June 27, 2024

Trends and Updates from the 2024 Proxy Season

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Overview of Proxy Season

2024 Proxy Season Highlights

The number of shareholder proposals continues to increase. In 2024, the number of known shareholder proposals exceeded the prior record set in 2023

Environmental and social proposals continue to receive low levels of shareholder support, with only three E&S proposals receiving majority support

Governance proposals continue to have higher support, with more than double receiving majority support compared to 2023. While many governance proposals are similar year-over-year, this year there were a significant number of proposals focused on "zombie holdover directors"

No-action relief is back. Almost 100 more requests for no-action relief were submitted in 2024 compared to 2023 and the SEC granted relief to nearly double the number from 2023

The anti-ESG movement continues to gain momentum. Although support for proposals remains minuscule, proponents and proposals are increasing, anti-ESG proponents and entities are using notices of exempt solicitation and anti-ESG shareholder engagement trends align with the legislative, political and media anti-ESG pressures

1

Broad socio-economic issues continue to impact the proxy season. This year labor is a considerable focus: shareholder proposals focus on a myriad of labor-issues, and labor unions have begun to emulate activists with a single-issue proxy contest and proxy solicitation in the 2024 season

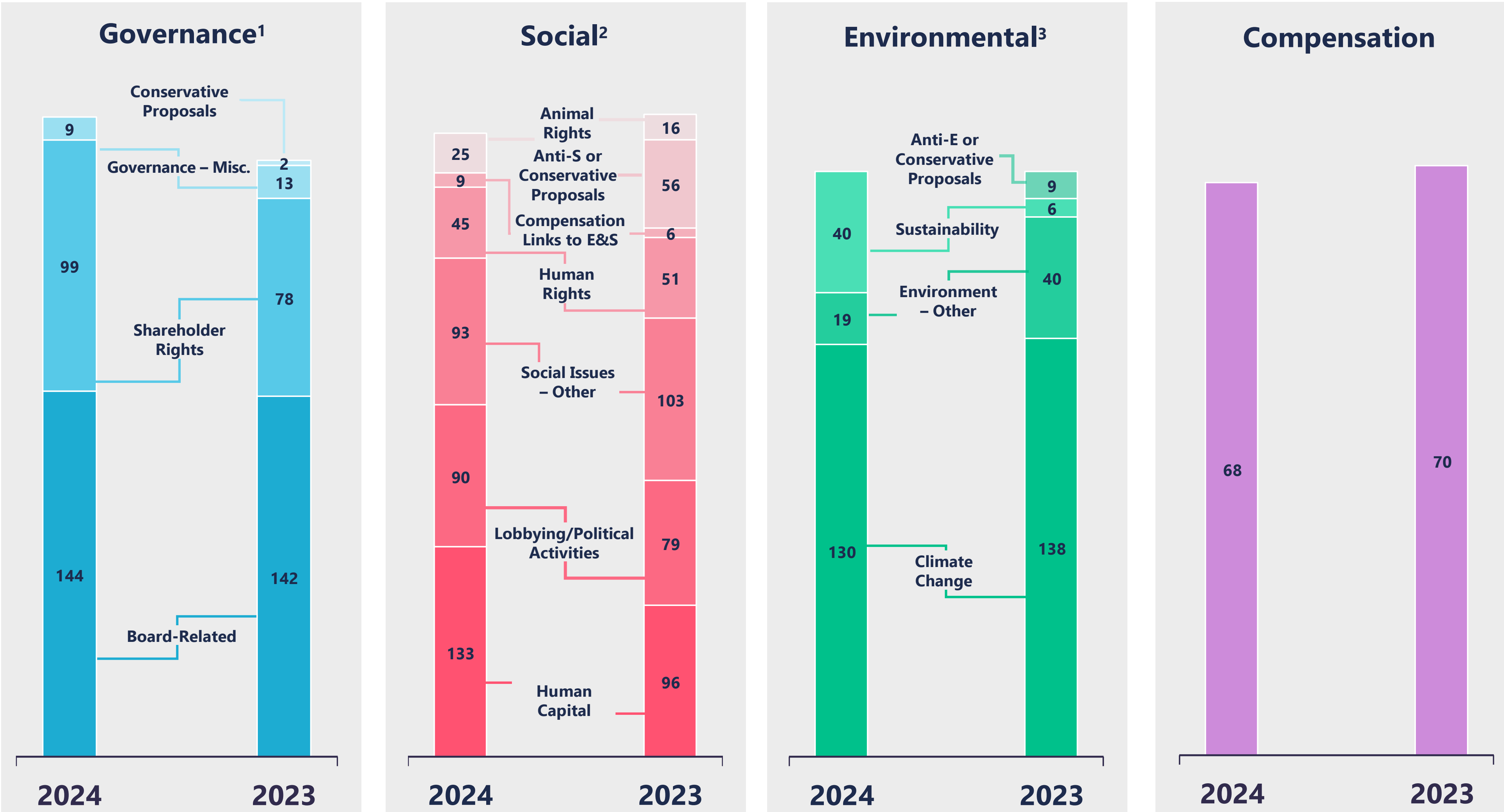
Investors are in the hot seat and continue to accelerate pass-through voting as they are subject to ESG and anti-ESG pressures. Investors have publicly left investor coalitions, continue a multi-year trend of failing to support E&S proposals and increasingly face their own proposals on their policies and voting records

Executive compensation considerations are expanding beyond say-on-pay and approval for company equity plans. This year a variety of executive compensation proposals emerged, including one seeking to fix director compensation at $1 absent shareholder approval

Source: Freshfields analysis of ISS data as of June 14, 2024

2024 Shareholder Proposals by Category

Shareholder Proposal Filings by Category and Subcategory
January 1, 2024 – June 14, 2024



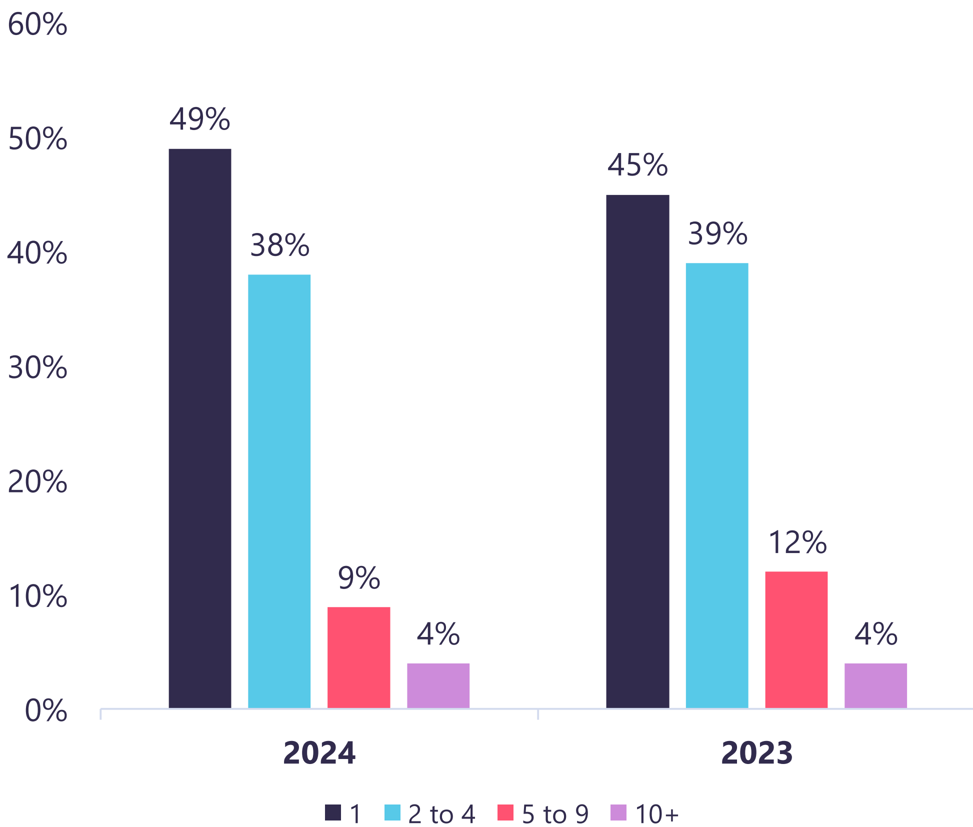
[1] 2024 totals include nine governance proposals Freshfields categorized as "conservative" proposals
[2] 2024 totals include 67 social proposals Freshfields categorized as "anti-S" or "conservative" proposals broken down as follows: compensation links to E&S proposals (three), human rights (two), social issues – other (25), lobbying/political activities (nine), human capital (28)
[3] 2024 totals include 15 environmental climate change related proposals Freshfields categorized as "anti-E "or "conservative" proposals
Source: Freshfields analysis of ISS data as of June 14, 2024

Freshfields

Concentration of Shareholder Proposals Down Slightly from 2023

291 companies in the S&P 500 received an aggregate of 740 known shareholder proposals in 2024—76.1% of all known proposals compared to 80% in 2023

Number of Shareholder Proposals S&P 500 Companies Received for Companies that Received at Least One Proposal



2.5

Average number of shareholder proposals received by S&P 500 companies receiving a proposal compared to 2.8 in 2023

18

Amazon again received the highest number of shareholder proposals sent to a single company, down from 21 in 2023

3.8%

3.8% of all S&P 500 shareholder proposals were sent to companies receiving 10+ proposals, approximately the same as 2023

Similar to 2023, there are no discernable trends based on sector – companies that receive multiple proposals represent a wide range of industries

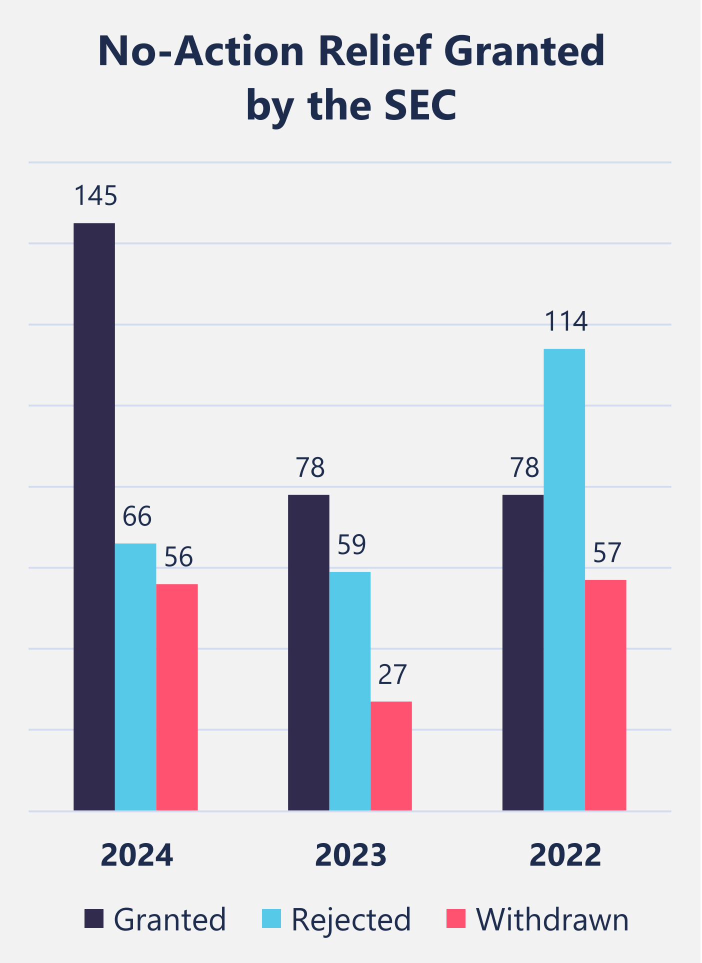
Freshfields

Source: Freshfields analysis of ISS data as of June 14, 2024

Shareholder Proposals and SEC No-Action Letters

From January 1, 2024 to June 14, 2024, companies submitted 267 requests for no-action relief to the SEC, up from 164 in 2023
The SEC granted no-action relief for 145 total proposals (up from 78 in 2023) and 56 proposals were withdrawn by proponents (up from 27 proposals in 2023)

	Relief Granted	Relief Rejected	Withdrawn	Total
Social	**36**	**31**	**18**	**85**
Human capital	9	11	9	29
Lobbying/political activities	6	7	2	15
Human rights	-	4	2	6
Social issues – other	21	8	3	32
Compensation links to E&S	-	1	1	2
Animal rights	-	-	1	1
Governance	**48**	**16**	**20**	**84**
Board-related	31	10	20	61
Shareholder rights	13	6	-	19
Governance – misc.	4	-	-	4
Environmental	**21**	**14**	**9**	**44**
Climate change	15	10	7	32
Sustainability	3	2	2	7
Environmental – other	3	2	-	5
Compensation	**17**	**4**	**-**	**21**
Other*	**23**	**1**	**9**	**33**
Total	**145**	**66**	**56**	**267**



*Includes proposals that are not generally accounted for in the other categories, including, but not limited to, proposals to approve tender offers, hire investment banks, explore the sale of a company or other strategic alternative considerations

