THE CONFERENCE BOARD
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EXECUTIVE SUMMARY

Proxy Voting Analytics (2010-2014)

Based on shareholder meetings held at Russell 3000 and S&P 500 companies

In collaboration with FACTSET

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Shareholders Turn Their Attention to Golden Parachutes and Political Contributions as More Companies Implement Winning Precatory Proposals

What started as an unremarkable proxy voting season has blossomed into a series of developments that may influence annual general meetings for years to come.

There is a clear indication that investors are turning their attention to new issues. For example, in the Russell 3000, five investor-sponsored proposals restricting golden parachutes received the support of a majority of shareholders. While the volume remains low, it is the highest ever recorded on this topic and it signals that voting on executive compensation issues other than say on pay can still find its way to general meetings of shareholders. Political spending and lobbying activities, a topic virtually absent from voting ballots until a few years ago, became the most frequently submitted shareholder proposal type of 2014, with 86 voted proposals and five receiving more than 40 percent of votes cast (compared to only one in 2013). Finally, support for resolutions on proxy access reached a tipping point in the first six months of the year, with five proposals approved and four receiving more than 40 percent of votes cast in favor.

The advisory vote on executive compensation was a game changer for corporate/investor relations and, in 2014, more than ever before, shareholders have been pursuing opportunities to engage with senior management and be heard ahead of a shareholder meeting. This trend was reflected in the rate of withdrawals of shareholder proposals, which doubled from a few years ago as companies chose to preempt a vote on certain investor requests by voluntarily implementing their own reforms. It was not all a product of engagement, however, and guidelines on board responsiveness from proxy advisory firm ISS also drove the surge of management proposals on issues previously raised by activists.

Increased dialogue with senior executives and board members as well as the progress made by many large companies in the adoption of baseline corporate governance practices prompted large institutional investors to reconsider their role as agents of corporate change. For example, while some public pension funds such as the California State Teachers Retirement System (CalSTRS) cut back significantly on their submissions in 2014, others such as the New York City Employees' Retirement Systems remained prolific proponents and galvanized around proxy access requests. Similarly, the popularity of social and environmental policy issues observed this year is in part explained by the larger number of proposals filed by labor-affiliated investment funds, which, before the introduction of mandatory say on pay, had always concentrated on executive compensation issues. Despite the traditional focus of this type of fund on industrial sectors, in 2014, for the first time, more than 20 percent of the 86 proposals submitted by labor unions were directed at companies in the finance industry.

Social media and other new technologies allow a broad outreach that was unimaginable only a few years ago, and activists are perfecting their use. This year, a growing number of activist investors, especially hedge funds, have agitated for change without even filing a shareholder proposal, let alone waging a proxy fight. In fact, despite the increase in activism campaign announcements, there was a sensible decline in the number of campaigns related to shareholder meetings held in the first six months of 2014. This decline suggests that, rather than urge other shareholders to oppose a director election or vote for a certain resolution, these activism campaign announcements now serve to publicize the investor's view of the business strategy or organizational performance. It is a first step that may lead to the future filing of a proposal or the solicitation of proxies but that may also prove sufficient to persuade the company to seek dialogue and reach a compromise.

These findings are based on an analysis of proxy voting data at Russell 3000 and S&P 500 companies in *Proxy Voting Analytics,* an annual research report published by The Conference Board in collaboration with FactSet. Download the executive summary at www.conference-board.org/proxy2014.

The following are the major findings of the report:

Shareholder proposal volume was slightly lower this year, with a sharper decline among larger companies as investors focus on new topics and broaden their targets. In 2014, shareholder proposal volume decreased 2.3 percent in the Russell 3000 and 5.7 percent in the S&P 500. In the Russell 3000, shareholders filed a total of 752 proposals at companies with AGMs during the examined period, compared to 770 during the same period in 2013. In the S&P 500, the number of shareholder proposals decreased from 614 in 2013 to 579 in 2014.

While shareholder proposals remain more common among larger companies, the proportion between the two indexes is gradually changing. In particular, shareholders are increasingly turning their attention to social and environmental proposals across a broader spectrum of business organizations, while proponents of corporate governance resolutions are redirecting their efforts toward smaller firms, where the rate of adoption of shareholder-friendly practices remains lower.

