosted omissions during the Trump era, fewer proposals may be omitted.

This year heralds significant shifts in the topics proponents raise, with many more on climate change and racial justice. Corporate political influence resolutions also increasingly focus on the viewpoints that receive company-connected money for elections and lobbying. New topics abound about decent work, including pay and working conditions. But resolutions on general approaches to sustainable corporate governance have fallen dramatically, given advances in board diversity and ubiquitous sustainability disclosures from companies. *(Pie chart, right.)*

2022 Shareholder Proposals



Regulatory shift: In addition to the SEC's November 3 Staff Legal Bulletin 14L that rescinds three previous interpretive bulletins, SEC Chair Gary Gensler also has shifted course on proxy advisory firms. On November 17, the SEC proposed a new rule about the advisory firms that aims to address concerns that the controversial restrictions imposed in the Trump era might "impede and impair the timeliness and independence of proxy voting advice" and impose "undue litigation risks and compliance costs.

Nonetheless, proponents this year are grappling with the impact of a new rule from September 2020 that makes it harder to file and resubmit shareholder resolutions. A lawsuit from the Interfaith Center on Corporate Responsibility, *As You Sow* and James McRitchie seeks to set aside the rule and a decision may come in late May. *(Sidebars, p. 12.)*

INTRODUCTION

Overview and New Issues in 2022

This section provides a look at the key issues raised in each of the topics covered in this report, giving special attention to new developments and basing the analysis on what is requested in the resolved clauses of resolutions.

Environment

Climate change has jumped to the top of the proxy season agenda this year and is the biggest single topic. Climate-related concerns undergird a growing number of proposals that seek consistency between corporate policy and political influence, too. Resolutions about environmental management also implicitly address the climate, but so do new human rights resolutions about environmental justice. In all, there are 145 proposals about the environment, up substantially from 91 last year.

Climate change: The number of proposals specifically on climate change has nearly doubled to 110, up from 79 last year and well above this decade's previous peak of 83 in 2018. An additional 20 proposals raise questions about climate-related political influence, plus two on board oversight. A striking change is the near-total focus on greenhouse gas (GHG) emissions targets, with most proposals asking for a transition to net-zero status by 2050. Only eight ask about deforestation and water.

Carbon asset risk—Sixty-eight of the 101 resolutions about carbon asset risk address *emissions* (up from 29 at this point last year). More than two dozen ask companies to set goals, with a new focus on all types of GHG emissions, including those that come directly from company operations (Scope 1), indirectly from energy purchases (Scope 2) or indirectly from other value chain activity—mainly from the use of products and services (Scope 3). The latter make up the bulk of most companies' carbon footprints. The way opened for this return to specificity about emissions and goals timing when the Securities and Exchange Commission (SEC) rescinded three Staff Legal Bulletins from the Trump era last November. Many of the proposals are at companies that have never been asked before about climate change.

Proponents are starting from a position of strength established last year when average support for climate proposals topped 50 percent for the first time. Building on this momentum, the 2022 season began with a bang when **Costco Wholesale** investors gave 70 percent support for setting net-zero GHG goals.

At **Williams-Sonoma**, a new resolution raises concern about the company's apparent reliance on *carbon offsets* to reach its net-zero goal, something that does not pass muster for those advocating for "science-based" targets. *Methane emissions* from up and down the natural gas value chain underscore the its heavy carbon impact, prompting withdrawals and early commitments for better accounting and reporting at **Dominion Energy**, **Duke Energy** and **Southern**.

An Icelandic investor raises an entirely new subject, the inordinately heavy carbon footprint of *cryptocurrency*—caused by its high energy demand for computation—in a resolution at **Tesla**, although it faces a challenge at the SEC.

Another new proposal asks insurers and banks to stop all *financing and underwriting* of fossil fuels; additional proposals also seek related reports. Also in the financial sector is another new angle, a request at credit ratings firms to extend the timeframe for considering the impact of physical risks. **S&P Global** agreed timing for ratings is a valid concern and made changes, prompting James McRitchie to withdraw. Another early win for proponents has occurred at **Dominion Energy**; the New York City Comptroller's Office asked the utility to align its capital expenditures with its GHG emissions targets and the company agreed to do so.

Audits—A key concern for financial analysts and investors is whether information reported by companies is accurate and last year proponents started asking for formally audited climate reports, producing high votes of 47.8 percent at **Chevron** and 49.4 percent at **ExxonMobil**. This year, more such proposals have been filed at a total of nine banks, utilities and energy companies. The SEC's new mandatory climate reporting rule, expected this spring, may address this issue for all public U.S. companies.

Strategy—Two new proposals seek to address expected social inequities as the world warms and economic disruption affects the most vulnerable. One at Chevron asks about financial and ecosystem risks and threats to *indigenous peoples in the Arctic*, while another asks **Marathon Petroleum** to explain its compliance with the *Just Transition guidelines* issued by the International Labour Organization, including impacts on workers and communities.

Environmental management: After gradually diminishing from a high of nearly 50 proposals 10 years ago, the number of environmental management proposals has risen again, to 35, with more likely.

Plastic—Most proposals are about plastic, asking companies to make less, use less and rethink one-time applications to address a growing crisis; the Pew Charitable Trusts estimates that plastic flows into oceans may triple by 2040, with many consequent ills for human and animal life. Last year, Green Century celebrated when **Coca-Cola** announced it would cut virgin plastics use by 3 million tons by 2025, but it is back with a request for more refillable containers.

Repair—The "right to repair" is raised in a new proposal still pending at **Alphabet**; the aim is to make it easier and cheaper for consumers to repair equipment and reduce waste. **Microsoft** announced last October it would allow independent repair of its products in response to an *As You Sow* proposal, and Green Century heralded **Apple's** similar announcement early this year, which prompted it to withdraw its proposal.

Chemicals—New proposals about chemical footprints ask consumer goods companies to report; resolutions are pending at **Bed Bath & Beyond**, **Burlington Stores** and **Dollar General**.

Agriculture—Four proposals ask companies to consider their contributions to *antimicrobial resistance*, which last year persuaded **Yum! Brands** to issue a report. Four more, mostly at new recipients, ask about pesticide risks from the food supply chain. Yet another agricultural issue—*farm animal welfare*—is raised in a proposal from the Humane Society of the United States that contends **Wendy's** is not doing enough to ensure hogs in its supply chain are well treated. A similar resolution will appear at **McDonald's**. *(Outside the scope of this report is a related effort by billionaire investor Carl Icahn to elect dissident directors at McDonald's, including Leslie Samuelrich of Green Century, over concern about pigs suffering in the supply chain.)*

Mining—Green Century wants a report from **Chemours** about the wisdom of acquiring a titanium mining project on the edge of the Okefenokee Swamp, in a new proposal seeking a report on financial and reputational risks.

Social Issues

Corporate political influence: The array of proposals asking companies how they oversee and spend in the political arena is shifting. While still primarily focused on governance and disclosure, they increasingly question *which issues* company-connected money supports. Climate-related lobbying proposals are Exhibit A for this phenomenon, but many new variants this year request reports on how companies address other conflicts between stated policies and the aims of politicians they help elect, and the nature of their lobbying that occurs well after elections are over.

While companies routinely assert their spending is bipartisan, Si2's research (noted in last year's Proxy Preview) finds this is largely not accurate when it comes to expenditures at the state level, where spending closely tracks dominant parties; preferences also vary considerably at the national level. With the United States increasingly bifurcated into hostile political camps, companies face increasingly fraught challenges, which the Center for Political Accountability (CPA) has explicated in several recent reports. Evidence suggests most large companies are unlikely to sustain their initial pledges to cut off funding for members of Congress who voted to overturn the 2020 election. But the attack on the U.S. Capitol on January 6, 2021, continues to resonate and it is abundantly clear that pressure will intensify about support for politicians, committees and groups who voice highly contested positions. Intense battles over abortion rights, LGBTQ protections, voting rights and a host of other contentious topics await any company that spends.

Filings and new angles—Two dozen proposals ask for CPA's election oversight and disclosure approach, while 37 seek the same for generalized lobbying, plus the 20 noted above that focus on climate-related lobbying. Even more significant, though, are the 19 proposals that ask about inconsistencies between stated corporate values and the views held by recipients of company-connected money. In addition to reproductive rights (raised by Rhia Ventures and allies), the proposals ask about civil rights, healthcare access generally and environmental policy. A brand-new issue comes from Harrington Investments, which wants **PepsiCo** to report on spending outside the United States on elections, lobbying and philanthropy, given its concerns about food policy in Mexico, although PepsiCo has a pending SEC challenge.

Years of proposals at **ExxonMobil** culminated last year in two majority votes—64.2 percent in favor of a proposal sponsored by BNP Paribas Asset Management seeking more disclosure on climate lobbying and 56.1 percent in favor of the general lobbying proposal from the Teamsters. On February 18, 2022, the company released a new report that is in "direct response" to the Teamsters proposal and "a significant step in our ongoing efforts to improve transparency and build trust among our stakeholders. We believe this establishes a new standard in reporting." It plans another report soon on climate lobbying. The extent to which other companies emulate Exxon is one of the key questions for this proxy season.

Decent work: Just over half of the 65 proposals about decent work address differential compensation and discriminatory pay gaps, while the rest ask for more disclosure about working conditions, including anti-bias policies, worker safety and benefits.

Executive pay differentials—James McRitchie poses a new resolution at 13 companies about employee stock ownership regarding CEO pay differentials, but also asks about such ownership by job category. He posits that companies and investors benefit from an "ownership culture," and so far has reached six agreements. Faith-based groups have new resolutions about low wages at four retailers and restauranteurs, and The Shareholder Commons suggests companies should examine their short-term financial priorities and report on wage inequality.

Race/gender—As in the past, resolutions from Arjuna Capital and Proxy Impact seek median gender/racial pay data and seven of nine are at new recipients. Further, a resubmission from the Franciscan Sisters of Perpetual Adoration asks **Walmart** to report on pay and racial justice. (It earned 12.7 percent last year.)

Working conditions and benefits—New angles abound in the 31 proposals on working conditions. Eight ask about concealment clauses that can hide malfeasance, the first earned 50.4 percent on March 4 at **Apple**. The Teamsters want reports on worker misclassification in the supply chain, pointing to potential liability given a new California law about port workers that is fueling a unionization drive. The New York City Comptroller asks **Amazon.com** about differential injury rates for people of color and women, while other proponents want it to release an audit of worker health and safety. The AFL-CIO wants to see safety figures for replacement workers at **ExxonMobil** and an individual seeks stringent pandemic safety protocols at **Walt Disney**. Five companies also have paid sick leave proposals.

Nearly all the new resolutions face challenges at the SEC, which historically has been skeptical that such workplace issues transcend ordinary business. The November SEC Staff Legal Bulletin 14L suggests fewer proposals will be omitted on these grounds if they raise public policy issues, though, and the outcome of challenges to the decent work resolutions may show how far the Biden administration's SEC will go.

Diversity in the workplace: Shareholder proponents responded last year to the Black Lives Matter movement by filing dozens of resolutions seeking more diversity data. They withdrew many after company commitments and that seems likely again. The number has dropped back from the 70 filed last year but is still high, with 48 resolutions filed.

The spotlight remains on disclosure. In 2021, the New York City Comptroller filed a slew of requests for EEO-1 data—a snapshot of employee information broken down by standard job categories, race, gender and ethnicity, and it has done so again in 2022. *As You Sow* and allies such as Nia Impact Capital and Whistle Stop Capital this year also are continuing to ask—at two dozen companies—for granular information on diversity and inclusion program performance. NYSCRF combines pay and diversity data disclosure in several categories in a new proposal at **Electronic Arts**, **Monster Beverage** and **Take-Two Interactive Software**, invoking data companies must provide under a new California reporting mandate.

Other proposals ask about diversity in the executive suite (withdrawn by Trillium Asset Management at **Ormat Technologies**) and racism in the workplace (pending at **Intel** and **PayPal**). The AFL-CIO has a new resolution asking **Amazon.com** about the pandemic's impact on diversity, but it faces an SEC challenge. The company has received so many somewhat similar proposals that this, like others, may be winnowed out on the grounds they are duplicative.

Ethical finance: Two proposals on ethical finance are being challenged—one on tax compliance metrics at **Amazon.com** (referencing the Global Reporting Initiative standard articulated in 2019) and another on the ethics of canceling users' access to the **PayPal** platform. Both face uncertain SEC outcomes.

Health: Shareholder proponents are reprising longstanding criticism about how pharmaceutical companies price their drugs and other treatments, focused on Covid-19 and fair access, but also on the perennial question of high prices. In addition, another set of proposals seeks disclosure about public health, including most prominently reproductive health access for employees given growing U.S. restrictions on abortion, and tobacco. Rhia Ventures is coordinating the reproductive health proposals, in additional to those noted above about corporate influence spending. In all, just five of 24 proposals filed are resubmissions that went to votes last year.

New angles—Oxfam America has a new resolution at **Moderna** and **Pfizer** about sharing intellectual property and technical knowledge to expand access to Covid-19 vaccines and treatments in low- and middle-income countries, where the coronavirus pandemic continues to hit hard and both vaccines and treatments remain scarce. The Shareholder Commons suggests the public health costs of *not* sharing know-how will negatively affect long-term investors and wants a report at **Johnson & Johnson** and **Pfizer**. Both these proposals have survived SEC challenges. In addition, members of the Interfaith Center on Corporate Responsibility newly ask five drug companies to report on the risks of monopolistic behavior, what they call "anti-competitive practices." There are new angles about food, public health and financial priorities at **Coca-Cola**, **CVS Health** and **PepsiCo**, too, but all the companies have lodged SEC challenges.

Human rights: One reason for the surge in filings this year is the 40 percent increase in those about racial justice; additional resolutions also reprise longstanding questions about corporate policies and disclosure on human rights at home and abroad.

Racism—The proponents highlight systemic racism and company connections to it, pointing to new commitments but also deep underrepresentation for people of color in upper-level jobs and continued problematic behavior. They argue addressing racism creates both profit and justice. Proposals name specific stakeholder groups to consult and all seek external expertise and advice. All but six of the 2022 proposals are at new recipients. Last year, most of the racial justice proposals went to financial firms the proponents considered systemically important, but the campaign has branched out to encompass retailers, food purveyors, healthcare companies, industrial and materials firms, the tech sector and utilities. The proposals come from a mix of proponents, coordinated in large part by the labor-affiliated SOC Investment Group (formerly CtW).

Five new proposals discuss "environmental justice," seeking risk and impact reports from **3M**, **American Water Works**, **Chemours**, **Chevron**, **Honeywell International** and **Kinder Morgan**. Another asks **Citigroup** and **Wells Fargo** for an evaluation of their policies on Indigenous peoples and project financing. Parnassus Investments want a report from **Cerner** on how its algorithms may slant healthcare delivery, while Arjuna Capital is trying again to question providing insurance to police involved in racist acts, at **Travelers** (it was omitted last year at **Chubb**).

Risks and reporting—Only 15 resolutions voice longstanding requests for assessments of human rights policies and risks, but there are a couple of new angles. China's oppression of the Uyghur people is at issue in several proposals, with two votes at **Apple** on March 4 of about 34 percent; other proposals also ask about business connections with hotspots around the world. A new resolution at **Hershey** is about child laborers and cocoa in West Africa. Domini Social Investments seeks a report on pandemic safety protections for farmworkers in the **Kroger** supply chain. Finally, the Canadian Shareholder Association for Education and Research (SHARE) asks **Amazon.com** about respecting labor rights. Otherwise, proponents raise persistent concerns at weapons makers and tech firms.

Media—All the major social media platform companies face resubmitted proposals about surveillance, censorship and content management. SHARE and Trillium Asset Management each have new questions about **Alphabet's** plan to revamp its Search function, and its algorithms, and face SEC challenges. **Meta Platforms** has a resubmitted proposal by Proxy Impact about online child sexual exploitation on the Facebook, Messenger and Instagram platforms, while Arjuna Capital wants both a report and a shareholder advisory vote on the company's "metaverse" concept.

Weapons—A resubmitted proposal asks **PNC Financial** about financing nuclear weapons (it earned 7.9 percent last year), while a new proposal from the Rhode Island Pension Fund is focused on **Mastercard's** payment system that may be used for selling untraceable "ghost guns," in a new proposal that faces a challenge at the SEC.

Sustainable Governance

Proposals seeking generalized reports on sustainability and specific policies on board diversity are drying up as companies act on both fronts. This year, 19 proposals ask about board composition (mostly diversity), eight seek specific types of board oversight (including one on climate change pending at **Texas Instruments**), and 14 more raise broad concerns about corporate governance arrangements and reporting to investors. But the total number of proposals filed on these topics has dropped to 34, down from 78 last year and a high of 112 in 2019.

What's *not* happening is notable—just three resolutions seek sustainability reports (only one is still pending) and only one asks for reincorporation as a social purpose company (it has earned 3.1 percent at **Apple**). Last year's "public benefit" corporation proposals earned scant support, so the organizer for that effort, The Shareholder Commons, is taking a different approach, emphasizing various forms of systemic investment risks.

Furthermore, recent developments in financial regulation and investor practice show how well accepted the idea of board diversity has become. Both the leading U.S. proxy advisory firms recommend against electing directors when board diversity is lacking, a new mandate on including at least one woman on the board in California is law (despite a court challenge), and last August the Nasdaq exchange attained approval from the SEC for its new rule that requires its listed companies to have at least two diverse directors or explain why they do not, with reporting in the matrix format long espoused by shareholder proponents. Still, while women now are gaining ground on corporate boards, most big companies are far away from reflecting the increasing ethnic and racial diversity of the United States.

New angles—The Shareholder Commons has new resolutions at four companies about how investment stewardship and social media firm financial priorities affect society, capital markets and long-term investment return. Finally, *As You Sow* faces a challenge to its new request at **Amazon.com** and **Comcast** for low-carbon employee retirement plan options.

Conservatives

The field of proposals from politically conservative groups, chief among them the National Center for Public Policy Research (NCPPR), continues to focus heavily on social policy. It is joined this year by the National Legal and Policy Center (NLPC). Resolutions from these and similarly minded proponents seek action that is the mirror image of what all the other proposals request, aside from doing business in China.

At least 27 proposals have been filed thus far, evenly split between diversity (nine), corporate political influence and charitable giving (nine) and human rights (eight), with one about the risks of reincorporation as a public benefit corporation omitted.

New angles—NCPPR wants at least five companies to report on their employee training curriculum, arguing that diversity training disadvantages White people. After failing to make it past the SEC for a few years, the NLPC also has hit upon language that the commission finds acceptable; it wants detailed semi-annual reports on any charitable contributions of $1,000 or more. **Costco Wholesale** investors gave the idea 3.2 percent support in January and it is pending at three more companies.

NCPPR has copied verbatim the resolved clause of the election spending values congruency proposal submitted last year by Tara Health at **Pfizer** and sent it in early—while advocating against the causes Tara supports, chief among them reproductive health rights. The company has told the NCPPR resolution pre-empts the one from Tara and this argument could prevail.

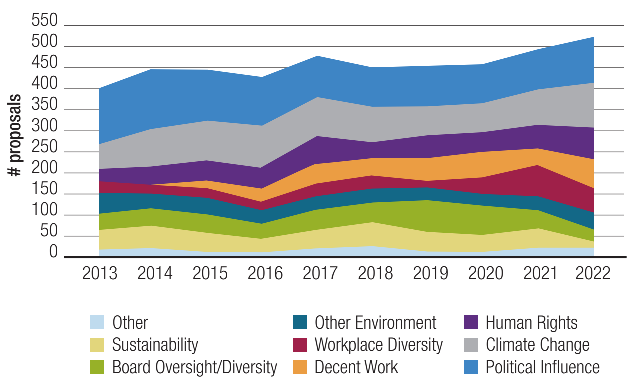
Using the same copycat approach, NCPPR has a new resolution very similar to the racial justice audit proposals, but outside the resolved clauses warns of excessively "woke" corporate behavior, reiterating the view stated in the training resolutions that White people face discrimination and corporate America lacks sufficient representation from ideological conservatives. The proposal faces SEC challenges from three more companies, but may pre-empt the ICCR-sponsored proposal at **Johnson & Johnson**.

Proposal Trends

The charts below illustrate long-term trends for proposal filings. The first shows the dominance of political influence and climate change, a recent rise for human rights, growth for decent work and workplace diversity, and a drop-off in board oversight and diversity, as well as a decline for overarching sustainability proposals.

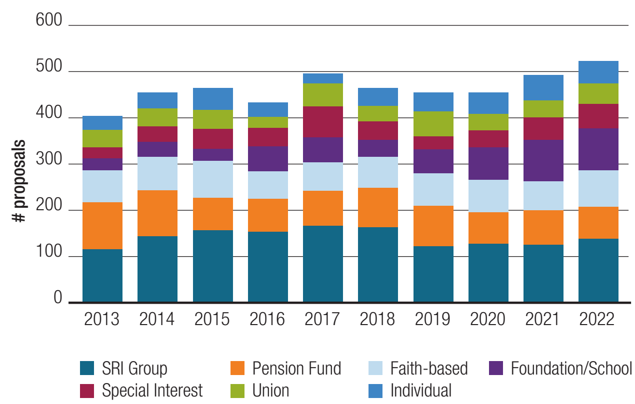
The second illustrates shifts in the types of shareholder proponents who are lead filers of proposals. (Because many faith-based investors of the Interfaith Center on Corporate Responsibility co-file with other proponents and may not be lead filers, the chart undercounts their participation.)

U.S. Environmental & Social Shareholder Proposal Topic Trend



As of Feb. 24, 2022, Si2, excludes conservatives

Primary Proponent Types



Changes in the Proxy Voting Context

Important changes are afoot from regulators, in the courts and in the mix of proxy season players, which affect shareholder proposals. As explained below by Sanford Lewis of the Shareholder Rights Group, SEC Chair Gary Gensler in November rescinded three earlier interpretative bulletins and has reset the regulatory clock for proponents and companies. A legal challenge to rules for filing and resubmitting shareholder resolutions is being considered by a U.S. District Court in Washington, D.C., with a hearing is schedule for late May; Josh Zinner of the Interfaith Center on Corporate Responsibility (ICCR), one of the plaintiffs, explains the case. The SEC has acted on another front, and in November adopted a final rule about contested elections to boards of directors that will make it easier to vote, as Ron Berenblat of Olshan Frome Wolosky explains. Finally, Antoine Argouges of the new U.K. firm, Tulipshare, discusses the promise of more retail investor voting on shareholder resolutions.

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2022 PROXY LEGAL OVERVIEW: ESG PROPOSALS IN ASCENDANCE

SANFORD LEWIS
Director, Shareholder Rights Group

The 2022 proxy season reflects the ascendance of support for ESG shareholder proposals, along with policy changes at the SEC that both support and undermine these proposals.

The controversial 2020 amendments to the shareholder proposal rule have become legally effective with the 2022 proxy season. Pending litigation by the Interfaith Center on Corporate Responsibility, *As You Sow*, and James McRitchie seeks to overturn those amendments. The court case will not be decided in time to affect the spring proxy season. The requirements of that rulemaking, which steeply increased thresholds required to file or resubmit proposals, have thwarted some proposals that would have been filed in the current season.

In addition, the season is a "shakedown cruise" for complicated and sometimes vague new requirements of those amended rules for proponents. Proponents now must offer to meet with a company, representatives of proponents must obtain sufficient documentation of authorization to act on the proponent's behalf, and the one-proposal rule applies to both representatives and proponents.

At the same time, the new Staff Legal Bulletin 14L, issued on November 3, 2021, combined with other actions of the SEC staff, has reset the no-action process. Swept away are complicated new "add-on" requirements established between 2016 and 2020 about the potential for boards of directors to override the legal basis established by the Commission for defining proposal exclusions on "ordinary business" and "relevance" of proposals to companies. As a result, proponents that meet the new thresholds expect fewer effective efforts to block advisory proposals on issues like climate change, sick leave, and human rights. The Staff Legal Bulletin restored the Commission's interpretations of micromanagement and relevance, making it clear that proposals that genuinely address a significant social or environmental issue facing a company will not be excludable on the kinds of subjective tests that led to so many exclusions from 2016 to 2020.

It is too early to say how the bulletin will affect proposal outcome this year. Some companies have decided not to file no-action requests given the clarity of the new bulletin; others have filed no-action requests that seek workarounds to override the clear benchmarks and guidance set forth in the bulletin and even seek ESG-hostile interpretations that would exclude many proposals that are core to investor interests in this era of mainstreamed ESG. Despite the special focus of the new Staff Legal Bulletin on climate change proposals, there are numerous no-action challenges pending on these proposals, continuing to assert both "micromanagement" and "substantial implementation" arguments.

Sometime during the proxy season, we also will likely see the heavily anticipated release by the Commission of proposed mandatory disclosure rules on climate change and human capital management. Voting during the proxy season will undoubtedly provide further evidence of investor support for disclosure and improved performance on these issues—and therefore support Commission action.

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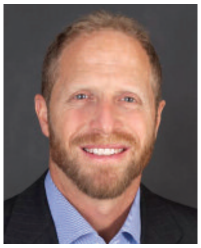

LAWSUIT CHALLENGES SEC'S RESTRICTIVE SHAREHOLDER PROPOSAL RULES

JOSH ZINNER
CEO, Interfaith Center on Corporate Responsibility

In September 2020, the SEC under Chairman Jay Clayton issued amendments to Rule 14a-8 that substantially restrict shareholders' access to the corporate proxy statement. The Clayton SEC's actions came in the context of years of lobbying by major trade associations like the Business Roundtable, the U.S. Chamber of Commerce, and the National Association of Manufacturers to limit shareholders' ability to effectively engage with the companies they own on critical environmental, social, and governance issues.

The rule changes significantly raise the ownership requirement for filing a resolution, cutting off smaller investors' rights; more than double the thresholds to resubmit most proposals, which will prevent value-enhancing proposals from being considered by other shareholders; and put numerous other barriers in the way of filing, including limits on both access to skilled representatives and the aggregation of shareholdings to meet the ownership requirement. The rule changes have gone into effect for the 2022 proxy season.

Thousands of investors weighed in on the rule change, and the comments were overwhelmingly opposed to the rule. Commenters emphasized the critical importance of the shareholder proposal process in identifying risks and building long-term shareholder value; the relatively meager costs of putting shareholder proposals on corporate ballots; and the arbitrary nature of some of the rule changes, which seemed more tied to an ideological agenda than a rational assessment of the costs and benefits of the 14a-8 process. Commissioners Allison Herron Lee and Caroline Crenshaw dissented. Commissioner Lee stated that the amendments "put a thumb on the scale for management in the balance of power between companies and their owners," and further stated that while "support for [ESG-related] shareholder proposals has been on the rise," it was no coincidence that the Commission was moving "to restrain these efforts just as they are gaining real traction."

In June 2021, the Interfaith Center on Corporate Responsibility, along with *As You Sow* and James McRitchie, challenged the rule changes in U.S. District Court. The complaint alleges that the rule changes were arbitrary and capricious and violated the federal Administrative Procedure Act because the cost-benefit analysis underpinning the rule was highly deficient. The Commission made no efforts to quantify the benefits of shareholder engagement to investors and companies despite the enormous amount of studies and data on the positive effects of the shareholder process provided by commenters. The Commission also used wildly exaggerated estimates of the cost of including proposals on the proxy statement. The complaint also focused on the SEC's refusal to consider evidence obtained by the Commission's staff before the start of the rulemaking process, which showed that the rule change under consideration could reduce shareholder proposals by up to 78 percent; the SEC withheld the study from the rulemaking record and only quietly released it to the public a month before the final rule came out—and long after the comment period had closed.

In the fall of 2021, the plaintiffs and the SEC filed cross motions for summary judgment. The parties are awaiting the Court's decision, which may come at a hearing now scheduled for late May.

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NEW UNIVERSAL PROXY RULE WILL DEMOCRATIZE DIRECTOR ELECTIONS

RON S. BERENBLAT
Partner, Olshan Frome Wolosky LLP

In November 2021, the SEC adopted final rules that will require parties in a contested corporate director election to use universal proxy cards for shareholder meetings held after August 31, 2022. Under the new rules, both the company and any shareholder seeking to elect a slate of director candidates at a shareholder meeting will be required to use proxy cards that include the names of all director nominees presented for election at the meeting. This will give shareholders the ability to vote by proxy for their preferred mix of company and dissident nominees, the same way they can if voting in person at the meeting.

Under the current proxy voting regime, neither the company nor the dissident may include the other party's nominees on its respective proxy card without the consent of the nominees, which rarely happens. As a result, in an election contest, shareholders typically receive two proxy cards: one from the company listing only the names of the company's nominees and one from the dissident listing only the dissident's slate. Therefore, shareholders voting by proxy in an election contest must choose between the company's and dissident's recommended nominees, often precluding them from voting for a desired mix of candidates from both slates unless

Continued next page

NEW UNIVERSAL PROXY RULE WILL DEMOCRATIZE DIRECTOR ELECTIONS

Continued

they attend the meeting in person where they can split their vote as desired by ballot. The new universal proxy rules will allow shareholders to vote by proxy for a mix of all company and dissident candidates without attending the meeting in person.

The universal proxy regime is a more democratic path for shareholders to obtain board representation, but it should not be confused with the existing Rule 14a-8 shareholder proposal and "proxy access" regimes. Currently, shareholders may file proposals, often focusing on environmental, corporate governance, and social issues, for inclusion in the proxy statement using Rule 14a-8. They also can propose competing slates of director candidates under "proxy access" bylaws as long as they satisfy certain minimum ownership and holding period thresholds and other procedural requirements.

Unlike Rule 14a-8 proposals and "proxy access," however, the universal proxy rules will not give a dissident seeking board representation access to the company's proxy card and will not eliminate the need for the dissident to expend its own time and resources on a solicitation to have its slate elected. In actuality, the new rules will require a dissident to comply with specific notification requirements, file its own proxy statement with the SEC, and solicit holders of at least 67 percent of the voting power of shares entitled to vote in the election. Simply put, there will be no "free-riding" of the company's solicitation materials under the new rules.

It is premature to make broad predictions about whether universal proxies will favor one party over the other party or will result in any material increase or decrease in mixed boards or changes in board control. Nevertheless, placing shareholders who vote in person or by proxy on an equal footing represents a crucial step in further democratizing the shareholder electoral process while preserving the shareholders' ability to hold company management accountable as stewards of their investment.

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THE PROMISE OF RETAIL SHAREHOLDER POWER

ANTOINE ARGOUGES

Founder and CEO, Tulipshare

Voting is integral to the democratic process. During the 2020 U.S. Presidential election, it felt as though you could hardly go a day without hearing a celebrity or politician urging the public to vote.

Yet, shareholder democracy and proxy voting is a relatively unexamined facet of investing for the average individual investor, not to mention there has yet to be a big celebrity endorsement urging shareholders to vote their proxies. This feels like an oversight when you consider the power the corporate world has. Fortunately, educating investors about their shareholder rights is becoming a hot topic.

Robinhood—a trading platform responsible for bringing millions of new investors into the markets—has made its first public acquisition in Say, a platform that aims to keep shareholders informed and active in the proxy season. Robinhood's involvement in the 'meme stock phenomenon' no doubt shed light on an emerging market, and it released a statement earlier this year testifying to the "power of individual investors."

Robinwood and Say are not alone in recognizing this shift. OpenInvest, which bills itself as a "sustainable investing solution" offering "value-based metrics including LGBTQIA+ rights, racial justice, disability inclusion, and more," has been acquired by **JPMorgan**. **Broadridge** has also released a ProxyVote app that aims to "make it easier than ever" for investors to exercise their right to vote and "participate in the corporate governance process."

But, even before the meme stock stir, Tulipshare became the first broker dealer platform to allow retail investors to become activist investors. Tulipshare is approaching retail shareholder activism in a brand new way by using targeted campaigns and shareholder rights while grouping together like-minded investors who want to see ethical and sustainable changes in companies. With this approach, investments can act as the vehicle for corporate pressure where governments fall short or petitions and protests fail. Having raised $12 million in funding, with plans to expand from the United Kingdom to the United States, Europe, and beyond, Tulipshare fronts a trend now being emulated across the industry with companies like Iconik, Tumelo, and Inyova.

The conditions are ripe for shareholder engagement, especially since we are in the midst of a retail investor boom facilitated by 'Gen-I'—or 'Generation Investor.'

But, will Gen-I actually vote their shares? While institutional investors until now have dominated shareholder voting, all the new platforms suggest millennial retail investors are getting ready to vote, too, and their motivations may not be as predictably profit-focused as those from institutional investors.

Knowing all this and considering the general mood of the times, it seems like the whole corporate power structure is about to be radically changed. What the financial sector faces now is a culturally diverse, educated, and switched-on generation of investors who don't need a celebrity to tell them what to think or when to vote. They're already engaged and ready to fix the broken system. All we have to do is provide the platform.

THE 2022 PROXY SEASON

This section of the report presents information on the 529 shareholder proposals investors have filed so far for the 2022 proxy season, up from 435 at this point in 2021. Additional proposals for spring votes will show up as the season progresses and more are likely to be filed for meetings that occur after June. A total of 23 proposals are included in the aggregate totals but not described in detail since they have yet to be made public by the proponents. As noted in the executive summary, new rules about filing and resubmitting proposals have kicked in but may be overturned by a lawsuit from proponents; a hearing is now scheduled for late May, too late to have any impact on the spring proxy season. The SEC also has rescinded interpretive guidance from the Trump era which means fewer resolutions may be omitted. Further, the SEC has proposed a new rule for proxy advisory firms put in place under the former administration; it was unpopular with investors.

Structure of the report: Information is presented in three main areas—Environment; Social and Sustainable Governance. A separate section covers Conservatives. We note how many proposals have been filed in each category, which are now pending, how many have been withdrawn for tactical or substantive reasons after negotiated agreements with companies, and the disposition of challenges to the proposals at the SEC under its shareholder proposal rule. Rule 14a-8 of the 1934 Securities and Exchange Act allows companies to omit proposals from their proxy statements if they fall into certain categories such as dealing with mundane, "ordinary business" issues.

Analysis in this report focuses on the resolved clauses and how these compare to previous proposals, as well as previous support for resubmitted resolutions and new developments. We pay close attention to the SEC's interpretations of the omission rules, considering guidance documents released by the commission's Division of Corporation Finance.

Key information—Within each section, tables present key data: each company, the resolution, the primary sponsor and the projected month of the annual meeting, Investors will know the actual dates when companies issue their proxy statements, about six weeks or more before their annual meetings. The status column also indicates if a proposal has been omitted or withdrawn. To vote on proposals, investors must own the stock as of the "record date" set by the company, about eight weeks before the meeting; the precise data is noted in each proxy statement.

Environmental Issues

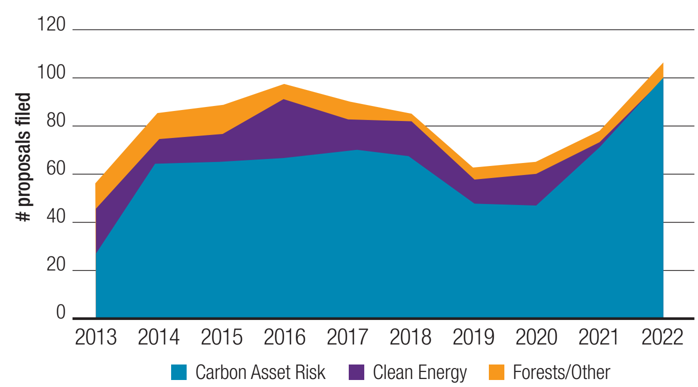
Burgeoning support for climate change shareholder proposals in 2021 and clear evidence about how the warming climate poses material risks to companies seems to have inspired a raft of new resolutions in 2022 to reach 110, the most in 10 years and up from 79 last year. Proposals about a wide variety of environmental management issues also rose to 35, up from 31 in 2021.

(The Corporate Political Influence section, p. 39, discusses the climate lobbying proposals. Sustainable Governance, p. 78, covers board oversight of climate change and suggestions for offering low-carbon employee retirement plan investment options (a new issue).)

CLIMATE CHANGE

The 2021 proxy season marked the first time that average support for climate change resolutions surpassed 50 percent. The drumbeat for corporate action and disclosure is powered by mainstream investor concerns about impending financial risks, more evident each year with extreme weather and supply chain disruptions. Almost all the 2022 proposals ask about greenhouse gas (GHG) emissions goals and they are more specific than in recent years given a shift at the SEC. Also, proposals asking about climate-related public policy activities have nearly doubled.

Types of Climate Proposals



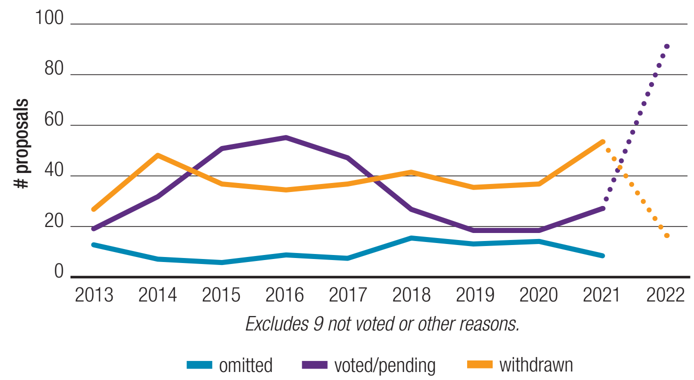
As of mid-February, 101 proposals ask about carbon asset risk issues, including emissions, another eight are about deforestation and water; in addition, climate lobbying proposals have risen from 13 last year to at least 20. This year also is notable for the number of companies facing climate change resolutions for the first time.

It is too early to see the impacts last year's surging support will have on the 2022 season. But last May's unprecedented proxy fight at **ExxonMobil**, fueled by investors dissatisfied with its climate change stance, may have shifted engagement dynamics, and more withdrawals this year seem possible.

President Biden continues to take a very different approach to environmental protection than his predecessor. But his major climate-related initiatives included in the larger Build Back Better infrastructure bill are blocked, although some action still seems possible since the legislation is being deconstructed into smaller initiatives and holds the potential for substantially resetting the regulatory context for U.S. companeis and investors.

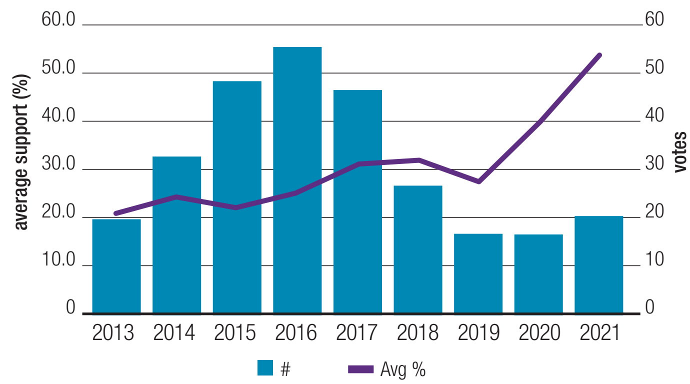
Proponents: The Ceres coalition coordinates most climate change proposals, through its Investor Network on Climate Risk (INCR) and a broad coalition of investors, including many from the Interfaith Center on Corporate Responsibility (ICCR), the New York City and State pension funds, other state pension funds around the country, plus responsible investment firms and some individuals. Many support Climate Action 100+, a global initiative focused on more than 100 corporate carbon emitters that account for two-thirds of global industrial emissions and several dozen more companies the network says will be key to a "clean energy transition." Climate Action 100+ is now backed by 617 institutional investors with assets of more than $65 trillion.

Climate Change Outcomes

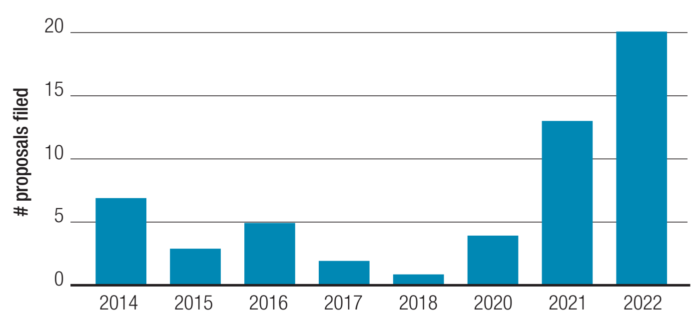


Excludes 9 not voted or other reasons.

Climate Change Support



Climate Change Lobbying



Carbon Asset Risk

While 2021 saw more generalized requests seeking company plans to reconfigure businesses to cut carbon footprints in line with the Paris climate accord, this year specificity is back in spades. More proposals ask about indirect "Scope 3" emissions from supply chains and products, and more seek net-zero emissions goals and reports. In November 2021, when the SEC rescinded three Trump-era Staff Legal Bulletins that had constrained the types of proposals shareholders could file, it set the stage for this year's more precise requests.

Adopting Emissions Goals

Greenhouse Gas Emissions

Company	Proposal	Proponent	Status
Air Products & Chemicals	Adopt net-zero GHG reduction targets	Nathan Cummings Foundation	withdrawn
Allegheny Technologies	Report on Paris-compliant plan to cut carbon footprint	As You Sow	withdrawn
Amedisys	Report on Paris-compliant plan to cut carbon footprint	As You Sow	June
American Water Works	Report on Paris-compliant plan to cut carbon footprint	Proxy Impact	May
Antero Resources	Report on Paris-compliant plan to cut carbon footprint	Mercy Investment Services	June
Antero Resources	Report on methane emissions/reduction targets	New York State Common Retirement Fund	June
BJ's Restaurants	Adopt net-zero GHG reduction targets	Trillium Asset Management	June
BJ's Wholesale Club	Adopt net-zero GHG reduction targets	Trillium Asset Management	June
Builders FirstSource	Adopt net-zero GHG reduction targets	Green Century Capital Management	June
Carnival	Report on Paris-compliant plan to cut carbon footprint	New York State Common Retirement Fund	withdrawn
Caterpillar	Report on Paris-compliant plan to cut carbon footprint	As You Sow	June
Cheesecake Factory	Report on net-zero GHG goals	As You Sow	May
Cheniere Energy	Report on Paris treaty compliance & LNG	Stewart W. Taggart	May
Chevron	Adopt GHG reduction targets	Follow This	May
Chevron	Report on methane emissions/reduction targets	Mercy Investment Services	May
CMS Energy	Report on Scope 3 GHG emissions goals	Srs. of the Presentation Blessed Virgin Mary	withdrawn
ConocoPhillips	Adopt GHG reduction targets	Follow This	May
Costco Wholesale	Adopt net-zero GHG reduction targets	Green Century Capital Management	70.0%
Darling Ingredients	Adopt net-zero GHG reduction targets	Trillium Asset Management	withdrawn
Dollar General	Report on GHG emissions targets	NJ Division of Investments	withdrawn
Dollar Tree	Report on net-zero GHG goals	As You Sow	June
Dominion Energy	Adopt goals/reduce Scope 3 GHG emissions	As You Sow	withdrawn
Dominion Energy	Adopt goals/reduce Scope 3 GHG emissions	David Backer	May
Dominion Energy	Report on stranded carbon asset risks	Freeda Cathcart	May
DTE Energy	Adopt goals/reduce Scope 3 GHG emissions	As You Sow	May
Duke Energy	Adopt goals/reduce Scope 3 GHG emissions	As You Sow	withdrawn
Eastman Chemical	Report on Paris-compliant plan to cut carbon footprint	New York State Common Retirement Fund	withdrawn
Eversource Energy	Report on Paris-compliant plan to cut carbon footprint	New York State Common Retirement Fund	withdrawn
ExxonMobil	Adopt GHG reduction targets	Follow This	May
Foot Locker	Report on net-zero GHG goals	As You Sow	withdrawn
HCA Healthcare	Adopt net-zero GHG reduction targets	As You Sow	April
Helios Technologies	Report on Paris-compliant plan to cut carbon footprint	As You Sow	June
IDACORP	Report on Paris-compliant plan to cut carbon footprint	Proxy Impact	May
J.B. Hunt Transport Services	Adopt net-zero GHG reduction targets	Trillium Asset Management	withdrawn
Kraft Heinz	Report on Paris-compliant plan to cut carbon footprint	Domini Social Investments	withdrawn
Kroger	Report on refrigerants and GHG emissions	Friends Fiduciary	June
Kroger	Adopt net-zero GHG reduction targets	Green Century Capital Management	June
Lowe's	Adopt net-zero GHG reduction targets	Mercy Investment Services	withdrawn
Macy's	Report on Paris-compliant plan to cut carbon footprint	Mercy Investment Services	withdrawn
Marathon Oil	Report on flaring reduction plans	MN State Brd of Investment	withdrawn
Marathon Petroleum	Adopt GHG reduction targets	Follow This	April
MGE Energy	Report on Scope 3 GHG emissions goals	Sinsinawa Dominicans	withdrawn
Middleby	Adopt net-zero GHG reduction targets	Trillium Asset Management	May
Monster Beverage	Report on Paris-compliant plan to cut carbon footprint	As You Sow	June
Norwegian Cruise Line Holdings	Adopt GHG reduction targets	NJ Division of Investments	May
Occidental Petroleum	Adopt Paris-compliant strategy to cut GHG emissions	Follow This	May
O'Reilly Automotive	Report on Paris-compliant plan to cut carbon footprint	As You Sow	withdrawn
Phillips 66	Adopt Paris-compliant strategy to cut GHG emissions	Follow This	May

table continued on next page

Greenhouse Gas Emissions *(continued from previous page)*

Company	Proposal	Proponent	Status
Post Holdings	Report on GHG emissions targets	Franciscan Srs. of Perpetual Adoration	withdrawn
Range Resources	Report on methane emissions/reduction targets	Unitarian Universalists	May
SBA Communications	Adopt net-zero GHG reduction targets	Trillium Asset Management	May
Skechers U.S.A.	Report on Paris-compliant plan to cut carbon footprint	As You Sow	May
Southern	Adopt goals/reduce Scope 3 GHG emissions	As You Sow	withdrawn
Standard Motor Products	Report on Paris-compliant plan to cut carbon footprint	As You Sow	May
Tesla	Stop using cryptocurrency/minimize its e-footprint	Karen Ros Robertsdottir	October
Timken	Adopt net-zero GHG reduction targets	Green Century Capital Management	May
TJX	Adopt net-zero GHG reduction targets	Boston Common Asset Management	June
Tractor Supply	Adopt GHG reduction targets	Clean Yield Asset Management	withdrawn
United Parcel Service	Adopt net-zero GHG reduction targets	Trillium Asset Management	May
UnitedHealth Group	Report on Paris-compliant plan to cut carbon footprint	As You Sow	June
US Foods Holding	Adopt net-zero GHG reduction targets	Green Century Capital Management	May
Valero Energy	Report on GHG emissions targets	Mercy Investment Services	April
Vulcan Materials	Report on Paris-compliant plan to cut carbon footprint	New York State Common Retirement Fund	withdrawn
Williams-Sonoma	Report on use of carbon offsets	As You Sow	June
Zillow Group	Report on Paris-compliant plan to cut carbon footprint	As You Sow	withdrawn

Adopt net-zero goals: The biggest group of resolutions asks companies to set net-zero climate emissions targets. All ask that goals apply to the "full value chain," with a few variations. Only one of 16 companies (**UPS**) has recently received such a proposal and proponents have withdrawn four so far *(table, above)*.