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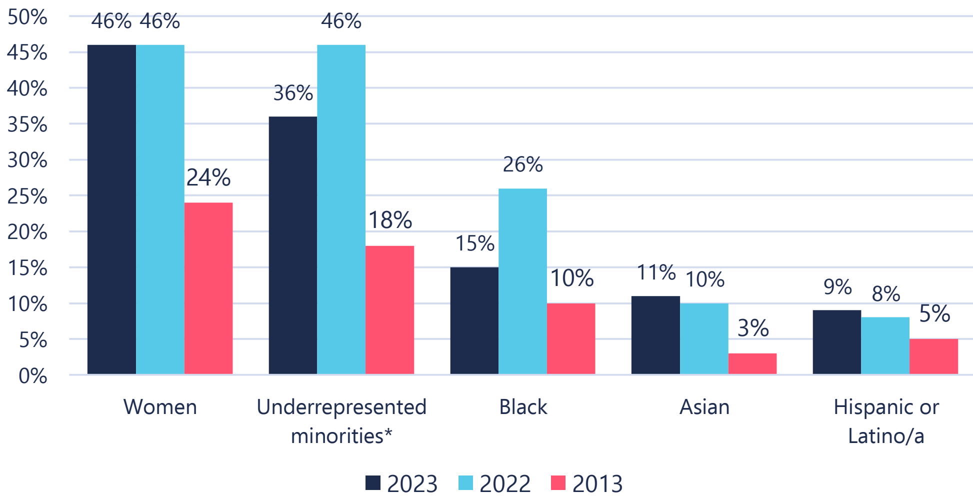
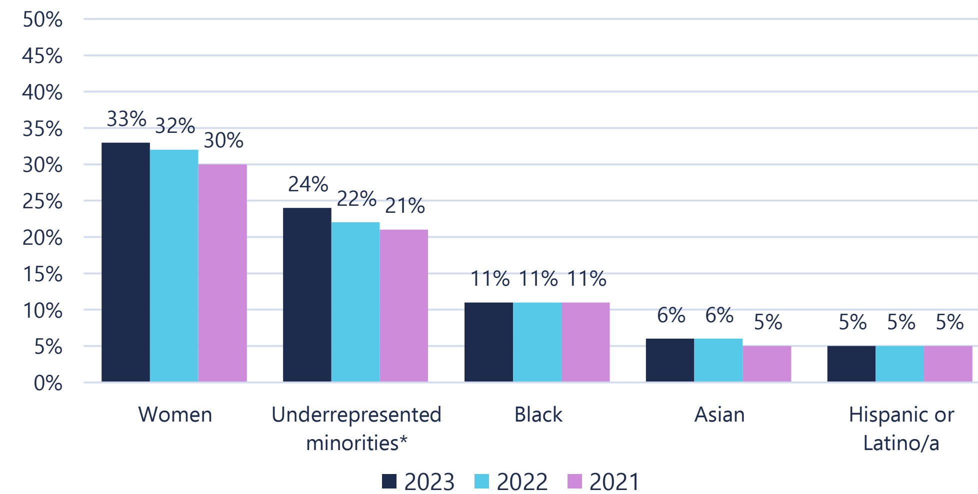
Board and Senior Management Diversity

Boardroom Diversity

Class of 2023 S&P 500 Directors: Diversity Breakdown



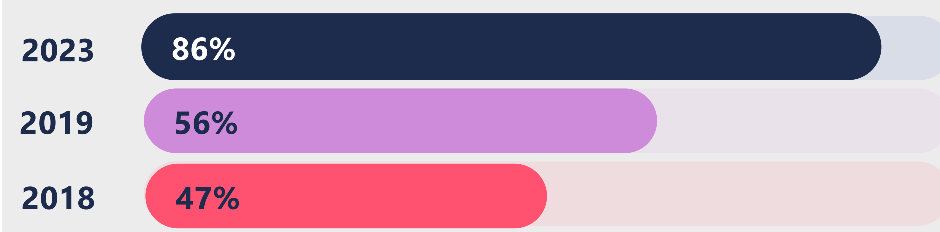
All S&P 500 Directors: Diversity Breakdown



**Underrepresented groups are comprised of women, underrepresented racial or ethnic groups and members of the LGBTQ+ community. Native Americans, Alaskan Natives, Native Hawaiians and Pacific Islanders were not represented in new director classes during the periods presented*

Percentage of Russell 3000 Companies with 3+ Female Directors

Percentage of S&P 500 Companies with 3+ Female Directors



56% **Percentage of S&P 500 companies that disclose a Rooney Rule-type commitment to include diverse candidates in searches, up from 50% last year**

56% **Women accounted for 56% of first-time S&P 500 directors, up from 44% in 2022 and 25% in 2013**

36% **Percentage of first-time S&P 500 directors who are underrepresented minorities, down from 46% in 2022**

Sources: 2023 U.S. Spencer Stuart Board Index and US Public Company Board Diversity in 2023: How Corporate Director Diversity Can Contribute to Board Effectiveness, Harvard Law School Forum on Corporate Governance (November 2023)

Diversity in Board and Executive Leadership and the Workforce

S&P 500 C-Suite Diversity

- 7.9% of CEOs are women, a modest increase from 6.8% in 2022
- 12% of CEOs self-identify as underrepresented minorities, as defined by Nasdaq
- 11% of CEO appointees were women and 100% of the incoming S&P 500 female CEOs were internal appointments, compared to 71% of newly-appointed male CEOs

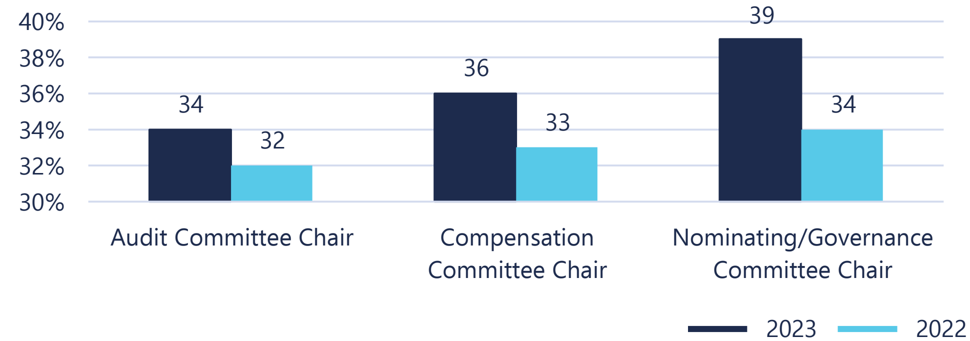
Workforce Diversity: EEO-1 Report Disclosure

- The New York City Comptroller launched the Diversity Disclosure Initiative in July 2020 and disclosure of EEO-1 data has become a common market practice in the S&P 500
- 74% of S&P 500 companies publicly disclose their EEO-1 reports or equivalent, up from 10% in 2020
- 95% of S&P 100 companies disclose EEO-1 reports, up from approximately 14% in 2020
- Institutional investors, including BlackRock and CalSTRS, have updated their proxy voting guidelines to include workforce demographics disclosure expectations based on EEO-1 surveys

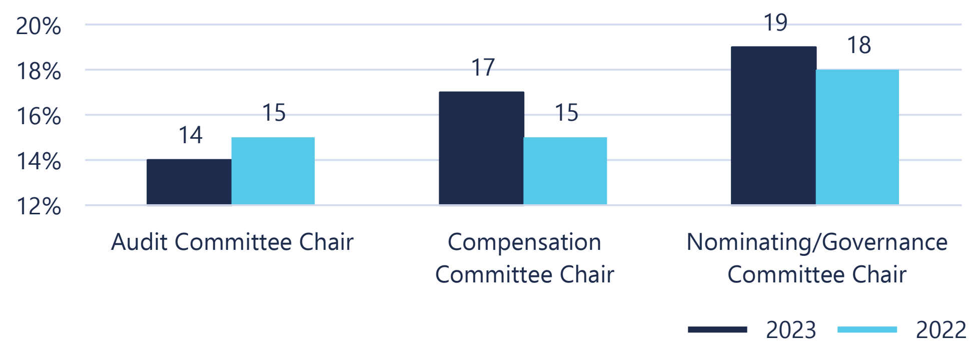
S&P 500 Diversity in Board and Committee Leadership

- Women accounted for 18% of independent board chairs in 2023 compared to 14% in 2022, and represented 15% of lead directors in 2023 compared to 14% in 2022
- Underrepresented minorities accounted for 8% of lead directors in 2023 compared to 9% in 2022, and represented 12% of lead directors in 2023 compared to 10% in 2022

Percentage of Women Committee Chairs at S&P 500 Companies



Percentage of Underrepresented Minority Committee Chairs at S&P 500 Companies



Sources: 2023 U.S. Spencer Stuart Board Index and Spencer Stuart 2023 CEO Transitions, New York City Retirement Systems 2023 Shareowner Initiatives Postseason Report, DiversIQ

Select Investor Director Diversity Policies (US)

BlackRock	• Boards should aspire to 30% diversity, with at least two female and one underrepresented minority directors • May vote against nom/gov committee members if there is no explanation of the approach to board diversity • BlackRock recognizes that companies with smaller market capitalizations and certain sectors may face challenges in pursuing diversity. BlackRock will look for **the presence of diversity and take into consideration the steps that companies are taking to ensure diversity on their board**
State Street Global Advisors	• May vote against the nominating committee chair/committee/board leadership, depending on circumstances, if: – The board does not have at least one female member (**all listed companies**); – The board does not have at least 30% women directors (**Russell 3000**); and – There is no gender, racial and ethnic board demographic disclosure (**Russell 1000**) • **May withhold support from** the nominating committee chair of S&P 500 companies that do not have at least one director from an underrepresented racial/ethnic community
Vanguard	• **Expects companies to tie perspectives on appropriate board structure and composition to the company's strategy, long-term performance and shareholder returns** • At minimum, a board should represent diversity of personal characteristics, inclusive of at least diversity in gender, race and ethnicity on the board as well as diversity of tenure, skills and experience • **Expects disclosure of the process for evaluating the composition and effectiveness of the board, identification of gaps and opportunities to be addressed through board refreshment and a robust nomination/re-nomination process**
Office of the NY State Comptroller	• May withhold support from nominating committee members if: – Self-identified individual racial/ethnic diversity of directors is not disclosed – Gender and racial/ethnic diversity are not explicit considerations in searches for director candidates • May withhold support from nominating committee or all directors if: – the board does not appear sufficiently diverse (e.g., lack diversity of age, race, gender, ethnicity, sexual orientation and gender identity, geography, disability and other factors) • May consider the following: the level of diversity, disclosures about diversity and diversity considerations in searches, policies and peer benchmarking in making voting decisions
Office of the NYC Comptroller	• Will generally vote against members of a nom/gov committee when: – The board lacks meaningful gender and racial/ethnic diversity, including if 80%+ of the directors are the same gender • May integrate more explicit gender/racial/ethnic diversity expectations as reliable data becomes available

The bold text indicates changes to the 2024 voting guidelines from 2023

Select Investor Director Diversity Policies (US)

CalPERS	• When engagements are not successful, will withhold votes from directors who are nom/gov committee members, board chairs or long-tenured directors on boards that lack diversity and do not make commitments to improve near-term diversity
Legal & General Investment Management	Will vote against the chair of the nom/gov committee for: • Companies where women make up less than a third of the board (all listed companies); • There are no women on the executive leadership team (S&P 500); and • No director is of an ethnic minority background (S&P 500, and beginning in 2025, Russell 1000)
Alliance Bernstein	• Will generally vote against the nom/gov committee chair or a relevant director **when the board lacks sufficient diversity, unless there are specific mitigating factors** • Generally, looks to gender and ethnic/racial representation as indicators of board-level diversity since these are well disclosed and standardized metrics
Neuberger Berman	• Encourage boards to aspire to at least 30% gender diversity and expect companies to disclose board racial and **ethnic diversity at the aggregate level** • May hold the chair of the nominating committee accountable if the board fails to disclose board composition and take voting action if the board lacks racial or ethnic diversity • Companies where market or listing standards are more stringent may be treated accordingly
Goldman Sachs	• Will vote against or withhold from the nominating committee if: – **Applicable regulatory, local code or similar board diversity requirements are not met** – There is not one diverse director from a minority ethnic group (S&P 500) • Will vote against or withhold from the full board at US companies without any women directors
J.P.Morgan	• Will generally vote against the nominating committee chair when the company does not have or disclose the board's gender, racial or ethnic diversity unless there are certain specific mitigating factors
BNY Mellon	• Will generally vote against the nominating committee chair in cases of insufficient gender diversity

The bold text indicates changes to the 2024 voting guidelines from 2023

State Laws on Board Diversity

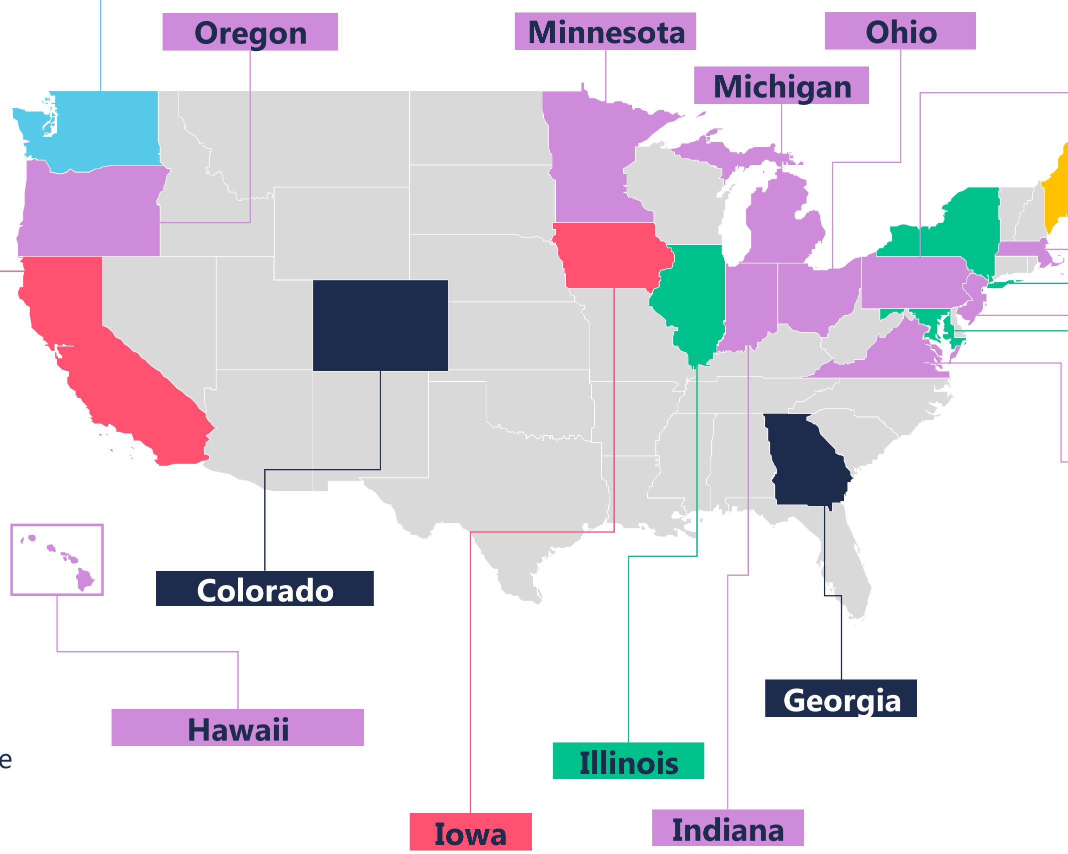
Washington

Public companies headquartered in WA are required to comply with, or explain, a 25% women diversity target of the board starting January 1, 2022