Albeit small, these declines represent a reversal of the volume growth reported for 2012 and 2013, when the number of shareholder proposals seemed to be heading back to the peak registered by The Conference Board in 2008 (919 proposals at Russell 3000 companies and 714 at S&P 500 companies). Compared to the same period in 2008, the number of investor-sponsored resolutions submitted in 2014 is down almost 20 percent. New forms of corporate-investor engagement (especially in the area of executive compensation) and the effects of a revised ISS policy on board responsiveness also help explain these findings.

Excess cash on US companies' balance sheets fueled the growth of the activist hedge fund industry, and the number of resolutions sponsored by hedge funds surpassed the record levels of 2008. With many US public companies holding excess cash, opportunities for activist investment abound. Not surprisingly, hedge funds continued their rise as prominent proponents of precatory resolutions, which they often use to publicize alternative value maximization strategies and restructuring plans and to galvanize fellow shareholders around activism campaigns aimed at obtaining board representation.

During the 2014 proxy season, hedge funds doubled the number of submissions recorded only a few years ago and surpassed the record level of 2008, sponsoring 39 proposals (5.2 percent of the total), up from 24 proposals in 2013 and 11 proposals in 2010. Health technology companies and the financial sector received most of the resolutions filed by these investors. The most common proposals requested that the board break up the company or divest it of specific noncore assets, engage a financial adviser to evaluate a business combination, or issue dividends to return capital to shareholders.

The 2014 proxy season marked another sharp year-over-year decline in the number of proposals submitted by multiemployer investment funds affiliated with labor unions, as those investors showed new interests, especially in social and environmental policy issues. Two of the most active proponents of resolutions in the area of executive compensation, the United Brotherhood of Carpenters and Joiners of America and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), submitted far fewer resolutions in 2014. Compared to levels reported in 2010, before the widespread introduction of the say-on-pay vote at US companies, proposal volume by labor-affiliated funds dropped 43 percent in 2014, to 86 resolutions.

Some investment funds, including the Sheet Metal Workers' National Pension Fund, appear to have exited the activism scene, while others have scaled back their involvement. The three most frequent sponsors in this group, the United Brotherhood of Carpenters, The American Federation of State, County and Municipal Employees (AFSCME), and the AFL-CIO, submitted 15, 14, and 7 proposals each in 2014, compared to 20, 18, and 17 in 2013. However, the volume of labor union-sponsored proposals on corporate governance remained steady (35 in 2014, slightly fewer than the 39 of 2013), and these funds submitted more social and environmental policy-related proposals filed in 2014 (23, up from 17 in 2013). These data are useful as they reveal that labor unions may be reassessing their policy priorities following their recent accomplishments in the executive compensation area.

To be sure, more than 20 percent of the 86 proposals submitted by labor unions were directed at companies in the finance industry, a very high proportion considering the history of activism by this type of funds and their traditional focus on industrial sectors. Energy minerals, an industry that has traditionally received a large number of proposals from labor-affiliated pension funds (21 in the 2012 proxy season, for example), saw only six proposals from this sponsor type in 2014. Similarly, there were nine labor-sponsored proposals at producer manufacturing companies in 2012 and only two this year.

Proposals on corporate governance, once a stronghold for pension funds, were sharply reduced as more companies introduced engagement policies with large investors. In 2014, public pension funds sharply reduced their submissions on corporate governance issues among Russell 3000 companies, from 61 in 2013 to 35 in 2014 (a 42.6 percent decline). With management making new overtures to large institutional investors in recent years, these investment plans, which are established for public-sector retirees by state and local municipalities, have increasingly found less formal alternatives to Rule 14a-8 shareholder proposals to engage with their portfolio companies. In addition, as is the case for labor-affiliated funds, this may mark a transition, where public pension funds begin to move their attention down the market cap spectrum to target companies that lag behind in the adoption of key governance features such as majority voting or destaggered boards.

Although pronounced, the decline in shareholder proposal activity is irregular across the public pension fund industry. While some funds cut back significantly on their filings (for example, CalSTRS sponsored only five resolutions this year, compared to 18 during the same period in 2013) or even exited the list of most frequent sponsors (the Pension Reserves Investment Management Board), the New York State Common Retirement Fund and the New York City Employees' Retirement System remained prolific proponents even in 2014, with 40 and 21 proposals respectively. This year, NYSCRF led in submission of proposals related to social and environmental policy issues, while NYCERS increased its requests for proxy access rights, receiving majority support for two of its proposals.