- **Specified terms for scienced-based targets**—Proponents are taking advantage of their new freedom from earlier SEC restrictions and are proposing that eight companies—**Builders FirstSource**, **Costco Wholesale**, **Darling Ingredients**, **J.B. Hunt Transport Services**, **Lowe's**, **TJX**, **Timken** and **US Foods Holding**—adopt:

  > short, medium, and long-term science- based greenhouse gas emissions reduction targets, inclusive of emissions from its full value chain, in order to achieve net-zero emissions by 2050 or sooner and to effectuate appropriate emissions reductions prior to 2030.

- **Independent verification**—A resolution from Trillium Asset Management is pending at five companies—**SBA Communications**, **BJ's Restaurants**, **BJ's Wholesale Club**, **Middleby** and **UPS**—seeking:

  > independently verified short, medium, and long-term science-based greenhouse gas emissions reduction targets, inclusive of emissions from its full value chain, in order to achieve net-zero emissions by 2050 or sooner and to attain appropriate emissions reductions prior to 2030, in line with the Paris Agreement's goal of maintaining global temperature rise at 1.5 degrees Celsius.

  A similar proposal at UPS earned 36.7 percent last year and 29.6 percent in 2020, but all the other recipients are new.

- **Transition to net-zero**—The Nathan Cummings Foundation has withdrawn a request at **Air Products & Chemicals** to "address the risks and opportunities presented by climate change and the global transition toward net zero emissions by setting emission reduction targets covering the Company's full value chain (Scope 1, 2 and 3) GHG emissions."

  At **Kroger**, Mercy Investments swaps out "near-term and long-term science-based" targets, with the rest identical to the Air Products language.

  An early majority: Investors started out the year with a big majority of 70 percent at **Costco**.

  Withdrawals: Trillium Asset Management withdrew at **J.B. Hunt** but also was facing a procedural challenge at the SEC (earlier, a request for reporting on a Paris-compliant emissions plan earned 54.5 percent at the company in 2020). Mercy Investments withdrew when **Lowe's** agreed to set science-based GHG targets. The other withdrawals also came after agreements at **Air Products** and **Darling Ingredients**.

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NET ZERO ASSET MANAGERS INITIATIVE: TRANSPARENCY AND ACCOUNTABILITY ON CLIMATE

BENEDICT BUCKLEY
CFA, ClearBridge Investments

In July 2021, ClearBridge Investments announced it had joined the industry-leading Net Zero Asset Managers Initiative (NZAM), an international group of asset managers committed to supporting the goal of achieving net-zero greenhouse gas emissions globally by 2050. We are proud to be part of a community of over 200 asset management peers, representing over $50 trillion, in this commitment.

The initiative seeks to reduce financed emissions—those associated with an asset manager's investments—and so aligns with ClearBridge's existing integration of sustainability-related investment risks such as climate change into our stock selection process. Achieving the goals of NZAM will also require us to build on our experience engaging companies on climate change issues, which we have undertaken for 30+ years in recognition of the urgency of accelerating global decarbonization efforts.

Asset managers in the initiative commit to working in partnership with asset owner clients on decarbonization goals to achieve net zero by 2050 across all assets under management, set an interim target for the proportion of assets to be managed in alignment with net zero by 2050, and to review and ratchet up this target every five years until 100 percent of assets are included.

More concretely, to meet these commitments, asset managers will (among other things):

- set interim targets for 2030 for assets to be managed in line with the net-zero goal;
- implement a stewardship and engagement strategy with a clear escalation and voting policy that is consistent with the initiative's goal; and
- prioritize the achievement of real economy emissions reductions through engaging with portfolio companies to increase their carbon reduction ambitions (as opposed to simply divesting from carbon-intensive companies).

At ClearBridge, we have always engaged on climate-related risks with portfolio companies; in the past year, we have already begun explicitly engaging on net-zero alignment. In our conversations, we are encouraging companies to set ambitious carbon reduction goals that are "science-based," meaning that the target is in line with emissions reductions needed to collectively achieve the goals of the Paris Agreement.

As part of an annual disclosure and reporting process that begins this year, ClearBridge is developing our Climate Action Plan. This plan will build on our existing climate-related work, including climate risk analysis being part of our ESG integration approach and climate-related engagement being a key engagement topic and priority for the firm. The plan will involve enhanced investment policies, engagement strategies, and portfolio-level climate targets.

Because proxy voting is one way ClearBridge uses its role as large shareholder to drive positive change at portfolio companies, we will be aligning our proxy voting with our NZAM commitment, which will further inform and support our climate-related proxy voting.

NZAM is a new, bold approach to driving decarbonization through the asset management industry. It is ambitious and challenging, and it will require asset managers to significantly increase attention to climate issues. Bolstering transparency and accountability across the investment industry, NZAM is a welcome step forward.

Long-range targets: Four energy companies (**Chevron**, **ConocoPhillips**, **ExxonMobil** and **Marathon Petroleum**) have requests from the Dutch collaborative Follow This that go beyond short-term aims, asking each

> to set and publish medium- and long-term targets to reduce the greenhouse gas (GHG) emissions of the Company's operations and energy products (Scope 1, 2, and 3) consistent with the goal of the Paris Climate Agreement: to limit global warming to well below 2 degrees C above pre-industrial levels and to pursue reports to limit the temperature increase to 1.5 degrees C.

At Marathon Petroleum, the reference to the Paris treaty is not included, while at ConocoPhillips it asks for short-term targets as well as medium- and long-term goals.

Most of these companies have received dozens of proposals on climate change over the years. In 2021, Follow This saw two majority votes for a similar proposal, earning 60.7 percent at Chevron and 59.3 percent at ConocoPhillips. At Exxon, though, the Follow This resolution in 2021 was omitted on procedural grounds and other recent proposals only have asked about *disclosing* goals, not *setting* them; in 2021, the California Public Employees' Retirement System (CalPERS) withdrew an Exxon resolution seeking a report on its full carbon footprint including Scope 3 emissions, after it produced the assessment. In contrast, Marathon Petroleum has never received a climate-related resolution.

A more expansive proposal at **Occidental Petroleum** and **Phillips 66** asks each to:

> set and publish targets that are consistent with the goal of the Paris Climate Agreement: to limit global warming to well below 2 degrees C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5 degrees C.
>
> These quantitative targets should cover the short-, medium-, and long-term greenhouse gas (GHG) emissions of the company's operations and the use of its energy products (Scope 1, 2, and 3).
>
> Shareholders request that the company report on the strategy and underlying policies for reaching these targets and on the progress made, at least on an annual basis...

A similar proposal in 2021 from the same proponent at Phillips 66 earned 80.3 percent last year.

An additional goal-setting proposal is pending at **Norwegian Cruise Lines**, but the text is not yet available.

Withdrawal— Clean Yield filed the energy company proposal at **Tractor Supply**, seeking goals for the "full range of operational and product related emissions," and withdrew after a commitment.

SEC challenge—**Occidental** is arguing its report at the end of January about GHG targets makes the resolution moot. Earlier, Follow This withdrew a 2021 request at Occidental to set goals for Scope 3 emissions after a commitment, while a proposal seeking a 2-degree scenario report earned early notable support of 67.3 percent in 2017, when such high votes were uncommon.

Scope 3 methane emissions at utilities: *As You Sow* and the individual David Backer both are concerned about methane emissions from natural gas. Methane is the second most potent greenhouse gas and has a global warming potential more than 80 times the warming power of CO_2 over the first 20 years. At **DTE**, **Duke Energy**, **Dominion Energy** and **Southern**, the request is for each to

> revise its net zero by 2050 target, and any relevant interim targets, to integrate Scope 3, upstream and downstream, value chain emissions consistent with guidelines such as the [Climate Action 100+] and [Science-based Targets Initiative], or publish an explanation of why the Company does not include these emissions.

Backer's proposal at **Dominion** is similar, asking for the inclusion of "medium-term targets covering the greenhouse gas (GHG) emissions of the Company's energy products (Scope 3) on their pathway to their long-term target, which is net-zero emissions before 2050."

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SCOPE 3 CLIMATE IMPACTS MISSING FROM UTILITY NET ZERO TARGETS

DANIEL STEWART
Energy and Climate Program Manager, As You Sow

FRANK SHERMAN
Executive Director, Seventh Generation Interfaith Coalition for Responsible Investment

Most utility companies are not including Scope 3 emissions from the corporate value chain in their net zero climate targets. Yet, emissions from customers' use of natural gas for heat and other applications, purchased power emissions, and methane leakage from the production and distribution of natural gas can amount to as much as half of a utility's total emissions.

The most glaring absence is customers' use of natural gas in buildings. According to the EPA, commercial and residential sectors account for 12.3 percent of greenhouse gas (GHG) emissions nationwide with 80 percent coming from natural gas combustion. More than 60 percent of homes use gas or other fossil fuels for heating. The IEA net-zero scenario would require a 95 percent reduction of CO_2 emissions from buildings.

Companies invest billions annually to build and support natural gas infrastructure, tying millions of homeowners and businesses to this fossil fuel. Such investment locks in building sector emissions for decades, exposes citizens to harmful air pollution, and increases stranded asset risk.

Purchased power emissions come from electricity purchased for customers' use. These, plus customers' natural gas use, can account for 30 percent to 50 percent of total emissions. These numbers do not include methane leaked during gas production and distribution, which further drives up emissions not covered by companies' current net-zero reduction targets.

Utilities have trumpeted emissions reduction progress in the last decade through fuel switching from coal to natural gas power generation. But, much of the emissions saved from fuel switching are lost from upstream natural gas leakage. U.S. production-stage methane emissions vary geographically, ranging from 0.9 percent to 3.6 percent of natural gas withdrawn, which adds 16 percent to 65 percent to gas combustion CO_2 emissions. Studies also highlight that natural gas system methane emissions could be underestimated by more than 60 percent, making the carbon footprint even heavier.

To achieve the emissions reductions needed to address climate change, companies must pursue the most robust and cost-effective solutions. Piecemeal efforts will waste time and capital with only marginal emissions reduction improvements, without a clear pathway to the ultimate goal of achieving economy-wide net-zero emissions by 2050. Utilities must set science-aligned net-zero targets that cover all material emissions. More inclusive targets can guide effective internal strategy and capital allocation and help companies seize opportunities and avoid risks during the clean energy transition.

Hybrid power and gas utilities clearly face challenges and opportunities as the world moves to a net-zero economy. Shareholder resolutions this year ask **CMS Energy**, **Dominion Energy**, **DTE**, **Duke Energy**, **MGE Energy**, and **Southern** to update their net-zero emission reduction targets align with science and the demands of the Climate Action 100+ Benchmark, incorporating Scope 3 value chain emissions. Only through setting science-aligned near- and long-term emissions reduction targets and taking advantage of the most cost-effective solutions such as building electrification can hybrid utilities assure investors they are reducing their outsized contribution to the material risks of the climate crisis.

No proposals on climate change have gone to votes at these companies since 2017, when investors gave 47.8 percent support to a request asking Dominion to analyze how it will adjust operations to a lower-carbon future that keeps warming below 2 degrees Celsius.

Withdrawals—*As You Sow* has withdrawn after reaching agreements with **Dominion Energy**, **Duke Energy** and **Southern**. Dominion will add to its goals the emissions associated with upstream fuel consumed by its power and gas distribution businesses. Duke will add to its net-zero-by-2050 reduction target the upstream methane leakage from natural gas production, customer' usage emissions and purchased power. Southern will improve GHG disclosures by disclosing its upstream Scope 3 natural gas emissions to CDP in 2022 and discuss calculation methods and disclosures with the UN Oil & Gas Methane Partnership.

Reporting on Emissions Goals

Paris-compliant plans: Proponents have filed the largest group of goals disclosure proposals this year at a mixed array of 15 companies *(table, p. 18)*, with *As You Sow* the lead filer at nine. Proponents generally specify that the reports should encompass all operations, including supply chains.

- **Annual 1.5-degree limit report, all times frames and scopes**—At six companies—**Antero Resources**, **Amedisys**, **Eastman Chemical**, **IDACORP**, **Macy's**, **O'Reilly Automotive** and **Standard Motor Products**—the proposal asks for

> a report within a year, and annually thereafter…that discloses short, medium, and long term GHG gas reduction targets aligned with the Paris Agreement's goal of maintaining global temperature rise at 1.5 degrees Celsius, and progress made in achieving them. Reporting should cover the company's full range of operational and product related emissions. [The last sentence is left off at Amedisys.]

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CLIMATE TARGETS - THE LATEST TREND IN CORPORATE GREENWASHING

AMY GALLAND, PHD MBA

Founder and Principal, Empower Venture Partners

Each year, investors express more interest in company action to combat climate change. In response, companies make highly publicized statements that they are aligned with the Paris Accord or have a net-zero commitment to persuade investors, the SEC, and customers that their corporate practices are in line with keeping global temperature rise below 1.5°C.

Corporate statements often are well-crafted greenwashing, not heralds of investments in decarbonization.

For example, this year a resolution filed by Proxy Impact on behalf of Kiki Tidwell at IDACORP—Idaho's largest electric utility—asked the company to disclose emissions targets in line with the Paris Agreement for its full scope of operational and product emissions. IDACORP touts its 100 percent clean energy by 2045 goal as being "more aggressive than the Paris Agreement goal of reducing CO2 emissions to net zero by 2050," and many investors have accepted the hydro-intensive company as a green utility.

But, in pursuing the resolution, we dug into a critical question for investors: "What are the emissions targets and performance that indicate a company is, in fact, 'Paris-Aligned'"?

Investors can turn to guidance from the Science-Based Targets Initiative (SBTi) to answer this question. In 2019, the United Nations Environment Program calculated that, "to get in line with the Paris Agreement, emissions must drop 7.6 per cent per year from 2020 to 2030 for the 1.5°C goal." SBTi has developed targets for the utility sector to align corporate emissions with this goal.

IDACORP's 2021 Integrated Resource Plan shows that a 100 percent clean energy by 2045 portfolio was rejected in favor of a "preferred portfolio" that releases, at minimum, seven million additional metric tons of CO_2 into the atmosphere.

IDACORP is proud to have reduced carbon intensity by 29 percent from 2010 to 2020, using a 2005 baseline. Yet, one needs to dig into the disclosures to see that its carbon intensity has been increasing over the last three years. SBTi recommends a baseline of 2015 or sooner and calculates that to be aligned with the Paris Accord, companies in the power sector must reduce their carbon intensity by 85 percent between 2020 and 2030.

In addition, the company's Emissions Reduction Report loftily predicts that in 2040 it will have reduced 2021 emissions by 41 percent, but SBTi states that the power sector must reduce absolute carbon emissions by 77 percent between 2020 and 2030 to stay under 1.5°C. Significantly, IDACORP's emissions reduction projections did not include market purchases, which it projects will increase from 3 percent to 15 percent over the next 20 years, nor does it include fugitive methane emissions from natural gas operations.

Investors should be on the alert for these kinds of disclosures—making unfounded environmental claims; touting either ambitions with no plans to achieve them or accomplishments that miss the mark; hiding material investment and emissions data in technical appendices; utilizing inappropriate baselines for emissions reduction that hide upward trends; and omitting significant sources of emissions from calculations and reports. We must evaluate companies on performance benchmarked against independent scientific assessments of what must occur to attain the goals laid out in the Paris Accord.

Withdrawals: NYSCRF reached an agreement and withdrew at **Eastman Chemical**. *As You Sow* also has withdrawn at **O'Reilly Automotive** because it agreed to announce an ambition to achieve net zero emissions and to set interim greenhouse gas reduction targets to maintain global warming to 1.5 degrees Celsius.

SEC challenge: IDACORP has lodged an SEC challenge, arguing it has already implemented the proposal. (Climate change has not been raised in a resolution at the company since 2009, when a request to adopt quantitative GHG goals and report received 51 percent – making it the first climate resolution to receive a majority vote.)

- **"How"**—At **Allegheny Technologies** and **UnitedHealth Group**, the report should simply cover "how the Company intends to reduce its operational and supply chain GHG emissions in alignment with the Paris Agreement's 1.5-degree goal." It is pending at UnitedHealth but *As You Sow* withdrew for procedural reasons at Allegheny.
- **Interim and long-term Paris targets**—At five more companies—**American Water Works**, **Caterpillar**, **Helios Technologies**, **Skechers U.S.A.** and **Zillow Group**—the report should go beyond short-term aims and be issued

> within a year, and annually thereafter…disclosing medium- and long-term greenhouse gas targets aligned with the Paris Agreement's goal of maintaining global temperature rise at 1.5 degrees Celsius, and progress made in achieving them. This reporting should cover the Company's full scope of operational and product related emissions.

Withdrawal: *As You Sow* has withdrawn at **Zillow** because it will establish a goal for net zero emissions by 2050 or sooner and set interim emissions reduction targets aligned with 1.5 degrees warming.

- **Capital allocation**—Getting to the heart of how companies plan their operations, the **Kraft Heinz** resolution from Domini Social Investments is more specific and seeks annual reports

> on its climate transition plan to align its operations and value chain with the Paris Agreement's ambition of limiting global temperature increase to 1.5 degrees C, including short- medium- and long-term science-based greenhouse gas emissions reduction targets for Kraft Heinz's full carbon footprint (scope 1, 2, and 3), and how capital allocation plans align with the climate transition plans, where relevant.

Report on net-zero GHG goals: Another group of resolutions from *As You Sow* specially mentions "net-zero":

- At **Cheesecake Factory**, **Foot Locker** and **Monster Beverage** the resolution asks "how the Company intends to reduce its operational and supply chain GHG emissions in alignment with the Paris Agreement's 1.5 degree goal requiring net zero emissions by 2050."

Withdrawal: *As You Sow* withdrew at Foot Locker because it agreed to set a net-zero-by-2050 goals, plus interim GHG targets aligned with the Science-Based Targets initiative.

- **"If and how"**—The proposal is less specific (as was more common last year) at **Dollar Tree** and **HCA Healthcare**. At Dollar Tree it asks for the inclusion of "relevant Scope 3 emissions," following last year's vote of 73.5 percent for a report on a "Paris-compliant" plan. At HCA, it asks "if and how" HCA "intends to reduce its enterprise-wide operational and supply chain GHG emissions in alignment with the Paris Agreement's 1.5-degree goal requiring net zero emissions by 2050."

Near and long-term goals: Proponents have withdrawn two of three more reporting proposals:

- The Franciscan Sister of Perpetual Adoration asked **Post Holdings** to report by June and annually thereafter "outlining if and how it could increase the scale, pace, and rigor of its efforts to reduce its total contribution to climate change, covering the greenhouse gas emissions of the Company's operations as well as its supply chain (scope 1, 2, and 3)." The withdrawal came after discussions with the company, which also had argued at the SEC that the resolution was moot given its disclosures.
- The New Jersey Division of Investment also withdrew at **Dollar General**, having asked it for annual reports on its emissions and with short-, medium- and long-term reduction goals to reduce Scopes 1 and 2 and progress achieved. Ceres reports an agreement, but the resolution also was filed late and vulnerable to exclusion after a company challenge at the SEC.

Still pending, however, is a proposal to **Valero Energy** seeking disclosure of "near- and long-term GHG gas reduction targets" aligned with the 1.5-degree goal, "and a plan to achieve them," covering "the full range of operational and supply chain emissions." In 2018, Mercy Investments withdrew a request for a climate strategy plan here after the company agreed to provide it, following votes of about 39 percent in 2015 and 2014 on proposals seeking adoption of GHG targets.

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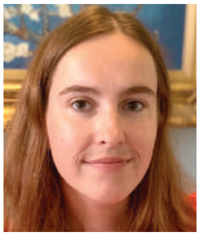

CARBON OFFSETS ARE NOT EMISSIONS REDUCTIONS

ALISON LAFRANCE
Climate Fellow, As You Sow

As more companies announce net-zero emissions by 2050 commitments, many are relying on carbon offsets to achieve these targets, rather than decarbonizing their own operations and value chain. This business-as-usual approach risks continuation of unabated carbon pollution from the extraction and combustion of fossil fuels.

Carbon offsetting occurs when a buyer purchases carbon credits, each equal to a ton of sequestered carbon, to compensate for an equivalent quantity of carbon emissions generated elsewhere. These credits often come from natural carbon sinks, such as forests, or from renewable energy, and experts expect demand for carbon credits will soar.

Carbon offsets are problematic for several reasons. First, while it is important to conserve and restore natural ecosystems to improve carbon storage, natural climate sinks cannot fully offset emissions from fossil fuel combustion. Fossil fuel reserves offer stable permanent storage of carbon. Natural ecosystems do not offer the same stability since carbon sinks shift and change on shorter timescales from fires, degradation, or other changes that release carbon. Second, nature-based carbon sequestration capacity is finite given available land. Oxfam calculated that just four fossil fuel companies—**TotalEnergies**, **Shell**, **Eni**, and **BP**—need land more than twice the size of the UK to reach net-zero emissions by 2050.

Given these fundamentally risky limitations and growing criticism about accounting practices behind carbon credit markets, companies and shareholders need a common understanding of what net-zero means and accepted methods to achieve it. The Science Based Targets initiative's Net-Zero Standard provides guidance for an acceptable "mitigation hierarchy" for companies.

Before buying carbon credits, a company should complete an emissions inventory following the GHG Protocol, set near- and long-term science-based targets to reduce value chain (Scope 1, 2, and 3) emissions, implement a climate mitigation strategy, and disclose progress annually. A company then can invest in carbon removal through conservation, forest restoration, or technological carbon removal to go *beyond* direct value chain emissions. However, these credits purchased from outside the value chain should not count reductions for a company's direct activities.

Williams-Sonoma has committed to achieve "carbon neutrality" by 2025 for its Scope 1 and 2 emissions, saying it will "offset any GHG we don't eliminate making our impact neutral." This implies that the company will rely on offsets to meet its targets, showing an acceptable mitigation hierarchy. This year, *As You Sow* filed a shareholder resolution with Williams-Sonoma to request greater detail about the quality and scale of purchased credits and where they are counted in the company's emissions reporting.

Carbon offsets are not emissions reductions. To fulfill net-zero goals, companies first must reduce emissions in their operations. Later, they can invest in additional carbon removal.

Offsets: *As You Sow* raises a concern about how robust emissions reduction goals are at **Williams-Sonoma** given the company's apparent reliance on carbon offsets to achieve its net-zero aims. The proposal, which is new, asks for a report, "disclosing additional information on its use of carbon credits, including type of credits, verification, timing, and whether carbon credits are intended to substitute for emissions reductions beyond current goals."

Methane

Scope 3 emissions reporting at utilities: Bookending the proposals noted above about setting goals to cut methane emissions, two ICCR members asked for reports from utilities but have withdrawn after agreements. At **CMS Energy** and **MGE Energy**, the Sisters of the Presentation of the Blessed Virgin Mary and the Sinsinawa Dominicans sought an annual report from each company:

> that discloses how the company will reduce all material categories of scope 3 greenhouse gas emissions, related to emissions upstream and downstream, aligned with the goals of the Paris Agreement of limiting global warming to well-below 2 degrees C with the ambition to limit to 1.5 degrees C. The report should include short-, medium- and long-term targets and strategies on how to achieve them.

MGE agreed to analyze its Scope 3 GHG emissions, including those from up- and downstream gas distribution, and to set a Scope 3 emissions reduction goal by the first quarter of 2023.

Liquid natural gas: Individual proponent Stewart Taggart has returned to **Cheniere Energy** and wants more information about planned expenditures related to natural gas. Similar requests from Taggart were omitted for procedural flaws in 2021 and received 28.1 percent in 2020. This year, he wants a report

> discussing price, amortization and obsolescence risk to existing and planned Liquid Natural Gas capital investments posed by carbon emissions reductions of 50% or higher by 2030 (in line with the Paris Accord's 2C target) applied to Cheniere's Scope Two and Scope Three emissions as well as impact 2050 'net zero' emissions targets—also called for in the Paris Accord.

Individual proponent Freeda Cathcart seeks a report from **Dominion Energy** "describing how it is responding to the risk of stranded assets of planned natural gas-based infrastructure and assets as the global response to climate change intensifies." The company has lodged an SEC challenge that argues its reporting makes the proposal moot and this approach blocked a vote on a similar resolution in 2020.

Metrics: Mercy Investments and the Unitarian Universalists seek more information on measuring releases from **Antero Resources**, **Chevron** and **Range Resources**, requesting a report that will:

- summarize the outcome of any efforts to directly measure methane emissions by the Company;
- provide investors with insight as to whether there is likely to be a material difference between direct measurement results and the Company's published estimates of methane emissions;
- assess the degree to which any differences would alter estimates of the Company's Scope 1 emissions.

Investors have given strong support to methane proposals in the past at Chevron (45 percent in 2018) and Range Resources (50.3 percent, also in 2018), but this is the first such resolution at Antero.

The Minnesota State Board of Investments reached a commitment and withdrew a less specific at **Marathon Oil**, asking for a report "on if, and how" the company "will curtail its impact on climate change from routine flaring and venting, beyond existing efforts, including any new short, medium or long-term targets."

Refrigerants and Cryptocurrency

Hydrofluorcarbons: The Rhode Island pension fund last year earned 5.5 percent for a report on releases of hydrofluorocarbons, potent greenhouse gases, from the company's refrigerators. This year, Friends Fiduciary is addressing the issue at another big multiline retailer, **Kroger**. It is more specific than last year's resolution and asks for a report

> describing how it can adopt strategies above and beyond legal compliance to curtail the predominant source of its operational (Scope 1) GHG emissions, by deploying the best available technological options for eliminating the use of hydrofluorocarbons (HFCs) in refrigeration. The report should describe the extent to which the Company will act consistent with the Consumer Goods Forum commitments on ultra-low GWP refrigerants, including any related capital spending commitments, or explain why the Company is not acting consistent with those commitments.

Cryptocurrency: In a brand-new proposal that seeks to address the heavy carbon footprint of cryptocurrency, Karen Ros Robertsdottir of Iceland wants **Tesla** to stop using it, requesting:

> that the company adopt a policy of immediate (within five business days) liquidation of newly-acquired cryptocurrency assets, and fully divest from existing cryptocurrency assets (including mining hardware) within one year.
>
> If the company continues to accept payments of high-impact cryptocurrencies (eg., with a per-transaction energy or e-waste footprint more than 10x of Visa's), it should minimize their environmental impact (such as Level 2 processing).

While cryptocurrencies such as bitcoin require large amounts of energy for computation, Level 2 processing requires less data and less energy. Climate 360, a collaborative project from several U.S. universities, noted last August that bitcoin uses about the same amount of energy annually as Sweden.

Financing Climate Change

Investors' focus increasingly has turned to the financial institutions that help to underwrite and finance the expensive, long-term capital investments that sustain companies' current reliance on fossil fuels. In 2022, several new types of proposals have been filed and companies have challenged most of them at the SEC. A key industry initiative that sets out how financial firms can approach carbon financing is the Partnership for Carbon Accounting Financials, representing companies that have invested more than $3.8 trillion in the fossil fuel sector since the Paris climate treaty.

End underwriting and financing: The Presbyterian Church (USA), Trillium Asset Management, Green Century and Harrington Investments are asking four insurers and five banks to cut off support:

- **Insurers**—At **American International Group**, **Chubb**, **Hartford Financial Services Group** and **Travelers**, the request is to "adopt and disclose new policies to help ensure that its underwriting practices do not support new fossil fuel supplies, in alignment with the [International Energy Agency's] Net Zero Emissions by 2050 Scenario."
- **Banks**—At **Bank of America**, the resolution says it should "build upon its net zero commitment by adopting a policy by the end of 2022 in which the company takes available actions to help ensure that its financing does not contribute to new fossil fuel supplies that would be inconsistent" with the IEA net-zero goal. At **Citigroup**, **Goldman Sachs**, **Morgan Stanley** and **Wells Fargo** it says the companies should take

  > proactive measures to ensure that the company's lending and underwriting do not contribute to new fossil fuel development… consistent with" the UN Environmental Finance Initiative's "recommendations to the G20 Sustainable Finance Working Group for credible net zero commitments."

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HOW BIG BANKS PUT CLIMATE AND INVESTORS AT RISK

PAUL RISSMAN
Co-founder, Rights Co-Lab

To avoid impending climate catastrophe, vast investment must be diverted from fossil fuel-based power generation, industrial processes, transport, and land use to carbon-free alternatives. McKinsey recently estimated this figure at $1 trillion per year, on top of an additional $3.5 trillion in new low-carbon investment, highlighting the critical role of private finance in driving decarbonization. Banks have recognized their central role and 102 institutions from 40 countries have signed on to the Net Zero Banking Alliance (NZBA), committed to aligning their lending and investment portfolios with net-zero emissions by 2050. Among the signatories are the six largest U.S. banks.

Although these banks claim to be embarking on a net-zero path, their current policies belie this pledge. That is because they are financing new fossil fuel expansion beyond projects already approved for development. The International Energy Agency describes its "Net Zero Emissions by 2050 Scenario" as requiring an immediate reduction in fossil fuel demand, precluding any new fossil fuel exploration: "no new oil and natural gas fields are required beyond those that have already been approved for development." The NZBA's own sponsor, the United Nations Environment Programme Finance Initiative (UNEP FI), has announced that it isn't credible for a bank to claim it is on a net-zero path, limiting global warming to 1.5°C above pre-industrial levels by 2050, if it finances fossil fuel expansion: "investment in new fossil fuel development is not aligned with 1.5°C."

Yet, banks that claim to be on a net-zero pathway are still financing fossil fuel expansion through lending and underwriting at a breakneck pace. Banking on Climate Chaos estimates that in 2020, the six largest U.S. banks (**JPMorgan**, **Bank of America**, **Citigroup**, **Wells Fargo**, **Goldman Sachs**, and **Morgan Stanley**) loaned or underwrote more than $120 billion for fossil energy companies that are developing new projects. This financing entails great risk to shareholders. Loans for unneeded assets that become worthless could reduce the value of banks' lending portfolios. Accusations of greenwashing can damage reputations and make clients leave. Loading potentially worthless assets onto clients' balance sheets also can prompt damaging litigation. Regulators around the world could require additional capital reserves for such risky financing. Sanctions are another possibility: The U.S. Office of the Comptroller of the Currency states, "Boards and management should ensure that any public statements about their banks' climate-related strategies and commitments are consistent with their internal strategies...."

That is why socially responsible and faith-based investors, along with the Sierra Club Foundation, have filed resolutions with six banks asking for policies to align their lending and underwriting with net-zero commitments to avoid financing new fossil fuel development. Not only is this the way forward for the planet, it also protects shareholders from greenwashing risks and takes soon-to-be-worthless fossil fuel assets off the balance sheets of banks and their clients.

JPMorgan has two similar proposals. Harrington Investments asks it to

> adopt a policy by the end of 2022 in which the company takes available actions to help ensure that its financing does not contribute to new fossil fuel supplies that would be inconsistent with the IEA's Net Zero Emissions by 2050 Scenario.

Tulipshare asks only that the bank "in light of the ongoing climate crisis and to meet the goals of the Paris Agreement, end its investment, underwriting, and lending activities in fossil fuels."

SEC challenges—All but AIG, Bank of America, Goldman Sachs and Wells Fargo have lodged SEC challenges. The firms variously argue that their current reporting makes the proposal moot, that the proposal is too vague and that it is ordinary business. For the Tulipshare resolution, JPMorgan says there are procedural missteps, that it is ordinary business because it is about product offerings and would micromanage, and that it duplicates the Harrington proposal it received first. *(A third similar proposal also has been filed at JPMorgan by the Sierra Club, noted below.)*

Previously, *As You Sow* withdrew a carbon finance proposal at Citigroup after an agreement in 2021, and at Wells Fargo in both 2021 and 2020 when it argued its reports made the proposal moot.

Report on financing/underwriting: *As You Sow* has approached four additional insurers (three of those with the finance-ban proposals, plus another) to ask for more data on their practices. It wants **Berkshire Hathaway**, **Chubb Limited**, **Hartford Financial Services** and **Travelers** each to report,

> if and how it intends to measure, disclose, and reduce the GHG emissions associated with its underwriting, insuring, and investment activities, in alignment with the Paris Agreement's 1.5 degree C goal, requiring net zero emissions.

Withdrawal—*As You Sow* withdrew after Hartford Financial Services agreed to respond substantively to the proposal; it will announce specifics at its May annual meeting.

SEC challenges—So far, Chubb and Travelers have filed SEC challenges. Chubb is arguing the proposal impermissibly duplicates the "end financing" proposal noted above that was filed first by Green Century, but it also says the resolution is too vague. Chubb further says it is moot, as does Travelers. Travelers points to its extensive climate-related reporting that uses guidelines set out by the Taskforce on Climate-related Financial Disclosures.


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INSURING NET-ZERO PROGRESS

DANIELLE FUGERE
President, As You Sow

ANDREA RANGER
Shareholder Advocate, Green Century Capital Management

The UN Finance Initiative recently underscored the critical role of banks, insurers and investors in addressing climate change:

Climate change is referred to by leading economists as the greatest market failure in human history, with potentially disruptive implications on the social well-being, economic development, and financial stability of current and future generations: conservative estimates see unabated climate change leading to global costs equivalent to losing in-between 5 to 20% of global gross domestic product (GDP) each year, now and forever.

The financial system is beginning to respond. Net-zero goals by companies, asset managers, asset owners, banks and even some global insurers are proliferating. The largest U.S. banks recently joined their European counterparts in measuring climate-related emissions, developing climate transition plans and setting net-zero goals. Unfortunately, U.S. insurance companies are lagging. While many have set reduction goals for their Scope 1 and 2 emissions, and some have policies about coal, the largest U.S. insurers have not aligned their Scope 3 underwriting- and investment-related emissions with the Paris 1.5-degree C goal. As a result, **American International Group (AIG)**, **Berkshire Hathaway**, **Chubb**, **The Hartford Financial Group** and **Travelers** received climate-related shareholder proposals this year.

As You Sow filed proposals asking insurers to measure, disclose and set net-zero targets for their underwriting and investing activities. These reduction targets are critical. If insurers continue to underwrite and invest billions in high-carbon companies and projects, they facilitate business as usual and carbon emissions will increase. To reduce emissions, insurers can build the price of climate change into their insurance products, limit investments in carbon intense companies and limit underwriting for high carbon projects.

New fossil fuel projects are a good start. Green Century Capital Management filed resolutions at Chubb, Travelers and The Hartford, and the Presbyterian Church (USA) filed at AIG, demanding that they end underwriting activities that support new fossil fuel project production. The International Energy Agency's Net-Zero by 2050 pathway leaves no room to underwrite or invest in new fossil fuel development.

The core business of the insurance industry is to assess and manage risk. Yet, despite growing catastrophic losses caused by climate change, insurers are failing to reflect this risk in their underwriting and investments. Insured losses from natural disasters reached $42 billion in the first six months of 2021, *a ten-year high*. Underwriting and investing in high carbon companies increases the vicious cycle of climate-related losses.

Insurers have responded to the challenge in a variety of ways. AIG announced new underwriting exclusions for fossil fuel expansion and Artic drilling. The Hartford reached a withdrawal agreement with *As You Sow* and will make an announcement at its AGM. Berkshire has engaged with *As You Sow* on the proposal but made no commitments. Chubb and Travelers challenged both proposals at the SEC, and The Hartford challenged the Green Century proposal. Whether the challenged proposals go to a vote this year or not, insurers have been put on notice that investors expect quick and ambitious action to reduce their contributions to climate change.

Goals and reporting: At **JPMorgan Chase**, where a high carbon financing proposal in 2020 received 49.6 percent support, a third climate financing proposal has been filed this year by the Sierra Club. It combines disclosure and goals-setting, seeking:

> a report that sets absolute contraction targets for the Company's financed greenhouse gas emissions, in accordance with United Nations Environmental Program Finance Initiative (UNEP FI) recommendations to the G20 Sustainable Finance Working Group, for credible net zero commitments.
>
> Proponents request that, in the discretion of board and management, the report address the lack of need for new fossil fuel development beyond projects already committed as of 2021, as set forth in the UNEP FI recommendations.

Climate-related risk ratings: SumOfUs had a new resolution at two ratings firms, filed on behalf of James McRitchie and Myra Young. It asked **Moody's** and **S&P Global** to report,

> analyzing the feasibility of increasing the period of assessment to greater than five years when considering exposure to physical and transition risks associated with climate change for [company] credit ratings.

SEC challenges and withdrawal—Both firms told the SEC the resolution already has been implemented, but also would be illegal. Moody's also said it was false and misleading and ordinary business. A withdrawal at **S&P Global** came after the company agreed the timeframe for its risk assessments was a legitimate concern and it provided additional information.

Capital expenditures: The New York City Comptroller's Office had a new, comprehensive request about financing carbon-intensive projects at **Dominion Energy**, long the target of shareholder proponents concerned about its operations and their climate impacts. The proposal asked for a report

> describing how Dominion plans to align the company's capital expenditures with any of its anticipated short, medium and long-term targets for its Scope 1, 2 and 3 greenhouse gas emissions. The report should provide quantitative and qualitative information on Dominion's planned and projected investments in renewable energy resources, grid investments, storage, transmission, and electrification of customer energy use, and their impact on Dominion's greenhouse gas emissions.

SEC challenge—The company argued at the SEC that that its current reporting made the proposal moot and also that it was an ordinary business matter since it was too detailed. The NYC funds withdrew after Dominion agreed to explicitly state its capital investment plan aligns with its net-zero GHG goals, and agreeing to expand on the subject in a forthcoming report that will include quantitative and qualitative data about its decarbonization plans.

Climate Change Finance & Strategy

Company	Proposal	Proponent	Status
American International Group	Limit/end fossil fuel financing/underwriting	Presbyterian Church (USA)	May
Bank of America	Issue audited climate transition plan	Sierra Club	April
Bank of America	Limit/end fossil fuel financing/underwriting	Trillium Asset Management	April
Berkshire Hathaway	Report on GHG emissions financing	As You Sow	May
Berkshire Hathaway	Report on climate-related transition plan	Hermes Investment Management	May
Boeing	Report on climate-related transition plan	As You Sow	April
Charter Communications	Report on climate-related transition plan	Not disclosed	April
Chevron	Issue audited climate transition plan	As You Sow	May
Chevron	Report on risk/benefits of ending Arctic operations	Green Century Capital Management	May
Chubb Limited	Report on GHG emissions financing	As You Sow	May
Chubb Limited	Limit/end fossil fuel financing/underwriting	Green Century Capital Management	May
Citigroup	Limit/end fossil fuel financing/underwriting	Harrington Investments	April
Citigroup	Issue audited climate transition plan	Sierra Club	April
Dominion Energy	Report on capex alignment with GHG goals	NYC pension funds	withdrawn
Duke Energy	Issue audited climate transition plan	CalSTRS	May
Entergy	Issue audited climate transition plan	Presbyterian Church (USA)	withdrawn
ExxonMobil	Report on climate-related transition plan	Arjuna Capital	May
ExxonMobil	Issue audited climate transition plan	Christian Brothers Investment Services	May
Goldman Sachs	Limit/end fossil fuel financing/underwriting	Sierra Club	May
Hartford Financial Services Group	Report on GHG emissions financing	As You Sow	withdrawn
Hartford Financial Services Group	Limit/end fossil fuel financing/underwriting	Green Century Capital Management	May
JPMorgan Chase	Limit/end fossil fuel financing/underwriting	Harrington Investments	May
JPMorgan Chase	Report on carbon finance reduction goals	Sierra Club	May
JPMorgan Chase	Limit/end fossil fuel financing/underwriting	Tulipshare	May
Marathon Oil	Issue audited climate transition plan	As You Sow	May
Marathon Petroleum	Report on climate transition plan social impact	Teamsters	May
Moody's	Report on climate-related risk ratings	SumOfUs	withdrawn
Morgan Stanley	Limit/end fossil fuel financing/underwriting	Sierra Club	May
PPL Corporation	Issue audited climate transition plan	Presbyterian Church (USA)	May
Ross Stores	Report on climate-related transition plan	As You Sow	May
S&P Global	Report on climate-related risk ratings	SumOfUs	withdrawn
Travelers	Report on GHG emissions financing	As You Sow	May
Travelers	Limit/end fossil fuel financing/underwriting	Green Century Capital Management	May
United Parcel Service	Report on GHG goals and financial priorities	The Shareholder Commons	May
Valero Energy	Issue audited climate transition plan	As You Sow	April
Wells Fargo	Limit/end fossil fuel financing/underwriting	Sierra Club	April

Strategy

Audited climate plans: Last year, proponents asked companies for the first time to issue formally audited plans that would explain how they will transition to a low-carbon economy, producing votes of just under 50 percent at both Chevron and Exxon. The slate of companies has expanded this year, with resubmissions at both Chevron and Exxon and seven more companies added to the list (two more energy companies, two banks and three utilities):

- **Energy**—The proposal to **Chevron**, **ExxonMobil** and **Marathon Oil** asks for an audited report,

  > assessing how applying the assumptions of the International Energy Agency's Net Zero by 2050 pathway would affect the assumptions, costs, estimates, and valuations underlying its financial statements, including those related to long-term commodity and carbon prices, remaining asset lives, future asset retirement obligations, capital expenditures and impairments.

  A slightly different iteration is at **Valero Energy**, asking how the IEA Net Zero approach would affect its assessment so of "supply and demand, resiliency of assets, remaining asset lives, capital expenditures, and impairments."

- **Banks**—The Sierra Club asks for a report by the end of January 2023 on how the IEA net-zero assumption (known as "NZE")

  > could affect underlying assumptions in financial filings, such as the magnitude of stranded assets, declining commercial credit quality, or enhanced regulatory capital requirements… .Proponents recommend that, in the discretion of board and management, the report be supported by reasonable assurance from an independent auditor and that the report take account of information on:
  >
  > - Assumptions, costs, estimates, and valuations that may be materially impacted;
  > - The absence of need, according to the IEA NZE pathway, for new fossil fuel development beyond projects already committed as of 2021.

- **Utilities**—Three more proposals are at utilities. Proponents ask **Duke Energy** and **PPL** to produce

  > an independently audited report to shareholders on whether and how a significant reduction in fossil fuel utilization, envisioned in the [NZE] by 2050 scenario, would affect its financial position and underlying assumptions.

expertinsight

DIRECTORS AND AUDITORS FAIL TO ACCOUNT FOR CLIMATE RISKS

NATASHA LANDELL-MILLS
Partner and Head of Stewardship, Sarasin & Partners LLP

We need to get real on climate change. The world is now awash in grand promises and ambitions to deliver net-zero carbon emissions by 2050, in line with a 1.5C global warming cap, but these promises are not being backed by hard capital commitments. Turning the spotlight on the hidden world of accounting can help.

Companies' financial statements play a central role in guiding management decisions to deploy capital. The highest reported returns get the most capital flows. Accounting losses drive capital withdrawal.

Many presume that accounting is just adding up numbers, checking their veracity, and then reporting the result to shareholders. Far from it. Accounting requires judgement and forward-looking assumptions. In checking for write-downs, for instance, you must estimate future cash flows, often over several years, using assumptions about future prices, margins, and demand.