California

State: In 2022, in separate rulings, the Los Angeles Superior Court overturned CA requirements for publicly-listed CA corporations to require women (SB 826) and members of underrepresented communities (AB 979) on their boards as violations of California's Equal Protection Clause. These decisions are under appeal

Federal: In 2023, the U.S. District Court for the Eastern District of California determined that AB 979 violates the Equal Protection Clause of the Fourteenth Amendment



Virginia

Virginia's SB 393/HB 212 was passed by the Virginia General Assembly but vetoed by the governor in April 2024. The bill would have: (1) prohibited the Major Employment and Investment Project Approval Commission from recommending approval of projects for businesses that do not have, or commit to maintaining, gender and racial diversity on their boards (women or historically underrepresented groups must represent at least 30% of directors) and (2) required companies seeking approval to submit a board diversity disclosure and update it annually

- Introduced resolutions encouraging companies to commit to increase gender diversity on boards and senior management (non-binding)
- Have considered minimum requirements for gender or underrepresented minority directors but have not enacted
- Mandated board diversity studies or reports
- Diversity requirements struck down by courts or overturned by subsequent legislation or executive action
- Comply or explain requirement
- Mandatory diversity requirement and disclosure

Freshfields

Sources: State Legislative Bodies and CA Secretary of State

Nasdaq Diversity Requirements – Rule 5605(f)

Nasdaq's board diversity rule requires Nasdaq-listed companies to:

- Publicly disclose board-level diversity statistics using a standardized template or explain why they do not have at least two diverse directors, one of whom is a self-identified female and one of whom self-identifies as an underrepresented minority* or LGBTQ+
- The rule provides additional flexibility for new companies, smaller reporting companies (SRCs), foreign private issuers (FPIs) and non-operating companies (e.g., SPACS)
- **Controversy and Litigation**: In October 2023, the U.S. Court of Appeals for the Fifth Circuit upheld Nasdaq's board diversity rule in *Alliance for Fair Board Recruitment v. SEC*
  - Alliance for Fair Board Recruitment and National Center for Public Policy Research (NCPPR) sought to have the Fifth Circuit invalidate the diversity rule, arguing it violates federal securities laws and the U.S. Constitution's prohibition of discriminatory laws and restraints on free speech, as it unconstitutionally conferred preferential status on minorities, women and members of the LGBTQ+ community. The three-judge panel found that the constitutional challenge was unfounded, as Nasdaq is not a state actor so a challenge under the First Amendment's protection of free speech would be inappropriate, and the SEC's involvement with and approval of Nasdaq's rules does not render the rules subject to constitutional scrutiny
  - On October 25, 2023, the Alliance for Fair Board Recruitment petitioned for a rehearing by the full Fifth Circuit, and in February 2024, the Fifth Circuit ordered *en banc* rehearing
  - On May 14, 2024, the Fifth Circuit heard oral arguments in the case

	Diversity Matrix	One Diverse Director or Provide Explanation	Two Diverse Directors or Provide Explanation
Nasdaq Global Select or Global Markets	To be reported annually by December 31 (or one year from the date of listing)	December 31, 2023 (or one year from date of listing)	December 31, 2025
Nasdaq Capital Market		N/A	December 31, 2026
Boards with 5 or fewer directors		December 31, 2023 (or two years from date of listing, whichever is later)	N/A

**Nasdaq defines underrepresented minority as an individual who self-identifies as one or more of the following: Black or African American, Hispanic or Latinx, Asian, Native American or Alaska Native, Native Hawaiian or Pacific Islander or "two or more races or ethnicities"*

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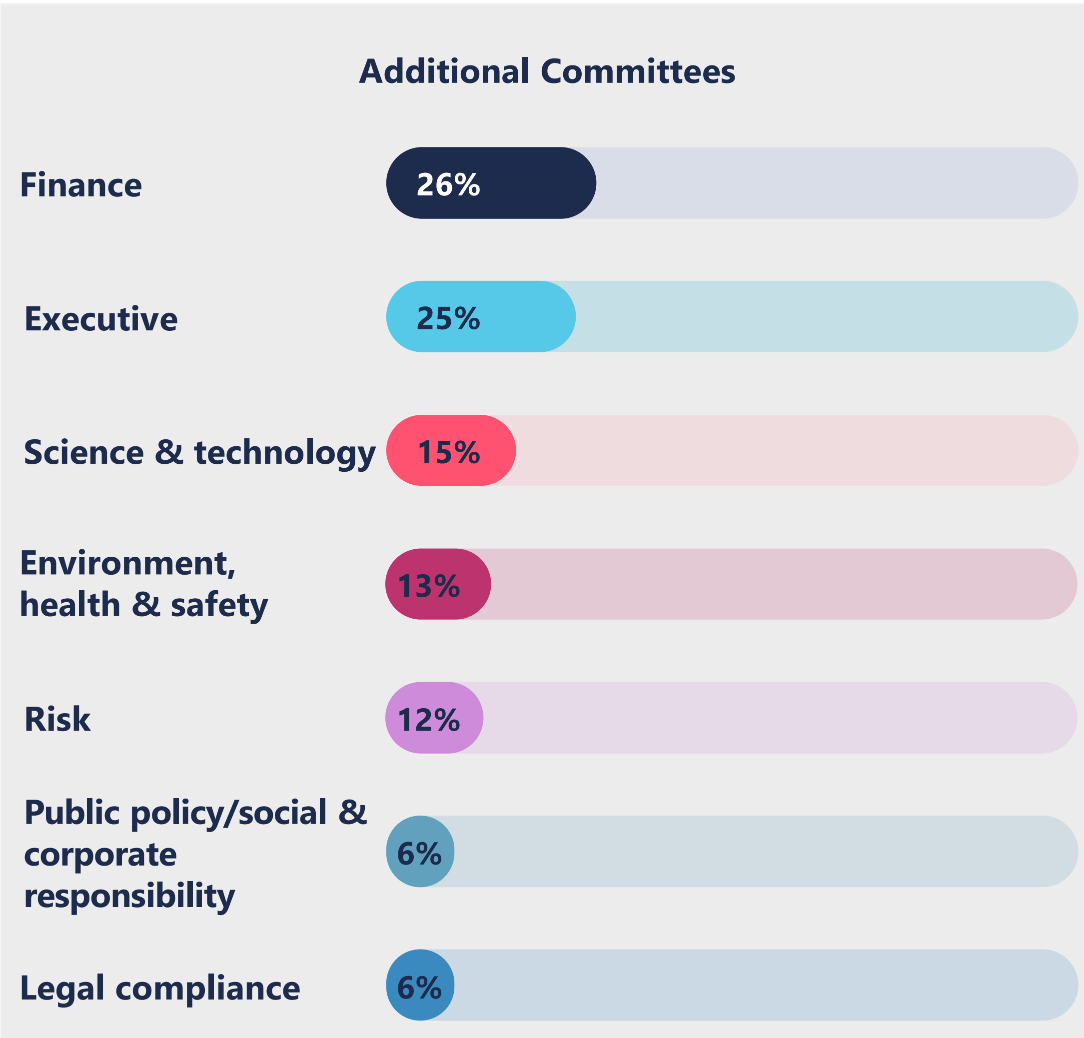
Spotlight on Board and Director Trends

Board Committee Trends

The majority of S&P 500 companies have one additional committee beyond their standing audit, compensation and nominating and governance committees



70%

of S&P 500 companies have more than the three NYSE-mandated standing committees

4.2

Average number of committees (mostly unchanged for the past decade)

Board and Committee ESG Oversight

- 95% of public companies in the U.S. have a board policy for ESG oversight
- 51% of board committees were specifically tasked with ESG/sustainability oversight in 2023

Source: 2023 U.S. Spencer Stuart Board Index

Emerging Trends in Board Oversight of AI

Board or Committee Oversight of AI*

- 16%: Audit committee or similar
- 8%: Full board
- 7%: Risk committee
- 5%: Technology committee
- 64%: No express delegation or N/A

Director Expertise in AI**

- 13% of S&P 500 companies have at least one director with AI expertise
- This increases to **30%** of S&P 500 companies in information technology (and up to **60%** in the automobile space)

Frequency of AI Topics on Board Agendas*

- 37%: Ad hoc or as-needed basis
- 8%: Semi-annually
- 4%: Every regular meeting
- 3%: Quarterly
- 44%: Not yet an agenda item
- Other: N/A or don’t know

Sources: *Deloitte and Society for Corporate Governance: Board Practices Quarterly: Future of Tech: Artificial Intelligence (2023)
**ISS-Corporate *AI and Board of Directors Oversight: AI Governance Appears on Corporate Radar (2024)*

Board Refreshment Trends at S&P 500 Companies

338

New independent directors appointed in 2023

(the lowest since 2017 and down from 395 in 2022)

7%

New independent directors appointed in 2023 (out of all directors appointed)

(unchanged from 2022)

57

Average age of new director

(up from 56 from 2022)

69%

First-time directors who are actively employed

(compared to 43% of non first-time directors)

30%

New directors who are active or retired CEOs

- Fewer other corporate executives (including functional and P&L leaders but excluding active and retired CEO/chair/president/COO) are appointed as new independent directors, dropping to 26% from 32% in 2022
- 27% of new independent directors have a financial background
- 54% of new independent directors spent time working in an international location, up from 50% in 2022
  - 18% of new directors are not from the U.S., a 13% increase from 2022

Source: 2023 U.S. Spencer Stuart Board Index

Age and Term Trends of Directors at S&P 500 Companies

63 years

Average age of all independent directors

- Unchanged since 2021
- Average age of first-time directors is 56.3 years old, compared to 54.4 from 2022
- Average age of boards is generally in the 60s

11%

Percentage of new directors ≤50 years old

- Down from 18% in 2022 and 16% in 2021
- New directors tend to have backgrounds in PE/investment management, technology/telecommunication and healthcare/pharmaceuticals

7.8 years

Average tenure of independent S&P 500 directors

- Unchanged compared to 2022

2

Average number of directorships of independent directors on S&P 500 boards

- Slightly down from 2.1 in 2022

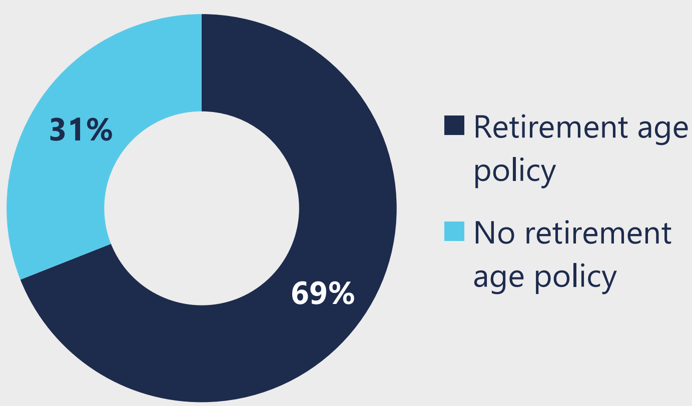
48-74 years

Age range of independent directors

Spotlight on Mandatory Departure Policies

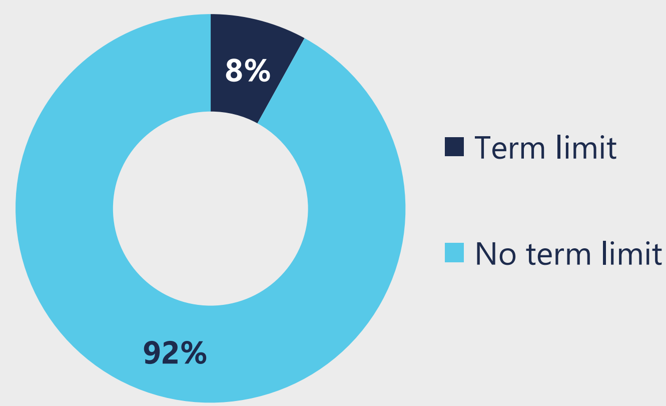
Mandatory Retirement Age at S&P 500 Companies

- The percentage of S&P 500 companies with mandatory retirement policies continues to decrease
- 57% of boards with mandatory director retirement ages set them at 75 years or older (compared with 53% in 2022 and 24% in 2013)
- 18% of boards report not having a mandatory retirement age and an additional 13% do not discuss mandatory retirement in their corporate governance guidelines
- Seven companies disclosed rationales for waiving the retirement age or term-limit policy
- 51% of directors in the past year were three years or fewer away from the mandatory retirement age
- The average age for retirement is 74 years old



Mandatory Term Limits at S&P 500 Companies

- Only 8% of boards report having term limits for non-executive directors, four more companies than 2022
  - 65% of boards disclose in their corporate governance guidelines that they do not have term limits
- For companies with term limits, the term limit average is 14.4 years
- Term limits range from 10–20 years, with 73% of companies with term limits setting limits at 15 years or more



Freshfields

Source: 2023 U.S. Spencer Stuart Board Index

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SEC Updates

SEC Rule Change Compliance Calendar: Spring 2024 and Beyond

Key Dates/ Deadlines	Disclosure Requirements	Disclosure Frequency
	Item 106 of Regulation S-K	
Form 10-K for FY 2023 and ongoing annually	**Disclosure of cybersecurity risk management, strategy and governance** • A description of the registrant’s process, if any, for assessing, identifying and managing material risks from cybersecurity threats, addressing, as applicable: – Whether and how the processes have been integrated into the registrant’s overall risk management system or processes; – Whether the registrant engages assessors, consultants, auditors or other third parties in connection with the processes; and – Whether the registrant has processes to oversee and identify risks from threats associated with use of any third-party service provider • A description of whether any risks from threats, including from prior cybersecurity incidents, have or are reasonably likely to materially affect the registrant, including its business strategy, results of operations or financial condition (and if so, how) • Disclosure regarding cybersecurity governance and oversight, including: – The board’s oversight of risks from threats, including, if applicable, the board committee or subcommittee responsible for oversight of risks from threats and description of the processes by which the board or committee is informed about risks; and – Management’s role in assessing and managing the registrant’s material risks from threats, addressing, as applicable: ▪ Whether and which management or committees are responsible for assessing and managing risks and their relevant expertise; ▪ The processes by which management or committees are informed about and monitor the prevention, detection, mitigation and remediation of cybersecurity incidents; and ▪ Whether management or committees report information about risks to the board or a committee or subcommittee of the board **Tagging of cybersecurity risk management, strategy and governance disclosure*, including tagging required in Inline XBRL**	Annually