Shareholder resolutions on social and environmental policy rose to unprecedented levels, while some institutional investors dropped governance issues that were a staple of their past activity but never garnered widespread support. The volume of proposals on social and environmental policy issues rose to unprecedented levels in 2014. Corporate sustainability represented the single most frequent subject of resolutions filed in the S&P 500 (249 proposals, or 43 percent of the total filed at companies in that index) and constituted more than one-third of the total submitted at Russell 3000 companies (288 proposals, or 38.3 percent). Widely diversified (ranging from political contribution disclosure to compliance with human rights and from sustainability reporting to the adoption of a climate change policy), these issues are pursued by multiple investor types, with the highest concentration among individuals (58 filed proposals in 2014), public pension funds (49 proposals), and other stakeholders like the Humane Society of the United States and the National Center for Public Policy Research.

However, proposals related to social and environmental policy received, on average, support of just 18.7 percent of votes cast. These proposals also have the highest levels of abstention from voting (10.9 percent of votes cast, compared to an average abstention for the other subjects ranging from one to 2.5 percent) and the highest levels of nonvotes (11.3 percent of shares outstanding). This finding indicates that US shareholders, in general, continue to believe that the board of directors and senior management are better suited to determine the business viability of certain sustainability activities and that one-size-fits-all policies may lead to inefficiencies or capital misallocations. The only proposal in this entire subject category to obtain majority support in the first six months of 2014 was a laudatory proposal filed by the Humane Society of the United States for the purpose of publicizing the efforts made at Kraft Foods Group Inc. to improve animal welfare standards in the company's pork supply chain. As expected, the proposal received management's backing.

The number of corporate governance proposals remained flat this year. While typically attributed to the progress already made by many companies in the adoption of best practices such as independent board leadership and declassification, this finding may also be due to the frustrating difficulty felt by some investors in expanding the voting support levels for newer topics such as the shareholder right to call special meetings or the independence of the board chairmanship. For example, in 2014, AFSCME, a union representing workers in the public sector, discontinued its requests for the separation of the CEO and chairman positions. It had filed 11 in 2013 and 8 in 2012.

The rate of withdrawals of shareholder proposals doubled from a few years ago as companies preempted some of the issues by voluntarily implementing their own reforms. In 2014, the number of voluntary withdrawals of shareholder proposals (11.6 percent of the total submissions in the Russell 3000, up from a mere 5.9 percent in 2012) exceeded the number of granted SEC no-action letters to companies seeking exclusions. This finding reflects the success of renewed corporate efforts to engage with key shareholders. More than ever before, in this proxy season activist funds and institutional investors have pursued opportunities to be heard ahead of a shareholder meeting. However, guidelines on board responsiveness from proxy advisory firm ISS are also likely partly responsible for the increase in withdrawn proposals. Under the new policy, ISS recommends that institutions voting on director elections scrutinize those situations where a company failed to implement a precatory shareholder proposal that had received majority support of votes cast at a prior AGM. Therefore, in some cases, withdrawals may result not from dialogue but from the decision of the company to either voluntarily implement the requested change or to submit its own proposal on the same topic to mitigate the risk of wide opposition to management's nominees to the board of directors.

Withdrawn proposals were mostly submitted by religious groups, which rarely elevate these matters to an outright proxy solicitation and would rather use the precatory proposal as a tool to receive the attention of their portfolio companies on issues of concern. The most frequently omitted proposals remained those submitted by individuals and interest groups, while nearly 90 percent of the resolutions filed by hedge funds went to a vote in 2014.

As large groups of institutional investors reduced their 14a-8 filings or shifted their attention to new and less popular topics, the percentage of voted proposals winning the support of a majority of shareholders reached a new low. In 2014, the percentage of voted proposals that passed was a mere 15.8 in the Russell 3000 (a record low of recent years, compared with 21.6 percent in 2012 and 27.3 in 2009) and 9.6 in the S&P 500 (down from 11.9 in 2013, 19.3 in 2012, and 22.4 in 2009). The explanation can be found in the decline of the volume of proposals on topics that are traditionally widely supported by voters, which was compounded by the growing share of resolutions on newer issues (including those on environmental concerns and the disclosure of political contributions and lobbying activities). Even though a handful of proposals on each of these new issues passed in 2014 (notably, seeking proxy access, the right to call special meetings, and restrictions to golden parachutes), sponsoring investors are far from obtaining the widespread support that the shareholder community has shown on key governance practices such as majority voting and board declassification.