Management assumptions have a material bearing on reported profits and capital strength. This, in turn, affects capital deployment.

Because accounting is so critical for directing capital flows, financial statements must properly reflect the economic consequences of climate change and decarbonization. If, for example, an oil and gas company ignores phasing out oil demand, it will likely overstate its assets' value and profitability. This would mean too much capital allocated to further oil investment. That's bad for investors and the planet.

In short, ignoring decarbonization in accounting means it is ignored in capital deployment. This may be one of the most potent obstacles to robust action on climate change. Incentives simply are not aligned with the Paris Agreement goals.

The good news is that shareholders have powerful levers to drive climate-conscious accounting.

First, they vote for the appointment of audit committee directors who oversee the accounting processes. If accounts do not consider global decarbonization, they potentially misrepresent the entity's economic health. Investors representing over $100 trillion in assets have called for all carbon-intensive companies to align their accounting with a sustainable planet. Shareholders should vote against audit committees that do not respond.

Second, shareholders vote to reappoint the external auditor. The auditors check that the accounts present an accurate view of the entity's financial position. They must call out misrepresentation. Investors have sent public letters to the Big Four audit firms in the UK, U.S., and France setting out their expectation for auditors. Shareholders should vote against the reappointment of auditors that fail to sound the alarm.

Third, shareholders can file resolutions seeking audits of the financial implications of a 1.5 degree Celsius pathway. In 2022, resolutions are pending at **Bank of America**, **Chevron**, **Citigroup**, **Duke Energy**, **ExxonMobil**, **Marathon Oil**, and **Valero Energy**. While such audits would sit outside of a routine financial statement, they could force boards to confront decarbonization's financial reality. They also would provide vital insights to investors.

By voting for audit committees and auditors that will deliver 1.5 degree Celsius aligned accounting, shareholders should look beyond high level promises for net zero, and help pivot the capital allocation machine toward a more sustainable future.

Previously, 2-degree analysis scenario proposal requests did well in 2017 at both companies, earning 46.4 percent at Duke and 56.8 percent at PPL.

Withdrawals—The Presbyterians have withdrawn at PPL and at another utility, **Entergy**, after reaching agreement. The Entergy proposal asked for a report that

> considers the strategic feasibility and financial consequences of committing to an 80 percent carbon pollution-free electricity interim net zero target by 2030 to align Entergy's net zero climate commitments to the Paris-aligned US nationally determined contribution ("US NDC") electricity pledge.

Transition plans: Five more proposals seek reports (without an explicit audit provision) on plans about transitioning to a low-carbon economy and providing emission accountability. They reference several of the prominent initiatives investors have devised to measure and reduce emissions.

- Hermes Investment Management asks the famously decentralized **Berkshire Hathaway**:

> In the interest of the long-term success of [the company] and so investors can manage risk more effectively, shareowners request… an annual assessment addressing how the Company manages physical and transitional climate-related risks and opportunities, commencing prior to its 2023 annual shareholder's meeting. Shareowners recommend the assessment address:
>
> 1. Summaries of risks and opportunities at the parent Company level and for only those Company subsidiaries and investee organizations that the board believes could be materially impacted by climate change, disclosed in accordance with the Taskforce on Climate-related Financial Disclosure (TCFD) recommendations,
> 2. The board's oversight of climate related risks and opportunities, and
> 3. The feasibility of establishing company-wide science-based, greenhouse gas (GHG) reduction targets.
>
> The assessment may be a stand-alone report or incorporated into existing reporting, be prepared at a reasonable cost, and omit proprietary information.

advocacyposition

SAY ON CLIMATE GLOBAL SHAREHOLDER COALITION

DAVID SHUGAR

Say on Climate Initiative Manager, As You Sow

The Say on Climate global shareholder initiative aims to move companies to develop net zero transition plans, adopt annual 5 percent GHG emissions reduction targets (aligned with Climate Action 100+ benchmarks), provide annual emissions disclosure and give shareholders an annual vote. The annual advisory vote would be similar to votes on executive compensation, but it would be about implementation of a company's climate transition plan.

The initiative was launched last year by Sir Chris Hohn's Children's Investment Fund Foundation (CIFF), a $6 billion London-based philanthropic fund. Other major investor support comes from the Institutional Investor Group on Climate Change, the Australian Council of Superannuation Investors, and the UK Investor Forum. This initiative spans Asia, Europe, Australia, and North America and uses regional strategies to effectively compel companies to adopt and implement plans.

In Europe, advocates such as ShareAction and Reclaim Finance are using Say on Climate and other strategies including removing regulatory hurdles for filing shareholder proposals. Companies that agreed to Say on Climate last year face their first advisory votes in 2022, including **Unilever**, **Royal Dutch Shell**, **Nestlé**, **Total**, **VINCI**, **LafargeHolcim**, **M&G**, **Anglo American**, **Aviva**, **Standard Chartered**, and **Barclays**.

Down Under, advocates include the Australasian Centre for Corporate Responsibility (ACCR) and the Sunrise Project, which in 2021 won annual vote agreements from **Rio Tinto**, **Woodside Petroleum**, **Santos**, **Oil Search**, **AGL**, **Origin Energy**, **South32**, and **BHP**. Investors will have their first chance to provide feedback this year. Advocates are concerned about Santos and Woodside, for instance, because they rely heavily on offsets in the short term and carbon capture in the long term. Investors can express disapproval of these plans through Say on Climate advisory votes.

In North America, Say on Climate advisory votes will occur at **Moody's**, **S&P Global**, and **Canadian Pacific Railway** in 2022. The Shareholder Association for Research and Education (SHARE) is leading the initiative in Canada, and in the United States, *As You Sow* has filed proposals seeking net-zero and interim GHG reduction targets at **Boeing**, **Allegheny Technologies**, and **UnitedHealth Group**—following four majority votes in 2021 at **Sysco**, **General Electric**, **Bookings Holdings**, and **AutoZone** and several more near majorities.

Multiple efforts exist to score and assess corporate progress. In March 2022, *As You Sow* released *The Road to Zero Emissions*, assessing 55 large U.S. companies, while ACCR has released criteria for adequate climate plans that include science-based reduction targets without offsets or unproven technologies. Further, CIFF backs creating a global Net Zero Center to support standardization, coordination, and assessment of transition plans.

The global Say on Climate movement is bringing increased security and accountability to companies, so they can establish robust net zero and emissions reduction plans backed by scientific guidance. Each advocacy group has expertise in regional legal frameworks and is leveraging relationships with companies to create a global shift in corporate climate action.

- **TCFD**—An undisclosed proponent has filed at **Charter Communications**, where a resolution last year seeking annual advisory votes on climate change strategy earned 40 percent. The 2022 resolution asks Charter to prepare

  > no later than 150 days after each annual meeting…a climate-related financial risk report (the "Climate Action Plan") consistent with the recommendations of the Task Force on Climate-related Financial Disclosures. The Climate Action Plan should disclose the Company's greenhouse gas emissions and its plan to reduce them and whether, how and to what extent such plans align with or vary from the ten Disclosure Indicators set forth in the Climate Action 100+ Net-Zero Company Benchmark...

- **CA100+**—Two proposals reference Climate Action100+ goals, described in the supporting statement. At **Boeing**, *As You Sow* asks for a report that includes "any rationale for a decision not to set and disclose goals in line with the Net Zero Indicator." At **Ross Stores**, it says the report should evaluate and discuss "how the Company intends to measure and begin reducing its supply chain GHG emissions in alignment with the Benchmark and the Paris Agreement…" (A 2019 proposal seeking a report on GHG targets at Ross earned 40.9 percent.) "Benchmark" refers to the March 2021 Net-Zero Company Benchmark from CA100+ that gives comparative performance assessments on company progress.

- **New profit model?** Arjuna Capital asks **ExxonMobil** to report on "how the company could alter its business model to yield profits within the limits of a 1.5-degree Celsius global temperature rise by substantially reducing its dependence on fossil fuels."

Long-term financial priorities: The Shareholder Commons (TSC), which started filing shareholder resolutions last year about the long-term impacts corporations impose on society and the economy by "externalizing their costs," saw little success in its proposed solution, which was to reincorporate as public benefit corporations (PBCs). This year, TSC has branched out to become more explicit about the types of costs specific companies may impose and how it believes companies should account for these costs, which it says are borne most heavily by institutional investors whose holdings reflect the whole market.

This year, on climate change, TSC has filed a resolution at **United Parcel Service**, where proposals asking it to set Paris-compliant GHG goals earned 36.7 percent in 2021 and 29.6 percent in 2020. The TSC proposal now asks for a report on

> (1) the extent (if any) to which Company decisions involving the greenhouse-gas emissions reduction prioritize Company financial performance over the environmental costs and risks of climate change and (2) the manner in which any consequent environmental costs and risks threaten returns of diversified shareholders who rely on a stable and productive economy.

(See p. 47 for a similar proposal at 3M on environmental costs, financial priorities and political influence.)

Just Transition

Two new proposals seek to address inequities that will increase as the world warms and economic disruption affects the most vulnerable, seeking to ensure a "just transition" to a low-carbon world:

- **Arctic drilling**—Green Century asks **Chevron** about financial and ecosystem risks and threats to Indigenous peoples. It wants a report

  > assessing the benefits and drawbacks of committing to not engage in oil and gas exploration and production in the Arctic, particularly in the Arctic Refuge, as well as the financial and reputational risks to the company associated with such development.

- **Community impact**—The Teamsters propose that **Marathon Petroleum** issue a report

  > stating how Marathon is responding to the social impact of Marathon's climate change strategy on workers and communities, consistent with the "Just Transition" guidelines of the International Labor Organization ("ILO")…
  >
  > It should include:
  >
  > - Marathon's commitment to providing a just transition for its workforce and communities in its plans to address its climate-related risks and opportunities;
  > - Marathon's plans to address the impacts of its climate change strategy on workers and communities.
  > - The integration of these concerns into the governance structure, including executive compensation, stakeholder and workforce engagement processes, and Board oversight.

Forests and Water

A handful of proposals ask companies to address how their businesses contribute to deforestation, a major driver of climate change. Home improvement companies, with their wood products, have been routine targets, and this year two banks also are asked about how their financing practices should support healthy ecosystems, preserve biodiversity and reduce deforestation. In addition, **Amazon.com** has a proposal from a newly active social investment firm, Prentiss Smith. Green Century, a longtime supporter of responsible forest practices, is the proponent of the other four resolutions.

Forests and Water

Company	Proposal	Proponent	Status
Alphabet	Reduce water impacts and policy	As You Sow	June
Amazon.com	Report on supply chain deforestation impacts	Prentiss-Smith	May
Bank of New York Mellon	Report on deforestation and financing	Green Century Capital Management	April
Chipotle Mexican Grill	Reduce water use and report	Not disclosed	May
Citigroup	Report on deforestation and financing	Green Century Capital Management	April
Home Depot	Report on supply chain deforestation impacts	Green Century Capital Management	May
Kraft Heinz	Reduce water use and report	Mercy Investment Services	May
Lowe's	Report on supply chain deforestation impacts	Green Century Capital Management	June

Banks: At **Bank of New York Mellon** and **Citigroup**, Green Century wants a report on how each "could improve efforts to reduce negative impacts and enhance positive impacts on natural ecosystems and biodiversity across its banking and investment portfolios." Proponents withdrew a similar resolution in 2021 at JPMorgan Chase after the company released a requested report on the subject, but the issue has not been addressed before in this form at either of this year's recipients.

Home improvement stores: The resolution at **Home Depot** and **Lowe's** asks each to make more effort and report "if and how it could increase the scale, pace, and rigor of its efforts to eliminate deforestation and the degradation of primary forests in its supply chains." Various proponents have asked Home Depot to set climate-related goals in the past and were withdrawn after negotiations, with an agreement in 2019 where the company said it would release targets for 2030 and 2035. The only previous climate-related proposal at Lowe's to go to a vote asked for renewable energy targets and received 6.9 percent in 2017, although it also had a net-zero GHG goals resolution this year, described above, which Mercy Investments withdrew after an agreement.

Amazon.com: Prentiss Smith has withdrawn a proposal asking for annual reports

> on how the company is addressing climate impacts caused by deforestation in its supply chain. The report should include quantitative metrics on supply chain-related deforestation impacts, as well as progress against goals for reducing those impacts.

The company told the SEC the proponent did not substantiate its stock ownership and the withdrawal came before any SEC response. Previously, a 2019 proposal from a group of workers, Amazon Employees for Climate Justice, asked for a report about climate change disruptions and reducing fossil fuel dependence; it earned 30.9 percent.

Water

Three resolutions ask about water use this year, with explicit climate change references, at companies that have not received such proposals in the past:

- At **Alphabet**, the request is for annual reports about "quantitative water-related metrics by location, including data centers, and for each location, practices implemented to reduce climate-related water risk."
- A **Chipotle** and **Kraft Heinz**, a resolution seeks "quantitative indicators where available, an assessment to identify, in light of the growing pressures on water supply quality and quantity posed by climate change, its total water risk exposure, and policies and practices to reduce this risk and prepare for water supply uncertainties associated with climate change."

ENVIRONMENTAL MANAGEMENT

Proposals about environmental management that go beyond direct climate impacts long have asked about mitigating various types of pollution and waste, with a growing focus on plastics. They also address agricultural practices such as the treatment of food animals, antibiotics in feed, pesticides and water. This year, the total now sits at 35 resolutions, with several new issues such as product repair, chemical footprinting and mining and indigenous rights.

Waste & Pollution

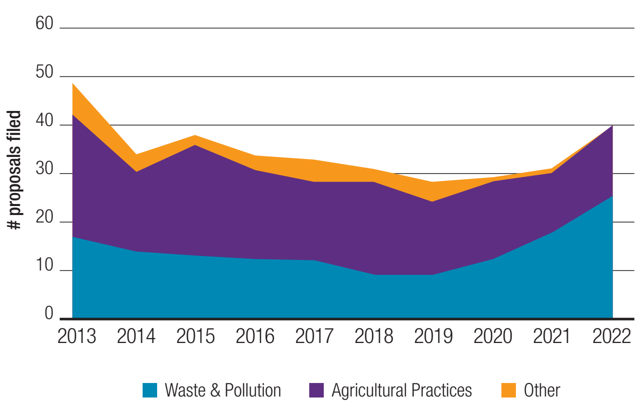
Company	Proposal	Proponent	Status
Alphabet	Report on 'right to repair' policy	Green Century Capital Management	June
Amazon.com	Report on plastics pollution	As You Sow	May
Apple	Report on 'right to repair' policy	Green Century Capital Management	withdrawn
Bed Bath & Beyond	Report on chemical footprint risks/reduction efforts	Mercy Investment Services	July
Burlington Stores	Report on chemical footprint risks/reduction efforts	Trillium Asset Management	May
Chemours	Review/report on mining risks	Green Century Capital Management	April
Church & Dwight	Report on plastics pollution	As You Sow	April
Coca-Cola	Report on plastics pollution	Green Century Capital Management	April
CVS Health	Report on plastics pollution	Green Century Capital Management	withdrawn
Deere	Report on 'right to repair' policy	Green Century Capital Management	withdrawn
Dollar General	Reduce chemical footprint	Presbyterian Church (USA)	May
Dow	Report on plastics pollution	As You Sow	May
ExxonMobil	Report on plastics pollution	As You Sow	May
Five Below	Report on chemical footprint risks/reduction efforts	Trinity Health	withdrawn
Jack in the Box	Report on packaging	Green Century Capital Management	March
Kraft Heinz	Report on plastics pollution	As You Sow	May
Kroger	Report on plastics pollution	As You Sow	June
McDonald's	Report on plastics pollution	As You Sow	May
Newell Brands	Report on packaging	Green Century Capital Management	May
ODP	Report on packaging	Green Century Capital Management	withdrawn
PepsiCo	Report on plastics pollution	As You Sow	May
Phillips 66	Report on plastics pollution	As You Sow	May
Tyson Foods	Report on plastics pollution	Green Century Capital Management	13.7%

Waste & Pollution

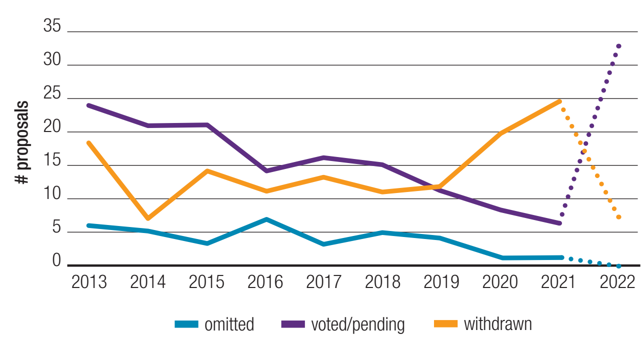
Plastics and Packaging

As You Sow and Green Century are the main players seeking to cut the use of plastics, at both producers and users. They have filed 15 proposals, with only two that are resubmissions *(table, above)*. The proposals foresee financial risks to industry of up to $100 billion should governments require them to cover waste management costs they impose. They reference a July 2020 Pew Charitable Trusts report, Breaking the Plastic Wave, which estimates current initiatives will cut ocean plastics by only 7 percent, tripling flows into the oceans by 2040. The resolutions call for sharp reductions in production and use, plus more recycling.

Environmental Management Proposal Types



Environmental Management Proposal Outcomes



advocacyposition

HOLDING BIG OIL ACCOUNTABLE FOR PLASTIC MISMANAGEMENT

JOSHUA ROMO
Energy & Plastics Associate, As You Sow

CONRAD MACKERRON
Senior Vice President, As You Sow

Plastics currently impose a lifecycle social cost at least ten times higher than their market price. While ubiquitous plastic waste dominates public perception, threats to the climate and health are mounting. Despite rising understanding of the broad landscape of risks facing the current fossil-fueled plastic economy, the oil and gas industry is betting on a world that uses more and more virgin plastics. U.S. petrochemical producers, while claiming to take significant action against ocean plastics and climate change, cling to this worldview to justify building more virgin plastic production infrastructure and extracting fossil fuels. Simply put, we need significant reductions in the overall use of plastic; remaining production must transition from virgin to recycled polymers.

In recent years, *As You Sow's* petrochemical-focused resolutions have addressed the negative impacts of climate change-induced extreme weather and the potential risk of stranded assets. Chevron Phillips Chemical (CPChem), jointly owned by **Chevron** and **Phillips 66**, responded in late 2020 with a new risk report, and **Dow** agreed to enhance its physical climate risk disclosure. This year, *As You Sow* is engaging with **ExxonMobil**, Dow, and CPChem about their single-use plastic production, the potential impacts of virgin plastic demand disruption, and the scale of their commitments to transition to a circular plastics economy.

As You Sow's waste program has focused on absolute reductions in plastic use with major consumer goods companies, achieving significant progress. Now, accountability is moving up the supply chain to the major polymer producers—the gatekeepers of the global flow of plastic. The Minderoo Foundation's recent *Plastic Waste Makers Index* provides novel insight into the specific companies that make the polymers destined for single-use plastics (SUPs). It finds that more than half of the world's SUPs can be traced to just 20 polymer producers, with Dow and ExxonMobil two of the largest global contributors (together they produce more than 10 percent of total global single-use plastic).

Further, the recent authoritative *Breaking the Plastic Wave* report details a System Change Scenario in which global ocean plastic pollution can be feasibly reduced by 80 percent relative to business-as-usual by 2040. The first-of-its-kind analysis, published by the Pew Charitable Trusts and SYSTEMIQ in collaboration with 17 global experts, found that projected demand for plastic in 2040 can be met feasibly without additional virgin plastic. Moreover, absolute reduction of plastic demand (one-third of projected demand by 2040) is the most attractive solution from environmental, economic, and social perspectives. *As You Sow* is asking these petrochemical companies to address how their growing investments in virgin plastic are at risk and if their proposed solutions are economically and operationally viable.

Resin manufacturers must face up to the reality that recycling is not enough. In line with the one-third reduction in demand called for in *Breaking the Plastic Wave*, industry must substantially reduce the amount of virgin single-use plastics in production. As the U.S. plastics industry continues to double down on its investment into new virgin plastic production, investors must ask whether this risky bet makes sense.

Make less: In 2021, DuPont de Nemours investors gave overwhelming support for a resolution asking it to report on its plastics releases and efforts to reduce them. This year, perhaps heartened by that vote, proponents are asking three producers to reduce virgin plastics production:

- At **Phillips 66**, the request is to report on how it "could shift its plastic resin business model from virgin to recycled polymer production as a means of reducing plastic pollution of the oceans." Back in 2019, *As You Sow* withdrew a proposal about plastic pellet spills when the company agreed to report, just before the annual meeting and after the proxy statement came out.
- A resolution at **Dow** and **ExxonMobil** is new and asks each for an audited report on

> whether and how a significant reduction in virgin plastic demand, as set forth in Breaking the Plastic Wave's System Change Scenario to reduce ocean plastic pollution, would affect the Company's financial position and assumptions underlying its financial statements.

Dow says the proposal arrived 34 minutes past the deadline and can be omitted.

Cut use: At **Amazon.com**, **Kroger** and **McDonald's**, *As You Sow* asks each to explain how it "will reduce its plastics use in alignment with the reductions findings of the Pew Report, or other authoritative sources, to feasibly reduce ocean pollution." The proposal says the report could:

- Quantify the weight of total plastic packaging used by the company;
- Evaluate the benefits of dramatically reducing the amount of plastics used in our packaging;
- Assess the reputational, financial, and operational risks associated with continuing to use substantial amounts of plastic packaging while plastic pollution grows unabated;

- Describe any necessary reduction strategies or goals, materials redesign, transition to reusables, substitution, or reductions in use of virgin plastic.

Investors have voted in the recent past on similar proposals before, with support last year reaching 35.5 percent at Amazon.com and 45.6 percent at Kroger. In comparison, a packaging resolution at McDonald's received just 7.8 percent in 2018, highlighting how much the landscape has shifted on plastics pollution.

Rethink single uses: Green Century withdrew a proposal at **Coca-Cola** last year when it agreed to cut virgin plastics use by 3 million tons by 2025, but it is back now with a request for reporting on reuse and

> the potential to more rapidly reduce dependence on single use plastic packaging by expanding and supporting refillable bottle systems and infrastructure globally. The report should establish uniform companywide metrics for the company's public reporting on refillables use, and evaluate opportunities for setting aggressive refillables goals and deadlines.

At **PepsiCo**, it also asks for a report "describing the potential and options for the Company to rapidly reduce dependence on single-use plastic packaging."

At **Church & Dwight** (owner of the Arm & Hammer brand) and **Kraft Heinz**, the proposal asks how each will "will reduce plastic packaging, including any planned reduction strategies or goals, materials redesign, substitution, or reductions in use of virgin plastic." Investors have already voted on a similar resolution asking **Jack in the Box** to develop a "comprehensive sustainable packaging policy approach."

At **CVS Health**, **Newell Brands** and **ODP** (formerly Office Depot) the request is to assess "if and how the Company can increase its sustainability efforts by reducing its absolute plastic use across its operations." At ODP it specifies the resolution is about "private label product packaging and ecommerce shipping. Previously, CVS made a commitment in 2020 to report and collaborate with others, prompting a proposal withdrawal.

Votes—A proposal similar to the CVS version has earned 13.7 percent at **Tyson Foods**. The **Jack in the Box** voted was 95.4 percent, the highest ever for a resolution opposed by management.

Withdrawal—Green Century has withdrawn at **CVS** after reaching an agreement.

SEC challenges—Two SEC challenges are pending. **Kraft Heinz** claims that *As You Sow* did not prove its stock ownership, while **PepsiCo** says the resolution can be omitted on ordinary business grounds because it is involved in related litigation. Last year, *As You Sow* withdrew a more general resolution about plastic packaging and said it reached an accord, but the company also had challenged on ordinary business grounds.

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PLASTIC POLLUTION: PUSHING FOR ABSOLUTE REDUCTIONS AND REFILLABLES GOALS

KELLY MCBEE
Waste Program Coordinator, As You Sow

In 2021, *As You Sow* shifted its focus on plastic pollution from asking companies to make plastic packaging more recyclable to using less plastic, with terrific results. Our proposals to 10 major consumer goods companies led five companies, including **Target** and **Walmart**, to agree to cut virgin plastic use by more than 700,000 tons by 2025.

A National Academy of Sciences study commissioned for the U.S. Congress and released in December 2021 confirmed our priorities for cutting plastic use. The study noted the United States is the world's largest contributor to plastic waste, generating 42 million metric tons of plastic waste in 2016, or 287 pounds per person. The report called for reducing plastic production, especially for plastics that are not reusable or recyclable, and capping virgin plastic production.

Five companies have agreed to cut virgin plastic use in agreements with *As You Sow*. Walmart set a 15 percent virgin plastic reduction goal, **Target** and **Keurig Dr Pepper** agreed to reduce virgin plastic 20 percent, and **Mondelēz International** agreed to a 5 percent cut—all by 2025. **PepsiCo** agreed to a 20 percent cut by 2030. In 2022, we will continue work to reduce plastics use at companies where we have no agreements, including **Amazon.com**, **Kroger**, and **McDonald's**, with a new filing at **Church & Dwight**.

New push on refillables: Plastic waste can be cut for generations by substituting refillable plastic or glass beverage bottles for single use bottles. A recent analysis by Oceana indicated considerable potential to reduce ocean plastic by increasing the refill market share. It concluded that boosting refillable bottles by 10 percent in all coastal countries, replacing single-use PET, could trim marine plastic bottle pollution by 22 percent.

Coca-Cola, for example, has long operated refillable bottle operations in many markets. Refillables have demonstrated their ability to substantially cut plastic waste with a 90 percent collection rate and bottles that can be reused from 20 to 40 times. In comparison, less than 30 percent of U.S. single-use PET beverage containers are recycled. Refillables already account for 50 percent or more of Coca-Cola sales in more than 20 global markets and 25 percent or more in another 40 markets, yet Coca-Cola had not committed to strategically increase refillables targets and timelines—until now.

For 2022, *As You Sow* has filed proposals with Coca-Cola and PepsiCo asking for aggressive refillables targets. Coca-Cola acted swiftly and on February 10 agreed to increase the global share of its sales in refillables from its current 11 percent to 25 percent by 2030. To recognize this significant commitment, we withdrew our Coca-Cola proposal. We look forward to engaging Coca-Cola's top competitor, PepsiCo, to set an aggressive goal, as well, and for opportunities to engage other consumer goods companies on using refillables.

Right to repair: Late in 2021, *As You Sow* withdrew a resolution at **Microsoft** about reporting on its device repair policy. Green Century has taken up the mantle on this new area of concern for 2022 at **Alphabet**, **Apple** and **Deere**, asking each to relax restrictive repair policies that prevent independent and potentially cheaper repairs to cut down on planned obsolescence. It asked Apple and Alphabet to report "on the environmental and social benefits of making Company devices more easily repairable by consumers and independent repair shops." Although it is still pending at Alphabet, Green Century withdrew and claimed a major victory when Apple announced it would allow customers to repair its products; the company also had challenged the proposal at the SEC, saying it was ordinary business.

At Deere, the proposal took a slightly different form, seeking a report "on the emerging state and federal Right to Repair legislation and the Company's explanation of underlying issues giving rise to those policy proposals." Deere told the SEC the resolution had been implemented and was ordinary business and Green Century withdrew but reached no accord.

Chemical Footprint

Four companies have new resolutions from ICCR members asking about their chemical footprints and how they can be reduced; none have seen recent related proposals. The resolution at **Bed Bath & Beyond** asks for a report "on the outcomes of the Company's chemical reduction efforts by publishing quantitative and qualitative data on progress to eliminate the use of chemicals of concern," and says the report could include:

- Evaluation of vendor compliance with the Company's chemical policies;
- Measure of chemical footprint in private label and third-party products;
- Set reduction goals, and track and disclose progress against a baseline.

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REDUCING CHEMICAL FOOTPRINT LESSENS BUSINESS RISK

ALEXANDRA MCPHERSON
Consulting Manager, Investor Environmental Health Network

MARK ROSSI
Executive Director, Clean Production Action

Investors have filed resolutions with **Five Below**, **Dollar General**, **Bed Bath & Beyond**, and **Kroger** to expand and improve chemical safety programs. This comes at a time when regulatory risk and consumer concern is rising.

Since 2000, more than 35 states have passed 173 policies that establish state chemicals programs to identify, limit, or ban the use of harmful chemicals in products, including tips for consumers. PFAS, "forever chemicals," are a particular growing global concern because of their persistence and toxicity. In 2022, more than 50 state bills are moving to ban PFAS in textiles, cosmetics, food packaging, and other applications.

Public concern about scientifically documented links between exposure to toxic chemicals and elevated rates of chronic diseases is shaping consumer choice. In a recently released peer reviewed study, scientists found new evidence that we are operating outside the safe zone for planetary boundaries on chemical pollution. Over the last two years, shareholder engagement and momentum have grown, including a 44 percent vote at **TJX** supporting a resolution from Trillium Asset Management and First Affirmative Financial Network that asked for a report on plans to reduce the company's chemical footprint.

Investors are focusing on reducing chemical footprints to hold companies accountable for reducing financial risks. In the last decade, poor management of regulatory, legal, reputation, and redesign risks from toxic chemicals in products and production has caused plummeting company stock prices (**Bayer**, **Lumber Liquidators**, **3M**, and **Dow**) and bankruptcy (**SIGG NA** and a company spun off from **Johnson & Johnson**). The Chemical Footprint Project's leadership framework benchmarks corporate progress, reduces risk, and drives safer chemical use. It focuses on metrics that assess a company's use of toxic chemicals, like endocrine disruptors and carcinogens, that are a material risk because authoritative bodies recognize they harm human health and the environment.

Toxic chemicals are inextricably connected to plastic pollution, pesticide contamination, biodiversity loss and climate change. For example, 96 percent of manufactured goods use chemicals dependent on fossil fuels and petrochemicals for production. We cannot solve the climate crisis, or the biodiversity crisis, with continued reliance on toxic, fossil fuel-derived chemicals.

Investors working with the Investor Environmental Health Network (IEHN) are leading corporate engagement efforts to establish best practice in the marketplace for chemical management. Their track record of success and impact includes commitments to reduce chemical footprints and drive safer chemical use in supply chains with companies like **Walmart**, **Target**, **TJX**, and **Dollar Tree**. These retailers, among other publicly traded companies, benchmark their progress toward best practice metrics set in the Chemical Footprint Survey. A safer chemicals economy is within our reach, and leading investors are driving the change necessary to ensure companies are actively reducing chemical footprints.

It cites scientific concern about connections to toxic chemical exposures and more chronic diseases and a reduction in immunity, noting pending legislation around the United States about safer chemicals, and the work of the nonprofit group Safer States, plus action by peers through the Chemical Footprint Project.

At **Burlington**, the simple request is for a report "describing if, and how, it plans to reduce its chemical footprint," noting a journal article about "premature deaths linked to a common class of chemicals found in food containers, cosmetics and children's toys cost the US about 40 to 47 billion dollars annually in lost economic productivity." The proposal also references standards for retailers defined by the Sustainability Accounting Standards Board (SASB) on chemical safety. As at Bed Bath & Beyond, the proposal makes specific suggestions for reporting on "the relative benefits and drawbacks of"

- Developing a comprehensive chemical policy;
- Adopting short- and long-term priority chemical lists;
- Identifying chemicals of high concern and a process for their elimination; and
- Deployment of safer alternatives when available.

Withdrawal—Trinity Health has withdrawn at **Five Below** after an agreement. The proposal sought a report on how the company assesses and manages "risks and/or hazards associated with chemicals in products, with consideration of the SASB multiline and specialty retailers standard." Five Below will adopt the SASB standard and report after the end of its fiscal year 2023 and consider related policies for its private-label products.

At **Dollar General**, the resolution from the Presbyterian Church (USA) is more prescriptive, asking the company to "reduce its chemical footprint by adopting new policies" that include:

- Expanding its chemical restrictions to include appropriate categories of third-party branded products;
- Accelerating the timetable to expand the number of chemicals addressed in the company's Restricted Substance List using authoritative lists.

Agricultural Practices

Proponents have long expressed concern about how food is produced, addressing the use of antibiotics, pesticides and the treatment of food animals. This year there are 12 proposals on these issues with a few more filed by the Humane Society received too late to include in this report.

Agricultural Practices

Company	Proposal	Proponent	Status
Abbott Laboratories	Report on societal costs of antibiotic resistance	The Shareholder Commons	April
Archer-Daniels-Midland	Report on pesticide health risks from supply chain	As You Sow	May
B&G Foods	Report on pesticide health risks from supply chain	As You Sow	May
Hormel Foods	Report on societal costs of antibiotic resistance	The Shareholder Commons	6.9%
Ingles Markets	Report on cage-free eggs	Humane Society of the U.S.	95.4%
Kraft Heinz	Report on pesticide health risks from supply chain	As You Sow	withdrawn
Kroger	Report on pesticide health risks from supply chain	As You Sow	June
Levi Straus	Report on animal welfare in supply chain	PETA	April
McDonald's	Report on pig gestation crates	Humane Society of U.S.	May
McDonald's	Report on societal costs of antibiotic resistance	The Shareholder Commons	May
Wendy's	Report on pig gestation crates	Humane Society of the U.S.	May
Yum Brands	Report on societal costs of antibiotic resistance	The Shareholder Commons	withdrawn

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SHAREHOLDERS HELP BIG-AG BUILD A RESILIENT SUPPLY CHAIN

ARIANA GUILAK
Environmental Health Program Coordinator, As You Sow

As food manufacturers begin to more widely acknowledge and address the material risk of climate change and biodiversity loss, they must also acknowledge the role pesticides play.

Pesticide-intensive agriculture not only poses significant health risk to farmers, farm-adjacent communities, and consumers, but also threatens farms' climate resiliency by reducing the ability of soil to store water and carbon. Additionally, pesticides threaten biodiversity by harming organisms above and below ground and helping pesticide-resistant weeds and insects proliferate. As concerns about pesticides have evolved, shareholders continue to urge companies to require farmers in their supply chain to report synthetic pesticide use, adopt strategies that reduce their need in the first place, and shift to regenerative farming.

Regenerative agriculture is one of the strategies *As You Sow* encourages, so companies can reduce their need for pesticides. Its adoption has helped change the pesticides landscape over the last few years, reducing the environmental and economic impacts of farming. Its practices include building soil health and sequestering carbon, lowering agricultural-related emissions, and reducing the use of synthetic pesticides.

As You Sow's 2019 "Pesticides in the Pantry" report found only one of 14 companies surveyed (**General Mills**) had implemented a regenerative agriculture program, and three had public goals to reduce chemical pesticide use in the supply chain. Two years later, our 2021 Report found 12 companies out of 17 have regenerative farming programs, and seven aim to reduce pesticides in key supply chains. This significant increase shows how shareholder advocacy can create change.

At a recent webinar for the release of the 2021 report, Steven Rosenzweig, PhD, Senior Agricultural Soil Scientist at General Mills, showed images of two farms after a climate change-induced mega-storm. All the soil washed away from the one practicing industrial agriculture while the regenerative agriculture farm soaked up the flood water and was quickly back in business. He noted that General Mills is aggressively pressing its farmers to shift because the company needs supply chain resilience.

As You Sow continues to engage food manufacturers and retailers and this year has filed resolutions with **Archer-Daniels-Midland** and **B&G Foods**, two major companies that scored low on the report, urging them to disclose pesticide use data in their supply chains. These resolutions emphasize that pesticide use reporting is an essential first step to evaluate and reduce pesticide risk, which can come from litigation on health and environmental damages, increasingly less effective crop production, lowered resilience in the face of climate change, and reputational harm.

Through corporate engagement, *As You Sow* encourages companies to adopt and expand comprehensive regenerative agriculture programs that reduce material risk and create lasting economic benefits. This protects yields from the growing impacts of climate change and protects consumers and farm-adjacent communities from exposure to chemicals that are known carcinogens.

Antibiotics

External costs: Last year saw the first of new proposals from The Shareholder Commons (TSC) that asked about the ways in which companies contribute to growing antibiotic resistance (known as "AMR" for "antimicrobial resistance"), and whether they should quantify their share of the responsibility. The proposals connected obligations to long-term investors and the stakeholder capitalism concept expressed in the 2019 Business Roundtable's Statement on the Purpose of a Corporation.

In 2021 there was one vote of 11.9 percent at **McDonald's** and a withdrawal at **Yum Brands** after it agreed to produce the report. TSC refiled at both companies this year and added **Abbott Laboratories** and **Hormel Foods**, where investors gave the resolution 6.9 percent support in January.

The proposal asked Hormel to "commission and disclose a study on the external environmental and public health costs created by the use of antibiotics in our company's supply chain and the manner in which such costs affect the vast majority of its shareholders who rely on a healthy stock market." It is slightly different at **McDonald's**, asking for a report on "the link between the public-health costs created by the use of antibiotics in the Company's supply chain and McDonald's prioritization of enterprise risk" as well as how the problem may affect diversified shareholders' returns.

For **Abbott Laboratories**, the focus is on research about combatting AMR and it seeks a report not only on the impact on shareholders but also on "1) the public health costs created by Company decisions not to invest additional resources in slowing the growth of antimicrobial resistance (AMR) [and] (2) market barriers to such additional investment."

Withdrawal after SEC challenge—At **Yum** this year the proposal asked for an explanation of how the company could "address competitive concerns that interfere with efforts to mitigate the [AMR] crisis by considering the financial position of the Company's diversified owners in establishing its practices." The company argued at the SEC that its report last year made the resolution moot; it covered:

- Greater context on AMR, the systemwide costs of AMR and strategy for quantifying external AMR costs
- Stakeholders who absorb these costs
- An optimal global scenario to eliminate or internalize AMR costs
- Competitive concerns

- How Yum! policies and procedures could influence the global scenario

TSC said in this year's resolution that the 2021 report showed Yum still "prioritizes profits over safeguarding the global economy," could do more to address the problem by greater collaboration with public and private entities" and still should quantify diversified shareholders' performance improvements that could result from addressing AMR. But in the end TSC withdrew before the SEC responded.

Pesticides

Proponents previously have withdrawn about half the proposals they file about pesticides and earned votes in the 30-percent decile, with several agreements about pesticide use in food production. *As You Sow* asks **Archer-Daniels-Midland**, **B&G Food**, **Kraft Heinz** and **Kroger** to explain "if and how the company is measuring the use in its agricultural supply chains of pesticides that cause harm to human health and the environment." The proposal outlines problems with pesticide use in the food system, including threats to "farmer resiliency and productivity due to proliferation of pesticide-resistant weeds and insects, loss of topsoil, and soil degradation." It notes disclosures by other companies and decries it lack at the companies where it has filed, suggesting they report on:

- Type and amount of pesticides avoided annually through targeted strategies like regenerative agriculture programs, IPM, or other methods;
- Priority pesticides for reduction or elimination;
- Targets and timelines, if any, for pesticide reduction.

The resolution is new to all but Kraft Heinz, where *As You Sow* withdrew after a procedural challenge.

Food Animals

The Humane Society of the U.S. (HSUS) asked **Ingles Markets**, a grocery store chain in the American South, to provide more information on its plans to sell only cage-free eggs; it received 7.7 percent support on February 15. Other issues that previously have come up at other companies address the use of leather and the pork supply chain.

At **Levi Straus**, People for the Ethical Treatment of Animals (PETA) wants a report "on the slaughter methods used to procure leather to determine whether they conform to this policy. The report should also address the risks presented by any incompatible sourcing and the company's plans, if any, to mitigate these risks."

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MCDONALD'S BREAKS ANIMAL WELFARE PLEDGE—NOW FACES BOARD BATTLE

LESLIE SAMUELRICH
President, Green Century Capital Management

On February 20, 2022, McDonald's confirmed that Carl Icahn nominated both Maisie Ganzler and me for the company's board of directors in response to McDonald's failure to meet a public pledge it made ten years ago to end the egregiously cruel and controversial practice of pig gestation crates by this year. McDonald's falsely maintains it's making progress towards this goal when sows in its supply chain are still immobilized in tiny stalls, not much bigger than their bodies, for several weeks of each pregnancy. They can't even turn around, and it's months of confinement in a tiny cage.

Pigs and other animals farmed for food are social, intelligent and sentient beings with a range of emotions that include fear and distress. Those in today's highly industrialized systems endure reprehensible, often life-long suffering that has no resemblance to their natural existence. The public is increasingly concerned about their treatment, supporting laws that ensure more humane practices that eradicate the most heinous abuses such as extreme confinement. Many states have banned gestation crates and California's Proposition 12 hits this cruelty the hardest.

Companies like McDonald's that do not proactively prioritize animal welfare or continuously improve their standards put themselves—and investors—at reputational and regulatory risk. In a briefing on gestation crates, Farm Animal Investment Risk & Return (FAIRR) notes, "The rise in consumer and investor activism makes the practice a liability for food companies." In many cases, mismanagement by top leadership means poor oversight of animal welfare enhancements and commitments (and often other ESG-related concerns).

Companies must hear the calls for a more humane food system. Pressure on animal welfare from the public, NGOs and investors will persist. McDonald's right now is a microcosm of what the industry will face if the most obscene and needless practices of confinement do not end. Other dubious practices include castrating animals without pain relief and providing barren living conditions without enrichments like straw bedding.

Companies need well-governed animal welfare committees with strong oversight of measurable and verifiable targets. The proxy battle at McDonald's shows that animal welfare clearly needs more attention from shareholders, investors and financial advisors. As Kiran Aziz, the head of responsible investment at Norway's largest pension fund, recently said: "The welfare of livestock is rising up the ESG agenda at a rapid pace and we hope to help accelerate this."

McDonald's is one of the world's most well-known and successful restaurant companies and has the power to lead and drive change. It has broken its 10-year-old promise made to multiple stakeholders to improve on a significant ESG risk, and is tarnishing its reputation. Today the public battle for board seats shows that companies must listen to what consumers and investors clearly want and expect for better animal welfare.

HSUS wants **Wendy's** to report within three months to

> confirm the individual crate confinement of gestating pigs will be eliminated from its North American supply by the end of 2022. If Wendy's cannot so confirm, shareholders request: 1) its percentage of gestation crate-free pork, and 2) risks Wendy's may face over the disparity between its gestation crate assurances and the use of crates beyond 2022.

HSUS has filed a similar proposal at **McDonald's**, where billionaire Carl Icahn is backing dissident directors because he is dissatisfied about what he sees as a lack of progress in implementing the company's policy to phase out gestation crates for pigs.

SEC challenges: Levi's and **Wendy's** have lodged challenges at the SEC. Levi Strauss says it concerns ordinary business because it addresses specific products—an argument that has prevailed in similar cases before. Wendy's says its December 2021 plan to end the use of hog gestation crates by the end of 2022 makes the proposal moot, and also that the proposal is an ordinary business issue since it would involve a product-specific risk assessment. HSUS earlier had withdrawn a similar proposal at Wendy's in 2012 but this year expresses skepticism that progress is being made.

Mining

Green Century is the lead proponent on a new proposal at **Chemours** about mining in northern Florida. It asks for a report on "material climate, regulatory, and reputational risks" that might occur were the company to acquire a titanium mining project, Twin Pines Minerals, located near the Okefenokee National Wildlife Refuge. The refuge's 400,000 protected acres host "the largest refuge in the eastern United States and home to hundreds of plant and animal species" Green Century notes, storing "the equivalent of 95 million tons of carbon dioxide." The proposal asks for a report

> assessing the benefits and drawbacks of committing not to engage in titanium mining, nor to purchase titanium mined by others, near the Okefenokee National Wildlife Refuge, and assessing the financial and reputational risks to the company associated with such development or procurement.

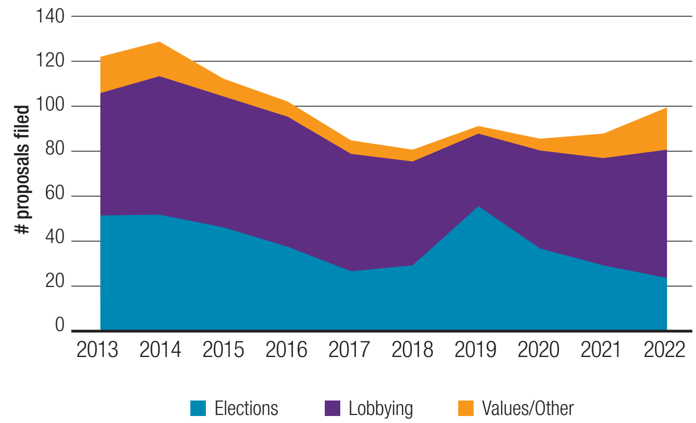
Social Issues

CORPORATE POLITICAL INFLUENCE

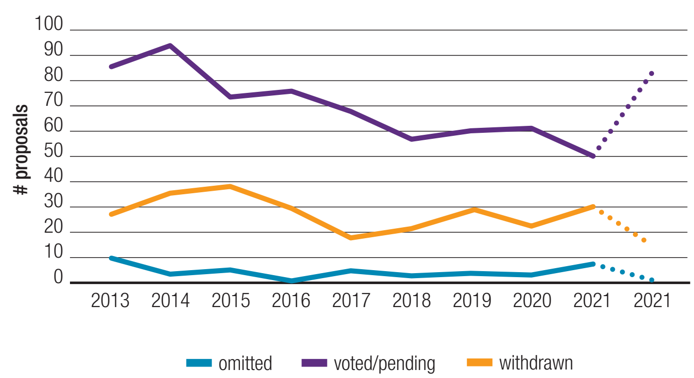
Until now, most investor concern about addressing undue corporate political influence has centered on arrangements for formal oversight and disclosure of spending on elections and lobbying. Many companies have become comfortable with this framework and most large companies have formal board oversight of their contribution processes. Many also disclose at least some information on their spending, even while mostly eschewing disclosure of their support for politically active intermediaries such as trade associations. The increasingly rancorous tone of the political scene has spilled over into shareholder resolutions, however, and proponents today are asking more pointed questions about how company money is spent, and what recipients of company-connected money support. While companies routinely assert they give across the aisle to politicians who support their interests, a careful look at the record shows this is not always accurate. The January 6, 2021, attack at the U.S. Capitol prompted some companies to stop giving—at least temporarily to members of Congress who voted to overturn the 2020 election results, but almost no companies have ended all their support for the Republican Party and its various committees that support such politicians, who are part of what some call a "sedition caucus." Further, state-level spending patterns reflect regional political power realities—where new laws reflect an increasingly radicalized agenda from the right end of the political spectrum.