Each of the deadlines assume the registrant is not an SRC or FPI and has a fiscal year end of December 31, unless otherwise noted
** Asterisks (*) indicate an XBRL tagging requirement*

SEC Rule Change Compliance Calendar: Spring 2024 and Beyond

Key Dates/ Deadlines	Disclosure Requirements	Disclosure Frequency
Beginning Spring 2024	**Rule 13d-1(a) of Regulation 13D-G**	
	Accelerated Schedule 13D Filing Deadlines & Additional Disclosure of Cash-settled Derivatives • Schedule 13D is due within five business days of acquiring more than 5% of a class of registered voting equity securities; amendments must be filed within two business days of any material change • Interests in all derivative securities relating to the applicable registered class, including cash-settled security-based swaps and other cash-settled derivatives, must be disclosed in Item 6 of Schedule 13D	As needed
Beginning September 30, 2024	**Rules 13d-1(b), (c), (d) of Regulation 13D-G**	
	Accelerated Schedule 13G Filing Deadlines & Additional Disclosure of Cash-settled Derivatives • Schedule 13G is due for qualified institutional investors within the earlier of: (a) 45 days after the end of the calendar quarter in which beneficial ownership exceeds 5% and (b) five business days after the end of the month in which beneficial ownership exceeds 10%; amendments must be filed within 45 days after the end of the calendar quarter in which there are material changes or within five business days after the end of the month in which beneficial ownership changes by more than 5% • Schedule 13G is due for passive investors within five business days of acquiring more than 5%; amendments must be filed within 45 days after the end of the calendar quarter in which there are material changes or within two business days after acquiring greater than 10%, or within two business days of a change in beneficial ownership of more than 5% • Exempt investors must file a Schedule 13G within 45 days after the end of the calendar quarter in which beneficial ownership exceeds 5%; amendments must be filed within 45 days after the end of the calendar quarter in which there are material changes • Disclose cash-settled derivatives if held with the purpose or effect of changing or influencing the control of the issuer of the reference securities or in connection with or as a participant in any transaction having such purpose or effect	As needed

SEC Rule Change Compliance Calendar: Spring 2024 and Beyond

Key Dates/ Deadlines	Disclosure Requirements	Disclosure Frequency
Beginning Winter 2024 **Form 10-K for FY 2023 and ongoing annually**	**Item 601(b)(97) of Regulation S-K**	
	Disclosure related to the registrant's clawback policy • File the clawback policy as an exhibit to the annual report on Form 10-K • Disclosure via checkbox on Form 10-K indicating:* – Whether the financial statements included in the filing reflect the correction of any error to previously issued financial statements; and – Whether any of those corrections are restatements that required a recovery analysis	Annually
	Item 402(w)(1)-(2) of Regulation S-K	
	Disclosure when clawback policy is triggered • If the clawback policy has been triggered, disclose recovery of excess incentive-based compensation, including:*† – The amount of excess incentive-based compensation recoverable under the registrant's clawback policy; – An analysis of how the amount was calculated; and – To the extent the board determined recovery was impracticable, an explanation of the determination not to pursue recovery	Annually
	Relevant Rule: Item 402(c) of Regulation S-K	
	Disclosure upon successful execution of clawback policy • If excess incentive-based compensation previously paid to named executive officers and disclosed in a prior proxy statement has been received:*† – The amounts recovered under the registrant's clawback policy must be deducted from the summary compensation disclosure relating to the year in which the relevant incentive compensation was reported, with the recovered amounts to be identified via footnote	As needed

Each of the deadlines assume the registrant is not an SRC or FPI and has a fiscal year end of December 31, unless otherwise noted
Asterisks (*) indicate an XBRL tagging requirement
† Indicates that this information is required to be disclosed in a registrant's Form 10-K, but may be incorporated by reference from the relevant proxy statement so long as the proxy statement is filed within 120 days of the end of the fiscal year

SEC Rule Change Compliance Calendar: Spring 2024 and Beyond

Key Dates/ Deadlines	Disclosure Requirements	Disclosure Frequency
Beginning Winter 2024 **Form 10-K for FY 2023 and ongoing annually** (continued)	**Item 408(b) of Regulation S-K**	
	Disclosure related to the registrant's insider trading policy • Disclose whether the registrant has insider trading policies and procedures designed to promote compliance with insider trading laws, regulations and listing standards, or explain why the registrant does not have them*† • File the registrant's insider trading policy as an exhibit to the Annual Report on Form 10-K	Annually
	Item 402(x) of Regulation S-K	
	Disclosure of option awards made close in time to the release of material nonpublic information, including: • If applicable, tabular disclosure of each option award, stock appreciation right or other option-like instrument granted in the past fiscal year to a named executive officer within four business days before and one business day after the filing of a Form 10-Q or Form 10-K or release of material non-public information, including:*† – The name of the named executive officer; – The grant date; – The number of underlying securities; – The exercise price; – The grant date fair value; and – The percentage change in the closing market price of the securities underlying the award between one trading day before and after the release of material non-public information • Narrative disclosure of the registrant's policies and practices on the timing of awards of options in relation to the disclosure of material nonpublic information, including:*† – How the board determines when to grant such awards; – Whether and, if so, the board takes material nonpublic information into account when determining the timing and terms of such an award; and – Whether the registrant has timed the disclosure of material nonpublic information for the purpose of affecting the value of executive compensation	Annually

Each of the deadlines assume the registrant is not an SRC or FPI and has a fiscal year end of December 31, unless otherwise noted
** Asterisks (*) indicate an XBRL tagging requirement*
† Indicates that this information is required to be disclosed in a registrant's Form 10-K, but may be incorporated by reference from the relevant proxy statement so long as the proxy statement is filed within 120 days of the end of the fiscal year

SEC Adopts, then Stays, Final Rules on Climate-Related Disclosures

- On March 6, 2024, the SEC adopted its long anticipated final rules on climate-related disclosures, originally proposed in March 2022
- The final rules amend Regulations S-K and Regulation S-X to set forth the climate-related information that U.S. domestic filers and FPIs are required to disclose in their annual reports and registration statements filed with the SEC
- Companies must include extensive disclosure of material climate-related matters, including how they relate to risk and risk management, strategy, management- and board-level governance, targets and goals, GHG emissions (Scope 3 not explicitly required) and specified financial statement line-item impacts
  - Many of the disclosure requirements have been qualified by materiality
  - Quantification of financial statement line-item impacts subject to 1% and de minimis thresholds
  - Attestation reports only required for large accelerated filers (limited assurance, and then reasonable assurance) and accelerated filers (limited assurance only)
  - Some requirements not applicable to emerging growth companies (EGCs) and SRCs
- Companies not permitted to substitute compliance with the final rules through disclosures made in response to requirements of other climate-related disclosure regimes
  - Compliance date to be phased in and is dependent upon the content of the disclosure and the filing status of the company
  - Earliest compliance date relates to the financial year beginning 2025 for certain of the disclosures required to be made by large accelerated filers
- As a result of a legal challenge, on March 15, 2024, the U.S. Court of Appeals for the Fifth Circuit stayed the final rules, which was later dissolved on March 22, 2024, after the Judicial Panel on Multidistrict Litigation lottery selected the Eighth Circuit as the venue for hearing consolidated petitions
  - On April 4, 2024, the SEC stayed the final rules pending the completion of judicial review by the Eighth Circuit
  - The SEC has stated in a subsequent court filing that it intends to republish the rules in the Federal Register that address a new effective date

Key Takeaways

- The rules are subject to both the SEC voluntary stay and appellate review, which makes finalization and timing of the final rules uncertain, but companies can use this time to advance preparation
- The SEC made significant revisions to the proposed rules to reduce the burden on registrants, including:
  - Additional materiality qualifiers that limit the required disclosures
  - No Scope 3 GHG emissions explicitly required
  - Disclosure of financial statements impacts limited to specified line items and subject to 1% and de minimis thresholds
  - Attestation report requirement of limited assurance for large accelerated (initially) and accelerated filers. Reasonable assurance for large accelerated filers (after phase in)
  - Reduction of some of the compliance and cost burdens on smaller registrants
- Companies subject to multiple climate-related disclosure regimes will need to carefully coordinate on reporting requirements

SEC Final Rule on Climate-Related Disclosure

Form 10-K Disclosures

- Risks and Strategy – Disclose climate-related risks that have had or are reasonably likely to have a material impact on business strategy, results of operations or financial condition, including qualitative and quantitative disclosure about impact of such risks on business and strategy. Disclosure of transition plans to manage a transition risk, scenario analysis to assess impact of climate-related risks and internal carbon pricing may also be required if applicable
- Governance – Disclose whether the board, committee or subcommittee has oversight of climate-related risks, how the board or committee receives information about climate related risks and, if applicable, oversight of progress against targets, goals or transition plans. Also disclose management's role in assessing/managing material climate-related risks
- Risk Management – Disclose process for identifying, assessing and managing material climate-related risks and whether/how such processes are integrated into overall risk management system or processes
- Targets and Goals – Disclose any climate-related targets that have materially affected/are reasonably likely to materially affect business, results of operations or financial condition as well as information necessary to understand the material impact/reasonably likely material impact of the target or goals and provide annual updates on actions taken to achieve such targets or goals
- GHG Emissions Metrics – Large accelerated filers must provide Scope 1 (direct) and Scope 2 (indirect from purchased energy source) emissions, separately, for the most recent fiscal year only when those emissions are material, and, to the extent previously disclosed in an SEC filing, for the historical fiscal year(s) included in the consolidated financial statements in the filing

Attestation of Scope 1 and Scope 2 Emissions Disclosure

- Large accelerated filers and accelerated filers must provide an attestation report by an independent provider with expertise in measuring, analyzing, reporting or attesting to GHG emissions at a limited assurance level in the third fiscal year of compliance, but only large accelerated filers will be required to include an attestation report at a reasonable assurance level beginning in the seventh fiscal year of compliance

Financial Statement Requirements

- Contextual – Disclose information to enable readers to understand how financial statement metrics were derived (e.g., significant inputs, assumptions, policy decisions) and aggregate amount of any recoveries recognized during the fiscal year where quantitative data is required
- Quantitative – Subject to certain exceptions, disclose (1) amount of expenditures expensed as incurred and losses incurred during fiscal year related to severe weather events and natural conditions, (2) amount of capitalized costs and charges incurred during fiscal year related to severe weather events and other natural conditions, (3) amount of carbon offsets and renewable energy certificates (RECs) expensed, amount of capitalized carbon offsets and RECs recognized and amount of losses incurred on capitalized carbon offsets and RECs and (4) beginning and ending balances of capitalized carbon offsets and RECs

5

“E”&“S” Proposals

ESG Shareholder Proposals

Shareholder Proposals by Category[1]

Governance Proposals: 252

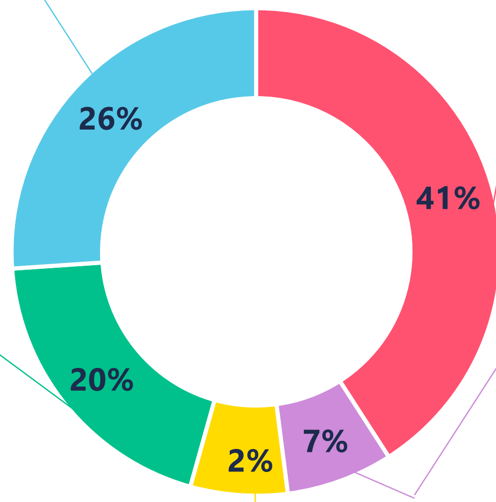
Examples include:

- Independent chair
- Director resignation bylaw
- Majority voting thresholds
- Right to act by written consent
- Eliminating dual-class structure
- Right to call special meeting or reduce threshold
- Declassified board
- Board committee creation

Environmental Proposals: 189

Examples include:

- Climate change
- GHG emissions reductions and disclosure
- Climate finance
- Plastic use
- "Just Climate Transition"
- Sustainable supply chains
- Climate lobbying



Other Proposals: 62

Social Proposals: 395

Examples include:

- Human rights
- Diversity – board/workforce
- Racial equity audit
- Workplace safety
- Child safety
- Pay disparity – gender/race
- Political/lobbying/ charitable contributions

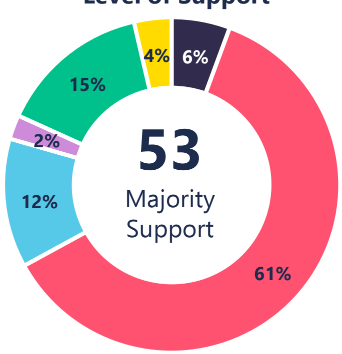
Compensation Proposals: 68

Examples include:

- Shareholder approval of termination pay
- Executive share retention plans
- Clawback provisions
- Bylaw amendment for shareholder approval of director compensation

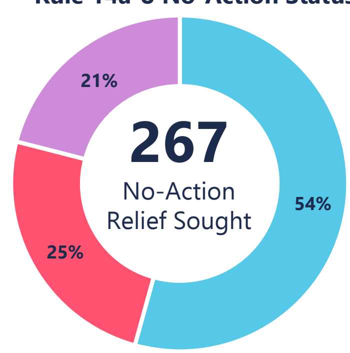
Proposals By the Numbers

Level of Support[1]



- Majority: 53/945
- Non-majority support: 580/945
- Not voted (not in proxy): 118/945
- Not presented/voted on (in proxy): 22/945
- Omitted: 138/945
- Pending: 34/945

Rule 14a-8 No-Action Status[2]



- Concur: 145/267
- Unable to concur: 66/267
- Withdrawn: 56/267

Shareholder proposals submitted for meetings held in 2024

Sources: [1]Deal Point Data as of June 14, 2024, of known proposals, legend as identified by Deal Point Data; [2]Freshfields analysis of ISS data as of June 14, 2024