In 2014, six proposal types received average support of greater than 50 percent of votes cast, including proposals on board declassification (80.6 percent support, on average), the adoption of majority voting in director elections (56.5 percent), and the elimination of supermajority requirements (66.2 percent). Also, average support for five proposals seeking to redeem or require shareholder vote on “poison pills” surged to 68.8 percent of votes cast (it was 33.8 percent in 2013), with all but one of those proposals approved. Similarly, two proposals to opt out of a state takeover statute received, on average, 77.3 percent of *for* votes.

Due to a handful of approved proposals, there was a sensible increase in 2014 in average support for requests to (allow for or ease a requirement to) call special meetings (45 percent in 2014, compared to 41.7 in 2013) and to enable proxy access (39.1 percent, up from 31.8 percent in 2013). The highest support (93.7 percent) was recorded for a proposal on the right to call special meetings submitted by Osmium Partners LLC at Spark Networks, Inc.

Proposals on board declassification and majority voting have become a sure bet for labor unions and public pension funds, as they are widely recognized as a baseline in corporate governance. Galvanized by the broad support in recent years, a few large institutional investors remain prolific sponsors of proposals seeking majority voting and board declassification and have turned their attention to smaller companies. The United Brotherhood of Carpenters Pension Fund (the most active labor union-affiliated fund in terms of proposals filed this season) submitted nearly half of the majority proposals filed during the first six months of the year, and 13 of the 15 went to a vote. CalSTRS ranked second with five majority voting proposals, all of which went to a vote. Despite the volume decline registered from 2013, board declassification continued to be the third most frequent topic of shareholder governance resolution this year, following majority voting and the separation of the CEO and chairman positions. Pension funds submitted the majority of the declassification proposals (62.5 percent of the total), with seven of the 10 proposals coming from pension funds submitted under the auspices of Harvard Law School’s Shareholder Rights Project.

In some cases, precatory proposals in this area are resubmitted after winning a majority of votes cast in a prior proxy season because of the failure by management to implement them. For example, shareholder proposals on majority voting passed for the second year in a row at Healthcare Services Group, Inc., Netflix, Inc., and Vornado Realty Trust. Similarly, shareholders of QEP Resources had approved a precatory declassification proposal voted at the company’s 2012 AGM but then rejected a management resolution filed the following year on the same topic because it contemplated a phased-in declassification, with directors elected at or prior to the 2013 AGM continuing to serve their original term. In 2014, the board had no choice but to back yet another proposal formulated by the Shareholder Rights Project.

A surge in requests from corporate gadflies made the separation of CEO and chairman roles the top shareholder proposal topic by volume, but the institutional investment community remains skeptical of a one-size-fits-all approach to board leadership. In 2014, shareholders submitted 72 proposals on CEO/chairman separation at Russell 3000 companies—more than in any of the other years examined by The Conference Board. Of those, 62 (or roughly 86 percent) went to a vote by June 30, making it the most frequent type of investor-sponsored resolution to be voted at 2014 shareholder meetings during the period. By comparison, the second most voted shareholder proposal type was majority voting, with 27 proposals voted during the examined 2014 period.

The top two sponsors of these proposals were both corporate gadflies, and the same who sponsored these proposals in 2013: John Chevedden (21 proposals in 2014) and Gerald Armstrong (eight proposals). The next most frequent sponsor on this topic was a pension fund, New York City Employees' Retirement System, which submitted six proposals.

While proposal volume has surged, average support for these proposals has remained flat and far below the majority threshold necessary to make them pass: 31 percent of votes cast in 2014, compared to 31.2 percent in 2013 and 28.6 in 2010. Only five shareholder proposals received majority support. This finding may reflect the recognition that a number of companies have made persuasive arguments for keeping the CEO at the helm of their boards while increasing the roles and responsibilities of their lead independent director. Notably, 10 proposals of this type received more than 40 percent of votes cast.