The volume of proposals on political spending is no longer the largest of any proxy season issue—being surpassed this year by climate change—and the breakdown of proposals has shifted. Election spending resolutions have steadily fallen in number since 2019 and the proportion of those about lobbying has grown (boosted by climate-related lobbying resolutions). Resolutions that question conflicts between corporate policies and the partisan preferences of recipients have steadily grown, doubling to 20 this year. Proponents have filed 101 proposals thus far in 2022, up from 89 in all of 2021 and down from an apex of 135 in 2014.

Types of Political Influence Proposals



Political Influence Outcomes



Proponents: Proponents include social investment and religious organizations, leading pension funds from New York City and State, trade unions and some individuals. Investor concern about corporate election spending began in 2003 with the founding of the Center for Political Accountability (CPA) and intensified after the *Citizens United* U.S. Supreme Court decision in 2010. The CPA's model oversight and disclosure approach is the standard template for lobbying transparency, too, and forms the basis for the lobbying disclosure campaign run by Boston Trust Walden and the American Federation of State, County and Municipal Employees (AFSCME). The umbrella Corporate Reform Coalition supports shareholder activity on corporate spending and includes other reformers.

Resources: An ICCR initiative supports climate lobbying proposals and Ceres has set out guidelines in its Responsible Policy Engagement on Climate Change report. Rhia Ventures is coordinating investor engagement about corporate policies and spending regarding reproductive and maternal health.

The most recent version of the CPA-Zicklin Index, released in fall 2021, tracks S&P 500 performance about spending on elections. No similar index exists on lobbying, although Si2's annual survey tracks that issue. The Conference Board's Committee on Corporate Political Spending offers a generally supportive business perspective on accountability.

New code—In October 2020, the CPA released a new Model Code that aims to more fully address partisan risks, but it has yet to fully incorporate related metrics into its index ratings. Its preamble says the code explains how companies can:

- be responsible members of society and participants in the democratic process and responsive to the range of stakeholders, in both letter and spirit,
- be recognized for their leadership in aligning corporate integrity and accountability with codified values,
- prudently manage company resources, and
- avoid the increased level of reputational, business and legal risk posed by the seismic shifts in how society engages with and scrutinizes corporations. The risk is exacerbated by the evolution of social media and a resurgence of activism in civil society.

The code's provisions that aim to address partisan harms say companies should "review the positions of the candidates or organizations to which it contributes to determine whether those positions conflict with the company's core values and policies" and stipulates that boards should "consider the broader societal and economic harm and risks posed by the company's political spending."

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A MODEL CODE FOR COMPANIES TO GOVERN THEIR POLITICAL SPENDING

BRUCE F. FREED
President, Center for Political Accountability

DAN CARROLL
Vice President for Programs, Center for Political Accountability

As the 2022 proxy season unfolds, there's good news and concerning news about companies and their political spending. Which wins out—greater control over political spending or a return to "business as usual"—will affect how companies fare as shareholders pay even closer attention to what they do with their political money and how it aligns with their values and positions.

First, the good news. S&P 500 companies are paying much closer attention to their election-related spending. The 2021 CPA-Zicklin Index found that more boards are involved not only with general oversight of company political spending, but also have committees reviewing company payments to trade associations and other tax-exempt groups, or what is known as "dark money." In addition, the Index saw an increase in companies with committees reviewing direct political contributions.

In a new development, the Center for Political Accountability (CPA) found some companies that included references to alignment with their values and mention of congressional certification of the 2020 presidential election results in their spending policies. One with a standout policy was **Intel**, which said

> In cases of significant misalignment…, we take action to realign future funding decisions. For example, following the events at the US Capitol on January 6, 2021, we decided to cease contributions to members of Congress who voted against certification of the 2020 presidential election.

Also, the number of companies defined in the Index as Trendsetters rose to 87 in 2021, up from 79 in 2020. These companies have the most robust disclosure and accountability policies for political spending.

Now the concerning news. Many companies continue "business as usual" for political spending. Following the January 6th U.S. Capitol attack, at least 143 companies announced pauses in their political spending. Not unexpectedly, the pause has been temporary, and a growing number of companies have restarted contributions—including **Cigna**, **Lockheed Martin**, **PG&E**, **T-Mobile**, **AT&T**, and **JPMorgan Chase**.

Companies are continuing their previous spending while ignoring conflicts between their own policies and the positions of some candidates they are supporting. We pointed this out in our Conflicted Consequences report last summer.

All of this raises the stakes for companies. This is especially true for those facing shareholder resolutions or engagement on political spending. Last year showed what they can anticipate. The average vote for the CPA's model political resolution was 48.1 percent, a big increase from 40.9 percent in 2020 and 36.4 percent in 2019. Significantly, two of the largest institutional investors, **BlackRock** and **Vanguard**, voted for CPA's resolution for the first time last year. BlackRock did so for six of the 12 CPA resolutions and Vanguard for three.

The message to companies is clear. Investors consider political transparency and accountability a corporate governance must. But, companies can't stop there. The next step is to adopt a framework for approaching and managing their political spending. That framework is the CPA-Wharton Zicklin Model Code of Conduct for Corporate Political Spending, which includes societal and democracy obligations and responsibilities and gives them greater control over—and greater protection from—the heightened risks posed by political spending.

Multiple proposals: Fourteen companies have more than one proposal about lobbying, election spending or climate change advocacy, in one combination or another: **AbbVie**, **Alphabet**, **Amazon.com**, **American Airlines**, **Amgen**, **Charter Communications**, **Eli Lilly**, **ExxonMobil**, **HCA Healthcare**, **Meta Platforms** (the former Facebook), **Pfizer**, **Uber**, **United Parcel Service** and **Walmart**.

Conservatives: Proponents espousing free market ideals occasionally borrowed the resolved clauses written by disclosure advocates and block the main campaign proposals. These proponents continue to question corporate charitable giving and they raise new questions about corporate political activity at **Coca-Cola** and **Target**. *(See Conservatives, p. 83.)*

Lobbying

The resolved clause for the main lobbying campaign resolution submitted this year to 36 companies remains the same as in the past and many (22) are at companies where votes have occurred before, most of them last year *(table, page 42)* The main proposal asks for an annual report that includes:

1. Company policy and procedures governing lobbying, both direct and indirect, and grassroots lobbying communications.
2. Payments by [the company] used for (a) direct or indirect lobbying or (b) grassroots lobbying communications, in each case including the amount of the payment and the recipient.
3. [The company's] membership in and payments to any tax-exempt organization that writes and endorses model legislation.
4. Description of the decision-making process and oversight by management and the Board for making payments described in sections 2 and 3 above.

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SECRET INFLUENCE: ASTROTURFING SWAYS PUBLIC POLICY

JOHN KEENAN
Corporate Governance Analyst, AFSCME Capital Strategies

Lobbying by companies can provide governments with valuable insights and data for public policy making, yet only 8 percent of the world's 1,000 largest companies report their spending on lobbying to investors. And when companies make undisclosed payments to dark money groups to secretly influence public policy, this "astroturf" lobbying creates legal, financial, and reputational risks for shareholders as evidenced by utility **FirstEnergy's** agreement to pay $230 million for funneling $60 million through dark money groups as part of a bribery scheme.

Astroturf lobbying is defined as funding fake grassroots organizations to provide an illusion of popular support. The concern for shareholders is that companies failing to disclose their payments to trade associations (TAs) and social welfare groups (SWGs) secretly give millions used for lobbying, including astroturf campaigns. Investors face a Russian doll scenario, where a company's payments to one group are, in turn, passed through to additional groups, all of which can go to other types of lobbying and astroturfing without revealing the original source of money.

Undisclosed dark money lobbying is "at least double what's publicly reported." In 2017, TAs and SWGs spent $535 million on disclosed lobbying and $675 million on unregulated efforts to influence public policy, including strategic consulting, broadcast advertising, media relations, social media posts, polling, and funding for astroturfing.

Corporate funding for astroturf campaigns through TAs and SWGs is widespread across industries, yet disclosures to investors of company payments funding this activity are limited. Big tech companies **Amazon**, **Alphabet**, and **Meta Platforms** fund hundreds of TAs and SWGs each year, yet they do not disclose payments to dark money groups that advocate against anti-trust regulation like the American Conservative Union, the National Taxpayers Union, and the Taxpayers Protection Alliance. In the gig economy, **Uber** and **Lyft** make contributions to community groups that write favorable op-eds as part of multimillion-dollar lobbying campaigns to keep drivers as contractors.

Last year, an **ExxonMobil** lobbyist admitted that Exxon funded "shadow groups" to misrepresent climate science, and **FTI Consulting** has run astroturf campaigns "portraying pro-petroleum groups as grass-roots movements" in Texas on fracking, in Alaska on drilling, and even at the SEC to reduce shareholder rights.

In 2020, the Pharmaceutical Research and Manufacturers of America funneled millions of dollars to prominent "dark money" SWGs like the American Action Network, the American Conservative Union, and the Taxpayers Protection Alliance, pushing industry-friendly messages to lawmakers and 2020 voters. And, telecom companies and their trade associations gave $4.2 million to SWG Broadband for America for an astroturf campaign, which submitted 8.5 million fake FCC comments opposing net neutrality.

For 2022, at least 35 proposals have been filed focused on the need for disclosure of all dark money lobbying payments, as well as direct federal and state lobbying payments. In addition to dark money astroturfing, the proposals note support for groups that lobby against policies that companies publicly support, highlighting lobbying misalignments on issues including climate, racial justice, voting rights, worker rights, drug pricing, corporate tax, and infrastructure.

For purposes of this proposal, a "grassroots lobbying communication" is a communication directed to the general public that (a) refers to specific legislation or regulation, (b) reflects a view on the legislation or regulation and (c) encourages the recipient of the communication to take action with respect to the legislation or regulation. "Indirect lobbying" is lobbying engaged in by a trade association or other organization of which [the company] is a member.

Both "direct and indirect lobbying" and "grassroots lobbying communications" include efforts at the local, state and federal levels.

The report shall be presented to the Audit Committee or other relevant oversight committees of the Board and posted on [the company]'s website.

Withdrawals—Proponents have withdrawn after agreements at **AECOM** and **Quanta Services**.

SEC action—Three companies have lodged challenges at the SEC so far. **AbbVie** says the proponent made procedural missteps. Both it and **Eli Lilly** also say the resolution duplicates another they received first about lobbying, election spending and values congruency *(described below)*. In like mien, **Amazon.com** says the resubmitted proposal duplicates another it received first on climate-related lobbying; the resolution is in its seventh year and the 36.1 percent vote last year was the highest yet. Finally, **Eli Lilly** also says its disclosures make the proposal moot; the proposals earned 48.2 percent in 2021, up from earlier votes in the 20-percent range.

Lobbying Oversight & Disclosure

Company	Proponent	Status
Abbott Laboratories	Unitarian Universalists	April
AbbVie	Zevin Asset Management	May
AECOM	John Chevedden	withdrawn
Alphabet	Boston Common Asset Management	June
Altria	Trinity Health	May
Amazon.com	Teamsters	May
American Airlines Group	John Chevedden	June
Biogen	Boston Common Asset Management	June
Boeing	Midwest Capuchins	April
Caterpillar	James McRitchie	June
Charles Schwab	Friends Fiduciary	May
Charter Communications	SEIU Master Trust	April
Chevron	Philadelphia Public Employees Retirement System	May
CME Group	Boston Common Asset Management	May
Delta Air Lines	John Chevedden	June
Douglas Emmett	SEIU Master Trust	May
Ecolab	Boston Common Asset Management	May
Eli Lilly	SEIU Master Trust	May
Exelon	SEIU Master Trust	April
ExxonMobil	United Steelworkers	May
GEO Group	SEIU Master Trust	omitted
HCA Healthcare	Teamsters	April
Healthpeak	SEIU Master Trust	April
Invesco	James McRitchie	May
Lyft	Teamsters	June
Meta Platforms	United Church Funds	May
Netflix	Boston Common Asset Management	June
ProLogis	SEIU Master Trust	April
Quanta Services	SEIU Master Trust	withdrawn
Salesforce.com	Boston Common Asset Management	June
Travelers	First Affirmative Financial Network	May
Uber Technologies	Teamsters	May
United Airlines Holdings	John Chevedden	May
United Parcel Service	Boston Trust Walden	May
Walmart	Zevin Asset Management	June
Walt Disney	Mercy Investment Services	March
XPO Logistics	SEIU Master Trust	May

Election Spending

The Center for Political Accountability and its allies, a wide variety of institutional investors, continue to seek board oversight and transparency about election spending from corporate treasuries, with 32 proposals filed this year. Only five are resubmissions and nine have yet to be made public. *(See table for list.)* Support from investors for these resolutions has continued to climb and averaged 43.8 percent last year, up sharply from earlier years.

Last year there were majority votes on election spending at four companies, including 80.2 percent at **Chemed** and 52.9 percent at **Royal Caribbean** where it has been resubmitted. Other resubmissions earned 2021 votes in the 30-percent range, at **Dollar General**, **ExxonMobil** and **Flowers Foods**.

CPA proposal: The main CPA resolution remains the same, with most noting it excludes lobbying activity. It asks companies to produce reports twice yearly on:

1. Policies and procedures for making, with corporate funds or assets, contributions and expenditures (direct and indirect) to (a) participate or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, or (b) influence the general public, or any segment thereof, with respect to an election or referendum.
2. Monetary and non-monetary contributions and expenditures (direct and indirect) used in the manner described in section 1 above, including:
   a. The identity of the recipient as well as the amount paid to each; and
   b. The title(s) of the person(s) in the Company responsible for decision-making.

Withdrawals—So far proponents have withdrawn after agreements at **Analog Devices**, **Coterra** (formerly Cabot Oil & Gas), **Hanesbrands** and **PPG Industries**.

SEC challenges—**Chemed** has challenged the proposal at the SEC, arguing a report it issued on January 14 about its political giving policy and corporate contributions details and trade association spending makes the resolution moot. For its part, **Expeditors International of Washington** told the SEC the resolution is moot because as of Nov. 4, 2021, it has been forbidding direct or indirect contributions to political parties, campaigns or candidates.

No votes on new indirect spending proposal: Myra Young and James McRitchie filed a new proposal working with the CPA that tried to zero in on indirect spending by organizations supported by companies, at **Costco** and **Walgreens Boot Alliance**. It asked that each

> adopt a policy requiring that any trade association, social welfare organization, or other organization that engages in political activities seeking financial support from Company agree to report to [the Company], at least annually, the organization's expenditures for political activities, including the amount spent and the recipient, and that each such report be posted on [the Company's] website. For purposes of this proposal, "political activities" are:
>
> i. influencing or attempting to influence the selection, nomination, election, or appointment of any individual to a public office; or
>
> ii. supporting a party, committee, association, fund, or other organization organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures to engage in the activities described in (i).

SEC action—The proponents withdrew after SEC challenges. **Costco** said it was not significantly related to the company's business since it forbids any use of its funds for political use. **Walgreens** said it could not implement the proposal and that it was ordinary business.

Election Spending Oversight & Disclosure

Company	Proposal	Proponent	Status
Advance Auto Parts	Review/report on election spending	Boston Common Asset Management	May
Analog Devices	Review/report on election spending	Boston Common Asset Management	withdrawn
Chemed	Review/report on election spending	John Chevedden	withdrawn
Costco Wholesale	Require indirect political spending reporting	James McRitchie	withdrawn
Coterra	Review/report on election spending	Nathan Cummings Foundation	withdrawn
DaVita	Review/report on election spending	Friends Fiduciary	June
DISH Network	Review/report on election spending	New York State Common Retirement Fund	May
Dollar General	Review/report on election spending	John Chevedden	May
Expeditors International of Washington	Review/report on election spending	John Chevedden	May
ExxonMobil	Review/report on election spending	Unitarian Universalists	May
Flowers Foods	Review/report on election spending	Teamsters	May
Hanesbrands	Review/report on election spending	New York State Common Retirement Fund	withdrawn
HCA Healthcare	Review/report on election spending	John Chevedden	April
Las Vegas Sands	Review/report on election spending	New York State Common Retirement Fund	June
Old Dominion Freight Line	Review/report on election spending	Teamsters	withdrawn
PPG Industries	Review/report on election spending	Nathan Cummings Foundation	withdrawn
Progressive	Review/report on election spending	New York State Common Retirement Fund	May
Roper Technologies	Review/report on election spending	Nathan Cummings Foundation	withdrawn
Royal Caribbean Cruises	Review/report on election spending	New York State Common Retirement Fund	May
Twitter	Review/report on election spending	New York State Common Retirement Fund	May
Ulta Beauty	Review/report on election spending	New York State Common Retirement Fund	June
Verisign	Review/report on election spending	New York State Common Retirement Fund	May
Walgreens Boots Alliance	Require indirect political spending reporting	Myra K. Young	withdrawn
Waters	Review/report on election spending	Boston Common Asset Management	May

Values Congruency

While proposals in the past have asked about lobbying on climate change or consistency between stated corporate values and spending in elections, these types of proposals have expanded in 2020 to reach their highest number yet, with a range of issues invoked.

Corporate Values & Public Policy Influence

Company	Proposal	Proponent	Status
3M	Report on environmental risks and political influence efforts	The Shareholder Commons	May
AbbVie	Report on all political influence spending values congruency	As You Sow	May
Alphabet	Review/report on climate change advocacy	Zevin Asset Management	June
Amazon.com	Review/report on climate change advocacy	Srs. of the Presentation Blessed Virgin Mary	May
American Airlines Group	Review/report on climate change advocacy	Presbyterian Church (USA)	withdrawn
American International Group	Review/report on climate change advocacy	Mercy Investment Services	withdrawn
Amgen	Report on all political influence spending values congruency	As You Sow	May
Amgen	Review/report on climate change advocacy	Boston Trust Walden	withdrawn
Amgen	Report on lobbying values congruency	Mercy Investment Services	May
AT&T	Report on election spending values congruency	As You Sow	April
Charter Communications	Report on all political influence spending values congruency	As You Sow	May
CIGNA	Report on all political influence spending values congruency	Clean Yield Asset Management	April
CSX	Report on all political influence spending values congruency	Clean Yield Asset Management	May
Dominion Energy	Report on election spending values congruency	Nathan Cummings Foundation	May
Eli Lilly	Report on all political influence spending values congruency	As You Sow	withdrawn
Eli Lilly	Report on lobbying values congruency	CommonSpirit Health	May
ExxonMobil	Review/report on climate change advocacy	BNP Paribas Asset Management	May
Gilead Sciences	Report on lobbying values congruency	Maryknoll Sisters	May
Home Depot	Report on election spending values congruency	Tara Health Foundation	May
Honeywell International	Review/report on climate change advocacy	Proxy Impact	May
Johnson & Johnson	Report on lobbying values congruency	SHARE	April
JPMorgan Chase	Review/report on climate change advocacy	Boston Trust Walden	withdrawn
JPMorgan Chase	Report on election spending values congruency	Education Foundation of America	May
Lockheed Martin	Review/report on climate change advocacy	Mercy Investment Services	withdrawn
Merck	Review/report on climate change advocacy	Boston Trust Walden	May
Meta Platforms	Review/report on climate change advocacy	Zevin Asset Management	May
NextEra Energy	Review/report on climate change advocacy	BNP Paribas Asset Management	May
NRG Energy	Review/report on climate change advocacy	Unitarian Universalists	April
PepsiCo	Report on all global influence spending	Harrington Investments	May
Pfizer	Report on all political influence spending values congruency	Tara Health Foundation	April
Truist Financial	Review/report on climate change advocacy	Friends Fiduciary	withdrawn
Uber Technologies	Review/report on climate change advocacy	Unitarian Universalists	May
Union Pacific	Review/report on climate change advocacy	Boston Trust Walden	May
United Parcel Service	Review/report on climate change advocacy	Mercy Investment Services	May
UnitedHealth Group	Review/report on climate change advocacy	Boston Trust Walden	June
UnitedHealth Group	Report on all political influence spending values congruency	Education Foundation of America	June
Walmart	Review/report on climate change advocacy	School Srs. of Notre Dame, Central Pacific	June

Climate Change Lobbying

The biggest group includes 20 proposals that ask companies to explain their involvement in public policy advocacy about climate change. Last year, five of seven similar proposals that went to votes earned support well above 50 percent. Only one of this year's crop is a resubmission—the proposal at **ExxonMobil** that last year earned 63.9 percent. Sixteen proposals are now pending and four have been withdrawn. *(See table for list.)* With slight variations, each asks for a report within a year,

> describing if, and how, [the company's] lobbying activities (directly and indirectly through trade associations and social welfare and nonprofit organizations) align with the Paris Climate Agreement's aspirational goal of limiting average global warming to 1.5 degrees Celsius. The

> report should also address the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks.

At ExxonMobil, **Honeywell International**, **Lockheed Martin**, **Truist Financial** and **United Parcel Service**, it specifies "well below 2 degrees Celsius."

Withdrawals—Boston Trust Walden has withdrawn at **JPMorgan Chase** because it agreed to include more information on its public policy advocacy in its forthcoming TCFD report. JPMorgan also had challenged the proposal at the SEC, arguing it was an ordinary business matter because it was too specific. Additional agreements and withdrawals have occurred at **American Airlines**, **Amgen**, **Lockheed Martin** and **Truist Financial** (the combination of BB&T and SunTrust).

SEC challenges—**Amazon.com** and **Meta Platforms** have lodged challenges. Amazon says it already has reported on its climate goals and included related public policy advocacy information, but also has told the SEC the climate lobbying proposal is duplicated by a more general one on lobbying it also received. Meta says the proponent failed to provide sufficient proof of its stock ownership duration.

Values and Influence Spending

Reproductive health: Proposals coordinated last year by Rhia Ventures earned considerable support and the group is back in 2022 with nine resolutions relating to the alignment of corporate policies and spending in elections and beyond. It asks **AT&T**, **JPMorgan Chase** and **Home Depot** for annual reports about election spending,

> analyzing the congruence of political and electioneering expenditures during the preceding year against publicly stated company values and policies and disclosing or summarizing any actions taken regarding pausing or terminating support for organizations or politicians, and the types of incongruent policy advocacy triggering those decisions.

At AT&T, where a procedural problem blocked the resolution last year, the proposal notes the company's support for politicians working to restrict reproductive health and other civil rights. (AT&T was one of the largest donors to Texas legislators who supported SB 8, which bans abortion at six weeks of gestation.) At JPMorgan the resolution questions the consistency of the company's giving with its policies on clean energy, LGBTQ equality and reproductive rights.

The proposal is in its third year at Home Depot, having earned 38 percent in 2021 and 32.9 percent in 2020. The proposal is a resubmission at JPMorgan Chase, where it received 30 percent last year.

advocacyposition

MISALIGNMENT BETWEEN COMPANY REPRODUCTIVE HEALTH POLICIES AND INFLUENCE SPENDING

SHELLEY ALPERN
Director of Corporate Engagement, Rhia Ventures

Rhia Ventures, now in its third year of advocating for better corporate policies related to reproductive and maternal health care, has worked with allied investors to file 14 proposals for 2022.

Reproductive rights are on the line this year as the U.S. Supreme Court considers a direct challenge to Roe v. Wade, the landmark decision protecting the right to access abortion without excessive government restriction. Should Roe be overturned or gravely weakened, as is widely anticipated, as many as 26 states are poised to ban abortion completely within their borders. Texas Senate Bill 8, enacted into law in September 2021 and undergoing challenge in court, is another potential game changer if it is allowed to stand. The law imposes a ban on abortions past the detection of fetal electrical activity described by its supporters as a "fetal heartbeat," usually around the sixth week of pregnancy. And in an innovative twist, it grants any non-state actor the right to sue any person or entity (including employers) that aids, abets, or ensures an abortion performed for any reason by a physician licensed by the state of Texas past the six-week limit.

Our proposals are part of a broad campaign to influence corporate policies concerning insurance, benefits, public policy, and political spending as they relate to this topic. Ten draw attention to observed misalignment between companies' stated commitment to advance women in the workplace and their political support for politicians and political organizations working to undermine access to abortion and other forms of reproductive and maternal health care. The proposals also cite other instances of incongruity between values and political spending recipients with respect to climate change, affordable medicines, voting rights, and anti-LGBTQ laws. In the 2021 proxy season, proposals of this type drew strong votes at **JPMorgan Chase** (30 percent), **Home Depot** (38 percent), **FedEx** (37 percent), and **Pfizer** (47 percent).

Four proposals call for a public report "detailing any known and any potential risks and costs to the company caused by enacted or proposed state policies severely restricting reproductive rights, and detailing any strategies beyond litigation and legal compliance that the company may deploy to minimize or mitigate these risks." These have been filed at companies (**Kroger**, **TJX**, **Walmart**, and **Lowe's**) whose workforce includes employees in numerous states that are expected to ban abortion if Roe is overturned. In that environment, those who need abortion care will need to travel—in some cases, hundreds of miles—to obtain it and may not have the financial means to make the trip.

Companies can mitigate these circumstances by strengthening their contraceptive benefits, insuring elective abortions (if they do not already), establishing emergency funds and subsidizing travel costs incurred to obtain health care that cannot be accessed in-state, and granting appropriate time off for travel and recovery, among other measures. The shareholders are also encouraging companies to communicate to lawmakers that laws restricting reproductive health care are hurtful to working women and other birthing people, their families, and the business community.

The other Rhia Ventures proposal is more expansive and asks six healthcare firms and a cable company—**AbbVie**, **Amgen**, **Charter Communications**, **Cigna**, **Eli Lilly**, **Pfizer** and **UnitedHealth**—for annual reports that will analyze and report on:

> the congruence of its political, lobbying, and electioneering expenditures during the preceding year against its publicly stated company values and policies, listing and explaining instances of incongruent expenditures, and stating whether the identified incongruencies have or will lead to a change in future expenditures or contributions.

The resolutions raise questions about the consistency of company policies on issues beyond reproductive health, mentioning diversity, voting rights and climate change at Charter, for instance. *(As noted above, a different proposal about climate-related lobbying also has been filed at UnitedHealth Group. A second proposal at Amgen on lobbying and access to medicine is discussed below.)*

SEC action and withdrawal—**Eli Lilly** told the SEC the resolution had been implemented and also duplicated a lobbying proposal filed by SEIU as well as a proposal about lobbying values from CommonSpirit *(described below)*. *As You Sow* withdrew before any SEC response.

At **Pfizer**, an election spending and values congruency proposal from Tara Health, part of the Rhia campaign, earned 47.2 percent in 2021 after surviving an SEC challenge. But this year the company is arguing the proposal duplicates another it received first from the conservative National Center for Public Policy Research—which uses the same resolved clause but elsewhere in the proposal argues against disclosure. NCPPR takes issue with several topics supported by various candidates funded by the company, criticizing the company's diversity approach and its support for candidates in favor of reproductive rights among other topics. *(See Conservatives, p. 84.)*

Social justice: The Nathan Cummings Foundation has a similar but more specific proposal at **Dominion Energy**, asking for a report on "if and how" its "political activities (direct and through trade associations) align with the Company's stated commitment to social justice and racial equality. The report should also address the risks presented by any misalignment and the company's plans, if any, to mitigate these risks."

Lobbying Congruency

Racism: Clean Yield Asset Management proposes that **CSX** evaluate and report "describing whether, and how, CSX lobbying activities (direct and through trade associations and social welfare and nonprofit organizations), and any political contributions from the company or its PAC, align with the Company's stated commitments to anti-racism."

Access to healthcare: Three ICCR members have a new resolution at four drug companies, suggesting their lobbying efforts conflict with formal vision statements. Each asks for a "third party review within the next year" and specifies it covers both direct lobbying and that via trade associations; each also says the board "should report on how it addresses the risks presented by any misaligned lobbying and the company's plans, if any, to mitigate these risks." The proposals ask whether the companies' lobbying activities align with their commitments:

Amgen	Position on Access to Medicines, and in particular its provision stating that "Amgen's medicines make a difference for those facing serious illnesses and we believe patients should have access to them regardless of their ability to pay."
Eli Lilly	[Its] public policy position and public statements, particularly supporting "making medicines more accessible and affordable to patients" and "fairness and transparency in the biopharma industry."
Gilead Sciences	Vision statement, "To create a healthier world for all people" and in particular its Policy Position Statement that "the price of medicines should never be a barrier to access, and we work domestically and globally to ensure that patients who need our products are able to obtain them."
Johnson & Johnson	Position on Universal Health Coverage, and in particular its provision supporting "broad and timely access to our medicines at sustainable prices that aim to be locally affordable."

SEC action—**Gilead** and **Johnson & Johnson** have filed challenges at the SEC. Gilead says it is about ordinary business because it mentions drug pricing in its supporting statement. Johnson & Johnson also contends it is ordinary business. **Eli Lilly** says its disclosures make the resolution moot but also that it duplicates a proposal it received first from Trinity Health on board oversight of drug pricing.

(Proposals that asks about drug companies' pricing practices and related public policy influence efforts are covered in the section on Health, p. 58.)

Environmental Risks

The Shareholder Commons continues its focus on the impact of company activities on societal costs. It wants **3M** to "commission and publish a report on (1) the link between the environmental costs created by 3M's operations and political influence activities and 3M's continuing prioritization of enterprise risk, and (2) the manner in which such costs and prioritization may affect the market returns available to its diversified shareholders." The resolution says that while the CEO asserts 3M wants to be a sustainability leader, its actions belie this commitment because:

- 3M is active in three trade associations that work against comprehensive U.S. policies to address climate change.
- 3M does not appear to have committed to meet the Science-Based Targets initiative for a 1.5-degree Celsius world and failed to receive an "A" grade in 2020 from CDP, a widely used and respected climate rating.
- Belgian regulators recently ordered 3M to stop PFAS production after recent blood samples taken from 800 people near 3M's plant showed elevated levels of PFAS.

TSC concludes the company is overly focused on optimizing its financial position and is not taking needed action that broadly threatens the world.

Global Influence

PepsiCo faces a new resolution from Harrington Investments, which previously has filed proposals about the company's sugary drinks. The resolution says the company should

> annually issue a transparency report on global public policy and political influence, disclosing company expenditures and activities outside of the United States. Such report should disclose company funding and in-kind support directed to candidates or electioneering, lobbying, scientific advocacy, and charitable donations for the preceding year including:
>
> - recipients and amounts;
> - date and timeframe of the activity taking place
> - the Company's membership in or payments to nongovernmental organizations including trade and business associations, scientific or academic organizations and charities.
> - the rationale for these activities.

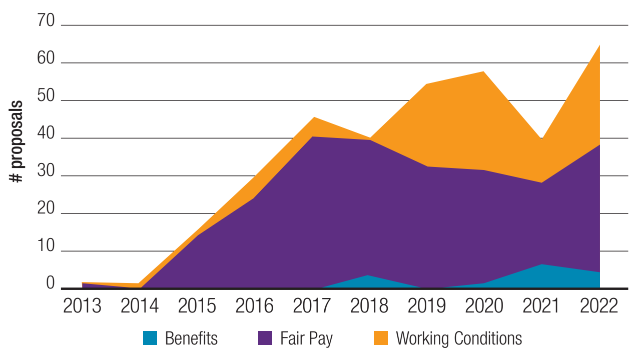
The Board and management may, in its discretion, establish a de minimis threshold, such as contributions to an individual or organization totaling less than $250, below which itemized disclosures would not be required.

The company is arguing at the SEC that the proposal impermissibly consists of multiple requests by asking for information on political influence and charitable giving. PepsiCo says the two are unrelated. Unlike other political influence resolutions this one focuses on activity outside the United States, such as lobbying against food labeling regulations in Mexico.

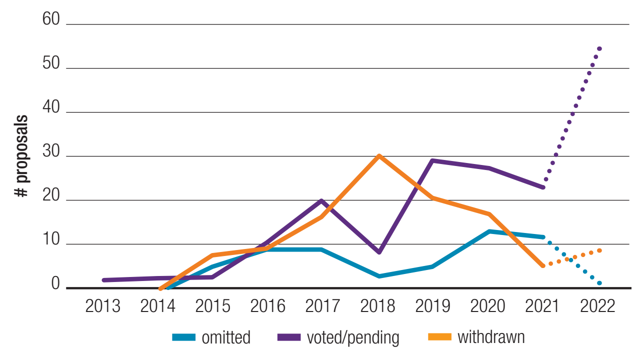
DECENT WORK

Proposals about seeking more disclosure about fair pay and working conditions have risen from almost nothing 10 years ago to become a mainstay of proxy season. They blossomed during the Trump administration, dipped sharply last year, and now have surged to their highest level ever. Related proposals about diversity *(covered in the next section)* also have ballooned with the Black Lives Matter movement.

Types of Decent Work Proposals



Decent Work Outcomes



Context: The SEC is poised, by all acounts, to release a proposal soon about new disclosure requirements regarding human capital, some of which were initially set out by the Human Capital Management Coalition, representing 35 institutional investors who manage more than $6.6 trillion in assets. The group petitioned the SEC in 2017 to require more disclosure of information about a company's workforce and human resources policies, which it says is needed to evaluate investment risks.

New issues: Notable this year are new resolutions about working conditions—many of them with uncertain outcomes at the SEC. Proposals raise fresh ideas about reporting on employee stock ownership and competetive approaches to employee pay, plus inequality and corporate financial priorities. Repeated are resolutions, at new recipients, about paying higher starting wages. New working conditions proposals asks about the use of concealment clauses, worker misclassifications in the supply chain, differential injury rates for people of color and women, accidents with replacement workers and pandemic safety protocols. Finally, sick leave proposals also have been filed, but all those filed last year were omitted on ordinary business grounds and they again face challenges at the SEC. *(Tables, p. 50, 51, lists all 65 resolutions.)*

Fair Pay

Most fair pay resolutions address compensation differentials between executives and employees (25 proposals), with some new angles this year, but another 10 continue to ask for more detailed reporting on differentials based on race and gender. Women, and women of color, continue to earn much less than their White male counterparts, but shareholder votes on pay disparity proposals have fallen from earlier levels.

Compensation

CEOs and employee stock ownership: The biggest group of resolutions presents a new angle for investors, asking companies to consider employee stock ownership plans alongside other elements of compensation when setting CEO pay, to build an "ownership culture." Proposals are still pending at **Chipotle Mexican Grill**, **Johnson & Johnson**, **Kellogg** and **Kimberly-Clark** and ask each to:

> take into consideration the pay grades, salary ranges, and stock ownership incentives (such as, but not limited to, stock grants, performance share units, employee stock purchase plans, restricted stock units, and options) of all classifications of Company employees in the United States when setting target amounts for CEO compensation. The committee should describe in the Company's proxy statements for annual shareholder meetings how it complies with this requested policy. Compliance with this policy is excused where it will result in the violation of any existing contractual obligation or the terms of any existing compensation plan.

Withdrawals and SEC action—The proponent withdrew at **Bank of America**, **Bristol Myers-Squibb** and **Goldman Sachs** after each agreed to partially implement the proposal. Two other proposals were withdrawn after procedural challenges, at **Edwards Lifesciences** and **IBM**. At **3M**, the resolution was omitted when the SEC agreed that earlier proposals failed to receive enough support; a pay disparity resolution from the United Steelworkers went to a vote three times and earned only 11 percent in 2021, below the 25 percent needed under new SEC rules.

General CEO disparity: Two other proposals about CEO pay are less specific. Jing Zhao resubmitted a proposal that earned 8.3 percent last year and wants **AT&T** and **Applied Materials** to "improve the executive compensation program and policy, such as to include the CEO pay ratio factor and voices from employees." An early vote will occur on March 10 at Applied Materials. The proposal at **AT&T** survived an SEC challenge that argued it was too vague, as a similar proposal did in 2020 when it went on to win 8.7 percent support.

In addition, the AFL-CIO would like **PPG Industries** to "take into consideration the compensation of the Company's employees and any other workforce that the Compensation Committee determines to be relevant to the Company's business operations. It is new to the company.

Reporting on employee stock ownership: In addition to his proposals about CEO pay and stock ownership, James McRitchie also is pursing the idea of an "ownership culture" in another new proposal at five more companies. Still pending at **Amazon.com**, **Meta Platforms**, **PetMed Express** and **Repligen**, the proposal asks for a report

> annually assessing the distribution of stock-based incentives throughout the workforce (such as but not limited to performance share units, employee stock purchase plans, restricted stock units, and options). The report should include a matrix, sorted by EEO-1 employee classification or another appropriate classification scheme with four or more categories chosen by the Committee, showing aggregate amounts of stock ownership granted and utilized by all U.S Company employees and including associated voting power, if any. The Committee should issue the report before or concurrent with the next annual proxy statement.

Withdrawal—James McRitchie withdrew at **Nvidia** after discussions.

SEC action— **Amazon.com** and **Repligen** both are arguing at the SEC that the proposal concerns ordinary business since it is primary about employee compensation despite references to broader societal concerns. **Meta** adds that this is a workforce management concern.

"Competitive" employee compensation: Two ICCR members are asking **Dollar Tree** and **Kroger** to address the tight labor market caused by the pandemic. At Dollar Tree, it seeks a report:

> on risks to its business strategy in the face of increasing labor market pressure. The report should, at minimum, (1) explain how the Company's forward-looking strategy and incentives will enable competitive employment standards, including wages, benefits and employee safety and (2) include particular attention to its lowest paid employees across geographies.

At **Kroger**, it is similar but asks about "the risks of increasing labor market pressures to its business plan. The report should address to what extent the Company's workforce strategy includes competitive wage, benefit, and safety conditions for all its associates across all racial and gender demographics."

SEC action—**Dollar Tree** is arguing this is an ordinary business issue since it is about employee compensation and workforce management.

Tipped wages: At two restaurant companies—**Denny's** and **Dine Brands**—the focus also is on low wages. The resolution asks for a report on "the feasibility of increasing tipped workers' starting wage to a full minimum wage, per state and federal levels, with tips on top to address worker retention issues and economic inequities." This is a new resolution and so far neither company has lodged a challenge at the SEC.

Inequality and financial priorities: Continuing its concern about the societal costs of company action, The Shareholder Commons wants **Marriott International** and **Tractor Supply** to report on

> (1) whether the Company participates in compensation and workforce practices that prioritize Company financial performance over the economic and social costs and risks created by inequality and racial and gender disparities and (2) the manner in which any such costs and risks threaten returns of diversified shareholders who rely on a stable and productive economy.

SEC action—Last year, Marriott persuaded the SEC a similar proposal was ordinary business, but the request was slightly different, seeking a report "on the external social costs created by the compensation policy of our company." While Marriott has yet to lodge a challenge this year, **Tractor Supply** is arguing at the SEC that this year's proposal also is ordinary business.

Detailed pay report: Individual Jan Ott faces an SEC challenge from **JPMorgan Chase**, which argues her proposal concerns workforce management and therefore is an ordinary business issue. The resolution asks for annual reports "of pay and total estimated compensation for each role, broken down by location, for the prior year giving the mean, median, and pay band (high/low) for the role, both weighted and unweighted for Cost of Living Adjustments (COLA)." (A gender/minority pay reporting resolution at the bank received 9.9 percent in 2020 and 31 percent in 2019.)

Race and Gender Pay Gaps

Median pay gap: Arjuna Capital and Proxy Impact have filed dozens of resolutions trying to persuade companies to report on differential pay rates for women and people of color, compared to White men. At first, they asked only about policies and goals "to reduce" the gap and companies started agreeing to do so. Later proposals sought data on the median pay gap that shows the extent to which higher-level employees are disproportionately White (and have higher pay). Common ground was scarcer for this specific reporting and half of the 2020 votes were too low, missing resubmission thresholds. In 2021, votes rebounded, with a high of 40 percent at **Microsoft** and three others above 23 percent. This year has had strong early votes with 34.5 percent at **Apple** and 59.4 percent at **Disney**. The proposal is pending at six companies and asks for a report

> on both median and adjusted pay gaps across race and gender, including associated policy, reputational, competitive, and operational risks, and risks related to recruiting and retaining diverse talent…. Racial/gender pay gaps are defined as the difference between non-minority and minority/male and female median earnings expressed as a percentage of non-minority/male earnings (Wikipedia/OECD, respectively).

The proposal has earned 34.5 percent at **Apple** and is pending at **Amazon.com** (where it earned 25.9 percent last year; this is the proposal's fourth year), **Best Buy**, **Chipotle Mexican Grill**, **CIGNA** (32.6 percent last year; resubmitted for a fourth year) and **Lowe's**.

Withdrawals—Arjuna Capital withdrew at **Home Depot** because it agreed to provide the requested information. In 2021, after two decades of proposals, Home Depot agreed to release its EEO-1 data on workforce composition by job category in response to a proposal from the New York City Comptroller. Proxy Impact also has withdrawn at **Target** because it will provide adjusted and unadjusted (median) pay gap data by gender for all employees globally and by race in the United States.

SEC action—SEC staff turned back a request to have the resolution omitted at **Walt Disney**. The company argued it could be omitted on ordinary business grounds because it is being sued in California. Separately, in 2021 Disney did agree to release its EEO-1 data and have a "deeper discussion" about other data such as recruitment, retention and promotion rates, prompting proponents to withdraw a resolution about diversity programs.

Race and pay: The Franciscan Sisters of Perpetual Adoration have returned to **Walmart** with a proposal that earned 12.7 percent last year. It asks that the company report "on whether and how Walmart's racial justice goals and commitments align with the starting pay for all classifications of Walmart associates."

Compensation & Pay Gaps

Company	Proposal	Proponent	Status
3M	Consider pay disparity in CEO compensation	John Chevedden	omitted
Amazon.com	Report on gender/minority pay disparity	Arjuna Capital	May
Amazon.com	Report on employee stock ownership by job category	James McRitchie	May
Apple	Report on gender/minority pay disparity	Arjuna Capital	34.5%
Applied Materials	Consider pay disparity in CEO compensation	Jing Zhao	March
AT&T	Consider pay disparity in CEO compensation	Jing Zhao	April
Bank of America	Consider pay disparity in CEO compensation	James McRitchie	withdrawn
Best Buy	Report on gender/minority pay disparity	Proxy Impact	June
Bristol-Myers Squibb	Consider pay disparity in CEO compensation	James McRitchie	withdrawn
Chipotle Mexican Grill	Report on gender/minority pay disparity	Arjuna Capital	May
Chipotle Mexican Grill	Consider pay disparity in CEO compensation	James McRitchie	May
CIGNA	Report on gender/minority pay disparity	Proxy Impact	April
Denny's	Report on paying higher starting wages	Benedictine Srs. - Mt. St. Scholastica	May
Dine Brands	Report on paying higher starting wages	Srs. of Charity of the Blessed Virgin Mary	May
Dollar Tree	Report on competitive employee compensation strategy	United Church Funds	June
Edwards Lifesciences	Consider pay disparity in CEO compensation	Myra K. Young	withdrawn
Goldman Sachs	Consider pay disparity in CEO compensation	James McRitchie	withdrawn
Home Depot	Report on gender/minority pay disparity	Arjuna Capital	withdrawn
International Business Machines	Consider pay disparity in CEO compensation	James McRitchie	withdrawn
Johnson & Johnson	Consider pay disparity in CEO compensation	James McRitchie	April
JPMorgan Chase	Provide detailed report on pay by job category	Jan Ott	May
Kellogg	Consider pay disparity in CEO compensation	James McRitchie	April
Kimberly-Clark	Consider pay disparity in CEO compensation	James McRitchie	April
Kroger	Report on competitive employee compensation strategy	Srs. of the Presentation Blessed Virgin Mary	June
Lowe's	Report on gender/minority pay disparity	Arjuna Capital	June
Marriott International	Report on inequality and financial priorities	The Shareholder Commons	May
Meta Platforms	Report on employee stock ownership by job category	James McRitchie	May
Nvidia	Report on employee stock ownership by job category	James McRitchie	withdrawn
PetMed Express	Report on employee stock ownership by job category	James McRitchie	July
PPG Industries	Consider pay disparity in CEO compensation	AFL-CIO	April
Repligen	Report on employee stock ownership by job category	John Chevedden	May
Target	Report on gender/minority pay disparity	Proxy Impact	withdrawn
Tractor Supply	Report on inequality and financial priorities	The Shareholder Commons	May
Walmart	Report on pay and racial justice	Franciscan Srs. of Perpetual Adoration	June
Walt Disney	Report on gender/minority pay disparity	Arjuna Capital	50.4%

Working Conditions

Just over two dozen resolutions are about working conditions, with several new angles. Companies have challenged many of them at the SEC, mostly arguing that conditions in the workplace are a matter of long-established ordinary business about which shareholders should not weigh in. Many of the new proposals about working conditions come from trade unions, which beg to differ about who should have input on working conditions, for obvious reasons.