Select Frequent Proponent Activity in 2024 Proxy Season

Proponent/Sponsor	Substantive Topics	Number of Known Proposals
Interfaith Center on Corporate Responsibility and its members (ICCR)	Climate change (including GHG targets, climate transition plans, aligning with international goals like the Paris Agreement and climate lobbying transparency), independent board chair, board declassification, shareholders special meeting rights, proxy access bylaws, human rights and social justice, lobbying and political contributions, workers' rights and labor practices, DEI efforts, human rights and social justice and health and safety	340+ (additional letter campaigns)
Chevedden/ McRitchie/Steiner/ Young	Adoption of simple majority vote, independent board chair, proxy access bylaws, shareholder approval of severance agreements, clawback policy amendments, lobbying and political contributions, climate lobbying transparency, climate transition plans and DEI efforts	260+
As You Sow	Climate change (GHG targets, climate transition plans, climate risk and sector-specific net zero goals reports), plastics and pollution reduction, racial justice and diversity, supply chain, lobbying and political contributions, executive compensation and alignment with climate goals	85+
National Center for Public Policy Research (NCPPR)	Reporting on the risks posed by DEI initiatives and voluntary carbon-reduction commitments, restrictions on climate change expenditures and reporting on viewpoint discrimination	50+
National Legal and Policy Center (NLPC)	Lobbying and political contributions, independent board chair, gender-based compensation and benefits, GHG targets, climate transition plans, operations in China and corporate sustainability oversight	25+
Green Century Capital Management	GHG targets and climate transition plans, single-use plastics policies, deforestation and biodiversity, microfiber pollution, product lifecycle and packaging	30+

Sources: As You Sow, ICCR, NCPPR, NLPC, DealPoint Data

Climate Action 100+ Flagged Climate-Related Shareholder Proposals

Climate Action 100+ is an investor initiative aimed at holding the largest corporate GHG contributors accountable by taking action on climate change to cut emissions, improve climate governance and strengthen climate-related financial disclosures. Climate Action 100+ "flags" shareholder proposals that align with its objectives. In 2023, Climate Action 100+ announced the launch of phase 2 of its plan to push for climate action by corporations focusing on implementing climate transition plans

As of June 14, 2024, Climate Action 100+ flagged 10 shareholder proposals, none of which received majority support

Company	Shareholder Proposal	Status
NextEra Energy, Inc.	Report on lobbying and policy influence and the company's real zero goal and align its projected thermal coal production with Paris Agreement's objective	Voted – 32.5% support
PACCAR Inc	Report on lobbying in line with Paris Agreement	Voted – 29.3% support
Shell plc	Align medium-term emissions reduction targets covering GHG emissions and Scope 3 in line with Paris Agreement	Voted – 18.6% support
Berkshire Hathaway	Report on how the company intends to measure, disclose and reduce GHG emissions associated with underwriting, insuring and investment activities in line with Paris Agreement	Voted – 17.7% support
Suncor Energy Inc.	Disclose audited results assessing a range of climate transition scenarios	Voted – 11.6% support
The Southern Company	Report on Scopes 1 and 2 GHG targets in the short-, medium- and long-term in line with Paris Agreement	Voted – 9.4% support
Toyota Motor Corporation	Report annually on how the company's climate-related lobbying activities align with the goals of the Paris Agreement	Voted – 9.2% support
Equinor ASA	Update strategy and capital expenditure plan according to Paris Agreement	Voted – 6.5% support
Imperial Oil	Report on the impact of climate transition scenarios on asset retirement obligations	Voted – 4.3% support
Nippon Steel Corporation	Annually disclose the climate-related and decarbonization-related policy positions and lobbying activities globally, including its own direct lobbying and industry association membership, and align with goal of net neutrality by 2050	Voted – Failed; results have not been publicly disclosed

Source: Climate Action 100+

Exxon Mobil v. Arjuna Capital: A Company Seeks Relief in Court

ExxonMobil ARJUNA CAPITAL

Case Study

- December 14, 2023: Arjuna Capital and Follow This submitted a shareholder proposal requesting Exxon Mobil accelerate its reduction of GHG emissions in the medium-term and disclose new plans, targets and timetables for reductions
- January 22, 2024: In lieu of seeking traditional no-action relief, Exxon Mobil filed a federal lawsuit against Arjuna Capital and Follow This in the Federal District Court for the Northern District of Texas seeking declaratory judgment to exclude the proposal from its proxy statement (Follow This was dismissed on jurisdictional grounds)
  - Exxon Mobil viewed pursuing no-action relief as insufficient because it viewed the process as flawed
  - Exxon Mobil's complaint asserted that the proponents sought to actively disrupt the company's business and promote the proponents' interests over shareholders and exclude the proposal on the basis of ordinary business operations and resubmission threshold grounds
- February 2–12, 2024: Arjuna Capital withdrew the proposal and moved to dismiss the suit for lack of subject-matter jurisdiction under Rule 12(b)(1), since withdrawal mooted the case; Exxon Mobil maintained there was still a live controversy
- May 27, 2024: Arjuna Capital "unconditionally and irrevocably covenant[ed] to refrain…from submitting any proposal to [Exxon] relating to GHG or climate change" in a letter to Exxon Mobil later submitted to the court
- June 17, 2024: Case dismissed due to the withdrawal and letter. The judge noted he would revoke the licenses of Arjuna Capital's counsel if Arjuna Capital or an ally group resubmits any similar proposal to Exxon Mobil

"Vote No" Campaign to No Avail?

- Notices of Exempt Solicitation
  - Wespath Benefits & Investments and Mercy Investment Services: Called for shareholders to vote against Exxon Mobil's executive chair & CEO and lead director & nom/gov committee chair, as the suit against Arjuna Capital "[undermines an] important lever of accountability" for shareholders and "[represents] a broader threat to shareholder rights"
  - ICCR: Called Exxon Mobil's response a "strategic lawsuit against public participation"
  - The NYC Comptroller, CalPERs, eight state treasurers, the AFL-CIO and United Steelworkers filed an exempt solicitation recommending voting against Exxon Mobil's CEO and lead independent director
- Proxy advisory firm: Glass Lewis recommended Exxon Mobil shareholders vote against the lead independent director, citing "unusual and aggressive tactics" in pursuing the lawsuit
  - Exxon Mobil urged Glass Lewis to recuse itself from making recommendations on Exxon Mobil's meeting because it failed to disclose that it was a member of the ICCR and said the facts presented by Glass Lewis were incomplete
- Voting result: All 12 director nominees were elected, with support ranging from 87%–98%

Source: Ross Kerber "Glass Lewis recommends votes against Exxon director Hooley, citing lawsuit," Reuters (May 13, 2024)

Environmental Proposals Overview

As of June 14, 2024, only two environmental proposals received majority support; both proposals were submitted by the Accountability Board, a relatively new shareholder advocacy group focused on the food industry, requesting that Wingstop and Jack in the Box adopt GHG emission reduction targets; support was 51.7% and 55.0%, respectively

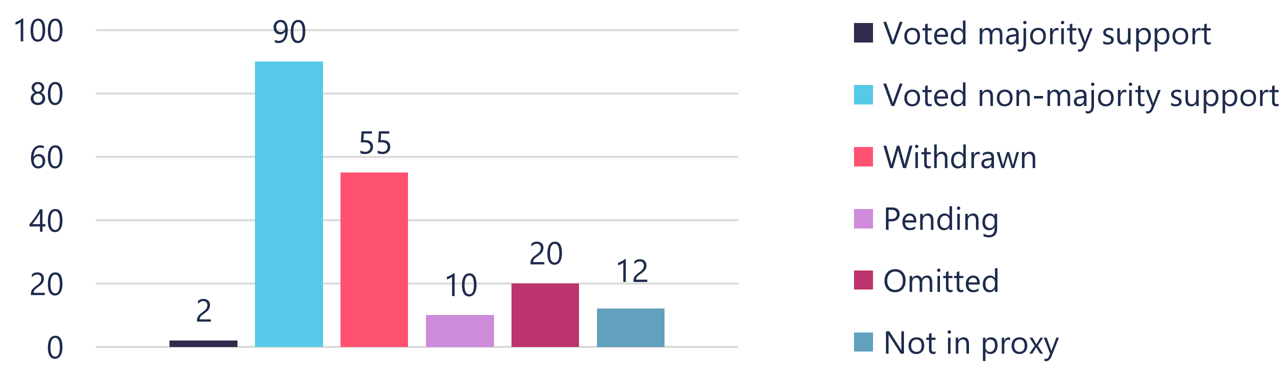
189*

Known proposals

130*

Climate-related proposals

By the Numbers



Excluding the two proposals that received majority support, support for environmental proposals ranged from 0.8%–49.9%

Environmental proposals topics include, among others:

- Climate change
- GHG emissions reductions and disclosure
- Plastic use
- Climate change finance
- Sustainable packaging
- "Just Climate Transition"
- Sustainable supply chains
- Environmental justice
- Conservative proposals

**Includes 15 anti-ESG proposals that are all climate-related*
Source: Freshfields analysis of ISS data as of June 14, 2024

Environmental Proposals – Greenhouse Gas Emissions Reductions and Disclosure

As of June 14, 2024, there were 61 known proposals relating to GHG emissions reductions and disclosure (excluding eight conservative proposals relating to voluntary carbon reduction commitments), of which 54 requested GHG emissions reduction targets and seven requested GHG emissions disclosure, together comprising roughly 32.3% of all environmental proposals

- Of the 61 proposals, 30 proposals went to vote, 18 were withdrawn, three were omitted, eight were not included in the proxy and two are pending
  - Average support for the proposals was 27.1% (ranging from 9.4%–55.0%)
- Two proposals received majority support to date
- Like in 2023 and 2022, GHG emissions were the most common environmental proposals

GHG Emissions in the Food Industry

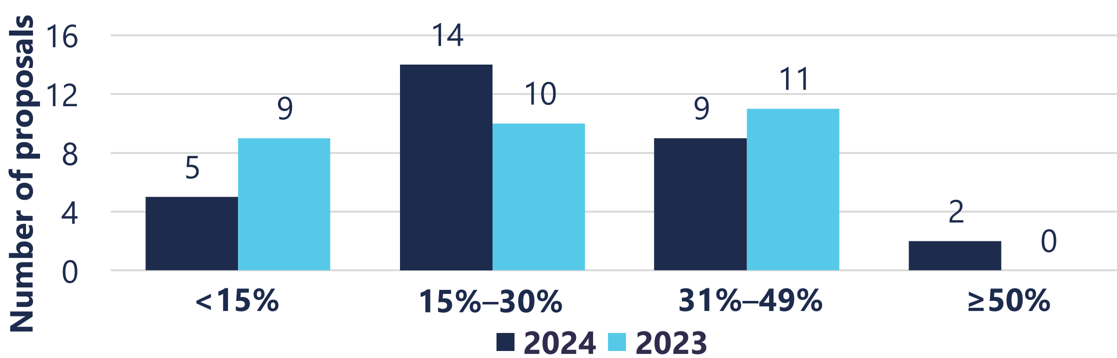
- The Accountability Board submitted proposals to Jack in the Box, Wingstop, Denny's, Dine Brands and Noodles & Company requesting they disclose and adopt GHG emission reduction targets
- Proposals at Jack in the Box and Wingstop received 55.0% and 51.7% support, respectively, while average support for the Accountability Board's GHG emissions proposals was 44.8%

GHG Emissions Reductions and Disclosure Proposals

Company	Status	Proponents
Jack in the Box	Voted – 55.0% support	Accountability Board
Wingstop	Voted – 51.7% support	Accountability Board
Dennys	Voted – 49.9% support	Accountability Board
Quest Diagnostics	Voted – 41.9% support	John Chevedden
Dine Brands	Voted – 39.4% support	Accountability Board
Centene	Voted – 36.1% support	John Chevedden
Lockheed Martin	Voted – 32.2% support	LongView LargeCap 500 Index Fund, As You Sow Foundation, Warren Wilson College, Lisette Cooper 2015 Trust
Kinder Morgan	Voted – 31.3% support	Norges Bank Investment Management
IBM	Voted – 30.8% support	Green Century Equity Fund, Green Century Capital
Skyworks Solution	Voted – 30.7% support	Green Century Fund, Green Century Capital
Boeing	Voted – 30.4% support	As You Sow Foundation, LongView LargeCap 500 Index Fund, Amalgamated Bank

Table includes voted proposals with >30% support

Shareholder Support Levels for GHG Emissions Reductions and Disclosure



Source: Freshfields analysis of ISS data as of June 14, 2024

Environmental Proposals – Social Impacts of Climate Change Policies

As of June 14, 2024, 15 known proposals asked companies to consider social impacts in their climate change-related policies (excluding three conservative proposals requesting a humanitarian impact assessment of climate transition plans)

- 11 proposals were related to the "Just Climate Transition" movement, which seeks to encourage a shift to clean, regenerative and sustainable global economy while minimizing the cost on workers or community residents' health, environment, jobs or economic assets
- While Ceres noted its first Just Climate Transition proposal in 2022, Climate Action 100+ began tracking Just Climate Transition proposals as part of its Net Zero Company Benchmark in 2023
- Just Climate Transition proposals generally ask companies to disclose how they address the impact of climate change strategies on stakeholders like employees and workers in their supply chain and communities in which they operate, including safeguarding indigenous and universal human rights in line with the "Just Transition" guidelines of the International Labor Organization and indicators of the World Benchmarking Alliance
- Of the 11 Just Climate Transition proposals, four proposals went to vote, five were withdrawn, one was omitted and one is pending
  - Average support was 18.2% (ranging from 1.5%–40.4%)
  - Three companies sought no-action relief, but the SEC concurred with only United Parcel Service on technical eligibility grounds

Just Climate Transition & Environmental Justice Proposals

Company	Status	Proponent
Ryder System	Voted – 40.4% support	The International Brotherhood of Teamsters General Fund
Amazon	Voted – 23.4% support	The International Brotherhood of Teamsters General Fund
Goldman Sachs	Voted – 10.0% support	Sierra Club
Exxon Mobil	Voted – 7.5% support	United Steelworkers
Republic Services	Voted – 1.5% support	The International Brotherhood of Teamsters General Fund
Kroger	Pending	Domini Social Impact

Table includes all voted and pending proposals

Environmental Justice Assessments

- There were four known proposals that requested companies conduct environmental justice assessments of the material risks and opportunities of the companies' operations, particularly in relation to underrepresented minority communities disproportionately impacted by climate change and environmental pollution
  - One proposal went to vote, two were withdrawn and one was not in the proxy
  - The proposal at Goldman Sachs received 10.0% support