For the first time in the same proxy season, five investor-sponsored proposals restricting golden parachutes received majority support, signaling that voting on executive compensation issues other than say on pay may still find its way to the AGM. With mandatory say on pay serving as a public forum to voice discontent about compensation levels, shareholder proposals on executive compensation have become much less frequent (108 resolutions in 2014, down 25 percent from 2013 and 40 percent from 2010). Nonetheless, some investors are redirecting their efforts toward new (or newly formulated) requests meant to strengthen the pay-for-performance paradigm through the adoption of equity retention policies and the departure from questionable practices such as golden parachutes. Though support is often below a majority of votes cast, this new breed of shareholder proposals on executive compensation is likely to continue to gather interest in future proxy seasons.

For the first time in 2014, a handful of proposals related to golden parachutes and other change-in-control benefits received majority support: at Boston Properties, Inc., Dean Foods Company, Gannet Co., Inc., Kindred Healthcare, Inc., and Valero Energy Corporation. Approval of golden parachute proposals had been much more sporadic in the past and none won majority support in 2013. Overall average support level for these proposals was 37.3 percent of votes cast, compared to 34.3 percent in 2013. Despite the overall decline in executive compensation proposals, The International Brotherhood of Electrical Workers filed six proposals on golden parachutes in 2014, compared to two in 2012.

Shareholder proposals on political spending and lobbying activities skyrocketed this year, with five receiving more than 40 percent of votes cast (compared to only one in 2013). In the 2014 proxy season, resolutions on political issues were the single most frequently submitted and voted proposal type across all subject categories. Since the controversial Supreme Court decision in 2010 on *Citizens United v. Federal Election Commission*, this type of shareholder request has steadily risen to the top of the social and environmental policy category, and is far more frequent than proposals on human rights or environmental issues. There were 86 voted shareholder proposals on corporate political spending and lobbying activities during the first half of 2014, compared to the 78 voted during the same period in 2013 and 36 in 2008.

Interest in the issue is not expected to subside, especially after the SEC dropped the introduction of disclosure rules on political contributions from its list of regulatory priorities. In April 2014, the not-for-profit organization Citizens for Responsibility and Ethics in Washington (CREW) submitted a petition to the SEC for rulemaking on this topic reiterating the concerns of an earlier petition by the Committee on Disclosure of Corporate Political Spending. Together, the two petitions have garnered an unprecedented level of public support—more than one million signatures.

The New York State Common Retirement Fund continued to lead the list of proponents of these resolutions, increasing its submissions to 21 in 2014 (up from the 15 and 8 reported for 2013 and 2012, respectively). However, such proposals were submitted by a wide range of sponsors (investment advisers, individuals, other stakeholders, and religious groups, in addition to a handful of other labor unions).

Despite the unabated interest in the topic, even when the sponsors are large pension funds, these proposals fail to gain the majority support of fellow institutional shareholders. Average support in 2014 was a mere 21 percent of votes cast. The formulation of resolutions on political issues varies significantly, with proposals seeking an advisory vote or prohibitions on political spending generally performing poorly and proposals requesting disclosure of expenditures or lobbying costs faring much better. Unlike 2013, when one proposal (submitted by the NYSCF at CF Industries Inc.) was approved, none passed in 2014. However, of the 86 voted, three lobbying disclosure proposals and five political spending disclosure proposals received more than 40 percent of votes cast, compared to only one in 2013.

Support for shareholder proposals on proxy access rights reached a tipping point in 2014, with five proposals approved and four others receiving the support of more than 40 percent of votes cast, and a handful of companies submitted board-sponsored proposals. In the last couple of years, shareholders have been far more successful in getting proxy access proposals onto company ballots, and support level has been on the rise. The 2014 proxy season marked a record number of proposals submitted, voted, and passed. Thirteen of the 17 proxy access proposals submitted at Russell 3000 companies went to a vote, compared with just seven out of 14 in 2012. In general, larger companies were more likely to receive such proposals, with 12 filed at S&P 500 companies (eight went to a vote, and two passed).

In the Russell 3000 sample, average support for the 13 voted proposals was 39.1 percent, up significantly from the average of 31.8 percent of votes cast for the 11 proposals voted during the same period in 2013 and higher than the average 37.7 percent registered in 2012. Five proposals obtained the approval of a majority of voting shareholders in 2014, while four others received support of more than 40 percent of votes cast. At Nabors Industries Ltd., broker nonvotes and abstentions were counted as against the proposal, resulting in *for* votes of 48.3 percent. (It was the third consecutive year in which the proposal failed due to the company's vote-counting method. In 2013, with broker nonvotes and abstentions counted as against the proposal, it received *for* votes of 46.7 percent).