Working Conditions & Benefits

Company	Proposal	Proponent	Status
Activision Blizzard	Review/report on workplace bias policy	New York State Common Retirement Fund	June
Alphabet	Report on concealment clause risks	Whistle Stop Capital	June
Amazon.com	Commission worker health and safety audit	Domini Social Investments	May
Amazon.com	Report on differential race/gender injury rates	NYC pension funds	withdrawn
Amazon.com	Commission worker health and safety audit	Tulipshare	May
Amazon.com	Report on human capital management	UAW Retiree Medical Benefits Trust	May
Amazon.com	Adopt paid sick leave policy	United Church Funds	withdrawn
Amazon.com	Report on concealment clause risks	Whistle Stop Capital	May
Apple	Report on concealment clause risks	Nia Impact Capital	50.0%
Best Buy	Report on worker misclassification risks in supply chain	Teamsters	June
Comcast	Review/report on workplace bias policy	Arjuna Capital	June
CVS Health	Adopt paid sick leave policy	Trillium Asset Management	May
Etsy	Report on concealment clause risks	Nia Impact Capital	June
ExxonMobil	Report on accidents with replacement workers	AFL-CIO	May
Goldman Sachs	Report on mandatory arbitration	Nathan Cummings Foundation	withdrawn
Home Depot	Adopt paid sick leave policy	Zevin Asset Management	May
International Business Machines	Report on concealment clause risks	Clean Yield Asset Management	April
JPMorgan Chase	Report on mandatory arbitration	Nathan Cummings Foundation	withdrawn
Kroger	Adopt paid sick leave policy	Srs. of St. Francis of Philadelphia	June
Lowe's	Report on worker misclassification risks in supply chain	Teamsters	June
Meta Platforms	Report on concealment clause risks	Whistle Stop Capital	May
Morgan Stanley	Report on mandatory arbitration	Nathan Cummings Foundation	withdrawn
Salesforce.com	Report on concealment clause risks	Whistle Stop Capital	June
Starbucks	Review/report on workplace bias policy	New York State Common Retirement Fund	March
Target	Adopt paid sick leave policy	Mercy Investment Services	June
Target	Report on worker misclassification risks in supply chain	SOC Investment Group	June
Tesla	Review/report on workplace bias policy	New York State Common Retirement Fund	October
TJX	Report on worker misclassification risks in supply chain	Teamsters	June
Twitter	Report on concealment clause risks	Whistle Stop Capital	May
Urban Outfitters	Report on worker misclassification risks in supply chain	Teamsters	June
Walt Disney	Establish pandemic safety protocols	Stephen C. Stubberud	omitted

Concealment clauses: The biggest single group of proposals was inspired by the common use of concealment clauses in employment contracts, which are widely known to suppress information about sexual harassment and other employment problems such as wage theft or discrimination. A growing number of large companies has stopped using mandatory arbitration for cases involving sexual harassment, because of these problems, but it is still common practice.

Three social investment firms are asking 10 companies to report, "assessing the potential risks to the company associated with its use of concealment clauses in the context of harassment, discrimination and other unlawful acts." It is pending at **Alphabet**, **Amazon.com**, **Etsy**, **IBM**, **Meta Platforms**, **Salesforce.com** and **Twitter**. The vote at **Apple** was 50.0 percent.

SEC action—Earlier, the New York City Comptroller's Office and trade unions in 2019 asked nine companies to end what they defined as "inequitable employment practices," such as mandatory arbitration and non-disclosure agreements for employment related claims, including but not limited to sexual harassment. The SEC at the time agreed this was an ordinary business issue, saying it related "generally to the Company's policies concerning its employees, and does not focus on an issue that transcends ordinary business matters."

advocacyposition

CONCEALING HARASSMENT AND DISCRIMIMNATION CLAIMS HINDERS DIVERSITY EFFORTS

MEREDITH BENTON
Principle, Whistle Stop Capital

KRISTIN HULL
Founder and CEO, Nia Impact Capital

In 2020, after George Floyd's murder, we monitored many of the CEO statements and company pledges to support the Black Lives Matter movement and to increase their diversity, equity, and inclusion efforts. Now, in 2022, employees and investors want to see real progress on these pledges.

Particularly in this time of the Great Resignation (the current wave of people quitting jobs), investors want to see signs that companies are building and nurturing a positive and inclusive workplace culture. They especially want action from companies with policies and practices that hinder development of an inclusive and equitable work environment.

This year, investors have filed resolutions asking that boards of directors prepare a public report assessing the potential risks associated with a company's use of concealment clauses. Concealment clauses are any employment or post-employment contract that a company requires its employees or contractors to sign that restricts them from speaking about their experience of harassment, discrimination, or other unlawful acts in the workplace.

Non-Disclosure Agreements (NDAs) make sense when we need to protect intellectual property or competitively sensitive information. They do not, however, make sense for cases of harassment or discrimination because they hide circumstances and trends and mask issues from other employees and from investors. Historically, concealment clauses have hurt women, people of color, and other marginalized groups. They conflict with efforts to increase and retain diverse company talent.

The resolutions filed are explicit in asking for board oversight as it is the responsibility of the board to both understand and manage situations where conflicts may exist between current practices and what actually benefits the company and its investors. Investors want to be sure that boards are aware of how often concealment clauses are being signed—and why. Boards of directors should make sure managers are not masking poor employee management practices via NDAs or mandatory arbitration.

Concealment clauses include mandatory arbitration. While the U.S. #MeToo movement saw a big win when Congress recently banned using forced arbitration for sexual harassment claims, racial discrimination cases were not included. Given the current climate, companies risk brand reputation and the ability to recruit top talent if they do not keep discrimination out of the workplace. Resolutions from investors can help move them toward best practices.

We believe companies are best served when they proactively allow employees to speak about harassment or discrimination and allow employees to file suit if discrimination occurs. If a company blocks legal recourse, investors want the board, at a minimum, to understand how often concealment clauses are used and the potential risks they can create.

The early indication is that other investors agree with us; on March 4th, Apple announced that our resolution received majority support from shares cast.

Investors stand to make real change by moving boards to assess the effects of these clauses and requirements on their diversity and inclusion efforts.

This year, in what seems to be a shift at the commission, **Apple** was unsuccessful in its effort to exclude the proposal on the grounds that it is ordinary business and moot. Challenges from **Amazon.com** and **Etsy** that argue company policies make the resolution moot have yet to be decided. (A proposal at Amazon in 2019 from the conservative National Legal and Policy Center at the company on sexual harassment earned 33.3 percent.)

Harassment and discrimination data: NYSCRF has a detailed request for data at **Starbucks** (where an early vote will occur on March 16). The proposal also is pending at **Activision Blizzard** and **Tesla**. It asks for an annual report,

> describing and quantifying the effectiveness and outcomes of company efforts to prevent harassment and discrimination against protected classes of employees, including, but not limited to, sexual harassment and racial discrimination. In its discretion, the board may wish to consider including disclosures such as:
>
> 1. the total number and aggregate dollar amount of disputes settled by the company related to sexual abuse or harassment or discrimination based on race, religion, sex, national origin, age, disability, genetic information, service member status, gender identity, or sexual orientation;
> 2. the average length of time it takes to resolve harassment complaints, the total number of pending harassment or discrimination complaints the company is seeking to resolve through internal processes or through litigation; and
> 3. whether the company uses nondisclosure or mandatory arbitration clauses in employment agreements, the company's assessment as to any negative effects on workers' ability to seek redress, and whether any exceptions are provided for harassment and discrimination matters.

> This Report should not include the names of accusers or details of their settlements without their consent and should be prepared at a reasonable cost and omit any information that is proprietary, privileged, or violative of contractual obligations.

Safe and inclusive workplace: Arjuna Capital has filed a resolution at **Comcast** like one that earned 22 percent last year and 13.1 percent in 2020. It asks for a report "assessing the effectiveness of the company's workplace sexual harassment policies, including the results of a comprehensive, independent audit/investigation, analysis of policies and practices, and commitments to create a safe, inclusive work environment.

Mandatory arbitration: The Nathan Cummings Foundation has reached agreements and withdrawn a proposal asking three financial companies—**Goldman Sachs**, **JPMorgan Chase** and **Morgan Stanley**—to report on their use of mandatory arbitration. The resolution asked for a report by the third quarter of this year, omitting personal data,

> on the impact of the use of mandatory arbitration on [the company's] employees and workplace culture. The report should evaluate the impact of [the company's] current use of arbitration on the prevalence of harassment and discrimination in its workplace and on employees' ability to seek redress.

While the resolution is new to Morgan Stanley, it earned 53.2 percent of shares cast in 2021 at Goldman Sachs. JPMorgan agreed to conduct the requested investigation this year and so did Goldman, which had argued the resolution was moot because of its report.

Worker misclassification: The SOC Investment Group and the Teamsters have a new proposal at five companies—**Best Buy**, **Lowe's**, **Target**, **TJX** and **Urban Outfitters**—about the risks of worker misclassification in their product supply chains, taking note of a new California law that aims to curb the practice in its ports, which are key link for goods entering the country from Asian manufacturers. It wants a report

> on the financial, reputational, and human rights risks resulting from the use in the Company's supply chain and distribution networks of companies that misclassify employees as independent contractors. The report should be…available at least 90 days prior to the 2023 annual shareholders meeting.

All but Urban Outfitters have lodged challenges at the SEC. The companies make several arguments about why the proposal is an ordinary business issue, saying it can be excluded because it concerns supplier relationships or standards, legal compliance or litigation, assessment of government regulations, workforce management, employee compensation, or workplace safety and working conditions. Best Buy also says the resolution is too vague.

Safety audit: Proponents filed two new but similar resolutions about worker safety at **Amazon.com**:

- Domini Social Investments asked it to

  > commission an independent third-party audit on workplace health and safety, evaluating:
  >
  > - productivity quotas,
  > - surveillance practices, and
  > - the effects of these practices on injury rates and turnover.
  >
  > The audit should be conducted with input from employees, experts in workplace safety and surveillance, and other relevant stakeholders; informed by recent state legislation; and address regulatory inquiry, and media coverage.

- Tulipshare, the new U.K.-based shareholder advocacy firm, asks for essentially the same thing, requesting "an independent audit and report of the working conditions and treatment that Amazon warehouse workers face, including the impact of its policies, management."

SEC action—The company has lodged challenges at the SEC, arguing both proposals are about ordinary business. Amazon further argues that if the SEC disagrees with its ordinary business argument that it should be able to exclude the Domini proposal because it was received first and the two are duplicative. (A similar proposal about worker health and safety in the Covid-19 pandemic was omitted on ordinary business grounds in 2021, as was a 2020 proposal about accident prevention.)

Differential injury rates: Also at **Amazon.com** is another new proposal from the New York City Comptroller's office, although the company has lodged an SEC challenge arguing it duplicates another proposal it received first seeking a racial justice audit. The proposal asks for a report

> examining whether Amazon's health and safety practices give rise to any racial and gender disparities in workplace injury rates among its warehouse workers and the impact of any such disparities on the long-term earnings and career advancement potential of female and minority warehouse workers. Among other things, the report shall include lost time injury rates for all warehouse workers, broken down by race, gender and ethnicity.

Human capital management: Still another proposal at **Amazon.com**, from the United Auto Workers Retirees' Medical Benefit Trust, voices concerns similar to those at **Dollar Tree** and **Kroger** on competitive employee compensation. The Amazon proposal is broader, however. It discusses the various challenges brought on by the Covid-19 pandemic and asks for a report

> on the risks to the Company related to ensuring adequate staffing of Amazon's business and operations, including risks associated with tighter labor markets, and how Amazon is mitigating or plans to mitigate those risks. The report should include a discussion of the extent to which Amazon relies on part-time, temporary and contracted workers in each of its three operating segments, and whether staffing considerations have affected any of Amazon's decisions about strategy, such as expansion plans or entering new geographies or lines of business.

Amazon is arguing at the SEC that this is a matter of ordinary business but also duplicates a proposal from the AFL-CIO about the pandemic's impact on diversity. *(See p. 57 under Diversity at Work.)*

Replacement workers and safety: The AFL-CIO has a new proposal at **ExxonMobil** about accidents and replacement workers, asking for a report "on flaring events and the risk of industrial accidents that may arise from the use of temporary replacement workers." The company says this is a matter of workplace management and ordinary business. ExxonMobil also contends the problem is a personal grievance because an AFL-CIO affiliated union, the United Steelworkers, was affected by a worker lockout in May 2021 that the proposal says created safety risks.

Pandemic safety: Safety also was on the mind of an individual proponent, Stephen C. Stubberud, who saw his proposal asking **Walt Disney** to establish pandemic-related safety protocols omitted on procedural grounds (he failed to prove his stock ownership). The resolution said, "Since management is so important to the continued success of the Walt Disney Company, special COVID-19 safety protocols shall be implemented," and went on to provide a detailed set of suggested actions that included immediately firing any employee who declined to be vaccinated and banning such employees from ever working for the company again.

Benefits

Paid sick leave: Last year several proposals asked for a report on extending pandemic paid sick leave benefits, but six were omitted on ordinary business grounds. Proponents nonetheless are trying again in 2022. The proposal is pending at **CVS Health**, **Home Depot**, **Kroger** and **Target**

> to adopt and publicly disclose a policy that all employees, part- and full-time, accrue some amount of PSL that can be used after working at Amazon for a reasonable probationary period. This policy should not expire after a set time or depend upon the existence of a global pandemic.

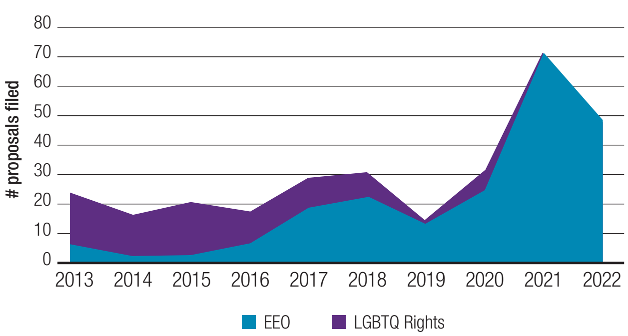
Withdrawal—The United Church Funds withdrew at **Amazon.com** after it learned the company already discloses its paid time off policies.

SEC action—**CVS Health** has lodged a challenge at the SEC, arguing it is ordinary business.

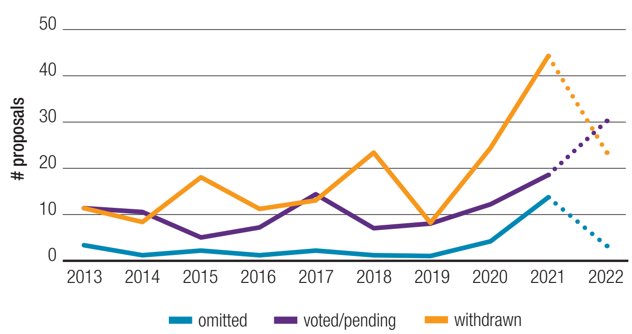
DIVERSITY IN THE WORKPLACE

Shareholder proponents responded last year to the Black Lives Matter movement by filing many more resolutions asking for disclosure of diversity in the workplace and in executive positions. They ended up withdrawing most of the requests that asked for a more diverse workforce, but remain interested this year in data on how companies manage programs that aim to root out racism. The number of proposals has dropped back from the 70 filed last year but is still high compared to previous years. Iniitial indications suggest that the high number of withdrawals last year will be replicated in 2022, since companies appear eager to show their commitments have teeth.

Types of Diversity at Work Proposals



Diversity at Work Outcomes



Proponents include most prominently *As You Sow*, the New York City and State pension funds and social investment firms.

(Proposals on gender/minority pay equity are in the Decent Work section above, p. 49. Board Diversity is in the Sustainable Governance section below (p. 74).

Analysis of diversity programs: Seventeen companies *(see table, p. 56)* face pending proposals asking them to provide more information annually about their diversity programs and outcomes. Five are resubmissions that earned substantial support in 2021, including two majorities: **Berkshire Hathaway** (27.1 percent), **Charter Communications** (41.4 percent), **Union Pacific** (81.4 percent), **United Parcel Service** (33.7 percent) and **American Express** (59.7 percent).

Resolution at 12 firms seek a report "on the outcomes of the Company's diversity, equity, and inclusion efforts" through "quantitative data on workforce composition, and recruitment, retention, and promotion rates of employees by gender, race, and ethnicity."

Variations—At **Charter Communications**, it specifies the report should cover "the process that the Board follows for assessing the effectiveness of its diversity, equity and inclusion programs," as well as its assessment of their effectiveness" with data on "goals, metrics, and trends related" for "promotion, recruitment, and retention of protected classes of employees." **Zoom Video Communications** is similar: the company also should report on its "diversity, equity and inclusion policies."

Compensation—The **Electronic Arts** resolution uses the Charter language noted above and adds to it a *request for pay data* broken down "by gender, race, ethnicity, sexual orientation, age, disability and veteran status."

At **Monster Beverage** and **Take-Two Interactive**, NYSCRF includes an explicit reference to standards in California, saying the report should cover

> recruitment, retention and promotion rates of employees by gender, race, ethnicity, sexual orientation, age, disability and veteran status. Disclosure of consolidated EEO-1 reporting as required by the Department of Labor and consolidated pay and hours-worked reporting required by the California Department of Fair Employment and Housing would provide reliable, comparable data to investors.

Withdrawals—Proponents have withdrawn at seven companies after agreements *(see table, p. 56)*.

SEC action—**NextEra Energy** has challenged the proposal at the SEC, arguing the proponent did not prove stock ownership and that the resolution is moot. Another pending challenge comes

advocacyposition

DATA TRANSPARENCY KEY TO IMPROVING DIVERSITY, EQUITY AND INCLUSION IN THE WORKPLACE

STEPHANIE RIVERS
Master of Public Affairs Candidate at UC Berkeley; Consultant, Whistle Stop Capital

As the great resignation rages on and businesses struggle to retain top talent, shareholders argue that more transparency about diversity and inclusion data will help companies drive needed advancements in social and racial equity. Some 65 shareholder proposals this year seek information on decent work, and another four dozen ask for workforce diversity data. Companies with boards reluctant to share insights on workforce recruitment, retention, and promotion by gender, race, and ethnicity are missing an opportunity. More transparency could build trust with investors and current employees and identify gaps and needed systemic fixes.

Right now, shareholders evince a lack of trust and so do employees. A recent survey by All Voices finds that only 38 percent of human resource professionals "are highly confident they're hearing about policy issues or employee discomfort" and sees a need for better systems and transparency; it highlights a correlation between poor workplace practices and low retention.

A growing number of employees would rather take a chance in the post-Covid-19 labor market than remain in unfulfilling roles or experience toxic work culture, as shown by the 4.5 million people who quit in November 2021.

Companies are reaffirming commitments to diversity, equity, and inclusion (DEI) in the workplace but not sharing data investors want. *As You Sow* found that 56 percent of Russell 1000 companies made statements after George Floyd's murder, but less than 20 percent of these companies have released their EEO-1 data, a government-mandated but non-public report on workplace composition. Far fewer than 20 percent have released more expansive inclusion data on matters such as employee recruitment, retention, and promotion. This dearth of transparency persists even after the unrest of 2020, renewed and widespread cultural commitments to social justice, and increasingly successful stakeholder activism in 2021.

"It's hard to find a company that hasn't made statements about the importance of diversity, equity, and inclusion (DEI) to their success and the level of import within their company," said Meredith Benton of Whistle Stop Capital. "However, insufficient data exist to assess or benchmark companies' workplace equity programs."

CEOs must support more disclosure to create accountability and improve social and racial equity in the workplace. More than 58 percent of leaders say they need to communicate better with employees on DEI goals and progress. Transparency about workforce deficiencies and gaps can show a genuine recommitment to diversity programs. Business leaders should prioritize this new normal and also develop plans to include shareholders in more defined and helpful roles.

Investors will better see how companies can move successfully out of the pandemic and the challenges it laid bare if the companies release diversity and retention data. This also will improve employee loyalty, diversity, and culture, underscoring the value and importance of a diverse and inclusive workforce for employees, customers, and other stakeholders.

from **Salesforce.com**, which also says there is a procedural problem, while additionally saying that the resolution duplicates a racial justice audit resolution it received first, and the proponent impermissibly filed another proposal. SEC disagreed with **Pfizer's** view that its current reports make the proposal moot.

EEO-1 data reporting: The NYC Comptroller is again spearheading a big push for corporate disclosure of the annual EEO-1 forms provided to the federal Equal Employment Opportunity Commission (EEOC), although the recipients have yet to be made public. The forms classify employees by race, gender and ethnicity in 10 standard job categories and their data allow company comparisons, although some argue the EEOC categories are not sufficiently tailored to their operations. Many companies provide information about their commitments to diversity and programs for employees and they have become much more likely to disclose EEO-1 data.

Pending proposals include those at **Activision Blizzard**, **Charter Communications** (where it earned 40.7 percent last year), **Kroger** and ten more. The proposal asks that each "disclose on its website the annual Consolidated EEO-1 Report that it is required to submit annually to the U.S Equal Employment Opportunity Commission (EEOC)." Some specify that the disclosure should occur no more than 60 days after it is submitted to the EEOC.

Diversity at Work

Company	Proposal	Proponent	Status
Activision Blizzard	Report on diversity programs	As You Sow	June
Activision Blizzard	Disclose EEO-1 data	Unitarian Universalists	June
Amazon.com	Report on pandemic impact on diversity	AFL-CIO	May
American Express	Report on diversity programs	As You Sow	withdrawn
American International Group	Report on diversity programs	As You Sow	May
Berkshire Hathaway	Report on diversity programs	As You Sow	May
Charles Schwab	Report on diversity programs	Proxy Impact	withdrawn
Charter Communications	Report on diversity programs	As You Sow	April
Charter Communications	Disclose EEO-1 data	Calvert Investment Management	April
Chipotle Mexican Grill	Report on diversity programs	Nathan Cummings Foundation	May
Danaher	Report on diversity programs	As You Sow	withdrawn
Dollar General	Disclose EEO-1 data	Boston Trust Walden	May
Electronic Arts	Report on diversity programs	New York State Common Retirement Fund	August
Exelon	Report on diversity programs	As You Sow	withdrawn
Hasbro	Report on diversity programs	As You Sow	withdrawn
HCA Healthcare	Report on diversity programs	New York State Common Retirement Fund	withdrawn
Intel	Report on racism at company	NorthStar Asset Management	May
IntercontinentalExchange	Adopt goals for improving minority representation	Trillium Asset Management	May
Kroger	Disclose EEO-1 data	New York State Common Retirement Fund	June
Monster Beverage	Report on diversity programs	New York State Common Retirement Fund	June
Netflix	Report on diversity programs	As You Sow	June
NextEra Energy	Report on diversity programs	As You Sow	May
Ormat Technologies	Report on executive diversity	Trillium Asset Management	withdrawn
PayPal	Report on diversity programs	As You Sow	May
PayPal	Report on racism at company	NorthStar Asset Management	May
Pfizer	Report on diversity programs	As You Sow	April
Ross Stores	Report on diversity programs	As You Sow	May
Salesforce.com	Report on diversity programs	As You Sow	June
SEI Investments	Disclose EEO-1 data	Boston Trust Walden	withdrawn
Take-Two Interactive Software	Report on diversity programs	New York State Common Retirement Fund	September
Union Pacific	Report on diversity programs	As You Sow	May
United Parcel Service	Report on diversity programs	As You Sow	May
Visa	Report on diversity programs	As You Sow	withdrawn
Zoom Video Communications	Report on diversity programs	New York State Common Retirement Fund	June

10 more EEO-1 reporting proposals and three on executive diversity also have been filed and most have been withdrawn.

Withdrawals—Boston Trust Walden reached agreement and withdrew at **Dollar General** and has withdrawn at **SEI Investments**. Nine more resolutions also have been withdrawn after agreements.

Racism: NorthStar Asset Management has resubmitted a proposal to **Intel** (where it received 11.3 percent last year) and **PayPal** (11.9 percent). It asks for an independent audit on "whether written policies or unwritten norms at Intel reinforce racism in company culture, and report to shareholders on planned remedies the Board intends to take in response." It suggests the report could examine if "policies or unwritten norms" do either of the following:

- Yield inequitable outcomes for employees based on race and ethnicity in patterns of hiring and retention, promotion, and upward mobility; disciplinary action; determining factors for allocation of "stretch assignments"; formal or informal sponsorship and mentorship; and employee usage of benefits, aggregated by company role and/or business unit;
- Establish a cultural hierarchy through perceived pressure to code-switch in appearance, demeanor, word choice, or other suppressions of cultural identity.

The proposal quotes the definition of structural racism used by the National Museum of African American History and Culture and argues that ending racism would yield substantial economic benefits. *(See Human Rights section, p. 61, for racial justice audit proposals.)*

Pandemic and diversity impact: The AFL-CIO has a new proposal at **Amazon.com** that asks about the pandemic's impact on workforce diversity. It asks the company to report on

> workforce turnover rates and the effects of labor market changes that have resulted from the coronavirus disease ("COVID-19") pandemic. The report should assess the impact of the Company's workforce turnover on the Company's diversity, equity and inclusion.

Amazon is arguing at the SEC that this is an ordinary business matter because it is about workforce management, but it also says the proposal duplicates another it received first seeking a racial justice audit.

Goals for diversity improvement: Trillium Asset Management wants **IntercontinentalExchange** to "set public company-wide, quantitative, and time-bound targets to increase the representation of minorities, particularly at the managerial and senior levels of the company."

Executive diversity: Trillium has been working to persuade companies to make their upper echelon jobs more diverse for several years. It has withdrawn a proposal after an agreement at **Ormat Technologies**. It had sought a report on the company's "assessment of the current state of its management team diversity and if and how it plans to make the company's management team more diverse in terms of race, ethnicity, and gender."

Further, a proponent has withdrawn a proposal asking for improved top management diversity at three companies that have yet to be named publicly.

ETHICAL FINANCE

Ethical Finance

Company	Proposal	Proponent	Status
Amazon.com	Report on tax compliance metrics	Missionary Oblates - Mary Immaculate	May
PayPal	Report on ethics policy	James A. Heagy	May

Two proposals on ethical finance have been filed in 2022 and both face SEC challenges. Several shareholder resolutions over the years have picked up on concerns about the amount of taxes companies pay, generally arguing that it is not enough. Many of these proposals have not made it past the SEC because companies have successfully argued taxes are an ordinary business issue.

The Missionary Oblates this year wants **Amazon.com** to "issue a tax transparency report to shareholders…prepared in consideration of the indicators and guidelines set forth in the Global Reporting Initiative's (GRI) Tax Standard." The resolution notes that when companies shift their profits offshore, it costs the U.S. government up to $100 billion a year, and that the Organization for Economic Cooperation and Development (OECD) estimates global costs may be $240 billion. The Oblates point out that one of the Global Reporting Initiative's standards seeks to address the problem. The proposal says Amazon now does not report on its "revenues, profits or tax payments in non-US markets, challenging investors' ability to evaluate the risks to our company of taxation reforms, or whether Amazon is engaged in responsible tax practices." It also observes that Amazon paid no U.S. corporate income taxes in 2020.

The other proposal this year comes from individual investor James A. Heagy, who wants **PayPal** to compare its Code of Business Conduct And Ethics "with the actual operations of the company." He says the codes states, "managing and moving money is a right for all citizens, not just the affluent," but takes issue with how it freezes accounts "without explanation."

SEC action: Amazon.com is arguing at the SEC that the tax proposal is ordinary business since it is about tax management. **PayPal** also says its resolution is ordinary business since it is about compliance with company policy and customer account management.

HEALTH

Health

Company	Proposal	Proponent	Status
AbbVie	Report on anti-competitive practices risk oversight	Mercy Investment Services	May
Amgen	Report on anti-competitive practices risk oversight	UAW Retiree Medical Benefits Trust	May
Coca-Cola	Report on food sales and financial priorities	Newground Social Investment	April
Costco Wholesale	Report on sustainable food policy	American Baptist Church	17.3%
CVS Health	Report on food sales and financial priorities	The Shareholder Commons	May
Eli Lilly	Report on anti-competitive practices risk oversight	Trinity Health	May
Johnson & Johnson	End sales of baby powder	Tulipshare	April
Gilead Sciences	Report on anti-competitive practices risk oversight	Mercy Investment Services	May
Johnson & Johnson	Report on public health costs of Covid vaccine limitations	Harrington Investments	April
Johnson & Johnson	Report on Covid drug pricing and subsidies	Oxfam America	April
Kroger	Report on reproductive health rights risks	Unitarian Universalists	June
Lowe's	Report on reproductive health rights risks	Education Foundation of America	May
Merck	Report on Covid drug pricing and subsidies	Oxfam America	May
Moderna	Report on Covid drug pricing and subsidies	Legal & General IM America	April
Moderna	Report on Covid vaccine technology transfer	Oxfam America	April
PepsiCo	Report on food sales and financial priorities	The Shareholder Commons	May
Pfizer	Report on Covid vaccine technology transfer	Oxfam America	April
Pfizer	Report on anti-competitive practices risk oversight	Srs. of St. Francis Charitable Trust	April
Pfizer	Report on public health costs of Covid vaccine limitations	The Shareholder Commons	April
Pfizer	Report on Covid drug pricing and subsidies	Trinity Health	withdrawn
Philip Morris International	End sales of all addictive products by 2025	Trinity Health	May
TJX	Report on reproductive health rights risks	Trillium Asset Management	June
Walgreens Boots Alliance	Report on tobacco health risks	Srs. of St. Francis of Philadelphia	11.4%
Walmart	Report on reproductive health rights risks	Clean Yield Asset Management	June

Shareholder proponents are reprising longstanding criticism about how pharmaceutical companies price their drugs and other products, focused largely as they were last year on Covid-19 treatments and fair access, but also on the perennial question of equitable access to drugs. In addition, another set of proposals seeks disclosure about public health issues, including most prominently reproductive health access for employees given current and impending U.S. restrictions on abortion, and tobacco. In all, just five of 24 proposals filed are resubmissions that went to votes last year.

Pharmaceuticals

Covid-19 treatments: Companies that developed and brought to market vaccines and treatments for the coronavirus face both old and new questions about fair access and how they price these products. There are three proposals:

- **Pricing and government subsidies**—Last year investors gave significant support for a proposal that asked for a report on government support for their research, at **Johnson & Johnson** (31.8 percent), **Merck** (33.6 percent) and **Pfizer** (28.3 percent). It has been refiled at all three, plus at **Moderna** for the first time, asking "whether and how [the company's] receipt" of public funds "for development and manufacture" of either vaccines or therapeutics for COVID-19 "is being, or will be, taken into account when engaging in conduct that affects access to such products, such as setting prices." It asks about the impact on pricing and (at Merck) "sharing intellectual property through voluntary licenses."

TECHNOLOGY TRANSFER NEEDED TO END COVID-19 VACCINE INEQUITY

DIANA KEARNEY

Senior Legal and Shareholder Advocacy Advisor, Oxfam America

Oxfam and co-filers have filed shareholder proposals at **Moderna** and **Pfizer** asking the companies to study how they might transfer Covid-19 vaccine technology and know-how to manufacturers in low- and middle-income countries. The companies' refusal to transfer mRNA technology is prolonging the Covid-19 pandemic. This not only preordains millions to unnecessary death and suffering, but also creates a massive drag on the global economy and poses significant risks to investors.

As the world approaches six million Covid-19 deaths—including nearly one million U.S. fatalities alone—the urgent need to rapidly transfer vaccine technology to all corners of the globe is clear. Yet, vaccine inequity remains a stark reality: while 72 percent of people in high-income nations have been fully vaccinated, this figure plummets to 5.5 percent in low-income countries. As the Delta and Omicron variants have made all too clear, these abysmal outcomes keep in place a breeding ground from which more variants may emerge, leading to more lives lost in rich and poor countries alike.

Rapid distribution of Covid-19 vaccines could end the pandemic in 2022. Because Moderna and Pfizer cannot produce enough vaccines to ensure everyone has access, they must transfer the mRNA technology to other manufacturers worldwide. Unfortunately, the companies refuse. In a misguided bid to maximize quarterly earnings, Pfizer and Moderna falsely claim that no other capable manufacturers exist. This willingness to sacrifice lives for short-term profit not only has consequences for global health, but also for the companies' long-term investors.

Why?

First, Moderna and Pfizer are "squandering their lead" by refusing to license mRNA technology to more than 120 manufacturers in low- and middle-income countries that experts say could produce the vaccine. Other manufacturers also are racing to develop their own mRNA technology. Rather than earn licensing profits and remain industry leaders, Pfizer's and Moderna's shortsightedness all but guarantees competitors will emerge with approved vaccines in two to three years. This will take away potentially lucrative licensing fees that would boost profits for long-term investors at Moderna and Pfizer.

Second, hoarding mRNA technology harms any investor with a diversified portfolio. Leaving vast swathes of the population unvaccinated prolongs the pandemic, dragging down financial markets across the board. The International Chamber of Commerce warns that the global economy could lose $9.2 trillion if developing economies do not have broad access to Covid-19 vaccines and that half of these losses would fall on advanced economies.

Finally, this public display of extreme greed poses a significant reputational risk. *The New York Times* has used disparaging headlines like "Moderna, Racing for Profits, Keeps Vaccine Out of Reach of Poor," and countless outlets have accused Pfizer of "bullying" governments into grossly unfair contract terms. Members of Congress have voiced rebukes, alongside derision from late night TV hosts. Such widespread condemnation has serious implications for the companies' brand values and long-term shareholders.

Given the enormous public health and economic damage that will be wrought by a prolonged pandemic—something that Moderna and Pfizer are uniquely positioned to end—Oxfam and co-filers urge investors to support our call to study the feasibility of transferring mRNA technology to other manufacturers worldwide.

- **Technology transfer**—Oxfam America coordinated filing of an additional proposal at **Moderna** and **Pfizer**, asking each to

  > commission a third-party report to shareholders…analyzing the feasibility of promptly transferring intellectual property and technical knowledge ("know-how") to facilitate the production of COVID-19 vaccine doses by additional qualified manufacturers located in low- and middle-income countries, as defined by the World Bank.

- **Public health costs of vaccine restrictions**—Harrington Investments and The Shareholder Commons have a new resolution at **Johnson & Johnson** and **Pfizer** that asks for a report on

  > (1) the public health costs created by the limited sharing of the Company's COVID-19 vaccine technologies and any consequent reduced availability in poorer nations and (2) the manner in which such costs may affect the market returns available to its diversified shareholders.

Withdrawal and SEC action—Last year, the SEC rejected arguments that the pricing resolution was about ordinary business or moot, and it has done so again this year at **Johnson & Johnson**. **Pfizer** this year said the pricing proposal was moot because of its agreement with the UN for distribution of an oral antiviral drug and Trinity Health withdrew before any SEC response.

The SEC has rejected **Moderna's** argument that the new technology transfer proposal is ordinary business and **Johnson & Johnson's** assertion that the public health costs proposal duplicates the technology transfer resolution. The commission has yet to respond to **Pfizer's** arguments seeking to exclude both the tech transfer and public health proposals.

"Anti-competitive practices": Shareholder proponents have reflected widespread public concern about how much Americans pay for pharmaceutical products for many years. In 2022, they have a new resolution that argues five companies—**AbbVie**, **Amgen**, **Gilead Sciences**, **Eli Lilly** and **Pfizer**—are creating risks for themselves and investors because of monopolistic pricing and the use of "patent thickets" that keep drug prices high. The resolution seeks a report from each company

> on how it oversees risks related to anticompetitive practices, including whether the full board or board committee has oversight responsibility, whether and how consideration of such risks is incorporated into board deliberations regarding strategy, and the board's role in [the company's] public policy activities related to such risks.

SEC action—**AbbVie**, **Eli Lilly** and **Pfizer** each argue at the SEC that the resolution is moot given their current discussion of risks. In addition, AbbVie and Pfizer both say it is ordinary business.

(Proposals that ask about congruency between drug companies' policies on access to medicine and their public policy influence efforts are covered under Corporate Political Influence, p. 46.)

Risk and Impact Assessment

Reproductive health: Rhia Ventures is in the third year of its campaign to combat eroding access to abortion and other reproductive and maternal healthcare products and services. It wants **Kroger**, **Lowe's**, **TJX** and **Walmart** to report by the end of the year

> detailing any known and any potential risks and costs to the company caused by enacted or proposed state policies severely restricting reproductive rights, and detailing any strategies beyond litigation and legal compliance that the company may deploy to minimize or mitigate these risks.

The proposal points to the wide array of legal challenges that affect employees' access to abortion and contraception, and the "patchwork" of relevant state laws. It reasons investors need to know how companies are responding given their stated support for diversity and inclusion.

SEC action—**Lowe's** and **Walmart** both are arguing at the SEC that the resolution concerns ordinary business, which was successful for Walmart last year.

(See the Corporate Political Influence section, p. 45, for related proposals about questioning the consistency of corporate policies supporting women and public policy influence efforts.)

Public health: A handful of resolutions look at how food and consumer products affect public health. Harrington Investments previously raised concerns about how sugary drinks affect public health, but its resumitted proposals last year did not earn enough to be resubmitted. This year, Newground Social Investments and Myra Young have teamed up with The Shareholder Commons with a similar theme at **CVS**, **Coca-Cola** and **PepsiCo** (where a similar iteration earned 12.2 percent in 2021). They ask for reports on links between "public health costs" created by food, beverage and candy products and the companies' "prioritization of financial returns" that may harm the long-term interests of diversified shareholders "who rely on a productive economy to support their investment portfolios."

SEC action—**CVS** says at the SEC that the resolution is ordinary business, which persuaded the commission last year with regard to a a similar proposal from Young. In contrast, **PepsiCo** last year was unsuccessful in its ordinary business challenge to the proposal about "external public health costs" imposed by its food and beverage business. **Coca-Cola** this year says the proposal can be omitted because it is is similar to Harrington's sugary drinks proposal last year that earned 9.3 percent, well shy of the 25 percent needed for resubmission. That proposal asked for "an assessment of risks to the company's finances and reputation associated with changing scientific understanding of the role of sugar in disease causation."

Sustainable food: The American Baptist Churches saw investors give 17.3 percent support to a proposal at **Costco Wholesale** this January that asked it to report

> if, and how, Costco applies its Sustainability Commitment to its core food business to address the links between structural racism, nutrition insecurity, and health disparities. The report may include systems Costco has in place to address racial justice and food equity concerns through product development, marketing, and distribution.

Costco told investors in the proxy statement that it addresses food insecurity by support for Feeding America, a food aid charity, and by providing affordable prices and quality food. The proposals argued more information is needed and said a September 2021 report from Costco was too focused on philanthropy. Investors had to decide if they wanted more explicit information on nutrition and racism, and if and how Costco can address it.

Baby powder ban: The new U.K.-based proponent, Tulipshare, filed a resolution at **Johnson & Johnson**, asking it to end all sales of talc-based baby powder, "in recognition of the social justice and public health issues raised by multiple organizations and agencies." The company has challenged the proposal at the SEC, arguing it concerns ordinary business since the company is being sued.

Tobacco: One of two tobacco proposals has already gone to a vote. The Sisters of St. Francis of Philadelphia earned 11.4 percent for a proposal that asked **Walgreens Boots Alliance** for a report "on the external public health costs created by the sale of tobacco products…and the manner in which such costs affect the vast majority of its shareholders who rely on overall market returns."

Trinity Health is taking a more direct approach at **Phillip Morris International**, asking it to "initiate steps to phase out all production of PMI's health-hazardous and addictive products by 2025."

HUMAN RIGHTS

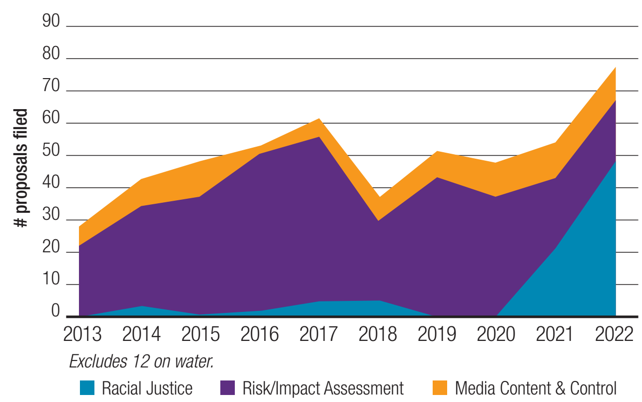
After the Black Lives Matter movement blossomed following the May 2020 murder of George Floyd in Minnesota, shareholder proponents shifted the bulk of their focus in proxy season to racial justice. Proposals last year started asking companies to examine how they may perpetuate or combat systemic racism, long the scourge of American society, and these proposals have multiplied for 2022. At the same time, proponents continue to raise longstanding concerns about setting standards and reporting on how they address human rights, often in far flung global supply chains. Proposals continue, too, about how companies control electronic media and its content, a vexing challenge that heightens our already fraught body politic. Also at issue is the struggle to combat authoritarianism around the globe. *(Top graph.)*

Human rights proposals have jumped more than 40 percent over last year and 75 are now set for votes, with just one omission to date and three withdrawals. Twenty face outstanding SEC challenges. Racial justice proposals have more than doubled to 51, up from 22 last year.

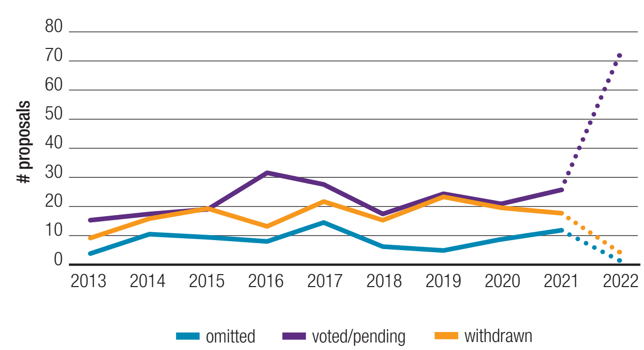
With human rights, companies and proponents seem to have a harder time reaching common ground compared to many other topis, and the number that go to votes tracks closely with the number withdrawn. *(Graph, right.)*

Proponents in the past have mainly come from the membership of the Interfaith Center on Corporate Responsibility, but the SOC Investment Group (formerly Change to Win or CtW), working with trade unions, has been a key driver of racial justice resolutions.