American Water BD Goldman Sachs Honeywell

Sources: Freshfields analysis of ISS data as of June 14, 2024 and Proxy Preview: Investors Leverage Shareholder Proposal for Just Transition Impact, Rob Berridge & Amit Bando (March 14, 2024)

Environmental Proposals – Plastic Use & Sustainable Packaging

As of June 14, 2024, there were 26 known proposals related to reducing plastic use, sustainable packaging and future assumptions about plastic demand, up from 13 in 2023

- 12 proposals went to vote, 11 were withdrawn and three are pending
  - Average support was 14.7% (ranging from 4%–28.6%)
- Six proposals framed their request around the sustainability of the companies' packaging
  - Three proposals went to vote, one was withdrawn and two are pending
  - Average support was 10.0% (ranging from 4%–20.6%)
- Three companies received proposals requesting reports on how they are reducing plastic microfiber pollution from their products
  - Proposals at lululemon and VF Corp were withdrawn and the proposal at Nike is pending
- Four companies received proposals requesting audited reports addressing whether and how a significant reduction in virgin plastic demand would affect their financial position and assumptions underlying their financial statements
  - All four proposals went to vote
  - Average support was 16.6% (ranging from 7.6%–26.3%)

All Plastic-related Proposals

Company	Status	Proponents
Amazon	Voted – 28.6% support	As You Sow
Restaurant Brands	Voted – 27.3% support	As You Sow
Dow	Voted – 26.3% support	As You Sow, Mercy Investments, Warren Wilson College, Andrew Behar (affiliated with as You Sow)
Exxon Mobil	Voted – 20.8% support	United Church Funds, As You Sow
Kraft Heinz	Voted – 20.6% support	Janet Jensen Dell
Phillips 66	Voted – 11.6% support	As You Sow, Warren Wilson College
Keurig Dr. Pepper	Voted – 8.9% support	Betsy L. Krieger, As You Sow
Altria Group	Voted – 8.5% support	Warren Wilson College, As You Sow
Chevron	Voted – 7.6% support	Guy Lampard, As You Sow
Westlake	Voted – 6.6% support	As You Sow
Hershey	Voted – 5.5% support	As You Sow Foundation, Elizabeth C Funk Trust
Tyson Foods	Voted – 4.0% support	As You Sow

Table includes all voted proposals

Source: Freshfields analysis of ISS data as of June 14, 2024

Environmental Proposals – Climate Finance and Modeling

As of June 14, 2024, there were 23 known proposals (including four conservative proposals) requesting companies disclose information about how their investment, lending and insurance practices reflected climate-related goals and risks

Climate Finance

- Five financial institutions received proposals to report on GHG emissions from underwriting, insuring and investment activities or adopt GHG emissions reduction targets for lending and investment activities
  - All five proposals went to vote
  - Average support was 22.5% (ranging from 10.1%–37.9%)
- As You Sow sent proposals to six financial institutions requesting reports on the proportion of sector emissions attributable to their clients not aligned with a Net Zero pathway and whether this impacts the companies' climate-related goals
  - Five proposals received no-action relief from the SEC on the basis of ordinary business operations and one was withdrawn
- Five financial institutions received proposals requesting they disclose their Clean Energy Supply Financing Ratio or total financing through underwriting and project finance, in low-carbon energy supply relative to that in fossil-fuel energy supply proposals
  - Three proposals went to vote and two were withdrawn
  - Average support was 25.7% (ranging from 22.5%–28.5%)
- Alphabet, Intuit and Oracle received proposals to disclose their retirement portfolio investment risk from present-day investments in high-carbon companies
  - The proposals at Alphabet and Intuit received 3.7% and 13.2%, respectively, and the proposal at Oracle is pending

Conservative Financial Models

- Berkshire Hathaway, Duke Energy, FirstEnergy and Goldman Sachs received proposals asking them to re-assess their financial modeling in line with conservative Energy Policy Research Foundation studies which would affect the assumptions, costs, estimates and valuations underlying financial statements, including those related to long-term commodity and carbon prices, remaining asset lives, future asset retirement obligations, capital expenditures and impairments
  - Average support was 1.3% (ranging from 0.8%–2.2%)

Source: Freshfields analysis of ISS data as of June 14, 2024

Environmental Proposals – Sustainable Supply Chains

Sustainable Supply Chains & Conservation

- Two automobile companies received proposals requesting reports on enhancing supply chain traceability and transparency regarding deforestation risk and GHG emissions while increasing sustainable procurement targets for key materials (e.g., aluminum, steel, rubber and leather)
  - The proposals each received 6.5% and 13.6% support
- Four companies received proposals calling for a biodiversity assessment on how their full value supply chains impact the natural world, including requests that suppliers adhere to sustainable practices
  - The proposals at PepsiCo and Home Depot received 18.4% and 16.1% support, respectively, and the proposals at Kellanova and International Paper Company were withdrawn
- Chemours, Home Depot and Sherwin-Williams received proposals requesting a report on the benefits of not selling paint containing titanium dioxide sourced from the Okefenokee region
  - The proposals all received no-action relief on the basis of ordinary business operations

Mining & Drilling

- General Motors and Tesla received proposals requesting a moratorium on deep-sea mineral use in their supply chains
  - The proposals received 12.5% and 7.5% support, respectively
- ConocoPhillips received a proposal for a moratorium on Arctic drilling which was later withdrawn

Water, Deforestation & Restorative Agriculture

- Five restaurant and hospitality companies received proposals to disclose water reduction plans across supply chains
  - Only the proposal to Restaurant Brands went to vote, two were withdrawn and two are pending
  - The proposal received 28.7% support
- Proposals to Bunge, Target, Tyson Foods and WestRock focused on deforestation-related policies, and in the case of Tyson Foods, additional focus on native vegetation conversion and achieving a deforestation free supply chain by 2024
  - Only the proposal to Tyson Foods went to vote, the remaining were withdrawn
  - The proposal received 3.3% support
- J.M. Smucker received a subsequently withdrawn proposal that requested a report on the benefits of adopting a policy designed to increase use of regenerative agricultural practices across the company's supply chain to reduce climate impacts and protect human safety

Source: Freshfields analysis of ISS data as of June 14, 2024

Environmental Proposals – Other

Climate Lobbying

- 13 companies received proposals requesting disclosure about if and how their lobbying activities align with their stated climate change commitments and goals or, in absence of such, the goals of the Paris Agreement
- Nine proposals went to vote, two were withdrawn and two received no-action relief on procedural grounds as the proposals were resubmissions and the proponents failed to present the proposals at the prior annual meeting
  - Average support was 23.9% (ranging from 8.3%–32.5%)

Investment & Divestment

- Exxon Mobil and Chevron successfully challenged proposals from As You Sow on the basis of ordinary business operations; the proposals requested a report on asset divestitures with material climate impact, including whether the third-party purchasers of the assets disclose their GHG emissions and have 1.5°C-aligned reduction targets
- GE Aerospace received a subsequently withdrawn proposal seeking it disclose the risks and opportunity costs of continued capital investment into high-carbon energy products as compared to renewable energy products in light of "GE's commitment to the Paris Agreement's 1.5°C goal"

Pollution & Hazardous Materials

- A number of companies received industry-specific proposals regarding pollution and hazardous materials, including:
  - Walgreens Boots Alliance received a proposal regarding tobacco-related waste from products that they sell; the proposal received 6.0% support
  - Williams Companies received a later withdrawn proposal that asked for a report on policies around natural gas processing venting and flaring
  - Procter & Gamble received a pending proposal requesting a report about the safety of PFA chemicals in its products
  - Exxon Mobil received a withdrawn proposal requesting a report on the environmental and human impact of an oil spill in Guyana
  - Verizon received a proposal requesting a report on liability for lead-sheathed cables; the proposal received 14.6% support
  - Tesla received a successfully challenged proposal to redesign its tires to eliminate redesign vehicle tires to eliminate pollution from chemicals such as 6PPD-quinone

Source: Freshfields analysis of ISS data as of June 14, 2024

Environmental Proposals – Conservative Proposals

- **As of June 14, 2024, of the 189 known environmental proposals, 15 were conservative proposals**
  - Eight companies sought no-action relief from the SEC; the SEC did not concur with six requests and concurred with the remaining on procedural grounds because the proposals did not meet the submission threshold
  - 13 of the conservative proposals went to vote
  - Average support was 1.9% (ranging from 0.8%–7.9%)
- Eight of the conversative proposals requested a general assessment of the risks arising from voluntary carbon reduction commitments

Humanitarian Impact Assessment

- NLPC requested humanitarian impact assessments in proposals regarding climate change policies sent to JPMorgan Chase, Wells Fargo and Bank of America
  - The proposals generally requested an audit of the impact of the financial institutions' climate transition policies on the economic and humanitarian well-being of emerging nations, arguing that their populations rely heavily on limited access to fossil fuels and other non-"renewable" sources of power
- All companies sought no-action relief, but the SEC concurred only with Bank of America on technical eligibility grounds
- JPMorgan Chase and Wells Fargo proposals received 1.0% and 2.6% support, respectively

Company	Status	Proponent
United Parcel Service	Voted – 7.9% support	NCPPR
Wells Fargo	Voted – 2.6% support	NLPC
Duke Energy	Voted – 2.2% support	NCPPR
Costco	Voted – 1.9% support	NCPPR
Chevron	Voted – 1.5% support	NCPPR
Deere & Company	Voted – 1.5% support	NLPC
Kellanova	Voted – 1.3% support	NCPPR
FirstEnergy	Voted – 1.2% support	NCPPR
GE Aerospace	Voted – 1.2% support	NCPPR
JPMorgan Chase	Voted – 1.0% support	NLPC
Kraft Heinz	Voted – 1.0% support	NCPPR
Berkshire Hathaway	Voted – 0.8% support	NCPPR
Goldman Sachs	Voted – 0.8% support	NCPPR

Table includes all voted proposals

Source: Freshfields analysis of ISS data as of June 14, 2024

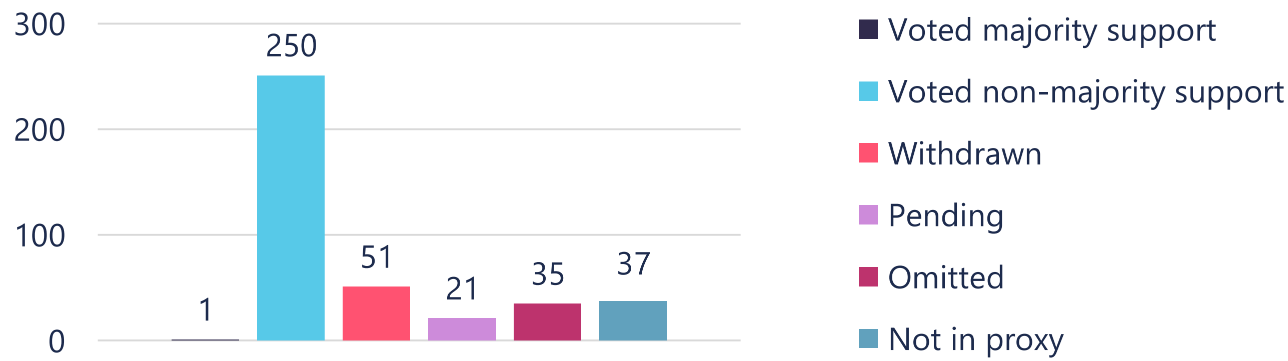
Social Proposals Overview

As of June 14, 2024, only one social proposal received majority support: John Chevedden submitted a proposal to DexCom requesting a report on the company's political contributions and received 51.9% support

By the Numbers

395*

Known proposals



Excluding the one proposal that received majority support, support for social proposals ranged from 0.2%–49.2%

Social proposals topics include, but are not limited to:

- Animal rights
- Artificial intelligence
- Child welfare
- Collective bargaining rights
- Employee rights and safety
- Indigenous rights
- Health
- Living wage and pay disparity based on gender/race and ethnicity
- Operations in China and conflict areas
- Political and lobbying expenditures and charitable contributions
- Reports on civil rights and non-discrimination audits
- Reproductive rights
- Reports on the impact of extended patent exclusivities

Freshfields

*Includes 67 anti-ESG proposals based on Freshfields review
Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – DEI Efforts

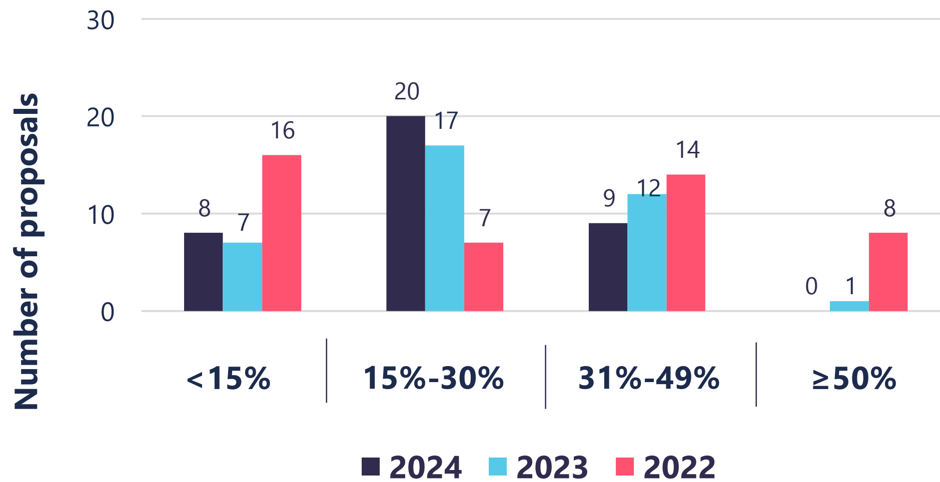
As of June 14, 2024, 119 known proposals (including 51 anti-ESG proposals) were submitted with respect to DEI efforts down from 125 known proposals in 2023. Topics ranged from board diversity, DEI data disclosure, civil rights and racial equity audits, harassment and discrimination and hiring practices for applicants with a criminal record