The highest support levels were reported by SLM Corporation (66.3 percent of votes cast) and Boston Properties (64.4 percent of votes cast). The others that passed were at International Game Technology and retailers Big Lots, Inc. and Abercrombie & Fitch Co. All five mimicked the terms of vacated SEC Rule 14a-11, which required 3 percent ownership for three consecutive years to qualify for proxy access rights and submit nominations. Proposals with a lower ownership threshold have consistently received little shareholder support.

The NYCERS, investment adviser Hermes Equity Ownership Services, and James McRitchie led the 2014 list of investors initiating proxy access proposals. The New York City pension fund, in particular, filed four in 2014 compared to one in 2013 as reported in a previous edition of this report. Two obtained majority support.

Notably, in 2014 three board-sponsored proxy access proposals voted at Russell 3000 companies all passed. Another company agreed to implement access in advance of the shareholder meeting, through a unilateral bylaws amendment intended to preempt a shareholder proposal that would have set a lower ownership threshold.

Say-on-pay analysis confirms a significant turnover in failed votes, with several companies losing the confidence of their shareholders this year after winning the vote by a wide margin in 2013. In the Russell 3000, 51 of the executive compensation plans put to a say-on-pay vote in the first half of 2014 failed to receive the majority support of shareholders. This compares with 47 and 51 companies that failed those votes during the same period in 2013 and 2012, respectively. Eight companies that reported failed votes in 2014 also had failed votes in 2013: Biglari Holdings Inc., Cogent Communications Group, Inc., Dendreon Corporation, Everest Re Group, Ltd., Nabors Industries Ltd, OraSure Technologies, Inc., RadioShack Corporation, and Tutor Perini Corporation. Only two companies failed their advisory vote on executive compensation four years in a row: Tutor Perini and Nabors Industries. (Oil and natural gas producer Nabors Industries also made headlines for a precatory proposal on proxy access approved by a majority of voting shares for the third consecutive year.)

There is a significant year-over-year turnover in failed votes and, aside from the cases indicated above, all companies that failed their say-on-pay votes in 2014 had successful votes in 2013, in most cases by wide margins. This is an indication that companies cannot lower their guard when it comes to compensation oversight and need to ensure ongoing transparency, not only by communicating any new compensation decision made by the board but also by providing reassurance that the compensation policy continues to be aligned with the long-term business strategy of the organization.

Another 141 companies in the Russell 3000 (6.4 percent) reported passing say-on-pay proposals with support of less than 70 percent of votes cast, the level at which proxy advisory firms may scrutinize more closely their compensation plans and evaluate issuing a future negative recommendation. That is up significantly (22.6 percent) from the 115 companies with votes under 70 percent during the same period in 2013. The list includes CVS Caremark Corporation, Office Depot, Inc., Exelon Corporation, Time Warner Cable Inc. and Fidelity National Financial

Inc. Moreover, 27 of the companies below the 70 percent support threshold in 2014 were below that level in 2013.

Although activism campaign announcements in the Russell 3000 were up in 2014, the number of campaigns related to a shareholder meeting declined, as some hedge funds chose to agitate for change without even filing a shareholder proposal. In the first half of 2014, activist investors announced 176 campaigns against Russell 3000 companies, compared to 155 in the same period in 2013. Activism campaign announcements include proxy contests, exempt solicitations, and any other public announcement of the investor's intention to agitate for change at a target organization—whether through a press release, an appearance on a CNBC talk show, a Twitter chat, or the filing of a lawsuit. However, the number of campaigns pertaining to a vote at a Russell 3000 shareholder meeting held in the January 1-June 30 time period declined in 2014, to 101 from the 113 of the prior year. In particular, there were fewer exempt solicitations this year (including "Vote No" campaigns to withhold votes at director elections): 39 compared to 47 in 2013. None of the seven "Vote No" campaigns held in the Russell 3000 in 2014 were successful.