Types of Human Rights Proposal



Human Rights Outcomes



Racism & Indigenous Rights

Racism & Indigenous Peoples

Company	Proposal	Proponent	Status
3M	Report on environmental justice approach	New York State Common Retirement Fund	May
Alphabet	Report on racial justice impacts/plan	Bon Secours Mercy Health	June
Alphabet	Report on/end ties to police/military	Edward Feigen	June
Altria	Report on racial justice impacts/plan	Srs. of St. Francis of Philadelphia	May
Amazon.com	Report on racial justice impacts/plan	New York State Common Retirement Fund	May
American Water Works	Report on racial justice impacts/plan	Trillium Asset Management	May
Anthem	Report on racial justice impacts/plan	Trillium Asset Management	May
Apple	Report on racial justice impacts/plan	SEIU Master Trust	53.5%
Cerner	Report on software and racial equity	Parnassus Investments	withdrawn
Charles Schwab	Report on racial justice impacts/plan	As You Sow	withdrawn
Chemours	Report on environmental justice approach	New York State Common Retirement Fund	April
Chevron	Report on racial justice impacts/plan	Srs. of St. Francis of Philadelphia	May
Chipotle Mexican Grill	Report on racial justice impacts/plan	New York State Common Retirement Fund	May
Citigroup	Report on indigenous people policy	Srs. of St. Joseph of Brentwood	April
Coca-Cola	Report on racial justice impacts/plan	CommonSpirit Health	April
Comcast	Report on racial justice impacts/plan	SEIU Master Trust	June
Dollar General	Report on racial justice impacts/plan	As You Sow	May
Dollar Tree	Report on racial justice impacts/plan	New York State Common Retirement Fund	June
Dow	Report on racial justice impacts/plan	School Srs. of Notre Dame, St. Louis	May
Entergy	Report on racial justice impacts/plan	As You Sow	May
Eversource Energy	Report on racial justice impacts/plan	As You Sow	withdrawn
Goldman Sachs	Report on racial justice impacts/plan	SEIU Master Trust	April
Home Depot	Report on racial justice impacts/plan	SEIU Master Trust	May
Honeywell International	Report on stakeholder consultation and risk remediation	Franciscan Sisters of Allegany, NY	May
Invesco	Report on racial justice impacts/plan	SEIU Master Trust	May
Johnson & Johnson	Report on racial justice impacts/plan	Trillium Asset Management	April
Kinder Morgan	Report on stakeholder consultation and risk remediation	As You Sow	withdrawn
LHC Group	Report on racial justice impacts/plan	Trillium Asset Management	June
Martin Marietta	Report on racial justice impacts/plan	As You Sow	May
Match Group	Report on racial justice impacts/plan	New York State Common Retirement Fund	June
Maximus	Report on racial justice impacts/plan	SEIU Master Trust	March
McDonald’s	Report on racial justice impacts/plan	SOC Investment Group	May
Mondelēz International	Report on racial justice impacts/plan	SHARE	May
NiSource	Report on racial justice impacts/plan	As You Sow	May
Oracle	Report on racial justice impacts/plan	SEIU Master Trust	November
Pfizer	Report on racial justice impacts/plan	SEIU Master Trust	April
Republic Services	Report on racial justice impacts/plan	Parnassus Investments	May
Salesforce.com	Report on racial justice impacts/plan	Tulipshare	June
Southern	Report on racial justice impacts/plan	SEIU Master Trust	May
Stericycle	Report on racial justice impacts/plan	Teamsters	May
SVB Financial Group	Report on racial justice impacts/plan	Trillium Asset Management	April
Travelers	Report on underwriting racist policing	Arjuna Capital	May
Travelers	Report on racial justice impacts/plan	Trillium Asset Management	May
Tyson Foods	Report on racial justice impacts/plan	American Baptist Church	withdrawn
Uber Technologies	Report on racial justice impacts/plan	As You Sow	May
Valero Energy	Report on racial justice impacts/plan	SEIU Master Trust	April
Verizon Communications	Report on racial justice impacts/plan	Zevin Asset Management	May
Waste Management	Report on racial justice impacts/plan	Teamsters	May
Wells Fargo	Report on indigenous people policy	American Baptist Church	April
Wells Fargo	Report on racial justice impacts/plan	SEIU Master Trust	April
XPO Logistics	Report on racial justice impacts/plan	Teamsters	May

advocacyposition

GROWING SUPPORT FOR RACIAL JUSTICE AUDITS

NADIRA NARINE

Senior Program Director, Interfaith Center on Corporate Responsibility

Interfaith Center on Corporate Responsibility (ICCR) members have a long history of supporting calls for diversity and justice, including respect for the rights of Indigenous Peoples and addressing the negative impacts of policies and practices on communities of color. ICCR-member proposal filings on racial justice issues continue to grow and are the second-most frequently filed category of resolutions for 2022, largely because of 32 resolutions from our members that ask for racial equity audits (REAs) and civil rights audits (CRAs). We see these as connected to other proposals about the negative racial justice impacts of employment practices, including those that seek improved representation in the workplace and better pay.

Last year, SOC Investment Group and the Service Employees' International Union asked systemically important financial companies to conduct racial equity and civil rights audits, to assess the differential impacts of their products, services and overall corporate practices on non-white stakeholders and communities of color. The proposals are building momentum for using REAs to combat systemic racism. For instance, last summer the U.S. House of Representatives considered legislation that would require banks to carry out racial equity audits every two years. The Harvard Law School Forum on Corporate Governance examined the issue last October, as well, predicting more attention to the issue.

In 2022, the number of proposals calling for REAs and CRAs has more than tripled. ICCR members are asking companies including **Alphabet**, **Amazon**, **Apple**, **Mondelēz International**, **Tyson Foods** and **Wells Fargo** to oversee third-party audits analyzing the adverse impact of company policies and practices on the civil rights of their stakeholders, and to provide recommendations for improving their civil rights impacts, incorporating input from racial justice and civil rights groups and employees. The Apple proposal received a majority vote of 53 percent. SEIU this year announced the campaign on January 6th.

While many companies have issued statements in support of the movement for Black lives, REAs and CRAs are a tool to hold these companies accountable for the statements. Last year, SEIU successfully negotiated withdrawals at **Blackrock** and **CoreCivic** after the companies agreed to conduct REAs; meanwhile, support was in the double digits for those resolutions that went to a vote at **State Street**, **Goldman Sachs** and **Wells Fargo**. This year, State Street has responded to an SEIU proposal by agreeing to conduct the requested racial equity audit; Tyson similarly agreed to conduct a racial equity audit in response to a proposal from Investor Advocates for Social Justice.

ICCR members and its partners are proud of this record and look forward to pushing companies for more accountability, particularly where problems are endemic in their business practices.

More information on racial justice proposals from ICCR members, with descriptions of all the resolutions and voting recommendations, appears in ICCR's 2022 Proxy Book, released in February.

Racial Justice/Civil Rights Audits

Last year most resolutions seeking racial justice audits went to financial firms the proponents considered systemically important, each with a legacy of discriminatory practices. The campaign has branched out to encompass not only financial players, but also retailers, food purveyors, healthcare companies, industrial and materials firms, the tech sector and utilities.

All but six of the 2022 proposals are at new recipients. Votes last year were at **Amazon.com** (44.2 percent), **Goldman Sachs** (31.4 percent), **Home Depot** (13.3 percent), **Johnson & Johnson** (33.9 percent), **Oracle** (31.8 percent) and **Wells Fargo** (13.1 percent).

The proponents take note of various types of systemic racism and company connections to it, noting public company commitments but also deep underrepresentation for people of color in upper-level jobs. They argue addressing racism will make companies better run and more profitable, as well as more equitable and just. Some cite findings from *As You Sow's* Racial Justice Scorecard that compares company policies. Proposals also name specific stakeholder groups to consult. All seek external expertise and advice for steps companies should take.

Promote justice: *As You Sow* has the pithiest version, asking **Entergy** and **Martin Marietta** each simply to report on their plans "to promote racial justice."

Civil rights, equity, diversity and inclusion business impact: With slight variations proponents ask **Dollar General**, **Amazon.com** (a repeat) **Chipotle Mexican Grill**, **Dollar Tree**, **Match Group** and **Salesforce.com** to commission and report on

> a racial equity audit analyzing [the company's] impacts on civil rights, equity, diversity and inclusion, and the impacts of those issues on [the company's] business. The audit may, in the board's discretion, be conducted by an independent third party with input from civil rights organizations, employees, communities in which [the company] operates and other stakeholders.

advocacyposition

CHANGING CORPORATE ATTITUDES ON RACIAL JUSTICE

OLIVIA KNIGHT
Racial Justice Initiative Manager, As You Sow

After George Floyd's murder in May 2020, stakeholders in public companies asked management and boards what they could do about racial injustice. Without any metrics to define best practices and separate leaders from laggards, there was no way to measure and therefore manage this critical social issue. To fill this gap, *As You Sow* developed two interlocking scorecards on Racial Justice and Diversity, Equity, and Inclusion (DEI) that cover the Russell 1000. We developed 57 Key Performance Indicators (KPIs) to guide companies on the path to achieve racial equity inside their organizations and establish a standard, supporting dozens of related shareholder engagements and resolutions.

The events of 2020 forced a broad reckoning for corporate accountability. When we began corporate dialogues using our scorecards on racial equity in the fall of 2020, many companies were hesitant to disclose DEI data and were struggling with terms such as 'systemic racism' and 'anti-racism.' Company representatives typically did not understand how these terms and concepts fit into their corporate sphere. Over the last two years, through our engagements and those of our allies, we have seen an increasing number of companies realize the importance of transparency on DEI metrics and policies. More also see a need for racial equity and civil rights audits to uncover deep workplace inequities, providing a basis for the corporate transition into a more just and equitable workplace.

As You Sow has filed 27 racial justice disclosure and reporting resolutions in 2022 and already has withdrawn eight. During our dialogues with companies throughout 2021 and 2022, two consistent responses emerged. Many companies acknowledged racial equity as a material risk and elected to use the scorecard metrics as a guide to achieve disclosure. Some proactive companies already had been building their DEI programs for years while others developed new internal policies they have yet to disclose publicly (some seeing it as a competitive advantage).

We have encouraged companies to develop and publicly disclose racial equity and DEI as material issues of concern to their investors and shareholders. In our withdrawals this year, companies have promised to make public detailed DEI metrics, including hiring, retention, and promotion rates by race, ethnicity, and gender, with details on internal programs.

Shareholder proponents filing racial justice resolutions have seen corporate attitudes evolve, shifting in a few years from quiet conversations behind closed doors to transparent public disclosure, buttressed by a desire for growth and change. Racial equity and DEI shareholder initiatives have educated companies on the vital importance of action and the impact on their brand, culture, and ability to attract and retain the best and brightest talent. This is emerging terrain; we plan to add more KPIs this year to broaden the theme of environmental racism and artificial intelligence bias. Racial equity and civil rights audits expand the scope of conversations and how we expect companies to address the intrinsic injustices that are built into their businesses. While companies are at different points on the path toward racial justice, shareholder engagements and clear metrics are providing guidance to keep them on track.

Community impacts: The resubmissions at **Oracle** and **Wells Fargo** ask each board to "oversee a racial equity audit analyzing [the company's] impacts on non-white stakeholders and communities of color," with input from "civil rights organizations and employees" about "the specific matters to be analyzed." This proposal also is pending at **Alphabet**, where it suggests additional stakeholders include "temporary vendors and contractors," while at **Verizon Communications** it is the same but mentions "contractors."

At nine more companies—(repeats at **Goldman Sachs** and **Home Depot** and newly at **Invesco**, **Maximus**, **Mondelēz International**, **Southern**, **Stericycle**, **Valero** and **Pfizer**)—it asks for the same thing but adds "customers" to the list of stakeholders. At **Comcast**, the proposal notes the company settled race and pay discrimination cases with the U.S. Department of Labor in 2020. At **Maximus** and **Home Depot**, it includes a carveout to exclude matters in litigation.

Civil right policy and impact: A grab bag of companies—**Apple**, **McDonald's**, **Uber Technologies**, **Waste Management** and **XPO Logistics**—is asked about the "adverse impact of [the company's] policies and practices on the civil rights of company stakeholders," with "recommendations for improving the company's civil rights impact" after input "from civil rights organizations, employees, and customers."

SEC action—**McDonald's** says the resolution is ordinary business because it is being sued about alleged civil rights violations. (The proposal does not include a litigation carveout like some others.)

Products and services: At another four companies—**Anthem**, **LHC Group**, **SVB Financial** and **Travelers**—the request also is for a report on improvements, but regarding "policies, practices, products and services." This is the first human rights proposal at Anthem and the first-ever at LHC, which provides health services to government assistance program recipients in the American South. The resolution is also new to SVB Financial, although Trillium Asset Management withdrew a resolution there after it agreed to assess and report on executive diversity in 2020.

Johnson & Johnson is asked simply about "improving the racial impacts of its policies, practices and products." The proposal says, "Healthcare companies have a history with and ongoing struggle to address disparate racial impacts," and takes note of controversies and litigation about the company's talcum powder, which it stopped selling domestically in 2020 but continues to sell elsewhere. The proposal comments, "Claims that it aggressively marketed to Black and Brown women after its talc supplier included the WHO's "possibly carcinogenic" label on shipments are troubling." It also notes criticism that company has faced about its Covid-19 vaccine distribution decisions. (A similar iteration of the proposal last year earned 34 percent support.) *(See p. 61 for a proposal at Johnson & Johnson seeking an end its talcum powder sales.)*

The Sisters of St. Francis of Philadelphia are more expansive at **Altria**. Like others, the proposal requests a "third-party civil rights equity audit but it also asks that the review

> assess the impact of the Company's policies, practices, products and services on BIPOC (Black, Indigenous and people of color) and Latinx/a/o/e communities, including youth. Input from civil rights organizations, employees, customers, and communities in which Altria operates and other stakeholders should be considered.

SEC action—The SEC disagreed that the **Johnson & Johnson** proposal duplicates another it received first from the conservative National Center for Public Policy Research, which asks about the *risks* of a racial justice audit while using language in favor of racial justice audits, which it does not support. *(See Conservatives, p. 85.)*

Travelers says the proposal is ordinary business, would be illegal, cannot be implemented, and is both too vague and false and misleading. The company did agree to release detailed diversity data on its employees in 2020, following a 2020 resolution that earlier earned 50.9 percent in 2019.

Environmental Justice

Differential impacts: Five proposals discuss "environmental justice." At **American Water Works** the proposal raises a specific concern about low-income residents who would be affected by a desalinization plant and asks for a third-party audit "which assesses and produces recommendations for improving the racial impacts of its policies, practices, products, and services" with contributions "from stakeholders, including civil rights organizations, employees, and customers" to determine the issues examined.

A 2021 request for an environmental justice report at **Chevron** was omitted on ordinary business grounds after the company noted it was being sued on the subject. This year, proponents have resubmitted to Chevron a similar version seeking

> an independent racial equity audit, analyzing if, and how, Chevron's policies and practices discriminate against or disparately impact communities of color. The report should clearly identify, and recommend steps to eliminate, business activities that further systemic racism, environmental injustice, threaten civil rights, or present barriers to diversity, equity, and inclusion (DEI). Input from impacted workers, community members, customers, or other relevant stakeholders should inform the audit and report.

The resolution notes that the report "should exclude confidential and proprietary information, as well as information relevant to any pending legal proceeding or threatened proceeding of which Chevron has notice." Proponents also have filed this proposal at **Dow** for the first time.

At **3M** and **Chemours**, NYSCRF has a similar but more detailed version, asking for a report:

> on environmental justice, updated annually, describing its efforts, above and beyond legal and regulatory compliance, to identify and reduce heightened environmental and health impacts from its operations on communities of color and low-income communities. The report should be prepared at a reasonable cost and omit confidential or legally privileged information, including litigation strategy, and should be publicly disclosed on [the company's] website. Such a report should consider, at board and management discretion:
>
> - Past, present, and future disparities in environmental and health impacts from its operations;
> - Any [company] policy statements or commitments on environmental justice;
> - How responsibilities are allocated within the company for governance and management of environmental justice issues;
> - Quantitative metrics on impacts and a qualitative discussion as to how this information informs business decisions;
> - How [the company] communicates any commitment to environmental justice to the communities in which it operates;
> - Any initiatives, engagements or investments in environmental justice communities;
> - Whether [the company] intends to adjust it policies and practices in the future.

At **Republic Services**, a trash and recycling firm that has yet to consider such a resolution, the focus is on environmental impacts, seeking "a third-party environmental justice audit (within reasonable time and cost) which assesses the heightened racial impacts of Republic Services' operations and produces recommendations for improving them," with input from civil rights groups and "affected community members.

Risk consultation: The Franciscan Sisters of Allegheny, N.Y., and *As You Sow* are concerned about how companies' environmental impacts disproportionately affect the communities in which they operate, noting this generally means disadvantaged communities of color. There are two similar proposals. At **Honeywell International**, the resolution asks for a report on its due diligence process to identify and address environmental and social risks related to emissions, spills, or discharges from Honeywell's operations and value chain. The report should:

- Explain the types and extent of stakeholder consultation; and
- Address Honeywell's plans to track effectiveness of measures to assess, prevent, mitigate, and remedy adverse impacts on the environment and human health.

At **Kinder Morgan**, the proposal asks for "a public report quantifying emissions released from its facilities that impact local communities and describe how the company intends to address and reduce such community impacts from its operations."

SEC challenge—Kinder Morgan says its current reporting makes the resolution moot and *As You Sow*, which had filed on behalf of Warren Wilson College, withdrew before any SEC response.

Indigenous Rights

A proposal at **Citigroup** and **Wells Fargo** raises concerns about policies about indigenous peoples, seeking a report "outlining how effective" current "policies, practices, and performance indicators are in respecting internationally recognized human rights standards for Indigenous Peoples' rights in its existing and proposed general corporate and project financing." The issue last went to a vote at Citigroup in 2018, when a proposal asking for a policy earned 5.8 percent. At Wells Fargo, it expresses concern about the company's financing of pipelines on indigenous lands. Both companies do have policies about respecting indigenous rights.

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PIPELINE FINANCE AND RESPECT FOR INDIGENOUS RIGHTS

KATE R. FINN
First Peoples Worldwide

JILLIANNE LYON
Investor Advocates for Social Justice

Oil is already flowing through the **Enbridge** Line 3 tar sands pipeline, a project that has been subject to several years of protest, litigation, and opposition led by Indigenous Peoples and Indigenous-led organizations. Line 3, recently renamed "Line 93," doubles the pipeline's previous capacity, transporting 760,000 barrels of oil a day from Alberta, Canada, to Wisconsin—traveling through Anishinaabe territory in the process. Pipelines like Line 3 violate numerous rights of Indigenous Peoples as protected by international law, including the rights to free, prior, and informed consent (FPIC); health; culture; religion; security; and assembly. In particular, these pipelines threaten the quality of water needed for growing *manoomin*, or wild rice, a critical cultural resource for the Anishinaabe.

Line 3 is a $7 billion project funded by dozens of banks, largely through general corporate finance, as Enbridge did not seek specific project financing. According to the Sightline Institute, "If Enbridge lost access to its credit facilities or other financial services from major investment banks, the company … might have no choice but to abandon the Line 3 project outright." Many of the institutions facilitating funding to Line 3 were also lead financiers of the Dakota Access Pipeline (DAPL), which was projected to cost $3.8 billion but ultimately incurred $7.5 billion in costs due to material social risks. Similar to DAPL, Line 3 has a history of ruptures and spills, with over 800 spills in the last 15 years and as the source of the largest inland oil spill in U.S. history. Furthermore, militarized responses to protests and alleged violation of constitutional rights compound risks to Water Protectors. There have been over 900 arrests, citations, and charges levied against Water Protectors, as well as harassment, surveillance, instances of sex trafficking, and violence against women.

Investor Advocates for Social Justice (IASJ) affiliates engage with companies whose practices further systematic racism, calling on them to improve their human rights policies and risk management systems. In partnership with First Peoples Worldwide (FPW), which articulates the business case for Indigenous human rights by focusing on corporate accountability to Indigenous Peoples, IASJ affiliates filed shareholder proposals this year with **Citigroup** and **Wells Fargo**, which are providing Enbridge with $5 billion and $3.86 billion in financing, respectively. Under the UN Guiding Principles on Business and Human Rights, banks have a responsibility to identify, prevent, and mitigate human rights impacts that they cause or contribute to through their operations or financing activities. To help meet these responsibilities, many banks are signatories to frameworks like the Equator Principles (EPs). However, the EPs do not apply to general corporate finance, and due diligence processes are clearly insufficient to protect Indigenous rights.

IASJ and FPW encourage all shareholders to support the two proposals calling for banks to assess the effectiveness of policies, practices, and performance indicators in respecting internationally recognized human rights standards for Indigenous Peoples.

Software

Parnassus Investments has withdrawn a new resolution at **Cerner**, a healthcare technology and services firm, which asked for a report "assessing the racial equity impacts of the algorithmic systems used in its products and services." The proposal raised concerns about how artificial intelligence (AI) can slant health care delivery and Parnassus withdrew when the company agreed to report about its AI principles on fairness and transparency.

Policing

Arjuna last year saw a proposal about underwriting police departments with racist practices at **Chubb** omitted because the SEC agreed it was not significantly related to the company's business. Arjuna is trying again at **Travelers**, although the company is arguing at the SEC the subject is ordinary business (since it concerns product offerings and could affect litigation strategy), is not significantly related to Travelers and is false and misleading. The company notes several ongoing civil rights cases involving Travelers to bolster its point on litigation strategy. The resolution seeks a report

> on current company policies and practices, and options for changes to such policies, to help ensure its insurance offerings reduce and do not increase the potential for racist police brutality, nor associate our brand with police violations of civil rights and liberties. The report should assess related reputational, competitive, operational, and financial risks, and be prepared at reasonable cost, omitting proprietary, privileged or prejudicial information.

Risks and Impacts

Eleven more proposals reprise oft-expressed concerns about human rights policies and impact, another 10 focus on electronic media content and control, three specifically address doing business in conflict zones and two are about weapons. Most recipients have seen similar resolutions before.

*(A resolution from the National Legal and Policy Center seeking a report from **Walt Disney** about its human rights policy in China is covered in the section on Conservatives, p. 85. It addresses controversy over filming the Mulan movie in Xinjiang province in China. Another proposal from NLPC asks **General Motors** about labor concerns in the supply chain for electric vehicle components.)*

Human Rights Risks & Impacts

Company	Proposal	Proponent	Status
Alphabet	Report on government censorship	Azzad Asset Management	June
Alphabet	Report on privacy protection oversight	Brandon Hardy	June
Alphabet	Report on human rights impact assessment	SHARE	June
Alphabet	Report on country selection/assessment	SumOfUs	June
Alphabet	Report on algorithm system impact on user speech	Trillium Asset Management	June
Amazon.com	Report on surveillance technology (Rekognition)	Harrington Investments	May
Amazon.com	Report on labor rights policy and stakeholder consultation	SHARE	May
Amazon.com	Report on surveillance technology	Srs. of St. Joseph of Brentwood	May
Apple	Report on government censorship	Azzad Asset Management	33.9%
Apple	Report on supply chain human rights risks	SumOfUs	33.7%
Caterpillar	Report on conflict zone operations	Wespath Investment Management	June
Chevron	Report on anti-genocide policy	Teamsters	May
General Dynamics	Report on human rights risk assessment	Franciscan Sisters of Allegany, NY	May
Hershey	Report on supplier labor standards	American Baptist Church	May
Kroger	Report on human rights policy implementation	Domini Social Investments	June
Lockheed Martin	Report on human rights impact assessment	Srs. of St. Francis of Philadelphia	April
Mastercard	Report on payment network and weapons sales	Rhode Island Pension Fund	June
Meta Platforms	Report on metaverse and allow shareholder vote	Arjuna Capital	May
Meta Platforms	Report on problematic media content management	As You Sow	May
Meta Platforms	Report on human rights impact assessment	Mercy Investment Services	May
Meta Platforms	Report on child sexual exploitation online	Proxy Impact	May
Northrop Grumman	Report on human rights impact assessment	Srs. of St. Francis of Philadelphia	May
Nvidia	Report on surveillance technology	Presbyterian Church (USA)	June
PNC Financial Services Group	Report on nuclear weapons financing	Srs. of St. Joseph of Brentwood	April
Sturm, Ruger	Report on human rights risk assessment	CommonSpirit Health	May
TJX	Report on supply chain human rights risks	NorthStar Asset Management	June
Yelp	Report on problematic media content management	As You Sow	June

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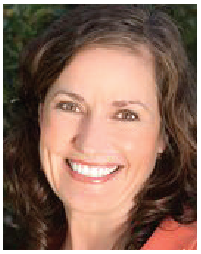

MANDATORY HUMAN RIGHTS AND ENVIRONMENTAL DUE DILIGENCE IS GOOD FOR INVESTORS AND BUSINESS

PATRICIA JUREWICZ
Founder and Chief Executive Officer, Responsible Sourcing Network

REBECCA DEWINTER-SCHMITT
Associate Program Director, Investor Alliance for Human Rights

When done responsibly, business can be a driving force for prosperity and inclusive economic development. Yet, far too often, companies in many different sectors harm people and planet in their operations or value chains.

Referencing the widely-accepted UN Guiding Principles on Business and Human Rights (UNGP), a growing number of investors are telling portfolio companies that they have a responsibility to respect human rights. They say the process of continuously conducting human rights due diligence is a core requirement for companies to fulfill that responsibility. The UNGP define human rights due diligence as an ongoing and iterative process to identify, prevent, mitigate, and account for how companies—and investors—address the most severe risks to people in connection with business activities.

Companies understand the concept of due diligence because this investigative process helps them identify financial risks associated with business transactions. Human rights due diligence builds on established risk management processes and shifts the focus of risk to people, recognizing that the most severe human rights risks inevitably carry with them material risks to business, including reputational harm, financial loss, and legal liabilities.

Unfortunately, studies show that voluntary corporate measures to implement due diligence do not sufficiently address abuse and remedy harm. The investment community is starting to understand that rigorous due diligence is good for businesses, investors, the economy, and the people it serves as detailed in The Investor Case for Mandated Human Rights Due Diligence. Investors representing over $6.3 trillion in assets under management and advisement signed a statement in 2021 supporting mandatory human rights and environmental due diligence (mHREDD) legislation, which EU countries are now considering.

Investors and civil society groups worry that the proposed EU legislation will not require mHREDD throughout the entire corporate value chain even though evidence shows the worst social and environmental harm occurs close to production and raw materials sourcing. Although some government and business representatives argue mHREDD for the entire value chain is not feasible and would be too expensive, the Responsible Minerals Initiative (RMI) shows this argument is false. Companies can affordably implement due diligence with RMI's responsible mineral sourcing tools and assurance programs. Similarly, home goods and clothing brands can participate in the YESS initiative, which is based on the OECD due diligence guidance and has taken lessons from RMI.

Investors are engaging with companies, so they will implement robust due diligence strategies. Shareholders have already begun to file resolutions asking their portfolio companies to undertake human rights due diligence, and human rights impact assessments are a first step in that process. Companies should heed the call. This will not only give them a head start to comply with looming mHREDD laws, but they also will contribute to global sustainability by preventing and mitigating the worst human rights and environmental harms.

Policy and Implementation

High risk products and services: Two different orders of Franciscan Sisters have proposals at three defense companies—**General Dynamics**, **Lockheed Martin** and **Northrop Grumman**—asking for a report on their "human rights due diligence process to identify, assess, prevent, mitigate, and remedy actual and potential human rights impacts associated with high-risk products and services, including those in conflict-affected areas." Last year the proposal earned 32.1 percent Lockheed; a similar resolution at General Dynamics received 37.9 percent in 2013.

SEC action—**Northrop Grumman** has lodged what seems likely to be a successful challenge; the company notes the proposal earned 22.4 percent last year in its third year and needed 25 percent to qualify for resubmission.

Human rights impact assessments of ads and guns: Two proposals seek reports for different reasons:

- Mercy Investments wants **Meta Platforms** (the former Facebook) to commission an

> independent third-party Human Rights Impact Assessment (HRIA), examining the actual and potential human rights impacts of Facebook's targeted advertising policies and practices throughout its business operations. omit information relevant to litigation or enforcement actions; and be published on the company's website by June 1, 2023.

SEC action—The company has lodged what looks likely to be a successful challenge at the SEC, arguing a previous similar proposal missed the resubmission threshold. In 2015 a similar proposal received only 1.6 percent support, although it did attract an unusually large number of abstaining votes. Meta also says it is ordinary business because it concerns products.

- CommonSpirit Health wants the impact assessment at **Sturm**, **Ruger** to make "recommendations for improving the human rights impacts of its policies, practices and products," with input from "human rights organizations, employees, and customers." Earlier, a proposal seeking a policy on gun safety and harm mitigation received notably high support of 68.9 percent in 2018.

Supply chains: Three proposals ask about human and labor rights in supply chains, at home and abroad:

- **China**—Investors at **Apple** gave 33.7 percent support to a proposal from SumOfUs that survived an SEC challenge arguing it was moot. It raises new concerns about forced labor in China and the Uyghur people. The resolution asked for a public report

  > on the extent to which Apple's policies and procedures effectively protect workers in its supply chain from forced labor, including the extent to which Apple has identified suppliers and sub-suppliers that are at significant risk for forced labor violations, the number of suppliers against which Apple has taken corrective action due to such violations, and the availability and use of grievance mechanisms to compensate affected workers.

  SumOfUs is concerned about forced labor in Apple's supply chain, particularly in China where the government has used Uyghur and Turkish Muslim people in forced labor camps and practices what some have called "crimes against humanity" and "genocide." The proponent points out that nine of Apple's suppliers have recently been accused of participating in the Chinese government's forced labor program, and that the company had to terminate its relationship with one of these firms for similar reasons. Apple says it already provides enough information on the issue and that numerous reviews in recent years have found no evidence of forced labor. The company has a global human rights policy and a supplier code of conduct. It also publishes an annual progress report on its supply chain management efforts, including assessments and big-picture performance measures. Despite the wealth of information, some key gaps remain, including what percentage of its supplier universe Apple assesses each year. *(A second proposal expressing similar concerns from the conservative NLPC was omitted on the grounds it duplicated SumOfUs. SumOfUs also has a resolution at **Alphabet** on China—see p. 72).*

- **Africa**—The American Baptist Church addresses the supply of chocolate at **Hershey** asking for a report within a year on "if, and how, Hershey's living wage position statement and planned implementation steps will put the company on course to eradicate child labor in all forms from the company's West African cocoa supply chain by 2025."

  SEC action: The company has lodged a challenge at the SEC, arguing the proposal is moot. The same proponent withdrew a 2018 proposal about supply chain standards after Hershey agreed to review its policies and conduct an ethical trade audit.

- **Vulnerable U.S. workers and Uyghurs**—At **TJX**, where NorthStar Asset Management raises concerns about the domestic and foreign supply chain, this year's request is for a "third-party assessment and report to shareholders… assessing the effectiveness of current company due diligence in preventing forced, child, and prison labor in TJX's supply chain." The proposal notes the company's vendor code does not require routine factory audits of its 21,000 vendors in more than 100 countries, it scored poorly on the World Benchmarking Alliance's assessment of compliance with UN principles, and has yet to take steps to avoid Uyghur forced labor, or to address undocumented worker abuses in the U.S. garment industry or incarcerated workers.

  NorthStar saw a prison labor proposal omitted in 2021 on ordinary business grounds but a similar resolution in 2019 earned 38.8 percent. The Priests of the Sacred Heart withdrew a human rights risk assessment proposal in 2020 after it received 39 percent the year before.

Protections during the pandemic: Domini Social Investments is focused on North American farmworkers in **Kroger's** supply chain, the focus of shareholder resolutions for years. It asks how well its human rights policy has protected them,

> from human rights violations, including forced labor, sexual assault, heat exhaustion, and COVID-19. This report should detail any mechanisms similar to the Fair Food Program, including:
>
> - Whether Kroger has required its North American produce suppliers ("Suppliers") to implement COVID-19 worker safety and heat stress prevention protocols ("Safety Protocols"), and, if so, the content of those Safety Protocols;
> - The number of times Kroger suspended a Supplier for violating the Statement or Safety Protocols, and the specific grounds for each such suspension;
> - A list of the total number of Supplier locations purchased from, how often Kroger social compliance audits were conducted on-site at each such location, and the number of farmworkers personally interviewed there by the auditor;
> - Whether Kroger ensured its Suppliers' farmworkers had access to a third-party grievance mechanism, with the authority to order a remedy, for reporting Statement or Safety Protocol violations, and, if so, the required procedures, number of such grievances filed, and outcomes of all such grievances.

A more general but similar proposal earned 44.7 percent support in 2020. Earlier, the company agreed to strengthen supply chain auditing after votes of 24.9 percent in 2016, 30.8 percent in 2015 and 38.8 percent in 2014.

Stakeholders and labor rights: SHARE has a new resolution at **Amazon.com**, asking for a

> report analyzing how Amazon's current human rights policies and practices protect the rightful application of the fundamental rights of freedom of association and collective bargaining as guaranteed by the ILO Declaration on Fundamental Principles and Rights at Work and the UN Universal Declaration of Human Rights. The report should include information on whether, and if so how, input from affected stakeholders was taken into account.

Media Content and Control

Investors have been concerned about the ills of electronic media since the dawn of the Internet, noting risks associated with how repressive governments control media platforms, misuse technology and threaten privacy, and how social media can spread hate speech and foment and publicize violence. Proposals this year again highlight these persistent problems but also raise new questions about algorithms and the "metaverse" concept.

Surveillance: Two resolutions again take up different aspects of surveillance problems at **Amazon.com**. The first, a resubmission that earned 35.3 percent last year, comes from the Sisters of St. Joseph of Brentwood and asks for an independent report "assessing Amazon's process for customer due diligence, to determine whether customers' use of its surveillance and computer vision products or cloud-based services contributes to human rights violations."

The other, from Harrington Investments, is focused for the fourth year in a row on Rekognition, Amazon's facial recognition system. Last year it earned 34.3 percent, its highest vote yet. It seeks an independent report by September on:

- The extent to which such technology may endanger, threaten or violate privacy and/ or civil rights, and unfairly or disproportionately target or surveil people of color, immigrants and activists in the United States;
- The extent to which such technologies may be marketed and sold to authoritarian or repressive governments, including those identified by the United States Department of State Country Reports on Human Rights Practices;
- The potential loss of good will and other financial risks associated with these human rights issues;

Nvidia faces its first human rights proposal, from the Presbyterian Church (USA), which notes the company provides products and services to customers in conflict zones, including in the Uyghur region in China, occupied Palestinian territory, Saudi Arabia, and autonomous vehicles used by the U.S. military. The church wants an independent report on the company's

> customer due diligence process to determine whether customers' use of its products or services with surveillance technology and artificial intelligence (AI) capability or of its components that support autonomous military and police vehicles, contributes to human rights harms.

Censorship: Azzad Asset Management is taking the lead on government censorship proposals. It has sponsored a proposal now in its third year that asks **Alphabet** to report "assessing the feasibility of publicly disclosing on an annual basis, by jurisdiction, the list of delisted, censored, downgraded, proactively penalized, or blacklisted terms, queries or sites that the company implements in response to government requests." The proposal earned 13.3 percent last year and 11.4 percent in 2020.

A similar proposal has earned 33.9 percent at **Apple** having asked it to

> revise the Company's Transparency Reports to provide clear explanations of the number and categories of app removals from the app store, in response to or in anticipation of government requests, that may reasonably be expected to limit freedom of expression or access to information. Such revision may exclude proprietary or legally privileged information.

Azzad focused on the company's role in suppressing citizens' freedom of expression in China, noting its cooperation with the government in its work against democracy activists. Apple publishes mostly quantitative data on government requests for customer data and app removals, twice a year, but not historical data on app removals or meaningful qualitative details. Only a handful of governments request app removals, according to Apple's disclosure, and China tops the list in the number of requests. Apple argues that engagement over absence in challenging markets makes sense.

SEC action—The SEC turned back a no-action request from Apple, disagreeing its current reports make the resolution moot. Earlier, a resolution about free speech and human rights at Apple earned 40.6 percent in 2020.

Problematic content: **Meta Platforms** faces a proposal slightly different than election-related content management proposals voted on by investors in 2021 and 2020. Now the proposal seeks a report

> analyzing why the enforcement of "Community Standards" as described in the "Transparency Center" has proven ineffective at controlling the dissemination of user content that contains or promotes hate speech, disinformation, or content that incites violence and/or harm to public health or personal safety.

Yelp has a resolution for the first time, asking it to report by the end of 2022 on "a stakeholder harm assessment study related to misinformation and false postings on its platform." It says the report should determine "strategically appropriate next steps identified as a result of this study." The proposal expresses concern about how the company manages negative reviews on its platform.

SEC action— **Meta Platforms (Facebook)** says its proposal can be omitted because last year's proposal about elections failed to earn the 25 percent needed as a third-year resolution. (The 2021 resolution asked about content moderation the U.S. elections and received 19.5 percent, a 2019 proposal about content governance and human rights received 5.7 percent, and a 2018 proposal on enforcement of its content standards received 10.2 percent.)

Yelp says its practices and reporting make the resolution moot, that it concerns ordinary business since it is about customer relations and seeks to micromanage, and that it is materially false and misleading.

New advertising technology risks: Two proposals raise similar concerns about **Alphabet's** plans to revamp how its search engine works:

- Trillium Asset Management has a new resolution about free speech that asks for a report

  > above and beyond its existing disclosures and provide more quantitative and qualitative information on its algorithmic systems. Exact disclosures are within management' s discretion, but suggestions include, how Alphabet uses algorithmic systems to target and deliver ads, error rates, and the impact these systems had on user speech and experiences. Management also has the discretion to consider using the recommendations and technical standards for algorithm and ad transparency put forward by the Mozilla Foundation and researchers at New York University.

- SHARE, has another new resolution at Alphabet asking it to provide a report from an "independent human rights impact assessment…evaluating the potential human rights impacts of Google's upcoming Federated Learning of Cohorts technology." The proposal explains that the company's Google subsidiary plans to transform its advertising approach, eliminating cookies and relying instead on algorithms to define user cohorts with similar attributes. SHARE says individual users might be identified and users' privacy violated. It wants to know more about how the company "will enforce its advertising policies to detect bad actors and prevent them from using the opacity of algorithmic grouping to their advantage," noting well-known harms from currently targeted advertising that exacerbates hate speech, posing what SHARE says are material risks. The proposal asserts the company's current approach is lacking and that it has inadequately evaluated the risks of the new approach.

SEC action—The company has lodged challenges to both proposals. It says both concern ordinary business because they are about its advertising practices and could compel the disclosure of proprietary information. Alphabet also says the SHARE proposal is moot.

Metaverse: Arjuna is skeptical about the direction **Meta Platforms** is headed and wants both a report and an advisory shareholder vote on the company's "metaverse" project. It says:

> The report should summarize results of a third-party assessment of potential psychological and civil and human rights harms to users that may be caused by the use and abuse of the platform, whether harms can be mitigated or avoided, or are unavoidable risks inherent in the technology. After the report's publication, the Company should seek a shareholder vote, expressing non-binding advisory approval or disapproval of the metaverse project, advising the board and management whether investors consider continued implementation of the metaverse platform to be prudent or appropriate.

SEC action—**Meta** says the proposal is ordinary business because it is about product offerings.

advocacyposition

FINDING THE BALANCE BETWEEN CHILD SAFETY AND INTERNET PRIVACY

MICHAEL PASSOFF

CEO, Proxy Impact

Online child sexual exploitation is a global crisis that is growing at an exponential rate. Yet efforts to promote online child safety and privacy have met strong opposition from privacy and human rights proponents. Child safety and internet privacy do not have to conflict, even though advocates on each side seem to be at odds.

Apple's recent experience illustrates the apparent conflict. The company, renowned for its strong privacy protections, announced in August 2021 it would expand measures to protect children. Child safety advocates said this was a long overdue step and would help reduce the tens of millions of child sexual abuse materials (CSAM) posted online. But Apple delayed implementation of its plan given intense backlash from privacy and civil society groups. While many privacy concerns are valid, objections to Apple's policy were often alarmist, with cries of 'they're spying on our phones,' even though Apple's hashing technology does not search phones nor provide Apple with any non-CSAM information.

Meta (formally **Facebook**), not renowned for its privacy protections, said its new end-to-end encryption on Facebook, Messenger and Instagram would address longstanding concerns. While applauded by privacy advocates, Meta soon faced backlash from other stakeholders. Facebook is the main source of online CSAM; in 2020 it was responsible for 94 percent of the nearly 22 million reports of CSAM. Child safety advocates, law enforcement and governments worldwide are intensely concerned that the new encryption plan will make most instances of CSAM invisible, protect child predators and leave children more vulnerable. This has led to proposed online child safety legislation in several countries, which in turn is opposed by privacy and human rights proponents.

Companies, and society, are being asked to choose between child safety and internet privacy.

There must be a better way.

In an attempt to seek common ground that would address both privacy and CSAM, the Interfaith Center for Corporate Responsibility launched an initiative to bring together shareholders, child safety, internet privacy and human rights advocates, to better understand conflicts and find solutions. All agree that a critical first step is to fix failed age enforcement verification policies, which puts together on the same platforms children and adults who pretend to be different ages. The new MetaVerse seems poised to compound the problems, since it can allow easy access by under-age participants, raising the specter of even more direct inappropriate and dangerous contact access for predators.

Since 2019, shareholder engagement with Facebook, Apple, **Alphabet**, **AT&T** and **Verizon** on CSAM has produced mixed results. Verizon and AT&T have conducted child risk assessments and reduced specific risks. But Facebook and Alphabet have been less willing to discuss the problem, and it remains difficult to independently assess actions they have taken. Apple's announcement of its child safety policy was a welcome surprise, followed by disappointment with its cancellation.

Part of any solution will be better information, which is why Proxy Impact has resubmitted a resolution that asks Meta to report on the risk of increased child sexual exploitation from end-to-end encryption and other privacy plans. Before putting more children at risk, Meta and the IT industry need to do more to help find a workable solution supported by advocates on all sides.

Child sexual exploitation: Proxy Impact has returned for the third year in a row to **Meta Platforms**. In 2020, Facebook was responsible for 94 percent of the 21 million cases of reported online child sexual abuse materials (CSAM). The company's plans to apply end-to-end encryption across its platforms could hide 70 percent of reported CSAM cases which would greatly hinder efforts to help victims and to catch predators, the proposal asserts. The proposal earned 17.3 percent last year, about 56 percent of the vote not controlled by CEO Mark Zuckerberg.. Proxy Impact wants a report by February 2023

> assessing the risk of increased sexual exploitation of children as the Company develops and offers additional privacy tools such as end-to-end encryption. The report should address potential adverse impacts to children (18 years and younger) and to the company's reputation or social license, assess the impact of limits to detection technologies and strategies, and be prepared at reasonable expense and excluding proprietary/confidential information.

Conflict Zones

While several more general proposals have raised concerns about human rights with broadly worded resolved clauses, three proposals mention specific conflict zones or countries with a poor record on human rights:

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- At **Alphabet**, SumOfUs has a new resolution asking for a report within six months "assessing the siting of Google Cloud Data Centers in countries of significant human rights concern, and the Company's strategies for mitigating the related impacts." Outside the resolved clause, the resolution expresses concerns about data centers located in "human rights hotspots" such as Indonesia, Qatar, India and Saudi Arabia. *(Also see p. 69 for a similar supply chain resolution.)*

SEC action—The company has challenged the proposal at the SEC, arguing it relates to ordinary business because it is about deciding where to locate and would micromanage, and is moot given its current reporting on human rights.

- **Caterpillar** has long faced questions about how its heavy construction equipment is armored by military forces in global hotspots. Wespath Investment Management has a proposal like one that earned 7.8 percent in 2019. It asks the company to "assess and report to shareholders" on its "approach to mitigating the risks associated with business activities in conflict-affected and high-risk areas (CAHRA) as called for by the UN Guiding Principles on Business and Human Rights (UNGPs). The resolution notes company equipment has been used by governments in Myanmar, Occupied Palestinian Territory and Western Sahara; supply chain connections to Belarus; and sourcing from garment factories in China's Xinjiang region where Uyghurs are persecuted.
- The Teamsters want a report within six months from **Chevron**, "evaluating the feasibility of adopting a policy of not doing business with governments that are complicit in genocide and/or crimes against humanity as defined in international law." The proposal raises specific concerns about operations in Burma (Myanmar), the Democratic Republic of Congo and Nigeria.

  In 2021 proponents withdrew a proposal about operations in conflict zones after dialogue, while investors in 2020 gave 16.7 percent support to a proposal asking for a human rights assessment. On January 21, Chevron announced it would pull out of Burma given the ongoing human rights crisis, so it seems possible this resolution may be withdrawn.

Weapons

Nuclear weapons: The Sisters of St. Joseph of Brentwood have resubmitted a proposal about financing nuclear weapons to **PNC Financial**. It earned 7.9 percent last year and asks the board to report "assessing the effectiveness of PNC's Environmental and Social Risk Management (ESRM) systems at managing risks associated with lending, investing, and financing activities within the nuclear weapons industry." The supporting statement says the report could include:

- Review of PNC's existing financing to the nuclear weapons industry and associated actual and potential human rights impacts;
- An assessment of the legal, financial, regulatory, and reputational risks that PNC may face due to involvement with the nuclear weapons industry; and
- Evaluation of if and how PNC plans to reduce or eliminate its potential exposure to risks of nuclear weapons financing.

Handguns: The Rhode Island Pension Fund is concerned about small weapons; its focus is on how **Mastercard's** payment network may be used for selling untraceable firearms. It calls for the board to

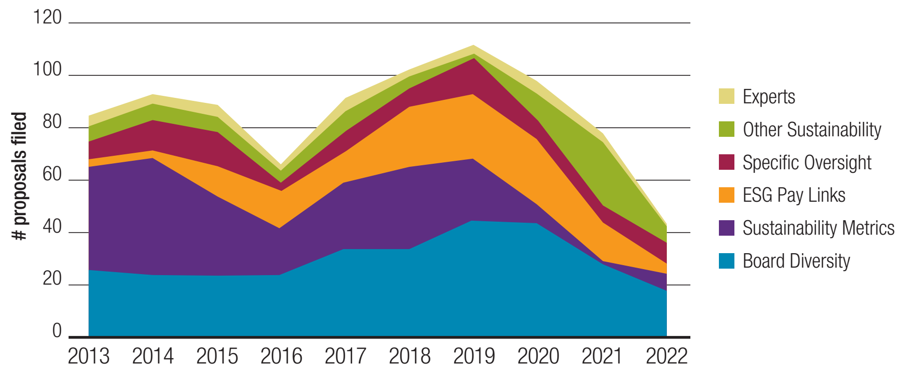
> conduct an evaluation and issue a report within the next year…describing if and how MasterCard…intends to reduce the risk associated with the processing of payments involving its cards and/or its electronic payment system services for the sale and purchase of untraceable firearms, including "Buy, Build, Shoot" firearm kits, components, and/or accessories used to assemble privately made firearms known as "Ghost Guns."

SEC action—Mastercard is arguing at the SEC that the proposal is an ordinary business matter because it is about the sale of specific products. (Proponents withdrew a similar proposal at **Visa** in 2020 for procedural reasons.