- Of the 119 known DEI effort proposals, more than half (65) requested greater disclosure of DEI data and its effectiveness on improving diversity, third-party racial equity or civil rights audits, reports on gender or racial pay gaps, reports on harassment and discrimination of protected groups, reports on board diversity and other DEI proposals
  - Of the 65 proposals, 37 proposals went to vote, 14 were withdrawn, one was omitted, eight were not in the proxy and five are pending
    - Average support was 23.4% (ranging from 6.8%–49.2%)
  - Of the 65 proposals that requested greater disclosure of DEI data, five proposals requested the companies outline steps to enhance board diversity and two requested the company disclose a director diversity and skills matrix
    - Average support was 33.4% (ranging from 26.2%–40.6%)

Hiring Applicants with Criminal Records

- Badger Meter, IDEX, Adobe and A.O. Smith received proposals from Northstar Asset Management requesting a report on whether hiring practices for individuals with criminal records align with company diversity commitments and potential reputational or legal risks from discriminatory hiring practices
  - Average support was 12.3% (ranging from 6.8%–16.2%)

Shareholder Support for All DEI Efforts Proposals*



**Bar graph excludes support levels for anti-ESG DEI related proposals*

Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – DEI Efforts (Disclosure and Reports on DEI Effectiveness)

As of June 14, 2024, of the 119 known DEI proposals, 71 proposals (including eight anti-ESG proposals) were submitted requesting greater disclosure of material DEI data or reports on the impact of DEI initiatives

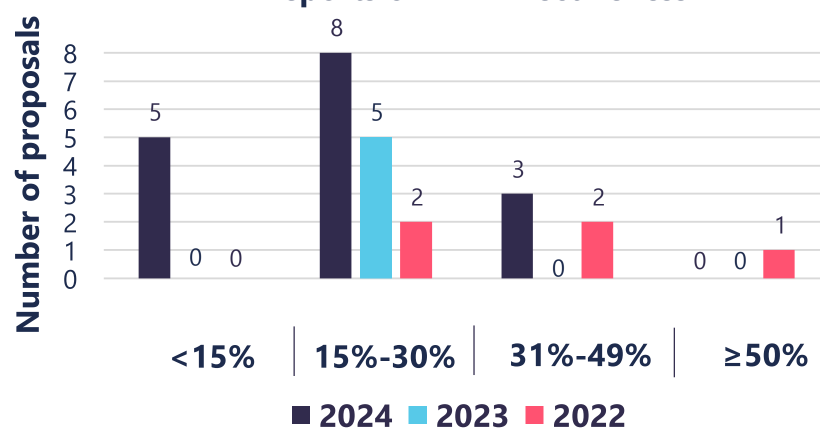
- 33 proposals, down from 36 in 2023, generally requested companies publish quantitative metrics for workforce diversity, hiring, promotion and retention of employees, broken down by gender, race and ethnicity, in order to assess and compare the effectiveness of DEI efforts
  - 16 proposals went to vote, nine were withdrawn, one was omitted and four were not in the proxy
  - Average support was 20.2% (ranging from 6.8%–36.2%)
- Two proposals submitted to International Paper and Lennar requested a report specifically on the company's LGBTQ+ equity and inclusion efforts within its human capital management strategy
  - Support was 21.2% and 16.8%, respectively

Company	Status	Proponent
NextEra Energy	Voted – 40.6% support	Comptroller of the City of New York; New York City Employees' Retirement System
DocuSign	Voted – 36.2% support	As You Sow; LongView Broad Market 3000 Index Fund
Expeditors International	Voted – 35.7% support	As You Sow; Clean Yield Asset Management; LongView LargeCap 500 Index Fund
NVR	Voted – 30.9% support	New York State Common Retirement Fund

Table includes voted proposals that received >30% support

- Eight proposals on disclosure and reports on DEI effectiveness are considered conservative or "anti-ESG"
- These proposals generally requested reports on whether the company's DEI initiatives result in illegal discrimination and the potential costs of such practices, highlighting significant financial risks, including potential lawsuits and substantial settlements.
  - All 8 proposals went to vote. Average support was 2.1% (ranging from 1.2%–5.2%)

Shareholder Support Levels for Disclosure and Reports on DEI Effectiveness



Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – DEI Efforts (Gender/Racial Pay Gaps)

As of June 14, 2024, 15 known proposals were submitted relating to gender and racial pay gaps

- The proposals generally request an annual report on unadjusted median and adjusted pay gaps across race and gender globally, including addressing policy, reputational, recruiting, retention, competitive and operational risks
- The number of gender and racial pay gap proposals submitted this year remained relatively stable, compared to 17 in 2023
  - 14 proposals went to vote and one was not included in the proxy
  - Average support was 29.1% (ranging from 19.9%–49.2%), about even with 29.3% in 2023

Gender/Racial Pay Gaps Proposals that Went to Vote

Company	Status	Proponent
American Tower	Voted – 49.2% support	Arjuna Capital
Boeing	Voted – 38.3% support	James McRitchie
DexCom	Voted – 35.9% support	Myra Young
Intuitive Surgical	Voted – 32.9% support	Myra Young
Apple	Voted – 31.1% support	Arjuna Capital

Table includes voted proposals that received >30% support

- American Tower received a proposal from Arjuna Capital requesting it report the quantitative median and adjusted pay gaps across race and gender, consider associated policy, reputational, competitive and operational risks, and risks related to recruiting and retaining diverse talent, and provide comprehensive data on base, bonus and equity compensation to assess performance transparently
  - The proponent's statement of support focused on persistent racial and gender pay gaps between Black, Latino and White workers, asserting that "at the current rate, women will not reach pay equity until 2059, Black women in 2130, and Latina women in 2224"
  - The proposal received 49.2% support

Arjuna Capital released its 7th annual Racial and Gender Pay Scorecard in March 2024

- The scorecard ranked 126 companies, nearly double the 68 companies ranked in 2023
- Top scorers Target and Starbucks received A+ ratings
- For the third year in a row, Arjuna Capital submitted a proposal to Apple requesting the company release unadjusted median pay gaps in addition to statistically adjusted gaps. Support for the proposal has decreased in each of the past three years as follows: 2024 (31.1% support), 2023 (33.9% support) and 2022 (34.5% support), but remains above the resubmission threshold

Social Proposals – DEI Efforts (Civil Rights and Racial Equity Audits)

As of June 14, 2024, of the 119 known DEI proposals, 12 proposals were related to civil rights or racial equity audits, down from 33 in 2023

- Of the 12 proposals, five went to vote, four were withdrawn, two were not in the proxy and one is pending
  - Average support was 12.8% (ranging from 6.9%–20.0%), down from 21.5% last year
- As of June 14, 2024, there were no "conservative" or "anti-ESG" proposals that generally questioned the benefits of civil or racial equity audits compared to 20 proposals in 2023

Civil Rights and Racial Equity Audits Proposals

Company	Status	Proponent
PepsiCo	Voted – 20.0% support	The Nathan Cummings Foundation
Walmart	Voted – 15.4% support	Organization United for Respect Adrian Dominican Sisters Daughters of Charity, Inc. (St. Louis Province) CommonSpirit Health
Marriott	Voted – 11.0% support	Trillium Asset Management
Wendy's	Voted – 10.8% support	Franciscan Sisters of Allegany, NY
GEO Group	Voted – 6.9% support	Service Employees International Union

Table includes all voted proposals

- PepsiCo received a proposal requesting a third-party racial equity audit to assess and improve the racial impacts of PepsiCo's policies, practices, products and services. The proposal cites the value of racial equity audits in unlocking potential, identifying blind spots and strengthening external relationships, as advocated by leaders of major racial justice organizations.
  - The proposal received 20.0% support

PEPSICO

- GEO Group received a resubmitted proposal in which proponents highlighted the disproportionate representation of people of color and alleged racial discrimination in GEO's detention facilities
  - Proponents argued the company addressed workforce diversity in response to 2023 proposal but did not address treatment of detainees in the company's facilities
  - The proposal received 6.9% support, down from 40.3% last year

GEO

Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – Conservative/anti-ESG Proposals

As of June 14, 2024, of the 51 DEI proposals categorized as conservative or "anti-ESG" proposals, 40 specifically focused on varied policies that allege alienation of certain workers or discrimination

Company Policies that may Alienate Employees

- 17 companies received 20 proposals (one company received three proposals, two of which were withdrawn) focusing on how company policies may discriminate or alienate employees based on their religious and political views, and the risk of such policies to the companies' business. Citing companies' stances on social issues like abortion, gender-affirming care and exclusion of religious groups from gift matching policies, proponents argued that the companies were discriminating against employees who did not hold those views and such policies exposed the company to legal risks
  - 14 proposals went to vote, three were withdrawn, two were omitted and one is pending
  - Average support was 1.7% (ranging from 0.2%–4.6%)
- Six companies received proposals that generally requested companies report on compensation and health benefit gaps to address how certain company benefits, like reproductive and gender dysphoria care, can result in reputational, competitive, recruiting, diversity retention, operational and litigative risks. The proponents generally alleged that such benefits caused certain employees to suffer pay/benefits inequality compared to their colleagues who used such benefits
  - Four proposals went to vote, one was withdrawn and one was omitted
  - Average support was 2.4% (ranging from 1.2%–3.9%)

All voted proposals

Alphabet, Amazon, AT&T, Apple, BlackRock, Capital One, Charles Schwab, The Home Depot, John Deere, Johnson & Johnson, MasterCard, Merck, Salesforce, PayPal, Redfin, Verizon, Walgreens Boots Alliance, Walmart

Politicized De-Banking in Financial Institutions

- 14 financial institutions received proposals requesting a report on how they manage risks related to discrimination and its impact on civil rights
- Many of the proponents cited the Viewpoint Diversity Business Index and suggested that the financial institutions used religious and political discrimination and alleged that financial institutions "use vague and subjective grounds" like "reputational risk," "social risk," "misinformation," "hate speech" or "intolerance" to deny service
- The proponents generally claim such practices undermine fundamental freedoms and can damage the companies' reputations
  - 10 proposals went to vote, two were withdrawn and two were omitted
  - Average support was 4.3% (ranging from 1.3%–23.0%)

All voted proposals

Bank of America, BNY Mellon, Citi, First Citizens Bank, Morgan Stanley, Regions, Truist, Wells Fargo, Western Alliance Bancorporation, Zions Bancorporation

Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – Workers' Rights

Workplace Health and Safety Audits

- Walmart received a proposal calling for an independent review of the impact of company policies and practices on workplace safety and violence, with specific focus on gun violence
  - The proposal received 19.1% support
- Four companies received proposals requesting third-party audits of worker safety and well-being (including that of warehouse workers and drivers)
  - Three proposals went to vote, one was withdrawn and one was not in the proxy
  - Two proposals were resubmitted from the prior year, and received lower support compared to 2023
  - Average support was 23.0% (ranging from 8.1%–31.2%)
- Sempra received a proposal requesting a report on the company's efforts to reduce the risks of significant environmental hazards or life-threatening incidents
  - The proposal received 25.3% support
- American Tower, AT&T, T-Mobile and Verizon received proposals calling for an independent audit of the impact of the companies' management and business practices on the safety of workers and contractors who provide tower climbing-related services
  - All proposals were withdrawn or excluded from the proxy statements

Freedom of Association

- 12 companies received proposals on labor organizing rights
  - Four companies received proposals requesting the board adopt and disclose a policy not to interfere with workers' rights to freedom of association and collective bargaining
    - Three proposals went to vote and one is pending. Average support was 18.5% (ranging from 9.9%–25.7%)
- Six companies received proposals calling for a third-party assessment of companies' adherence to their stated commitment to workers' freedom of association, collective bargaining rights and management non-interference
  - Five proposals went to vote and one was withdrawn. Average support was 25.7% (ranging from 16.9%–31.8%)

Paid Sick Leave

- TJX and Union Pacific received proposals requesting disclosure of company's paid sick leave benefits. The TJX proposal requests disclosure of permanent paid sick leave policies, including eligibility requirements. The Union Pacific proposal requests disclosure of a policy that all company employees be able to utilize paid sick leave benefits without being subject to discipline
  - The TJX proposal was withdrawn and the Union Pacific proposal was not in the proxy

Social Proposals – Workers' Rights (cont'd)

Living Wage

- Hershey received a proposal requesting a third-party report producing recommendations to achieve living income for its cocoa farmers
  - The proposal received 2.9% support
- Amazon, Kohl's and Home Depot received proposals requesting an annual living wage report, including disaggregated information on the number of workers paid less than living wage and the difference of current aggregate compensation to workers and aggregate compensation if workers were paid living wage
  - All proposals were omitted from the proxy statements
- Walmart, Target, Disney, Kroger and Walgreens received proposals calling for wage policies designed to provide workers with a living wage
  - Three proposals went to vote, one was withdrawn and one is pending
  - Average support was 8.9% (ranging from 4.4%–12.7%)

Workplace Harassment and Discrimination

- Six companies received proposals calling for an annual report detailing efforts to prevent harassment and discrimination, down from 13 proposals in 2023. All proposals include concealment clauses as a possible disclosure component
  - Five proposals went to vote and one proposal was not in the proxy
  - Average support was 18.3% (ranging from 0.8%–30.9%)
    - The Wells Fargo proposal received 28.2% support, down from 55.0% in 2023

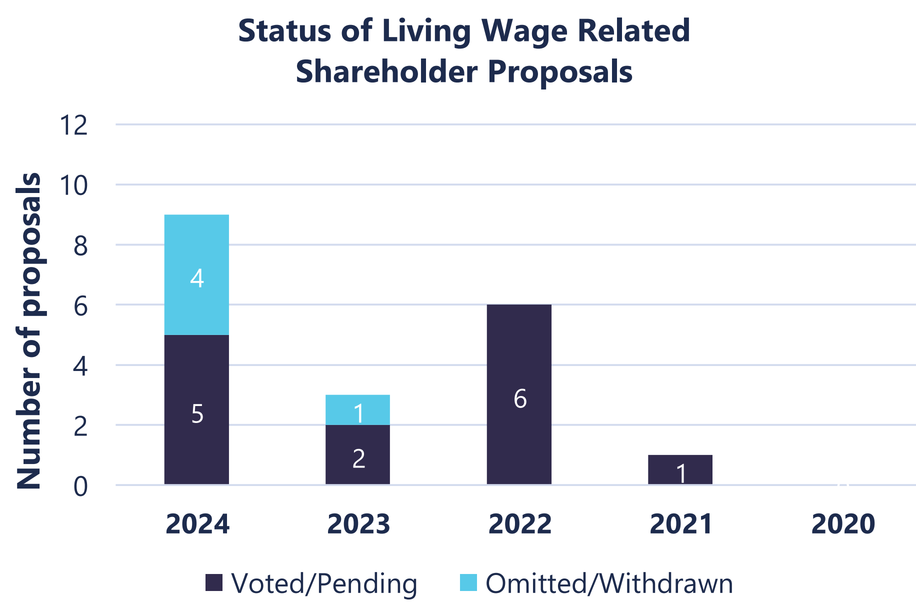


Table reflects Freshfields analysis of Intelligize data as of June 14, 2024

Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – Operations in China, Russia and Other Conflict-Affected and High-Risk Areas (CAHRA)