The discrepancy between announcements and campaigns related to a shareholder vote may indicate that a growing number of activists are agitating for change without even filing a shareholder proposal. In fact, considering the recent entry of a cadre of new hedge funds to the activist investment business, some of the campaign announcements unrelated to a shareholder meeting could be mere attempts to assess the bargaining power that a fund exercises on its portfolio companies. In these cases, the activist does not aim to galvanize other shareholders around a director election or an action by written consent or a vote on a specific resolution. Instead, the announcement serves to publicize the investor's view of the business strategy or organizational performance. It is used as a first step that may lead to the future filing of a shareholder proposal or the solicitation of proxies but that may also prove sufficient to persuade the board of directors to seek dialogue and reach a compromise.

For example, in the summer of 2014 PL Capital LLC sent a letter to the board of directors of Banc of California, Inc., expressing concern regarding the company's corporate governance, operating performance, financial projections, and compensation plans, and disclosing the fund's intent to engage in discussions with the company to address these concerns. The fund made its letter public but has not filed any shareholder proposal on the topics of concern.

Similarly, in April 2014 Relational Investors LLC filed a Schedule 13D reporting a 9 percent stake in Clean Harbors, Inc. and disclosing that the activist had been in discussion with the company regarding undervaluation of high return businesses, portfolio strategic review, operational improvements, and capital allocation. Relational said that the company should distribute excess cash to shareholders through dividends and share repurchases, but filed no resolution to this effect for Clean Harbors' June 2014 AGM; neither did it wage a proxy solicitation to obtain board representation.

Observations made in 2013 that hedge funds were starting to set their sights on larger companies appear disputed by numbers for 2014, when a sharp decline in activism campaign volume was recorded among S&P 500 companies. A sharper decline than in the

Russell 3000 was shown in the S&P 500, where the total number of activism campaigns involving a shareholder vote went from the record high 52 in 2013 to 33. In fact, in the S&P 500 and contrary to the Russell 3000, even the number of announcements declined, from the 60 made in the first six months of 2013 to 42 in the same period in 2014. In terms of probability, for any Russell 3000 company that held a shareholder meeting in the first six months of 2014, the odds of being targeted by an activist in relation to that meeting were a hundred to four in 2014, compared to a hundred to five in 2013. For an S&P 500 company, the odds decreased from one hundred to twelve in 2013 to one hundred to seven in 2014.

Last year, most observers stated that activist hedge funds had begun to set their sights on larger companies. These newer numbers, however, demonstrate that it is premature to draw any conclusion on the future direction of this segment of the investment industry.

Proxy contests were the only type of activist campaign related to a shareholder vote to increase among Russell 3000 companies in 2014, with a concentration in the retail trade and finance industries, and dissidents reported their highest success rates in years. Among types of activist campaigns related to a shareholder vote, proxy contests were the only one that registered an increase in 2014. Activists engaged in 41 proxy contests against Russell 3000 companies that held a shareholder meeting in the first six months of 2014, compared to 35 launched in the corresponding 2013 period and 23 in 2010. The vast majority of such contests (26, or 63.4 percent) were motivated by an attempt to gain a seat on the board of directors, but there was one to solicit votes against a proposed merger (specifically, the combination of Zale Corporation and Signet Jewelers) in which the dissident was defeated at the company's AGM.

For the first time since The Conference Board started to document proxy contest activities, the retail trade industry faced nine solicitations, one more than cash-rich financial companies that typically lead this list. What is likely to have attracted activists is the poor stock performance of the retail sector, which missed sales expectations this year during a weaker-than-expected holiday season, and the cash savings resulting from scaled-back inventory purchases. Instead, in 2014 there was only one proxy fight against electronic technology companies, down from three in 2013 and five in 2010. Traditionally, electronic technology companies have been among the most exposed to proxy fights, due to their large cash balance and lower-than-average dividend payout ratio; however, activist shareholders found fewer opportunities in this sector in this voting season.

Investment adviser GAMCO Asset Management, the asset management company founded by Mario Gabelli and a frequent adviser of activist hedge funds, was the most active dissident in the January 1-June 30, 2014, analysis of Russell 3000 proxy contests, during which it conducted four fights to obtain board representation. Hedge fund Starboard Value waged three of the contests in the examined sample, including the widely publicized one against Red Lobster owner Darden Restaurants, Inc.