SUSTAINABLE GOVERNANCE

Companies have taken to heart research that more diverse boards produce better results, and most now realize they must routinely monitor and report on to properly respond to the many social and environmental challenges they face. As a result, the volume of generalized sustainability proposals has shifted and fallen *(graph below)*. About one-third of all resolutions on sustainable governance in the last decade has been about board diversity, but the 18 filed this year are less than half the apex of 45 in 2019. More significant is the evaporation of proposals seeking general sustainability metrics (seven this year, down from 45 in 2014). From 2018 to 2020, proponents sought ESG links to executive pay but these, too, have nearly vanished (three in 2022, compared with two dozen earlier). These outcomes encapsulate the extent to which sustainability has become a mainstream approach to doing business. It is now ordinary. As other sections of this report show, however, investors remain keen to learn how companies are approaching *specific* problems—most often when it comes to climate change, diversity and corporate political influence; these topics continue to drive the overall increase in proposal filings.

Types of Sustainable Governance Proposals



Not every shareholder request on sustainable governance has gotten substantial support from investors. Last year's resolutions coordinated by The Shareholder Commons (TSC) that asked companies to become public benefit corporations earned scant support (just one received enough to be resubmitted). The group has recast most of it add flags to TSC proposals to ask for reports on various types of externalized costs *(covered in this report under each topic—see pp. 29, 47, 49 and 79)*. The thread raised by TSC—holding companies' feet to the fire about stated support for the stakeholder capitalism concept articulated in the 2019 Business Roundtable's (BRT) Statement on the Purpose of the Corporation—continues to hover in the proxy season background, inspiring proponents from both the left and right to question whether shareholder primacy is at an end, as the BRT suggested.

This section examines board composition (19 proposals), proposed changes to board committees to add specific types (eight) and 14 more raising broad sustainability concerns about corporate governance arrangements and reporting to investors, linking ESG to executive pay and general ESG policy. The total number of proposals filed on these topics has dropped to 41, down from 78 last year and a high of 112 in 2019.

Diversity on the Board

Eighteen proposals seek reports on diverse board composition, down from the decade's high of 48 in 2019, and half last year's total, although diversity in the workplace remains top-of-mind for many *(see Diversity at Work, p. 54.)* It appears that the spotlight has shifted down an echelon to the executive suite, which is still what some call "stale, male and pale."

The 30 Percent Coalition has played a key role in persuading companies to diversify boards, expressing the aims of its members who come from in- and outside the investment and corporate world. Proponents are filing proposals at companies with no women or people of color on the board, seeking expanded representation even where there are one or two diverse board members.

Proxy voting support: When companies fail to put in place diverse boards, leading institutional investors—and investment managers—increasingly also have begun to vote against either nominating committee members or the entire board in elections for the board if diversity is lacking, illustrating how social issues have changed who runs corporate America. The two leading proxy advisory services now vote against non-diverse boards and State Street, one the largest managers, does as well—an idea first raised by social investment firms more than 10 years ago. As the corporate advisory firm Shearman & Sterling says, "board diversity initiatives are gaining momentum." There is pushback, though, and a new mandate from California to include at least one woman on the board of any company with executive offices in the state is being challenged in the courts on the grounds it imposes an unlawful quota.

POSITIVE SIGNS ON THE ROAD TO BOARD DIVERSITY

AMY D. AUGUSTINE
Director of ESG Investing, Boston Trust Walden

SAMANTHA BURKE
ESG Analyst, Boston Trust Walden

Board diversity is improving, but this is not the time to back down. Companies, shareholders, and the overall economy benefit when board oversight better reflects the marketplace and draws from the broadest possible talent pool.

In 1992, Boston Trust Walden launched "Just Vote No" — voting against boards of directors without people of color or women. Thirty years later, champions of diversity within U.S. corporate boardrooms have reason to celebrate. In 2021, an astonishing 72 percent of new directors among S&P 500 companies were women and people of color. Particularly noteworthy in the current context of heightened national attention to racial justice, one-third of new independent directors are African American compared to 11 percent the previous year.

This progress is a necessary turning point in the composition of corporate boards. Yet, when put into context, the case for continued engagement is clear. Today, people of color comprise 21 percent of S&P 500 directors, roughly two-thirds of their proportion in the U.S. population according to 2020 U.S. census data. Women reached a milestone 30 percent of directors in 2021 but remain far from parity in U.S. boardrooms.

Many institutional investors have adopted proxy voting guidelines recognizing board and management diversity as indicators of good corporate governance. Asset managers, including the world's largest — **BlackRock**, **Fidelity Investments**, **State Street Global Advisors** and **Vanguard** — are starting to vote against directors if a board has no women or people of color, and support shareholder proposals on board diversity at companies deemed to be making insufficient progress. State and city pension plans nationwide have adopted proxy voting policies with minimum thresholds for board diversity. Three of four board diversity resolutions that went to a vote in the proxy season ending June 2021 garnered majority support.

In support of these investor directed actions, U.S. regulation and legislation to accelerate progress on board diversity also is on the rising. In August 2021, the SEC approved Nasdaq's proposed board diversity rule requiring listed companies to meet diversity thresholds or explain their failure to do so, and to disclose diversity statistics. Federal legislation has been introduced to require disclosure of the gender, racial, and ethnic composition of boards of directors and executive officers (H.R. 1277), and numerous states have enacted, or are proposing, legislation mandating similar disclosure.

Investors like Boston Trust Walden have focused on strengthening nominating policies, processes, and disclosure to embed a lasting commitment to diversity in board searches. The Thirty Percent Coalition, representing institutional investors with more than $7 trillion in assets, asks companies to incorporate into formal governance policies a commitment to include women and people of color in each candidate pool. Similarly, the Russell 3000 Board Diversity Initiative led by the Illinois State Treasurer's Office seeks comparable, comprehensive disclosure of the racial, ethnic, and gender composition of directors in annual proxy statements. Participating investors understand public accountability incentivizes and accelerates progress.

New Nasdaq requirement: In another sign that the issue has become embedded in financial analysts' expectations, on August 6, 2021, the Nasdaq exchange attained approval from the SEC for its new rule that requires its listed companies by 2023 "to have, or explain why it does not have, at least two 'Diverse' directors ('Diverse Board Requirement'), including one who self-identifies as 'Female' and one who self-identifies as either an 'Underrepresented Minority' or 'LGBTQ+.' The exchange will only verify that companies have complied with the requirement and will not review explanations, but it will de-list them for noncompliance. Nasdaq requires reporting in a matrix format such as that shareholder proponents have been suggesting for many years. Reporting on composition must occur this year.

Resolutions Shift in 2022

Expanded reporting: Many proposals in the past asked that boards make sure that each pool of potential nominees include diverse nominees. This request has shifted and expanded this year to include senior executives and consideration of diversity among various company stakeholders. Proponents have withdrawn already at **Cactus** but the proposal it received is still pending at **CorVel**, **Silgan Holdings** and **Vicor**, asking for a report by January 2023 on efforts to "enhance board diversity" by:

- Embedding in governance documents a commitment to diversity inclusive of gender, race, and ethnicity;
- Committing publicly to include women and people of color in each candidate pool for board and senior leadership seats;
- Disclosing in annual proxy statements the gender, racial, and ethnic composition of the board; and
- Detailing board strategies to reflect the diversity of the company's workforce, community, and customers.

NYSCRF has withdrawn a similar proposal after reaching an agreement at **First Community Bankshares**; it earned 70.6 percent last year. The proposal asked the company to report on "broader diversity" efforts using the new Nasdaq rule categories:

- Embedding a commitment to diversity inclusive of sex, race, ethnicity, age, gender identity, gender expression, and sexual orientation in Nominating and Corporate Governance charters;

- Committing publicly to include women and people of color in each candidate pool from which director nominees are chosen; and
- Disclosing in proxy statements the number of women and people of color nominated for or sitting on the board.

Reflecting customers: Arjuna Capital has a new proposal that seeks annual reports from **Alphabet** and **Wells Fargo** on how each is working to attain on their boards "racial and gender representation that is better aligned with the demographics of its customers and/or regions in which it operates." (The AFL-CIO withdrew a proposal at Wells Fargo last year on adding diverse board nominees when it agreed to do so.)

SEC action—**Alphabet** is arguing that its current practices make the resolution moot.

Racial equity: At **Badger Meter**, where last year its request to report on board diversity earned 86.4 percent, NorthStar Asset Management has returned to ask how the company plans to take "action steps to foster greater racial equity on the board." At **Home Depot** the request is the same but adds "gender equity."

SEC action—**Badger Meter** is arguing at the SEC that its October 2021 report on the subject makes the resolution moot.

Matrix reporting: A key problem for investors seeking to assess diversity on boards is the relative dearth of consistent data on board members' race, gender and ethnicity, although this will be addressed for Nasdaq companies soon. The New York City Comptroller's Office has led a push for reporting on board or nominee attributes in a matrix that presents this and other qualifications. A public list of New York's targets is not yet available, but James McRitchie has filed at three proposals along the same lines, asking **3D Systems**, **Proto Labs** and **Veeva Systems** to disclose in their proxy statements

> each director/nominee's self-identified gender and race/ethnicity, as well as the skills and attributes that are most relevant to 3D Systems' overall business, long-term strategy, and risks. The requested information shall be presented in matrix format and shall not include any attributes the Board identifies as minimum qualifications for all director candidates (the "Board Matrix")

Experts: Just one proposal so far suggests a specialized board member is needed. Arjuna Capital has resubmitted a proposal to **Twitter** that earned 14.3 percent last year. It asks that the board nominate an independent candidate who "has a high level of human and/or civil rights expertise and experience and is widely recognized as such, as reasonably determined by Twitter's Board."

Board Oversight

This year only seven resolutions ask about ESG board oversight, about the same as last year. Companies have challenged five of them and none is a resubmission.

Board Composition & Oversight

Company	Proposal	Proponent	Status
3D Systems	Report on board diversity matrix	James McRitchie	May
Alphabet	Report on board diversity	Arjuna Capital	June
Alphabet	Establish board committee on sustainability	Sustainvest Asset Management	June
Badger Meter	Report on board diversity	NorthStar Asset Management	April
Berkshire Hathaway	Establish board committee on sustainability	Illinois State Treasurer	May
Cactus	Report on board diversity	Boston Trust Walden	withdrawn
CorVel	Report on board diversity	Boston Trust Walden	August
First Community Bankshares	Report on board diversity	New York State Common Retirement Fund	April
Home Depot	Report on board diversity	NorthStar Asset Management	May
Meta Platforms (was Facebook)	Report on board oversight of human rights risk	Harrington Investments	May
NextEra Energy	Adopt board oversight of climate change	Connecticut Retirement Plans	withdrawn
Proto Labs	Report on board diversity matrix	James McRitchie	May
Sempra Energy	Establish board committee on human rights	Garcia Family	May
Silgan Holdings	Report on board diversity	Connecticut Retirement Plans	June
Texas Instruments	Adopt board oversight of climate change	NJ Division of Investments	April
Twitter	Nominate human rights expert to the board	Arjuna Capital	May
Veeva Systems	Report on board diversity matrix	James McRitchie	June
Verizon Communications	Adopt board oversight of human capital management	Robert A. Rehm	withdrawn
Vicor	Report on board diversity	Connecticut Retirement Plans	June
Wells Fargo	Report on board diversity	Arjuna Capital	April

Five more proposals seeking board diversity reporting in a matrix have been filed and withdrawn. One additional board oversight proposal is planned.


BOARDS FACE "NO" VOTES DUE TO LACK OF CLIMATE GOVERNANCE PRACTICES

ROB BERRIDGE
Senior Director of Shareholder Engagement, Ceres

RHONDA BRAUER
Founder and President, RLB Governance; former Corporate Secretary and Governance Officer at The New York Times Company

Investors increasingly are ready to hold board members of U.S. public companies accountable for failing to appropriately oversee their companies' climate-related risks and opportunities.

This trend is accelerating in the wake of the 2021 proxy season. Last year, tiny Engine No. 1 waged a David-versus-Goliath battle with **ExxonMobil**, helping win the election of three board members experienced in clean energy and energy transitions—ousting ExxonMobil's favored incumbents in the process. This move by investors on climate was just one important development from last year; the 2021 season wrapped up with a record-shattering 18 climate-related shareholder proposals winning majority votes.

Against this background, the sustainability nonprofit Ceres published the 2022 Ceres Guidance for Engaging on Climate Risk Governance and Voting on Directors. This new resource helps investors directly engage portfolio companies on the risks and opportunities emerging in the transition to a net-zero emissions economy and inform their voting decisions on board nominees.

The Guidance details 10 climate governance practices, ranging from board oversight to board expertise, that are critical to helping companies that want to effectively address the climate crisis.

It builds on the governance recommendations of the Task Force on Climate-related Financial Disclosures (TCFD), which has strong support from investors and companies, as well as the G20 Finance Ministers and Central Bank Governors, and the Climate Action 100+ Net Zero Company Benchmark, which is backed by the world's largest investor initiative. While investors already widely use these recommendations from the TCFD and the Benchmark in engagements with companies, the Guidance gives investors a tool to elicit more detailed disclosures of how companies are living up to governance expectations. In cases where companies do not meet expectations, the Guidance helps investors decide when to vote against relevant directors.

The 2021 TCFD Status Report shows companies are not doing what's asked by the TCFD and the Benchmark. Further, the two TCFD governance recommendations are among the least implemented of TCFD guidance. We believe that governance disclosures actually should be among the first steps executive teams and board members take.

The Guidance calls for boards to provide independent and informed oversight of climate risks and opportunities, with responsibilities disclosed in a publicly available report. It calls on audit committees to direct internal audit departments and independent auditors to sufficiently test the impact of climate change risk on company operations.

Investors, for their part, may want to pose questions about the 10 Ceres Guidance practices in their climate-related engagements with companies. This could be particularly useful when talking to companies with recent majority votes on climate-related shareholder proposals not supported by the board.

The transition to a net-zero emissions global economy presents one of the greatest corporate governance challenges of all time. Investors and companies have available to them a good set of tools to meet the challenge.

Climate change: Still pending is a proposal about board oversight of climate change, at **Texas Instruments**. The New Jersey Division of Investments wants the company to "establish comprehensive board oversight of the Company's climate change policies and programs and report to shareholders on steps taken or planned toward this within a time frame deemed reasonable by the board." It says the proposal does not seek to "micromanage" nor "impose methods for implementing complex policies in place of the ongoing judgement of management as overseen by its board of directors." (The SEC has in the past used such strictures to omit proposals on ordinary business grounds.) Last year, Green Century withdrew a proposal asking the company to address material climate risks in its sustainability report after the company agreed to do so.

The Connecticut Treasurer has withdrawn a similar request at **NextEra Energy** after an agreement.

Human capital: Individual proponent Robert A. Rehm has withdrawn at **Verizon Communications** having asked it to

> strengthen board oversight of workforce equity issues by assigning responsibility for oversight to the existing Human Resources Committee, or to a new board committee. For purposes of this proposal, 'workforce equity issues' include those related to diversity in recruitment and hiring, racial and gender pay equity, employment discrimination, and the relationship between compensation and benefits provided to senior executives and those provided to the rest of the workforce

The company told the SEC that its policies make the resolution moot and the withdrawal came before any response.

Human rights: Harrington Investments would like **Meta Platforms** to "commission an independent assessment of the Audit and Risk Oversight Committee's capacities and performance in overseeing company risks to public safety and the public interest and in supporting strategic risk oversight on these issues by the full board." A similar 2020 proposal about board oversight and risk earned 7.2 percent, after a 2018 proposal on the same issue received 11.6 percent support.

Members of the Garcia family face a challenge to their proposal at **Sempra Energy**, which asks it to "create a standing committee to oversee the Company's response to domestic and international developments in human rights" that affect the company's business. Sempra says it has delegated responsibility for human rights to a company committee and further asserts the proposal is a personal grievance.

Sustainability: Three resolutions ask for a board committee on sustainability, although one has yet to be disclosed. Sustaininvest wants **Alphabet** to "create a board committee on environmental sustainability to oversee and review policies and provide guidance on matters relating to environmental sustainability." The company has told the SEC the resolution is moot and ordinary business but the commission has yet to respond.

A proposal from the Illinois Treasurer to **Berkshire Hathaway** asks that independent directors form a

> a new Board Committee on Environmental and Social Issues….The Committee should provide an ongoing review of corporate policies and practices, above and beyond legal and regulatory matters, to assess how Berkshire Hathaway manages material sustainability factors, including issues related to the environment, human capital, and social capital. At its discretion, the Board should publish a formal charter for the Committee and a summary of its functions, and direct the Committee to issue periodic reports.

Sustainability

Proponents have come up with several new ideas that raise broad sustainability issues for companies and investors this year. Four new proposals from The Shareholder Commons ask about the social impact of investment stewardship practices and companies' general financial priorities, two more seek a report on how companies consult with their stakeholders about risks and one asks for a report on whether retirement plans align with corporate climate goals. There are 14 proposals in all, with six SEC challenges that have yet to be resolved.

Sustainable Governance

Company	Proposal	Proponent	Status
Alphabet	Report on societal impacts and financial priorities	The Shareholder Commons	June
Amazon.com	Report on retirement plan alignment with climate goals	As You Sow	May
AmerisourceBergen	Consider extraordinary legal costs in executive pay metrics	Teamsters	March
Apple	Become public benefit corporation	The Shareholder Commons	3.1%
BlackRock	Report on societal impact of investment stewardship	The Shareholder Commons	May
Cathay General Bancorp	Publish sustainability report	Boston Trust Walden	May
Comcast	Report on retirement plan alignment with climate goals	As You Sow	May
East West Bancorp	Publish sustainability report	Boston Trust Walden	withdrawn
Green Dot	Publish sustainability report	Boston Trust Walden	withdrawn
Johnson & Johnson	Consider extraordinary legal costs in executive pay metrics	Vermont State Treasurer	April
Kroger	Report on executive pay links to ESG metrics	Zevin Asset Management	June
Meta Platforms	Report on societal impacts and financial priorities	The Shareholder Commons	May
State Street	Report on societal impact of investment stewardship	The Shareholder Commons	May
Wells Fargo	Report on compensation links to risky practices	New York State Common Retirement Fund	April

Sustainability reporting: Boston Trust Walden has already withdrawn proposals at **East West Bancorp** and **Green Dot** asking for a sustainability report after each agreed to do so. Still pending is its resolution at **Cathay General Bancorp** that proposes "a report describing the company's environmental, social, and governance (ESG) policies, practices, and performance goals and metrics."

expertinsight

A NEW INVESTMENT THEORY FOR DEALING WITH SYSTEMIC RISKS

JON LUKOMNIK

Managing Partner, Sinclair Capital; Co-Author: Moving Beyond Modern Portfolio Theory: Investing that Matters

JAMES P. HAWLEY

Senior ESG Advisor, Truvalue labs; Co-Author: Moving Beyond Modern Portfolio Theory: Investing that Matters

The definition of what it means to invest is changing. Today, investors are looking beyond their trading terminals and tackling investing risks in the real world, where value is created, as well as in the capital markets, where it is priced.

That is a welcome evolution. But, it's also a radical paradigm shift. For nearly three-quarters of a century, public market investing has centered on security analysis, trading, and portfolio construction. That paradigm is largely the legacy of the adoption of modern portfolio theory (MPT), which brilliantly taught us all the math of diversification, giving us the ability to extract the most efficient risk/return portfolio from the extant market. Unfortunately, diversification only works on idiosyncratic risks. But, overall market movements—non-diversifiable systematic risk—determines 75 percent to 94 percent of return, depending on which academic study you cite. This is the MPT paradox: MPT provides a powerful tool, but that tool only affects a quarter of your return at most. MPT provides no tool or theory to improve the overall market's risk/return profile.

In a demonstration of circular logic, generations of investors brought up on MPT, believing that they are unable to do anything about the overall market, therefore concluded that it's not their job to improve the market. The result has been a self-referential school of investing. Returns are relative, benchmarked against market indices that are divorced from the real world needs of investors.

Risk is similarly siloed. To MPT, risk is volatility, and the cause of the volatility (often systemic risk in the real world that becomes non-diversifiable systematic risk in the capital markets) is irrelevant. Academic theories have facilitated this imaginary, simplified, and self-contained world. By assuming 1) rational investors, 2) efficient markets, and 3) random walk theory, MPT does away with any need to deal with the messy feedback loops of the real world. Together, they create the perfect myth. They enable the math. They are easy to understand. They are explanatory. They are wrong.

Fortunately, practitioners increasingly see beyond the old ways. More and more, they are practicing "systems-level investing." Think of it this way: If the market itself were a portfolio, investors now try to improve its Sharpe ratio by mitigating risks to the real world's financial, social, and environmental systems before those risks enter the capital markets. Then, investors can use MPT's tools, but apply them to a better opportunity set.

Evidence is everywhere. Environmental and social shareholder resolutions in the United States are racking up numbers never seen before. The Principles for Responsible Investment organization has pushed its members to look at stewardship in terms of systemic risks. Many investors now focus their stewardship efforts not on specific firms, but on trying to mitigate negative externalities of entire industries and sectors (at a system and sub-system level), taking a universal owner approach. We read of investor-led efforts to mitigate real world risks to the environmental, social, and financial systems every day. Investors are tackling issues as disparate as climate change, fair taxation policies, income inequality, gender and racial discrimination, anti-microbial resistance, deforestation, biodiversity, and the governance of technology. The Chair of the Securities and Exchange Commission anticipates rule-making on climate change and human capital management. The UK stewardship code asks asset managers about systemic risk.

Importantly, a series of notable books, papers, and articles about both systems-level investing and/or universal ownership have been published in the last year, making the investing world sit up and take notice. Our book, *Moving Beyond Modern Portfolio Theory*, provided the first coherent finance theory of how and why investors confront the MPT paradox. Law professors Jeffrey Gordon and John Coffee addressed investors tacking systems level issues in separate papers. Bill Burkart and Steve Lydenberg's *21st Century Investing* and Beyond Alpha's "We Need to Talk: Why It's Time for Institutional Investors to Embrace SDG-Aligned Investing" showed investors how to think about systems to protect people and planet. Predistribution Initiative's "ESG 2.0" paper examined the impact of investment structures on various ESG issues.

Theory is catching up to practice.

Societal impacts: As noted above, The Shareholder Commons has filed proposals with a common theme that says long-term impacts that occur when companies externalize their costs harm society at large and financial markets and long-term investment results for universal investors. *(See pp. 29, 47, 49.)* Two of TSC's proposals are more general:

- **Adopt policy**—One proposal, filed on behalf of James McRitchie, asks **BlackRock** and **State Street** to "adopt stewardship practices designed to curtail corporate activities that externalize social and environmental costs that are likely to decrease the returns of portfolios that are diversified in accordance with portfolio theory, even if such curtailment could decrease returns at the externalizing company."
- **Report on risks**—The other, filed on behalf of John Chevedden and the Australian pension fund HESTA, asks **Alphabet** and **Meta Platforms** to report on "(1) risks created by Company business practices that prioritize internal financial return over healthy social and environmental systems and (2) the manner in which such risks threaten the returns of its diversified shareholders who rely on a productive economy to support their investment portfolios." It contends that misinformation distributed through company platforms imposes unaccounted for costs with negative long-term impacts on society and financial markets.

advocacyposition

COST EXTERNALIZATION: A BAD TRADE FOR DIVERSIFIED SHAREHOLDERS

SARA E. MURPHY
Chief Strategy Officer, The Shareholder Commons

The Shareholder Commons has filed or otherwise supported 19 shareholder proposals in 2022 that focus on systematic risks, including mis/disinformation, climate change, and antimicrobial resistance. The common thread running through these proposals is how a company's externalized costs affect shareholders by reducing the value of other assets in their portfolios. For instance, our proposal at **BlackRock** asks that it adopt stewardship practices aimed at curtailing corporate activities that externalize social and environmental costs likely to decrease diversified portfolios' return, even if such curtailment could decrease returns at the externalizing company.

Our proposals aim to buttress shareholder advocacy that moves beyond arguments based on "ESG integration," or how ESG concerns will affect a company's financial returns. While an ESG-integration strategy is adequate to support change when company value and improved impact converge, it cannot address the many situations in which companies optimize their internal returns by externalizing costs. Those costs derail economic growth, the long-term value of diversified portfolios directly correlates with the economy's health, and profit from cost externalization is a bad trade for companies' diversified investors.

Our proposals at **Tractor Supply** and **Marriott International** regarding poverty wages and associated racial inequality illustrate our point. Tractor Supply bills itself a leader in employee treatment, yet its starting wage is more than 32 percent less than a 2019 calculation of living wage, which predates recent inflation. Similarly, Marriott's starting wage for a housekeeper is $12.00 an hour, and the average wage for the position is $13.11. In comparison, the national wage adequate for a modest one-bedroom accommodation is $20.40, not accounting for recent inflation. In 2019, Marriott's CEO received compensation worth $13,435,887, or 346 times that of its median worker. While Marriott's U.S. workforce is 67 percent people of color, those groups make up only 21 percent of its executives.

Studies show that every unit of reduction in equality leads to a similar reduction in GDP. Economic Policy Institute research found income inequality slows U.S. economic growth by reducing demand by 2 percent to 4 percent. The Calvert Institute determined that a 1 percent increase in inequality leads to a 1.1 percent per capita GDP loss. Federal Reserve Bank of San Francisco researchers calculated that gender and racial gaps created $2.9 trillion in losses to U.S. GDP in 2019. And, Citi research concluded that eliminating racial disparity would add $5 trillion to the U.S. economy over the next five years.

Our proposals ask both companies to report on 1) whether they participate in compensation practices that prioritize their own financial performance over the economic and social costs created by inequality and racial and gender disparities and 2) how such costs threaten returns of diversified shareholders who rely on a stable and productive economy.

Essentially, we want companies to discuss the tradeoff they force on diversified shareholders when the companies increase their profit margins but lower GDP. Doing so will help investors evaluate when enterprise value diverges from shareholder value—and what to do about it.

SEC challenges—All four companies have challenged the resolutions at the SEC. The financial firms argue the resolution concerns ordinary business, would be illegal, could not be implemented and is too vague. The SEC agreed somewhat more specific 2021 proposals at these companies, on the ultimate societal costs of proxy voting practices, were ordinary business. Both **Alphabet** and **Meta** say this year's iteration is too vague, while Meta again says it is ordinary business.

Public benefit corporation: Investors gave just 3.1 percent support to a proposal that asked **Apple**

> to become a Social Purpose Corporation and to adopt specific social purposes such as (A) benefitting (1) the corporation's employees, suppliers, customers, and creditors; (2) the community and society; and (3) the environment and (B) exercising reasonable care to ensure the Company's operations do not impose social and environmental costs materially contributing to the degradation or destruction of important social and environmental systems.

Retirement plan alignment: *As You Sow* has a new proposal that asks **Amazon.com** and **Comcast** to examine their employees' retirement plan options and report, "reviewing the Company's retirement plan options with the board's assessment of how the Company's current retirement plan options align with its climate action goals." It says each company should explain why if it will not offer low-carbon investment options.

SEC action—Both companies argue the proposal is ordinary business since it is about employee compensation and benefits.

ESG Pay Links

Only four resolutions address ESG pay links. The Teamsters and Vermont Treasurer have revived a proposal that earned 11.7 percent at **AmerisourceBergen** in 2019. The proponents want it and **Johnson & Johnson** to include one-time litigation and compliance costs in performance metrics used to set executive incentive compensation, because such costs have come from harmful behavior. The opposing view, expressed in 2019 by AmerisourceBergen, is that companies need flexibility and discretion to design and administer compensation programs, and that excluding non-recurring or one-time events provides a more accurate picture of company performance. The proposal asks that each company adopt a policy

> that no financial performance metric shall be adjusted to exclude Legal or Compliance Costs when evaluating performance for purposes of determining the amount or vesting of any senior executive Incentive Compensation award.

"Legal or Compliance Costs" are expenses or charges associated with any investigation, litigation or enforcement action related to drug manufacturing, sales, marketing or distribution, including legal fees; amounts paid in fines, penalties or damages; and amounts paid in connection with monitoring required by any settlement or judgement of claims of the kind described above.

"Incentive Compensation" is compensation paid pursuant to short-term and long-term incentive compensation plans and programs.

The policy should be implemented in a way that does not violate any existing contractual obligation of the Company or the terms of any compensation or benefit plan. The Board shall have discretion to modify the application of this policy in specific circumstances for reasonable exceptions and in that case shall provide a statement of explanation.

At **Kroger**, Zevin Asset Management asks the company about "the feasibility of integrating environmental, social, and governance (ESG) metrics into performance measures or vesting conditions that may apply to senior executives under the Company's compensation plans or arrangements." It has not been voted on before at the company.

Finally, at **Wells Fargo**, NYSCRF has resubmitted a longstanding proposal seeking detailed information about the extent to which it ties malfeasance to compensation. It earned 26 percent last year, up slightly from around 21 percent in each of the previous three years. The proposal asks for a report on:

(1) whether and how the Company has identified employees or positions, individually or as part of a group, who are eligible to receive incentive-based compensation that is tied to metrics that could have the ability to expose Wells Fargo to possible material losses, as determined in accordance with generally accepted accounting principles;

(2) if the Company has not made such an identification, an explanation of why it has not done so; and

(3) if the Company has made such an identification, the: (a) methodology and criteria used to make such identification;

(b) number of those employees/positions, broken down by division;

(c) aggregate percentage of compensation, broken down by division, paid to those employees/positions that constitutes incentive-based compensation; and

(d) aggregate percentage of such incentive-based compensation that is dependent on (i) short-term, and (ii) long-term performance metrics, in each case as may be defined by Wells Fargo and with an explanation of such metrics.

advocacyposition

HOW TO MAKE ESG PAY LINKS MORE EFFECTIVE

MELISSA WALTON

Executive Compensation & Say on Climate Associate, As You Sow

Shareholder resolutions requesting companies disclose plans to achieve net-zero emissions by 2050 received increased support in the 2021 proxy season. While this is a positive development, companies must do more to cut emissions in half by 2030 to meet the Paris climate treaty goals. The way to make this work is to have a direct link to executive compensation packages. If the board sets a real financial incentive, then executives will make it happen.

An Institutional Shareholder Services (ISS) survey last year found 86 percent of investors believe incorporating ESG metrics into executive compensation programs will appropriately incentivize executives. Of these investors, 52 percent support introducing "specific and measurable" ESG metrics into compensation programs and 34 percent say "when chosen well, even ESG-related metrics that are not financially measurable can be an effective way to incentivize positive outcomes that may be important for a company." The important differentiator is not to simply have a link; it must be significant and easy to understand.

ESG metrics in executive compensation plans are now common. Willis Towers Watson reported in 2021 that 60 percent of S&P 500 companies incorporated ESG metrics in their incentive plans. Diversity, equity, and inclusion and human capital management were the most likely, but less than 13 percent addressed the environment.

Environmental metrics can help executives focus their attention on emissions reduction, but the details are important. Weak goals suggest greenwashing and undermine investor and public confidence that companies really take problems seriously. Meaningful climate action through executive compensation arrangement can occur. Current ties to ESG targets are usually a miniscule part (in some cases less than 1 percent) of total executive compensation. Only a few companies tie explicit emissions reductions to pay and quantitative goals are scant; vague language subject to board discretion is the norm.

As You Sow believes that best practices for incorporation would include:

- Linking emission reductions to **long-term incentive pay** (LTIP), not annual cash bonuses. LTIP is a much bigger part of compensation (60 percent to 70 percent, compared with total bonus pay of 15 percent to 20 percent). Also, bonuses often include a variety of metrics with different weights.
- Making emissions reduction targets **appropriate 'stretch' goals**. This would further incentivize executives, with higher rewards for exceeding normal expectations or reductions the company already is likely to achieve.
- Making the emissions reduction targets **explicit, specific and standalone** metrics.

From 2018 to 2021, 32 shareholder resolutions proposed some type of ESG ties to executive pay. That number has dropped significantly in 2022, likely because many companies have incorporated some environmental metrics into executive pay. Yet, adopting emissions reduction targets in executive compensation is still in the early stages. It is not clear if current practices will mean companies meet the net-zero goals we need. With pressure from shareholders for stronger metrics and better disclosure, more companies will adopt policies in the future. Whether this comes from resolutions or engagement, investors must develop clear guidelines to link emissions reductions to executive compensation.

Conservatives

Proponents with a conservative political perspective file resolutions that are the mirror image of those from most investors who want corporate disclosure and action on all the disparate social and environmental issues discussed in this report. From 2019 until last year, most of these proposals asked for more ideological diversity on boards of directors, positing that corporate America is too liberal. This year, the focus is on combating what proponents believe is a rash of "woke" policies on racism. Conservative groups also have consistently filed proposals about corporate political influence, while also suggesting philanthropic efforts inappropriately support liberal causes. After the 2019 Business Roundtable statement on stakeholder capitalism, these proponents started questioning CEOs' commitments to that idea. *(Top graph.)*

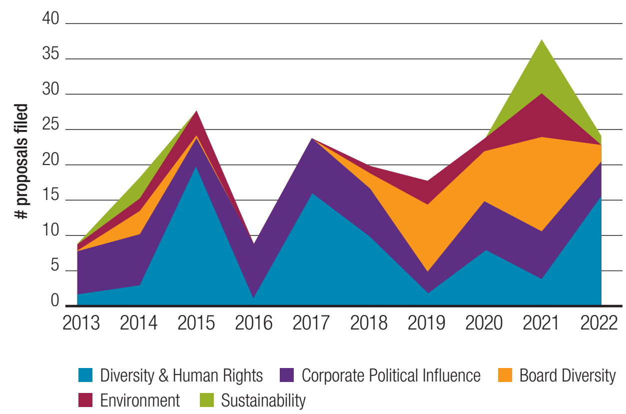
Investors generally have not given much support to these proposals, with the limited exception being those that borrow the resolved clause from the main political spending and lobbying campaigns.

The National Center for Public Policy Research (NCPPR), a think tank, is the main player, with resolutions also filed by its principals and like-minded supporters. NCPPR calls itself "the nation's preeminent free-market" shareholder activist group, via its Free Enterprise Project. Its representatives also attend annual meetings without filing proposals.

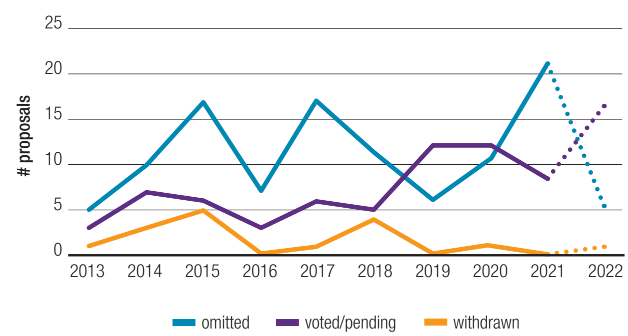
The National Center for Legal and Policy Center (NLPC) also files shareholder proposals but was inactive for a time. In 2022, it has five resolutions. Investors may want to note NLPC proposals about China express concern about the same human rights issues that bother other proponents. Common ground for all is an expressed concern about government repression and free speech.

Outcomes: Many conservative resolutions have been omitted over the years, for procedural and substantive reasons. But since 2019 about a dozen have appeared on proxy statements each year; average support in the last two years has been at only about 3 percent, however, rarely enough to qualify for resubmission.

Types of Conservative Proposal



Conservative Outcomes



Diversity

Workplace: New in 2022 are proposals about employee diversity training and (mirroring the racial justice audit resolutions) ask for a "workplace nondiscrimination audit." Two companies—**Deere** and **Starbucks**—have persuaded the SEC it is an ordinary business issue or moot. There are two main variants:

- **Training materials and audit:** At **American Express**, **Starbucks** and **Verizon Communications** the proposals seeks annual publication of "the written and oral content of employee-training materials offered to the company's employees by the company or with its consent, as well as any such materials that were sponsored by the company in whole or part." It also says:

  > In the alternative we request the Board commission a workplace nondiscrimination audit analyzing the company's impacts, including the impacts arising from company-sponsored or-promoted employee training, on civil rights and non-discrimination in the workplace, and the impacts of those issues on the company's business. In the latter instance, a report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on the company's website.

  SEC action—**Starbucks** lodged a successful challenge and the SEC agreed it is moot. **American Express** and **Verizon** are still waiting for an outcome; they also say the proposal is moot, false and misleading, ordinary business by dint of being about workforce relations, and impermissibly constitutes two separate proposals.

- **Audit:** The second proposal combines the above requests in a more concise resolution, at **Walt Disney** and **Deere**. The proposal earned 2.7 percent at Disney on March 9 but was omitted at Deere. The resolution asks the board to

  > commission a workplace non-discrimination audit analyzing Disney's impacts, including the impacts arising from Disney-sponsored or -promoted employee training, on civil rights and non-discrimination in the workplace, and the impacts of those issues on Disney's business. A report on the audit…should be publicly disclosed on Disney's website.

  SEC action—Both recipients challenged at the SEC on ordinary business grounds, but only Deere was successful. It argued the proposal was about workforce management and training and would micromanage.

Political discrimination: At **BlackRock**, NCPPR wants the company to "issue a public report detailing the potential risks associated with omitting 'viewpoint' and 'ideology' from its written equal employment opportunity (EEO) policy."

SEC action—The company has challenged the proposal, arguing it concerns ordinary business and is moot, noting that earlier similar proposals were omitted and that its non-discrimination policy forbids political discrimination, the proponent's chief concern. (A similar version of this proposal was omitted at **American Express** and **Walgreens** last year.)

"Woke" training: A resolution from individual investor J.E. Grau at **Walt Disney** has been omitted on the grounds that it was too vague. Its long resolved clause asked that employees not be required "to listen, read" or be exposed to "any other form of communication" about "'Woke Cult', 'Delete Culture', 'Supremacy Innuendos', '1776 Project', '1619 Project' or other similar biases." It said Disney should not be "transformed" by management into "a political-outpost for the benefit and or interests of any political faction / persuasion from the Right - Center - Left (or others) of the political spectrum either domestically or [foreign]."

Pride flag: Individual investor Chris Hotz has been trying for four years to convince **Intel** to stop flying the pride flag during the month of June, which celebrates LGBTQ people. His proposal this year asks for a report "on whether, and/or to what extent, the public display of the pride flag has impacted current, and to the extent reasonable, past and prospective employee's view of the company as a desirable place to work." Each previous proposal has been omitted, but each also was more prescriptive than this year's version. The company is arguing at the SEC that the proposal relates to ordinary business since it concerns workforce management.

Board ideology: The National Legal and Policy Center at **JPMorgan Chase** uses the same language as mainstream proponents to ask for "greater diversity" on the board by requiring diverse candidates, with qualifications presented in a matrix format in the proxy statement, with annual updates. The only difference is that it wants to see their "skills, experience and intellectual strengths." The supporting statement expresses support for diversity and does not discuss ideology but notes most directors now hold upper echelon corporate positions, and states the board "could additionally benefit from individuals whose life experience and perspectives are diverse."

SEC action—The company has filed a challenge at the SEC, arguing it is moot. Last year, the AFL-CIO withdrew a similar proposal after the company agreed to include diverse board nominee hiring slates.

Political Influence and Charitable Giving

Philanthropy: **Costco Wholesale** shareholders gave 3.2 percent support to a proposal from the NLPC that asked for a report listing "the recipients of corporate charitable contributions of $5,000 or more on the company website, along with the material limitations, if any, placed on the restrictions, and/or the monitoring of the contributions and its uses, if any, that the Company undertakes." The vote was too low to qualify for resubmission.

It looks likely that investors at three other companies will also vote on a similar, but longer, NCPPR proposal. It asks **Wells Fargo** to issue a semi-annual report

> that discloses, itemizes and quantifies all Company charitable donations, aggregated by recipient name & address each year for contributions that exceed $999 annually. This report shall include:
>
> 1. Monetary and non-monetary contributions made to non-profit organizations operating under Section 501(c)(3) and 501(c)(4) of the Internal Revenue Code, and any other public or private charitable organization;
> 2. Policies and procedures for charitable contributions (both direct and indirect) made with corporate assets;
> 3. Rationale for each of the charitable contributions.
>
> To the extent reasonable and permissible, the report may include the type of information requested above for charities and foundations controlled or managed by the Company, including the Wells Fargo Foundation.

At **Boeing** and **Johnson & Johnson**, NLPC has a similar version but switches out "Personnel participating in the decisions to contribute" for the third point and eliminates discussion of charities or foundations associated with the companies.

Conservative

Company	Proposal	Proponent	Status
American Express	Report on employee training curriculum	National Center for Public Policy Research	May
Apple	Report on risks of becoming public benefit corporation	National Center for Public Policy Research	omitted
Apple	Report on prison labor and supply chain	National Legal and Policy Center	omitted
BlackRock	Report on excluding viewpoint diversity from EEO policy	National Center for Public Policy Research	May
Boeing	Report on charitable contributions	NLPC	April
Coca-Cola	Require shareholder approval of political statements	Stephen F. Kraus	April
Costco Wholesale	Report on charitable contributions	National Center for Public Policy Research	3.2%
CVS Health	Report on risks of racial justice efforts	National Center for Public Policy Research	May
Deere	Report on employee training curriculum	National Center for Public Policy Research	omitted
General Motors	Report on supply chain human rights risks	National Legal and Policy Center	June
Intel	Make statement/report on pride flag	Chris Hotz	May
Johnson & Johnson	Report on risks of racial justice efforts	National Center for Public Policy Research	April
Johnson & Johnson	Report on charitable contributions	National Legal and Policy Center	April
JPMorgan Chase	Adopt policy on board nominee ideological diversity	National Legal and Policy Center	May
Levi Straus	Report on risks of racial justice efforts	National Center for Public Policy Research	April
Meta Platforms (was Facebook)	Report on risks of racial justice efforts	National Center for Public Policy Research	May
Pfizer	Report on political spending values congruency	National Center for Public Policy Research	April
Starbucks	Report on employee training curriculum	National Center for Public Policy Research	omitted
Target	Report on public policy advocacy	Vident Advisory	withdrawn
Verizon Communications	Report on employee training curriculum	National Center for Public Policy Research	May
Verizon Communications	Report on ties to Communist China	Steven J. Milloy	May
Walgreens Boots Alliance	Become public benefit corporation	National Center for Public Policy Research	2.5%
Walt Disney	Eliminate biased employee/contractor training	J.E. Grau	omitted
Walt Disney	Erect bust of Walt Disney at military resort	Max Riekse	omitted
Walt Disney	Maintain Hall of Presidents at Disney World	Max Riekse	omitted
Walt Disney	Report on employee training curriculum	National Center for Public Policy Research	2.7%
Walt Disney	Report on human rights impact assessment	National Legal and Policy Center	36.8%
Wells Fargo	Report on charitable contributions	National Legal and Policy Center	April

SEC action—**Wells Fargo** says the proposal is moot and has yet to receive a response, but the SEC disagreed with assertions from the other two companies that the resolution is moot.

Public policy advocacy: Two resolutions with a similar aim ask about public policy endorsements.

- At **Pfizer**, NCPPR asks for an annual report "analyzing the congruency of political and electioneering expenditures during the preceding year against publicly stated company values and policies." The resolved clause is the same as a resubmitted proposal from the Tara Health Foundation that received 47.2 percent in 2021. However, the NCPPR proposal is critical of several positions taken by various candidates funded by the company, criticizing Pfizer's diversity approach and its support for candidates in favor of abortion rights. *(See p. 46 for Tara proposal.)*
- Vident Advisory has withdrawn a proposal at **Target** that asks it for an annual report

> listing and analyzing policy endorsements made in recent years. The report should include public endorsements, including press statements released by the company and signing of public statements associated with activist groups and statements of threat or warning against particular states in response to policy proposals. The report should analyze whether the policies advocated can rigorously be established to be of pecuniary benefit to the company and describe possible risks to the company arising from such statements, endorsements, or warnings.

SEC action and withdrawal—**Pfizer** says the NCPPR resolution is moot, but also suggests that if the SEC disagrees, the inclusion of the NCPPR proposal will make the resubmitted Tara resolution duplicative, allowing that one to be omitted. **Target** argued at the SEC that the proposal is ordinary business and too vague, but the proponent withdrew before any SEC response after discussions with the company.

Shareholder approval: Stephen K. Kraus, an individual investor, proposes that **Coca-Cola** "Require the company to submit any proposed political statement to the next shareholder meeting for approval prior to issuing the subject statement publicly." The resolution has not been proposed at any other company before; it raises concerns about the company's statements on Georgia's elections in 2020, which were contested by the former U.S. president.

SEC action—Coca-Cola says the proposal is too vague and also concerns ordinary business by dint of micromanagement but the SEC has yet to respond.

Statues and displays: Individual investor Max Riekse has seen both his proposals to **Walt Disney** omitted because they were filed too late. He first asked the company to erect a bust of the company founder at a military resort near Disney World in Florida. He also asked that the company take very specific actions regarding its displays about U.S. presidents at Disney World, including:

> That former President Donald Trump be fully represented in the Hall of Presidents and that the Hall of Presidents be kept in the same location at Magic Kingdom for 75 years. And that a President Donald Trump mannequin be placed next to either former Presidents Teddy Roosevelt, Ronald Reagan or Andrew Jackson in the Hall of Presidents.
>
> Be it further resolved that the current representation of President Donald Trump in the Hall of Presidents, 2017-2020, be donated at no cost and in full working order, to the future President Donald Trump Presidential Library and Museum.