Reversing a trend of declining proxy contest success rates that had been documented since 2008, in 2014 dissidents recorded their highest success rates, with 28 of the 41 contests at Russell 3000 companies (or 68.3 percent of the total) concluding with either an outright victory for the activist or some type of settlement agreement with the company.

In contrast to the Russell 3000, in the S&P 500 the number of such contests was down to three (at eBay, Darden Restaurants, and Abercrombie & Fitch) from the five of 2013, confirming a common observation about the typical profile of the target company in a proxy fight. Specifically, in order to exercise a credible threat, a proxy contest dissident would need to have accumulated (alone or in a wolf pack of other investors) a related large percentage of the company's shares, which is obviously easier to do with small-capitalization targets. Furthermore, larger companies are more likely to deploy the resources necessary to prevail in a public solicitation campaign. However, despite the volume decline, even in the S&P 500 the success rate of proxy contest dissidents was the highest of the last few years, as investors won or settled all three contests reported in the index.

Engagement between corporations and investors has not curbed the most hostile forms of activism, as the volume of proposals to elect a dissident's nominee remains fairly high. In the Russell 3000, shareholders filed 35 proposals to elect a dissident's director nominee. While fewer than the 39 proposals documented during the same period 2013 (and the 52 submitted in 2009, a record year for hostile activism), the number of contested elections, where management nominees to the board are challenged, was still higher in 2014 than in any of the other years examined by The Conference Board. Roughly 89 percent of the proposals of this type (or 31 of the 35 filed) went to a vote during the first half of 2014.

Contested elections are far less frequent among S&P 500 companies, where large capitalizations make it more arduous for an activist to garner enough support from fellow investors and ultimately reduce the likelihood of success. There was only one proposal to elect a dissident's nominee submitted during the 2014 period (and it did not go to a vote), compared with five during the same period in 2013 and three in 2012.

As usual, requests for board representation were primarily submitted by activist hedge funds and investment advisers, which are SEC-registered companies that in turn often manage assets of a portfolio of hedge fund clients. New York-based investment adviser Kerrisdale Capital Management led the list with seven filed and voted proposals, followed by Utah-based hedge fund Western Investment with five filed and voted proposals. Another frequent proponent was GAMCO Asset Management, the advisory company founded by billionaire Mario Gabelli that manages assets for a pool of activist hedge funds. All of the proposals submitted by the top five most frequent sponsors went to a vote, accounting for 77.4 percent of the total voted.

The average support rate for this proposal type decreased to 31.4 percent of shares outstanding from 36.3 percent in 2013. However, it remains much higher than the average support reported in 2012 (18.2 percent of shares outstanding) and 2009, a record year in terms of proxy contests (26.4 percent of shares outstanding).

Download *Proxy Voting Analytics (2010-2014)* at www.conference-board.org/proxy2014

About Proxy Voting Analytics (2010-2014)

Proxy Voting Analytics (2010-2014) analyzes data on voting by shareholders of US companies that held their annual general meetings (AGMs) in the January 1-June 30 period during the last five years. Aggregate data on shareholder proposals, management proposals, and proxy contests is examined and segmented based on market index (whether the Russell 3000 or the S&P 500) and 20 business industry groups.

The report is supplemented with an appendix offering detailed recommendations from Conference Board experts for companies facing situations of shareholder activism.

Data analyzed in the report includes:

- Volume, sponsors, and subjects of shareholder proposals
- Voted, omitted, and withdrawn shareholder proposals
- Voting results of shareholder proposals
- Shareholder proposals on executive compensation
- Shareholder proposals on corporate governance
- Shareholder proposals on social and environmental policy
- Volume and subjects of management proposals
- Failed say-on-pay proposals among Russell 3000 companies
- Say-on-pay proposals that received the support of less than 70 percent of votes cast
- Volume, dissident type, reasons for dissent, and outcomes of proxy contests
- Exempt solicitations and other shareholder activism campaigns
- Lists of the most frequent activist investors

Additional insights (including volume by index, industry, and sponsor, most frequent sponsors, and support levels) are offered with respect to key issues from the last few proxy seasons, including:

- Majority voting
- Board declassification
- Supermajority vote requirements
- Independent board chairmen
- Proxy access
- Sustainability reporting
- Political issues
- Election of dissidents' director nominees

Download *Proxy Voting Analytics (2010-2014)* at www.conference-board.org/proxy2014

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