Human Rights

Racial justice audit risks: Inspired by last year's racial justice audit proposals that have burgeoned this year, NCPPR has filed at least four proposals—at **CVS Health**, **Johnson & Johnson**, **Levi Straus** and **Meta Platforms**, asking each to

> commission an audit analyzing the Company's impacts on civil rights and non-discrimination, and the impacts of those issues on the Company's business. The audit may, in the Board's discretion, be conducted by an independent and unbiased third party with input from civil rights organizations, public interest litigation groups, employees and other stakeholders—of a wide spectrum of viewpoints and perspectives. [this modifier is left out at Johnson & Johnson]. A report on the audit, prepared at reasonable cost and omitting confidential or proprietary information, should be publicly disclosed on the Company's website.

Although the proposal borrows the language of civil rights advocates, it argues that corporate efforts to combat discrimination disadvantage White people, which it says is racist.

SEC action—**CVS**, **Levi Straus** and **Meta** each filed challenges at the SEC, arguing variously that it is too vague, is ordinary business because it concerns workforce management and legal compliance, or (in Meta's case) that it is moot given civil rights audits it conducted in 2019 and 2020. **Johnson & Johnson** says it plans to include this resolution in its proxy statement, which it argues means a resolution *supporting* a racial justice audit resubmitted by ICCR members can be struck because it is duplicative.

Forced labor in China and Africa: The NLPC filed two proposals that raise concerns about doing business in China, but just one will go to a vote. Its request for an annual report at **Apple** "on the extent to which its products are produced through the direct or indirect use of forced (or slave) labor" has been omitted, as discussed below.

However, investors gave 36.8 percent support to a resolution asking **Walt Disney** to report "on the process of due diligence, if any, that the Company undertakes in evaluating the human rights impacts of its business and associations with foreign entities, including foreign governments, their agencies, and private sector intermediaries." NLPC was prompted by controversy about the 2020 live-action movie, *Mulan*, which was filmed in the Xinjiang region of China where the Chinese government is persecuting the Uyghur people. The film gave thanks in its credits to regional government authorities; Disney's current human rights policies are largely focused on supply chain labor and human rights concerns about manufacturing of its licensed products, which both NLPC and SumOfUs, its counterpart on the other side of the political divide, find inadequate.

At **General Motors**, NLPC seeks a report "on the extent to which its business plans with respect to electric vehicles may involve, rely or depend on child labor outside the United States." The resolution notes the company's plans to promote electric vehicles (EVs), which use cobalt in their batteries, pointing out that about 60 percent of cobalt globally comes from the Democratic Republic of Congo where child labor is rife. The proposal says investors "have the right to know the extent to which, if any and intentionally or not," GM relies on child labor in its supply chain. (Last year, Steven J. Milloy asked the utility **Exelon** about its support for EV infrastructure given his stated concern about cobalt and child labor and the vote was 5.2 percent.)

Milloy this year wants **Verizon Communications** to report on its ties to China with a report

> on the general nature and extent to which corporate operations involve or depend on Communist China, which is a serial human rights violator and a geopolitical threat and adversary to the US. The report should exclude confidential business information but provide shareholders with a basic sense of Verizon's reliance on activities conducted within, and under control of the Communist Chinese government.

SEC action—The SEC agreed the **Apple** proposal could be omitted because it duplicated a similar proposal filed first by SumOfUs. *(See p. 69 for a description of that proposal.)* The commission rejected **Walt Disney's** contention that the resolution there is ordinary business and has yet to decide on a challenge from **General Motors** that argues its reporting makes the resolution moot. The SEC also has not responded yet to **Verizon's** contentions that its proposal raises ordinary business questions because it concerns management decisions about where and with whom to do business, and is too vague.

Sustainability

NCPPR again mirrored its foes on the other end of the political spectrum at **Apple**, asking it

> to become a public benefit corporation (a "PBC") in light of its adoption of the Business Roundtable Statement of the Purpose of a Corporation ("the Statement") [referred to in a footnote]. Shareholders further request that the Board then present such amendments to the shareholders for approval, along with a full disclosure of the implications for shareholders that will follow from approval and adoption of the amendments, and the risks that append to such approval and adoption.

The SEC agreed, however, that this was too vague because it was unclear "whether the Company, a California corporation, must become a public benefit corporation and therefore reincorporate in Delaware to implement the proposal, or whether the Company should instead covert to a form of benefit corporation recognized under California law." In its challenge, Apple noted it also received a proposal asking it to reincorporate as a public benefit corporation (PBC), received after the NCPPR version and from The Shareholder Commons, but it said that proposal should be included. *(See p. 80 above for more on the TSC resolution, which earned 3.1 percent (about what the NCPPR proposals have done).)*

APPENDIX

More on the Web

All resolutions must conform to the Shareholder Proposal Rule of the Securities and Exchange Act of 1934, which sets procedural as well as substantive standards for admissibility. Read more on **www.proxypreview.org**.

Access research about shareholder proposal issues, organizations, networks and investor campaigns on **www.proxypreview.org**.

Read more about the contributing authors at **www.proxypreview.org**.

Contributors (in alphabetical order)

Shelley Alpern – Director of Corporate Engagement, Rhia Ventures

Antoine Argouges – Founder and CEO, Tulipshare

Amy D. Augustine – Director of ESG Investing, Boston Trust Walden

Meredith Benton – Principle, Whistle Stop Capital

Ron S. Berenblat – Partner, Olshan Frome Wolosky LLP

Rob Berridge – Senior Director of Shareholder Engagement, Ceres

Rhonda Brauer – Founder and President, RLB Governance; former Corporate Secretary and Governance Officer at The New York Times Company

Benedict Buckley – CFA, ClearBridge Investments

Samantha Burke – ESG Analyst, Boston Trust Walden

Dan Carroll – Vice President for Programs, Center for Political Accountability

Rebecca Dewinter-Schmitt – Associate Program Director, Investor Alliance for Human Rights

Kate R. Finn – First Peoples Worldwide

Bruce F. Freed – President, Center for Political Accountability

Danielle Fugere – President, *As You Sow*

Amy Galland, PhD MBA – Founder and Principal, Empower Venture Partners

Ariana Guilak – Environmental Health Program Coordinator, *As You Sow*

James P. Hawley – Senior ESG Advisor, FactSet; Professor Emeritus, Saint Mary's College of California

Kristin Hull – Founder and CEO, Nia Impact Capital

Patricia Jurewicz – Founder and Chief Executive Officer, Responsible Sourcing Network

Diana Kearney – Senior Legal and Shareholder Advocacy Advisor, Oxfam America

John Keenan – Corporate Governance Analyst, AFSCME Capital Strategies

Olivia Knight – Racial Justice Initiative Manager, *As You Sow*

Alison LaFrance – Climate Fellow, *As You Sow*

Natasha Landell-Mills – Partner and Head of Stewardship, Sarasin & Partners LLP

Sanford Lewis – Director, Shareholder Rights Group

Jon Lukomnik – Managing Partner, Sinclair Capital

Jillianne Lyon – Investor Advocates for Social Justice

Conrad MacKerron – Senior Vice President, *As You Sow*

Kelly McBee – Waste Program Coordinator, *As You Sow*

Alexandra McPherson – Consulting Manager, Investor Environmental Health Network

Sara E. Murphy – Chief Strategy Officer, The Shareholder Commons

Nadira Narine – Senior Program Director, Interfaith Center on Corporate Responsibility

Michael Passoff – CEO, Proxy Impact

Andrea Ranger – Shareholder Advocate, Green Century Capital Management

Paul Rissman – Co-founder, Rights Co-Lab

Stephanie Rivers – Master of Public Affairs Candidate at UC Berkeley; Consultant, Whistle Stop Capital

Joshua Romo – Energy & Plastics Associate, *As You Sow*

Mark Rossi – Executive Director, Clean Production Action

Leslie Samuelrich – President, Green Century Capital Management

Frank Sherman – Executive Director, Seventh Generation Interfaith Coalition for Responsible Investment

David Shugar – Say on Climate Initiative Manager, *As You Sow*

Daniel Stewart – Energy and Climate Program Manager, *As You Sow*

Melissa Walton – Executive Compensation & Say on Climate Associate, *As You Sow*

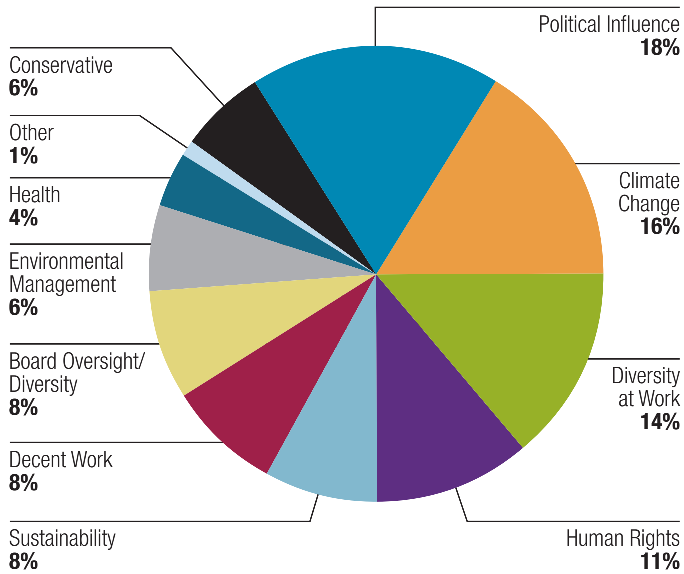
Josh Zinner – CEO, Interfaith Center on Corporate Responsibility

2021 Proxy Season Review

The 2021 proxy season moved into uncharted waters, with more majority votes than ever (39) and a momentous proxy fight at **ExxonMobil** that ended with three dissident directors winning board seats. Yet shareholder proponents also were coming to terms with new rules issued from the SEC in the waning days of the Trump administration aimed at curbing shareholder proposals. While the new rules affect the 2022 proxy season, legal action and a sympathetic ear from the Biden Administration's SEC will shape the ultimate outcome.

Average support for the 185 proposals seeking social and environmental changes at companies was 33.8 percent, up from just under 19 percent 10 years earlier; this excludes low votes on resolutions from conservatives. Total filings surged to a new high of 499. One key change pushing the averages up in 2021 were votes above 90 percent that occurred when companies voiced no opposition.

Proposals Filed in 2021



Company efforts to block resolutions from inclusion in proxy statements using provisions of the Shareholder Proposal Rule continued to bear fruit, reflecting changes in SEC staff interpretations put in place during the Trump era. By November, however, the SEC rescinded all three interpretive bulletins, promising an easier road in 2022 for proponents.

Major Themes

Proposals about diversity expanded substantially in 2021, at least partly in response to the Black Lives Matter movement, with a jump in filings articulating issues both old and new. Other major themes of proxy season persisted, addressing corporate political influence and climate change.

- **Diversity, equity and inclusion:** Proposals sought fair representation, treatment and pay in the workplace and more diverse boards of directors, with 14 majorities. Proponents reached agreements and withdrew many proposals. In addition, 20 new resolutions asked companies how they are combatting systemic racism.
- **• Corporate political influence:** Investor support for more oversight and disclosure of corporate spending and lobbying continued to grow, with 15 majority votes and six more above 40 percent. There were 85 filings and 29 withdrawals, with corporate commitments most likely for election spending proposals. Average support reached all-time highs of 43.8 percent on election spending and 38.7 percent on the main lobbying proposal. Much higher, though, were the votes on climate-related political advocacy; seven proposals average 62.5 percent support, with five strong majorities.
- **Climate change:** Proposals addressed climate change directly and took on mostly related environmental management issues, often about plastic. The number of votes on these issues has fallen as companies and proponents find common ground, but proponents now also want companies to do more; support for more robust action continued to build; there were 25 votes with average support of 53.2 percent. Almost all asked about carbon asset risk and how companies plan to cut emissions and re-tool for a lower carbon world.

Majority Votes in 2021

Company	Proposal	Vote (%)
Climate Change/Environmental Management		
AutoZone	Report on GHG emissions targets	70.4
Bloomin Brands	Report on supply chain deforestation impacts	76.2
Booking Holdings	Report on climate-related transition plan	56.5
Bunge Limited	Report on supply chain deforestation impacts	98.9*
Chevron	Adopt goals/reduce Scope 3 GHG emissions	60.7
ConocoPhillips	Adopt GHG reduction targets	59.3
DuPont de Nemours	Report on plastics pollution	81.2
General Electric	Report on net-zero GHG goals	98.0*
Phillips 66	Adopt GHG reduction targets	80.3
Sysco	Report on GHG emissions targets	92.1
Corporate Political Influence		
AECOM	Report on lobbying	54.6
Chemed	Review/report on election spending	80.2
Delta Air Lines	Review/report on climate change advocacy	63.0
Duke Energy	Review/report on election spending	51.9
ExxonMobil	Review/report on climate change advocacy	64.2
ExxonMobil	Report on lobbying	56.1
FedEx	Report on lobbying	62.4
GEO Group	Report on lobbying	66.3
Netflix	Review/report on election spending	80.7
Norfolk Southern	Review/report on climate change advocacy	76.4
Omnicom Group	Review/report on election spending	51.0
Phillips 66	Review/report on climate change advocacy	62.5
Royal Caribbean Cruises	Review/report on election spending	52.9
United Airlines Holdings	Review/report on election spending	67.9
United Airlines Holdings	Review/report on climate change advocacy	65.4
Diversity and Inclusion		
American Express	Report on diversity programs	59.7
Badger Meter	Report on board diversity	85.4
DuPont de Nemours	Disclose EEO-1 data	83.8
First Community Bankshares	Report on board diversity	70.6
First Solar	Report on board diversity	91.2*
Goldman Sachs	Report on mandatory arbitration	53.2
IBM	Report on diversity programs	94.3*
Microsoft	Review/report on sexual harassment policy	78.0
Paycom Software	Report on executive diversity	93.8*
Sunrun	Report on mandatory arbitration	59.4
Tesla	Report on diversity programs	56.9
Union Pacific	Disclose EEO-1 data	86.4
Union Pacific	Report on diversity programs	81.4
Wendy's	Report on pandemic worker health/safety	95.3*

* Supported/not opposed by management.

2021 Highlights

Environment

Climate change: A modest resurgence of climate proposal brought the total to 79, but there were only 20 votes. Proponents asked how companies plan to address carbon asset risks but raised few other issues. Most asked for greenhouse gas (GHG) emissions reduction targets in the context of the Paris climate treaty. The consistency of requests for reporting was notable.

The highest votes included 48 percent in favor of reporting on net-zero GHG goals at **Caterpillar**, and a 98 percent vote (after management support) for the same resolution at **General Electric**. An early win for proponents came when **ExxonMobil** agreed to report on its full carbon footprint, prompting a withdrawal. Investors were strongly in favor of emissions reductions. They gave 60.7 percent support to a new proposal at **Chevron** that sought Scope 3 (indirect) emissions reductions, and majority support for adopting GHG reduction targets at **ConocoPhillips** and **Phillips 66**.

Resolutions on strategic planning and shareholder feedback included those asserting the new idea that shareholders should be given the opportunity to annual vote on corporate climate change plans; this idea morphed proposals that continue in 2022 and only ask about plans for the climate transition. High votes for a climate transition plan included 56.5 percent at **Booking Holdings**. Two new proposals seeking a formally audited plan earned 48 percent at both **Chevron** and **ExxonMobil**. Proponents also withdrew four proposals at banks asking for reports on how they plan to finance GHG cuts in line with the Paris climate treaty, when the companies agreed to act.

Investors gave 76.2 percent support to a resolution asking how Bloomin Brands addresses deforestation in its supply chain, while support from the board at **Bunge** pushed the vote there to nearly 99 percent.

Environmental management: Concern that plastics are overwhelming and harming the ecosystem was by far the most important issue, although a dozen more proposals also inquired about industrial agriculture. There were only six votes, but they included the highest ever vote at **Du Pont de Nemours**—81.2 percent—on plastics pollution. In response to a similar proposal, **Coca-Cola** announced it will cut its virgin plastic use by 3 million metric tons by 2025.

Social Issues

Corporate political activity: Investors went to the proxy ballot box not long after the unprecedented attack on our democracy on January 6, when supporters of ex-President Trump sought to overturn the election. Many companies announced after the attack that they would "pause" corporate and PAC political spending and re-evaluate how they spend, but those pledges now are evaporating.

Ever-present filings about corporate influence numbered 89 and produced 50 votes. The most important development was an expanded set of resolutions on climate-related lobbying, with five of the six proposals that went to votes earning majority support—at **Phillips 66**, **Delta Air Lines**, **ExxonMobil**, **United Airlines** and **Norfolk Southern**. Few of the main lobbying proposals were withdrawn and three earned majorities, at **AECOM**, **ExxonMobil** and **GEO Group**. Proposals on election spending included six majorities—at **Chemed**, **Duke Energy**, **Netflix**, **Omnicom Gorup**, **Royal Caribbean** and **United Airlines**.

What really changed on this issue in 2021 was a shift that continues in 2022—more scrutiny about the views of those that receive company-connected money. There was a near-majority at **Pfizer** (47.2 percent) after the Tara Health Foundation asked it about incongruencies between its spending and expressed support for women's health, noting the company has supported many abortion rights foes.

Decent work: Proposals about decent work were split about evenly between those about fair pay and those on working conditions. But none of the CEO pay disparity proposals earned more than 11 percent and most received much less. Votes were higher for reporting on pay differentials based on gender and race, with the highest vote of 32.6 percent at **CIGNA**. Sexual harassment problems and the role mandatory arbitration can play in shielding them from public view were on the ballot and received majority support at **Goldman Sachs** (53.2 percent) and Sunrun (59.4 percent). Also notable was a vote of 95.3 percent at **Wendy's**, where management supported a request to report on how it is addressing worker health and safety in the pandemic.

Diversity in the workplace: Shareholder proponents responded to the Black Lives Matter movement sparked by the May 2020 murder of George Floyd in Minnepolis by filing twice as many proposals as about diversity, with 72 filings. A lead player was the New York City Comptroller's Office and it was largely successful in persuading companies to voluntarily release their EEO-1 forms that break down employment by job category, race, gender and ethnicity. As *The Wall Street Journal* noted at the start of September, 78 out of the 100 largest publicly traded companies now release this information. Startling high votes were in favor of EEO disclosure—83.8 percent at **Du Pont de Nemours** and 86.4 percent at **Union Pacific**. Additional important corporate concessions included the decision by **Home Depot** to release its EEO-1 data, after 20 years of shareholder resolutions.

As You Sow pushed the envelope to ask for more than EEO-1 data, however, seeking additional information on hiring, recruitment and retention to better understand the impact of diversity and inclusion programs. Three majorities included 59.7 percent at **American Express**, 94.3 percent at **IBM** (with management support) and 81.4 percent at **Union Pacific**. Further, Trillium Asset Management continued its push for executive suite diversity and earned 93.8 percent at **Paycom Software** where management made no recommendation.

Health: As might be expected amid a global pandemic, several shareholder resolutions raised health issues, producing nine votes. ICCR members asked drug companies about pricing and access for drugs and vaccines to counteract Covid-19; the highest of three votes was 33.6 percent at **Merck**.

Human rights: Proponents filed 55 proposals about human rights, raising explicit new concerns about systemic racism at financial firms and others, earning significant support when they asked for racial justice audits. The SEC turned back challenges and the highest vote was 40.5 percent at **JPMorgan Chase**. NYSCRF earned even more—44.2 percent—at **Amazon.com**, where it called out racist incidents.

Other strategy and accountability proposals notched the most support of 32.2 percent at **Lockheed Martin**; one of the company's weapons had killed a school bus full of children in Yemen. The company gives its employees 24 minutes of training a year on human rights and says concerns about its business are best addressed by governments.

Taking up controversies about electronic media content, technology and privacy were another 13 resolutions. Two at **Amazon.com** on different aspects of surveillance technology earned about 35 percent.

Sustainable Governance

Board diversity: A diminished complement of just 28 proposals addressed board diversity. But no S&P 500 company is now without at least one woman on the board, although racial and ethnic diversity remains scarce. Five votes included three majorities—85.4 percent at **Badger Meter**, 70.6 percent at **First Community Bankshares** and 91.2 percent at **First Solar**, where the company took no position.

Board oversight and experts: Also lower in number were proposals seeking specific types of board oversight, with just 10 filings, down from two dozen three years ago. The highest vote was 14.3 percent in response to a request for a human rights expert on **Twitter's** board.

Sustainability: Replacing a former flood of generalized sustainability reporting proposals were new resolutions about the nature of corporate purpose, but proposals asking companies to reincorporate as public benefit corporations earned scant support. There were 40 filings, down from a peak of 58 three years ago, and 23 votes. There were only six votes on ESG pay links, well below earlier years. The highest was 25.6 percent for a serial repeat at **Wells Fargo** seeking more information on how it guards aginast incentives that may encourage risky practices.

COMPANY INDEX

The index below shows with checkmarks (✓) how many proposals have been filed at each company, in each major topic categories presented in this report. More details on each of the resolutions can be found in the tables and text of appropriate sections of the report, as follows:

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Decent Work/Diversity ....p. 38
Environment ....p. 13
Human Rights..p. 51
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Company	Corporate Political Influence	Decent Work/ Diversity	Environment	Human Rights	Other	Sustainable Governance	Grand Total
3D Systems						✓	1
3M	✓	✓		✓			3
Abbott Laboratories	✓		✓				2
AbbVie	✓✓				✓		3
Activision Blizzard		✓✓✓					3
Advance Auto Parts	✓						1
AECOM	✓						1
Air Products & Chemicals			✓				1
Allegheny Technologies			✓				1
Alphabet	✓✓	✓	✓✓	✓✓✓✓✓✓✓		✓✓✓	15
Altria	✓			✓			2
Amazon.com	✓✓	✓✓✓✓✓✓✓✓✓	✓✓	✓✓✓✓	✓	✓	19
Amedisys			✓				1
American Airlines Group	✓✓						2
American Express		✓			✓		2
American International Group	✓	✓	✓				3
American Water Works			✓	✓			2
AmerisourceBergen						✓	1
Amgen	✓✓✓				✓		4
Analog Devices	✓						1
Antero Resources			✓				2
Anthem				✓			1
Apple		✓✓	✓	✓✓✓	✓✓	✓	9
Applied Materials		✓					1
Archer-Daniels-Midland			✓				1
AT&T	✓	✓					2
B&G Foods			✓				1
Badger Meter						✓	1
Bank of America		✓	✓✓				3
Bank of New York Mellon			✓				1
Bed Bath & Beyond			✓				1
Berkshire Hathaway		✓	✓✓			✓	4
Best Buy		✓✓					2
Biogen	✓						1
BJ's Restaurants			✓				1
BJ's Wholesale Club			✓				1
BlackRock					✓	✓	2
Boeing	✓		✓		✓		3
Bristol-Myers Squibb		✓					1
Builders FirstSource			✓				1
Burlington Stores			✓				1

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Company	Corporate Political Influence	Decent Work/ Diversity	Environment	Human Rights	Other	Sustainable Governance	Grand Total
Cactus						✓	1
Carnival			✓				1
Caterpillar	✓		✓	✓			3
Cathay General Bancorp						✓	1
Cerner				✓			1
Charles Schwab	✓	✓		✓			3
Charter Communications	✓✓	✓✓	✓				5
Cheesecake Factory			✓				1
Chemed	✓						1
Chemours			✓	✓			2
Cheniere Energy			✓				1
Chevron	✓		✓✓✓✓	✓✓			7
Chipotle Mexican Grill		✓✓✓	✓	✓			5
Chubb Limited			✓✓				2
Church & Dwight			✓				1
CIGNA	✓	✓					2
Citigroup			✓✓✓	✓			4
CME Group	✓						1
CMS Energy			✓				1
Coca-Cola			✓	✓	✓✓		4
Comcast		✓		✓		✓	3
ConocoPhillips			✓				1
CorVel						✓	1
Costco Wholesale	✓		✓		✓✓		4
Coterra (was Cabot Oil & Gas)	✓						1
CSX	✓						1
CVS Health		✓	✓		✓✓		4
Danaher		✓					1
Darling Ingredients			✓				1
DaVita	✓						1
Deere			✓		✓		2
Delta Air Lines	✓						1
Denny's		✓					1
Dine Brands		✓					1
DISH Network	✓						1
Dollar General	✓	✓	✓✓	✓			5
Dollar Tree		✓	✓	✓			3
Dominion Energy	✓		✓✓✓✓				5
Douglas Emmett	✓						1
Dow			✓	✓			2
DTE Energy			✓				1
Duke Energy			✓✓				2
East West Bancorp						✓	1
Eastman Chemical			✓				1
Ecolab	✓						1
Edwards Lifesciences		✓					1
Electronic Arts		✓					1
Eli Lilly	✓✓✓				✓		4
Entergy			✓	✓			2
Etsy		✓					1
Eversource Energy			✓	✓			2

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Company	Corporate Political Influence	Decent Work/ Diversity	Environment	Human Rights	Other	Sustainable Governance	Grand Total
Exelon	✓	✓					2
Expeditors International of Washington	✓						1
ExxonMobil	✓✓✓	✓	✓✓✓✓				8
First Community Bankshares						✓	1
Five Below			✓				1
Flowers Foods	✓						1
Foot Locker			✓				1
General Dynamics				✓			1
General Motors					✓		1
GEO Group	✓						1
Gilead Sciences	✓				✓		2
Goldman Sachs		✓✓	✓	✓			4
Green Dot						✓	1
Hanesbrands	✓						1
Hartford Financial Services Group			✓✓				2
Hasbro		✓					1
HCA Healthcare	✓✓	✓	✓				4
Healthpeak (was HCP)	✓						1
Helios Technologies			✓				1
Hershey				✓			1
Home Depot	✓	✓✓	✓	✓		✓	6
Honeywell International	✓			✓			2
Hormel Foods			✓				1
IDACORP			✓				1
Ingles Markets			✓				1
Intel		✓			✓		2
IntercontinentalExchange		✓					1
International Business Machines		✓✓					2
Invesco	✓			✓			2
J.B. Hunt Transport Services			✓				1
Jack in the Box			✓				1
Johnson & Johnson	✓	✓		✓	✓✓✓✓✓	✓	9
JPMorgan Chase	✓✓	✓✓	✓✓✓		✓		8
Kellogg		✓					1
Kimberly-Clark		✓					1
Kinder Morgan				✓			1
Kraft Heinz			✓✓✓✓				4
Kroger		✓✓✓	✓✓✓✓	✓	✓	✓	10
Las Vegas Sands	✓						1
Levi Straus			✓		✓		2
LHC Group				✓			1
Lockheed Martin	✓			✓			2
Lowe’s		✓✓	✓✓		✓		5
Lyft	✓						1
Macy’s			✓				1
Marathon Oil			✓✓				2
Marathon Petroleum			✓✓				2
Marriott International		✓					1
Martin Marietta				✓			1
Mastercard				✓			1
Match Group				✓			1

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Company	Corporate Political Influence	Decent Work/ Diversity	Environment	Human Rights	Other	Sustainable Governance	Grand Total
Maximus				✓			1
McDonald’s			✓✓✓	✓			3
Merck	✓				✓		2
Meta Platforms (was Facebook)	✓✓	✓✓		✓✓✓✓	✓	✓✓	11
MGE Energy			✓				1
Middleby			✓				1
Moderna					✓✓		2
Mondelez International				✓			1
Monster Beverage		✓	✓				2
Moody’s			✓				1
Morgan Stanley		✓	✓				2
Netflix	✓	✓					2
Newell Brands			✓				1
NextEra Energy	✓	✓				✓	3
NiSource				✓			1
Northrop Grumman				✓			1
Norwegian Cruise Line Holdings			✓				1
NRG Energy	✓						1
Nvidia		✓		✓			2
Occidental Petroleum			✓				1
ODP			✓				1
Old Dominion Freight Line	✓						1
Oracle				✓			1
O’Reilly Automotive			✓				1
Ormat Technologies		✓					1
PayPal		✓✓			✓		3
PepsiCo	✓		✓		✓		3
PetMed Express		✓					1
Pfizer	✓✓	✓		✓	✓✓✓✓		8
Philip Morris International					✓		1
Phillips 66			✓✓				2
PNC Financial Services Group				✓			1
Post Holdings			✓				1
PPG Industries	✓	✓					2
PPL Corporation			✓				1
Progressive	✓						1
ProLogis	✓						1
Proto Labs						✓	1
Quanta Services	✓						1
Range Resources			✓				1
Repligen		✓					1
Republic Services				✓			1
Roper Technologies	✓						1
Ross Stores		✓	✓				2
Royal Caribbean Cruises	✓						1
S&P Global			✓				1
Salesforce.com	✓	✓✓		✓			4
SBA Communications			✓				1
SEI Investments		✓					1
Sempra Energy						✓	1
Silgan Holdings						✓	1

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Company	Corporate Political Influence	Decent Work/ Diversity	Environment	Human Rights	Other	Sustainable Governance	Grand Total
Skechers U.S.A.			✓				1
Southern			✓	✓			2
Standard Motor Products			✓				1
Starbucks		✓			✓		2
State Street						✓	1
Stericycle				✓			1
Sturm, Ruger				✓			1
SVB Financial Group				✓			1
Take-Two Interactive Software		✓					1
Target		✓✓✓			✓		4
Tesla		✓	✓				2
Texas Instruments						✓	1
Timken			✓				1
TJX		✓	✓	✓	✓		4
Tractor Supply		✓	✓				2
Travelers	✓		✓✓	✓✓			5
Truist Financial	✓						1
Twitter	✓	✓				✓	3
Tyson Foods			✓	✓			2
Uber Technologies	✓✓			✓			3
Ulta Beauty	✓						1
Union Pacific	✓	✓					2
United Airlines Holdings	✓						1
United Parcel Service	✓✓	✓	✓✓				5
UnitedHealth Group	✓✓		✓				3
Urban Outfitters		✓					1
US Foods Holding			✓				1
Valero Energy			✓✓	✓			3
Veeva Systems						✓	1
Verisign	✓						1
Verizon Communications				✓	✓✓	✓	4
Vicor						✓	1
Visa		✓					1
Vulcan Materials			✓				1
Walgreens Boots Alliance	✓				✓	✓	3
Walmart	✓✓	✓			✓		4
Walt Disney	✓	✓✓			✓✓✓✓✓		8
Waste Management				✓			1
Waters	✓						1
Wells Fargo			✓	✓✓	✓	✓✓	6
Wendy's			✓				1
Williams-Sonoma			✓				1
XPO Logistics	✓			✓			2
Yelp				✓			1
Yum Brands			✓				1
Zillow Group			✓				1
Zoom Video Communications		✓					1
	99	100	143	78	52	35	507

ABOUT PROXY PREVIEW

PROXY PREVIEW 2021 IS A COLLABORATION BETWEEN

As You Sow is a nonprofit organization dedicated to increasing environmental and social corporate responsibility. Founded in 1992, *As You Sow* envisions a safe, just, and sustainable world in which environmental health and human rights are central to corporate decision making. Its Energy, Environmental Health, Waste, and Human Rights programs create positive, industry-wide change through corporate dialogue, shareholder advocacy, coalition building, and innovative legal strategies. www.asyousow.org

The **Sustainable Investments Institute (Si2)**, a nonprofit research organization based in Washington, D.C., conducts impartial research and publishes reports on organized efforts to influence corporate behavior on social and environmental issues. Si2 closely follows shareholder resolutions proposed by investor advocates, but does not make voting recommendations. Instead, it provides the tools and in-depth reports that enable investors to make their own informed, independent decisions on the contentious public policy issues raised during proxy season. Si2 also conducts research into emerging sustainability issues to better help investors and the general public understand the implications they hold for companies and their key stakeholders. Recent reports assess corporate political activity, integrated reporting and sustainable governance issues. Si2 is largely supported by subscriptions from leading institutional investors, including public and private pension funds, college and university endowments, foundations and fund managers with nearly $5 trillion in assets under management. www.siinstitute.org

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Boston Trust Walden is an independent, employee-owned firm with an authentic commitment to impact investing that spans 45 years. It seeks to advance solutions to the world's most urgent sustainability challenges by engaging portfolio companies directly, voting proxies responsibly, advocating for smart public policy, and contributing to industry best practices related to climate, equality, and governance. Boston Trust Walden provides investment management services to institutional investors and private wealth clients. The firm has approximately $15 billion in assets under management. For more information, please visit www.bostontrustwalden.com.

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We believe authentic active management and high-conviction portfolios provide clients the best opportunities to earn superior investment results over the long term. Our active approach combines the market knowledge of long-tenured portfolio managers with the original research of a specialized group of sector and portfolio analysts and the deep diligence of a dedicated risk management team. The firm offers global strategies focused on three primary client objectives in our areas of proven expertise: high active share, income solutions and low volatility. We integrate ESG considerations into our fundamental research process across all strategies. As part of this integration, we assign ESG ratings to companies across our coverage universe and utilize those ratings to drive company engagement. www.clearbridge.com

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First Affirmative Financial Network, LLC, is an employee-owned investment advisory firm specializing in sustainable, responsible, impact (SRI) investing. We began conducting business in 1988 and we have had one mission since our founding – to improve investment performance, reduce risk, and create a better world by integrating sustainable, responsible, and impact (SRI) investing with environmental, social and corporate governance (ESG) principles. We vote client proxies in accordance with detailed voting guidelines and actively engage with selected portfolio companies with the goal of creating a truly sustainable future. www.firstaffirmative.com

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Green America's mission is to harness economic power—the strength of consumers, investors, businesses, and the marketplace—to create a socially just and environmentally sustainable society. We work for a world where all people have enough, where all communities are healthy and safe, and where the bounty of the Earth is preserved for all the generations to come. We work on issues of social justice and environmental responsibility. We see these issues as completely linked in the quest for a sustainable world. It's what we mean when we say "green." www.greenamerica.org

Harrington Investments, Inc. (HII) is a leader in Socially Responsible Investing and Shareholder Advocacy. Dedicated to managing portfolios for individuals, foundations, non-profits, organized labor and family trusts to maximize financial, social, and environmental performance, we actively engage in shareholder campaigns and other strategies to promote greater corporate responsibility and social justice. We believe the process of shareholder advocacy influences corporate behavior and educates the public about the practices and values of publicly traded corporations. Our advocacy program includes filing shareholder resolutions on corporate governance, sustainability practices and human and indigenous peoples' rights. In our current socio-political climate, a time of uncertainty and unrest, we continue to call on corporate directors to confront their moral and ethical obligations of fiduciary responsibility. www.harringtoninvestments.com

Miller/Howard Investments, Inc. is a 100% employee-owned, women-led asset manager. We are research-driven and have a long history of managing portfolios for a wide range of investors. We have integrated environmental, social, and governance (ESG) analysis with fundamental research since the inception of our first strategy in 1991. Our firm emphasizes: a focused approach to Sustainable Income Opportunities® — integrated ESG and fundamental research to provide high and rising dividend income; financially sound companies with rising dividends — high-quality stocks, with the ability to grow income, that have sustainable business models and practices; active ownership — engagement with company management and active proxy voting; accountability and transparency — providing quarterly reports, shareholder news, and detailed, prompt information. Visit us at www.mhinvest.com.

Rooted in the Jewish tradition of social justice, the **Nathan Cummings Foundation** focuses on finding solutions to the two biggest problems of our time – the climate crisis and growing inequality—and aims to transform the systems and mindsets that hinder progress toward a more sustainable and equitable future for all people, particularly women and people of color. To do so, the Foundation invests in four focus areas: Inclusive Clean Economy; Racial and Economic Justice; Corporate and Political Accountability; and Voice, Creativity and Culture. The Foundation also uses its standing as an investor in publicly traded companies to push for changes that both further our mission and enhance long-term shareholder value. For more information, visit www.nathancummings.org.

Natixis Investment Managers Solutions provides design, development and execution of portfolio strategies tailored to specific investment objectives and unique portfolio constraints. Fully integrated services combine investment expertise with portfolio analysis and construction capabilities to deliver a wide range of customized solutions including innovative ESG (environmental, social, governance) investment products. Our Multi-Asset Portfolios include a sustainable target date fund series that can be suitable as a QDIA (qualified default investment alternative) in retirement plans. For more information, please visit www.im.natixis.com.

Nia Impact Capital is a women led impact investment and asset management firm based in Oakland, California. Nia is Swahili for intention and purpose and we build public market portfolios with purpose. The firm was founded in 2017 with the specific mission of empowering investors, bringing impact investing into the public markets, and growing and nurturing the next fair, just, inclusive and sustainable economy. We apply both a gender-lens and a commitment to racial equity across our investment decision-making process and live our values as a women-led team of activist investors. www.niaimpactcapital.com

Founded in 1990, **NorthStar Asset Management, Inc.** specializes in socially responsible investing for high net-worth clients and non-profit organizations. NorthStar's mission is to provide integrative and effective portfolio management by connecting social concerns to security selection, asset allocation, and activism.

Synthesizing a broad market outlook and the individual needs of the client, NorthStar combines direct investments in global equities, investment grade bonds, community loan funds, alternative "outside" investments, and cash to create vibrant and balanced portfolios.

NorthStar's activism includes engagement with portfolio companies in an effort to improve their behavior with regards to race and gender, wealth and income inequality, human rights, environmental justice, and corporate governance. The NorthStar approach, vision, and philosophy have evolved based on a core belief that we are here to make a difference. northstarasset.com

Parnassus Investments is a responsible investing pioneer and a leading provider of socially responsible equity and fixed income strategies today. We have worked to build wealth responsibly since 1984 based on the insight that successful outcomes begin with the goal of investing for Principles and Performance®.

We seek attractive risk-adjusted returns for our clients over the long term while investing sustainably for the future using an investment process that fully integrates fundamental financial analysis with environmental, social and governance (ESG) criteria. We identify businesses that we believe have increasingly relevant products or services, persistent competitive advantages and quality management teams for our high conviction portfolios. Every investment we make must meet rigorous ESG criteria. www.parnassus.com

Launched June 2007, **Responsible Investor (RI)** is the only dedicated news service reporting on responsible investment, ESG (environmental, social and governance) and sustainable finance issues for institutional investors globally, read by: pension funds, public and government funds, central banks, endowments, foundations, faith groups, family offices, corporations, investment consultants, asset managers, research and data providers, insurance companies, banks, associations, governments, regulators, NGOs, and other industry practitioners. RI also produces the industry-leading regional conferences: RI Asia Japan, RI Europe and RI Americas. www.responsible-investor.com

The **Rose Foundation for Communities and the Environment** envisions a future where nature is protected, people's rights are ensured, and environmental justice is advanced. Everyone has the right to clean air and water, a stable climate, and access to healthy natural areas. Ethics, equity and justice all require us to support communities whose rights have historically been ignored. In addition, the natural world has intrinsic value independent of its usefulness to humans. Since nature can't speak for itself, we must speak up for nature. We support grassroots initiatives that help build a world in which individuals, organizations, and communities are empowered to be stewards of healthy nature and equitable communities, and hold government and corporations accountable to protect the home we all call earth. rosefdn.org

The Singing Field Foundation is a small family foundation, which began active grantmaking in 2004. Grants are initiated by the foundation's directors and typically provide general support for environmental, animal welfare, health-related organizations, and other charities of interest to family members. The foundation's interest in mission-related investing and "active ownership" of the companies in which the foundation is invested reflects our desire to maximize our impact as a small foundation, by deploying "the other 95 percent" of our assets, and our personal values, which dictate that the foundation's investments should be aligned with the foundation's mission. The Singing Field Foundation's support for *As You Sow* flows directly from this interest and complements the foundation's other grantmaking.

The Sustainability Group of Loring, Wolcott & Coolidge, founded by industry pioneer Amy Domini in 1987, seeks to deliver superior, long-term returns while investing for social and environmental progress. We offer trustee services and individually tailor portfolios to help clients profitably invest their assets in a manner that both aligns with their own values and can make a positive difference in the lives of people and our planet.

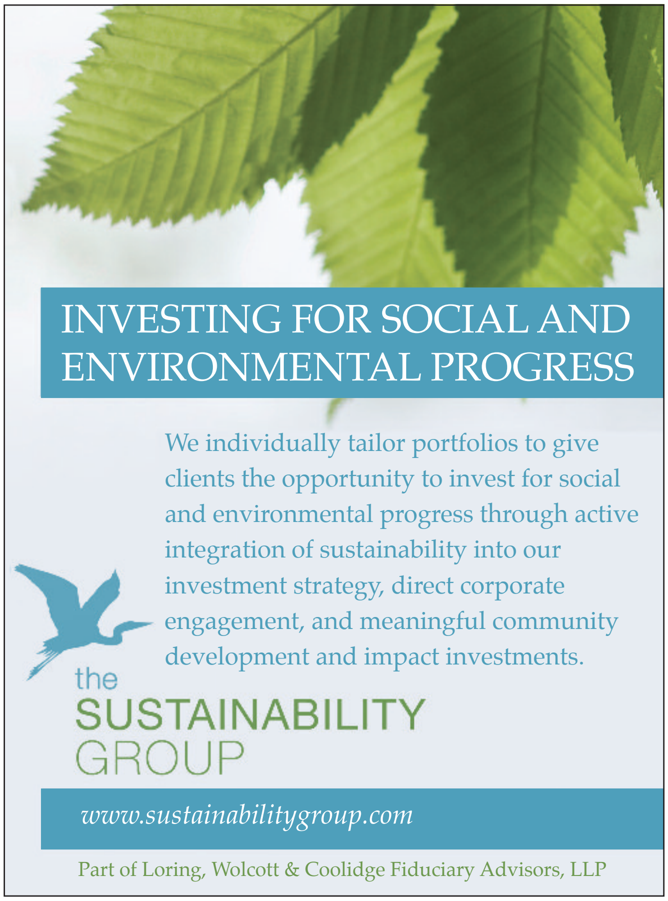
Many firms are just discovering socially responsible investing, but we have been integrating ESG into our investment process for over 30 years. We give clients the opportunity to invest today for a better tomorrow through active integration of sustainability into our investment strategy, direct corporate engagement, and meaningful community development and impact investments. www.lwcotrust.com

Founded in 1982, **Trillium Asset Management** is the oldest investment advisor focused exclusively on sustainable and responsible investing. Trillium integrates Environmental, Social, and Governance (ESG) factors into the investment process as a way to identify the companies best positioned to deliver strong long-term performance. A leader in shareholder advocacy and public policy work, Trillium leverages the power of stock ownership to promote positive social and environmental change while providing both impact and performance to our investors. www.trilliuminvest.com

Troop is a venture-backed retail shareholder proxy solicitation platform. Retail shareholders can connect any of their brokerage accounts to Troop in order to confirm their eligibility as voters, visualize their combined collective voting power, learn about and participate in ongoing shareholder activism, and they can even get rewarded when they act as individual proxy solicitors. With the Troop proxy solicitation platform, activist funds and shareholder advocacy groups can involve current and prospective retail shareholders in their activism, broadening their reach, and increasing the impact and success of their campaigns and resolutions. Troop believes that the world's most important problems can be solved through collective action, and shareholder activism is one of the most effective and pragmatic ways for retail to get their collective voice heard. www.troop.com

Tulipshare is an activist investment platform that empowers retail investors to invest their money to promote ethical change. Tulipshare enables retail investors to join activist campaigns to influence the corporate governance of publicly traded companies. While activist investing isn't new, it can require heavy capital investment and often excludes the retail shareholder – often leaving it up to institutional investors to decide how publicly traded companies conduct their business. Through Tulipshare, individual investors have the potential to have a say in the way public companies are conducting their business in a way that was previously not possible. To learn more, visit www.tulipshare.com.

Zevin Asset Management has been exclusively focused on SRI/ESG investing in public equities since its founding 25 years ago. The firm has three long-only, global SRI/ESG strategies: a global equity and two balanced strategies. All portfolios are actively managed, concentrated, large-cap biased separately managed accounts that seek capital appreciation. The firm's investment philosophy and process are deeply rooted in the belief that less risk leads to better returns over time. The firm is also actively involved in shareholder advocacy to help enhance shareholder value and create positive social impact. Zevin Asset Management is a Certified B Corporation and an intentionally diverse, 100% employee-owned, majority women-owned firm. www.zevin.com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We individually tailor portfolios to give clients the opportunity to invest for social and environmental progress through active integration of sustainability into our investment strategy, direct corporate engagement, and meaningful community development and impact investments.
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Investments in securities may result in loss of income and/or principal. Companies that undergo B Corp certification commit to being a business that balances purpose and profit. Zevin Asset Management pays annual membership dues to B Lab, which is a requirement for eligibility for B Corp certification.


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Singing Field
FOUNDATION

Racial Justice is the fastest growing new shareholder issues of the last two years. These resolutions received strong support in 2021 and its first vote this year won majority support. Over 40 racial justice resolutions were filed in 2022, let's make them all majority votes.

"No, no, we are not satisfied, and we will not be satisfied until justice rolls down like waters, and righteousness like a might stream."

– Martin Luther King, Jr., Washington, D.C., 1963

Make a difference

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