With escalating global conflicts, 16 proposals were submitted focusing on business operations in conflict zones or high-risk areas

Report on Risk Mitigation for Business Activities in China

- Seven companies received eight proposals from known conservative proponents requesting reports on human rights risks related to operations in China, ranging from concerns over data privacy and civil liberties oppression to forced labor in the Xinjian Uyghur Autonomous Region
  - Seven proposals went to vote and one is pending
  - Average support was 2.5% (ranging from 0.5%–5.6%)
- Apple received two China-related proposals: One requested a report on curated app content standards, government disputes and user rights and expressed concern over reports of Apple limiting content access to online services in China, and another requested congruency of privacy and human rights policies, highlighting inconsistencies in actions in China
  - Proposals received 1.8% and 1.6% support, respectively

Human Right Concerns in Other CAHRAs

- Eight companies received proposals requesting reports on or the adoption of policies regarding due diligence processes in CAHRA countries, with a focus on the material risks posed by incomplete diligence in those regions
  - Five proposals went to vote, two were withdrawn and one was not in the proxy
  - Average support was 15.8% (ranging from 5.4%–31.4%)
- Texas Instruments received a resubmitted proposal requesting a report on its due diligence to determine whether customer use of products or services contribute or are linked to human rights violations, specifically weapons used by Russia in Ukraine
  - The proposal received 19.0% support, down from 23.1% last year

Proposals Concerning Human Rights in CAHRA

Company	Status	Proponent
Mondelēz International	Voted – 31.4% support	Wespath Funds Trust
TJX Companies	Voted – 19.0% support	Northstar Asset Management
Texas Instruments	Voted – 19.0% support	Friends Fiduciary Corporation
Lockheed Martin	Voted – 12.3% support	Sisters of St. Francis of Philadelphia; Sisters of Charity of Saint Elizabeth Benedictine Sisters of Mount St. Scholastica
JPMorgan Chase	Voted – 7.3% support	Sisters of the Presentation of the Blessed Virgin Mary of Aberdeen, South Dakota
IBM	Voted – 5.6% support	NCPPR
RTX	Voted – 5.4% support	School Sisters of Notre Dame Cooperative Investment Fund
Boeing	Voted – 4.9% support	NLPC
Apple	Voted – 1.8% support; Voted – 1.6% support	American Family Association Bowyer Research; NLPC
McDonald's	Voted – 1.5% support	NLPC
Berkshire Hathaway	Voted – 1.4% support	NLPC
MSCI	Voted – 0.5% support	NCPPR

Table includes all voted proposals

Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – Forced Labor, Child Labor, Indigenous Rights and Financing/Underwriting

Forced Labor Accountability Proposals

- Six proposals regarding forced labor, child labor and prison labor in the supply chain were submitted this year
  - All six proposals went to vote
  - Average support was 13.9% (ranging from 5.6% to 22.4%)
- For the third year in a row, TJX received a proposal calling for its board to oversee a third-party assessment and report to shareholders on the effectiveness of the company's due diligence in forced, child and prison labor in its supply chain
  - The proposal highlights the increased risk posed by the novel use of DNA traceability and isotopic testing technologies in tracing products to forced labor conditions. These technologies have been increasingly used as evidence in enforcement of human rights law, specifically the Uyghur Forced Labor Prevention Act
  - The proposal received 19.0% in 2024, compared to 25.7% support in 2023 and 24.6% support in 2022
- Mondelēz received a resubmitted proposal to adopt and publicly report quantitative metric on their progress in eliminating child labor from its supply chain
  - The proposal at Mondelēz received 22.4% support, an increase from 19.9% in 2023

Addressing Child Labor

- Of the six forced labor proposals, Ford and General Motors received proposals requesting transparency regarding the extent to which electric vehicle business plans may involve or rely on child labor outside the U.S., specifically in connection to the extraction of cobalt used in batteries
  - The proposal at Ford received 5.6% support and the proposal at General Motors received 12.6% support
- Of the six forced labor proposals, Tyson Foods received a proposal requesting an independent third-party audit to assess the effectiveness of the company's policies and practices preventing child labor, after the Department of Labor found child workers in facilities in 2023
  - The proposal received 12.1% support

Indigenous Rights and Financing/Underwriting

- Citigroup, JPMorgan Chase and Wells Fargo received proposals requesting reports outlining the effectiveness of human rights policies, practices and performance indicators in respecting Indigenous Peoples' rights in financing activities
  - Average support was 23.9% (ranging from 15.0%–30.4%)
  - Citigroup was the only Social proposal to receive a "FOR" recommendation by a company's board this proxy season
- Travelers Companies also received a proposal requesting a report on the extent to which free, prior and informed consent, as articulated in the UN Declaration of the Rights of Indigenous Peoples, is considered or evaluated in the underwriting process
  - The proposal received 15.4% of support

Social Proposals – Reproductive Rights

Reproductive Rights and Privacy Related Proposals

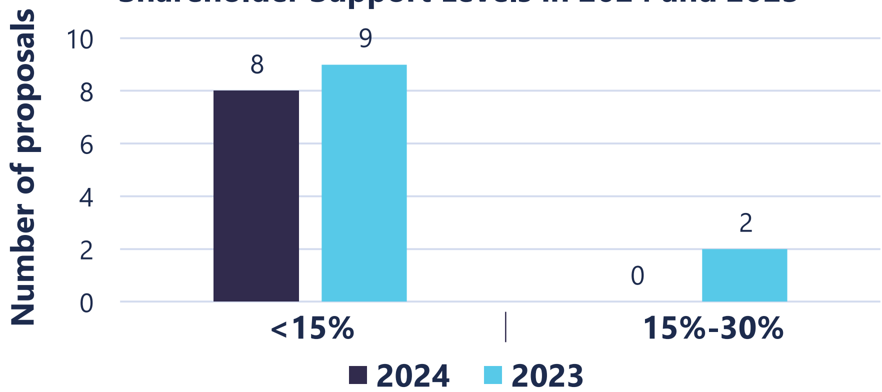
- Following a high of 24 proposals submitted related to reproductive rights and privacy in 2023 after *Dobbs v. Jackson Women's Health Organization*, there were 12 known proposals related to reproductive rights in 2024
  - Eight proposals went to vote, three were withdrawn and one was not in the proxy
  - Average support was 6.8% (ranging from 0.8%–14.8%)
- Most reproductive rights and related proposals fell into two categories:
  - Eight companies received proposals calling for a report on risks to the company associated with enacted and proposed state policies that restrict reproductive rights and cause a decline in the quality of accessible medical care and the strategies the companies are taking to minimize or mitigate these risks
  - Two companies received proposals requesting a report on the risks of cooperating with law-enforcement officials investigating abortions

Reproductive Rights Proposals that Went to Vote

Company	Status	Proponent
Booking Holdings	Voted – 14.8% support	Arjuna Capital
Coca-Cola	Voted – 9.3% support	As You Sow; Eliana Fishman
HCA Healthcare	Voted – 8.1% support	United Church Funds
Walgreens Boots Alliance	Voted – 7.7% support	Presbyterian Church USA
Alphabet	Voted – 6.4% support	Planned Parenthood; EGIS Trust Educational Foundation of America
Tenet Healthcare	Voted – 5.1% support	Marguerite Casey Foundation
Gilead Sciences	Voted – 1.8% support	David Bahnsen and Bowyer Research
Intel	Voted – 0.8% support	American Family Association

Table includes all voted proposals

Shareholder Support Levels in 2024 and 2023



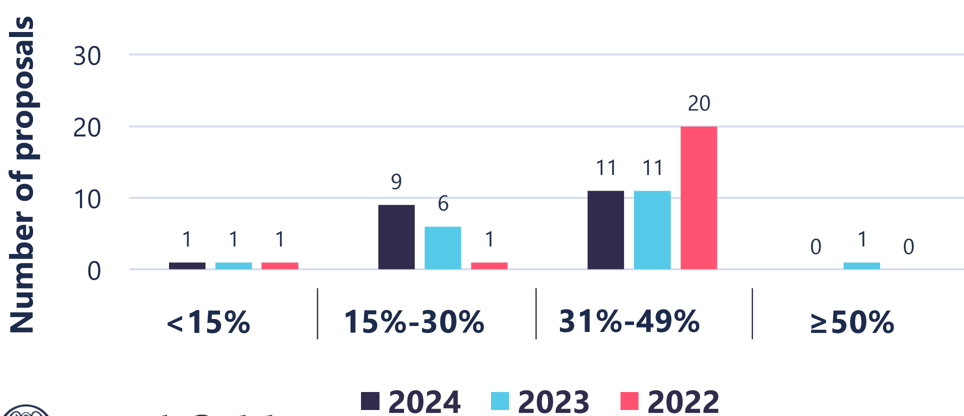
Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – Lobbying

As of June 14, 2024, 33 proposals were submitted relating to lobbying expenditures (excluding climate-specific lobbying and three multi-category proposals that related to lobbying, political contributions and/or charitable contributions)

- The proposals generally request disclosure of company policies and procedures governing direct and indirect lobbying and grassroots lobbying communications, lobbying-related payments, membership in and payments to any tax-exempt organization that writes or endorses model legislation and description of management's decision-making and board oversight
- Proponents' focus ranged from potential conflicts with a company's public positions on climate change and diversity to reputational risks from failure to disclose lobbying expenditures
- The number of proposals submitted remained relatively stable at 32 in 2024 from 37 in 2023
  - 21 proposals went to vote, three were withdrawn, two were omitted, six were not included in the proxy and one is pending
  - Average support was 29.0% (ranging from 14.5%–41.2%)

Shareholder Support for Lobbying Proposals



Lobbying Proposals

Company	Status	Proponent
Truist Financial	Voted – 41.2% support	John Chevedden Kenneth Steiner
Goldman Sachs	Voted – 39.1% support	John Chevedden
Norfolk Southern	Voted – 38.9% support	John Chevedden
Bank of New Mellon Company	Voted – 38.4% support	Kenneth Steiner
IBM	Voted – 37.7% support	John Chevedden
Alcoa	Voted – 35.8% support	Kenneth Steiner
Wells Fargo	Voted – 35.4% support	John Chevedden

Table includes voted proposals that received >35% support

Lobbying Annual Report

- Truist Financial received a proposal requesting an annual report disclosing Truist's policies and procedures for lobbying, including payments for direct and indirect lobbying and grassroots lobbying communications. The proponents requested that the report detail payments made for lobbying, membership in tax-exempt organizations that endorse model legislation and the decision-making process for these payments by management and the board
  - The proposal received 41.2% support

TRUIST

Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – Political Contributions

As of June 14, 2024, 38 known proposals were submitted with respect to political contributions or spending, including three proposals from known anti-ESG proponents

- The proposals generally request disclosure or reports on political contributions and expenditures, including greater transparency regarding company policies and procedures and expenditures for political contributions and interventions
  - 30 proposals went to vote, three were withdrawn, one was omitted, two were not included in the proxy and two are pending
  - Average support was 21.6% (ranging from 3.8%–51.9%)

Political Contributions Proposals

Company	Status	Proponent
DexCom	Voted – 51.9% support	John Chevedden
Crown Holdings	Voted – 48.9% support	John Chevedden
Spirit AeroSystems Holdings	Voted – 45.3% support	John Chevedden
Global Payments	Voted – 38.4% support	John Chevedden
Stryker	Voted – 37.4% support	John Chevedden
Huntsman	Voted – 36.6% support	John Chevedden
Sonoco Products	Voted – 34.3% support	John Chevedden
NVR	Voted – 30.5% support	John Chevedden

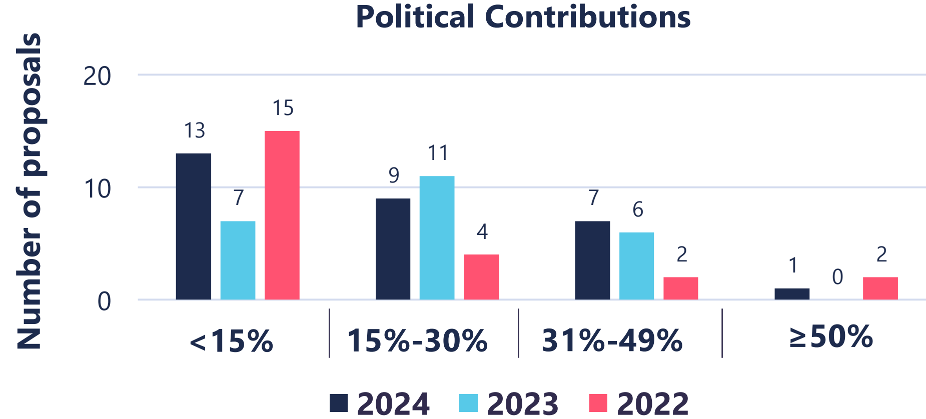
Table includes voted proposals that received >30% support

Sole Social Proposal to Receive Majority Support

- DexCom received a proposal to provide a semiannual report on its policies and expenditures related to political campaigns and public influence activities. This report requested details on monetary and non-monetary contributions, including recipient identities and responsible decision-makers within the company
  - The proposal received 51.9% support and was the only social shareholder proposal as of June 14, 2024 to receive majority support

dexcom

Shareholder Support for Political Contributions



Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – Charitable Contributions and Multi-Category Requests

As of June 14, 2024, 10 known proposals were submitted with respect to charitable contributions, including eight proposals from known anti-ESG proponents

- Proposals generally request the companies disclose a list of material charitable contributions, as well as disclose:
  - Greater transparency and accountability to ensure that the company's charitable gifts do not create reputational impacts or affect shareholder value
  - Minimum materiality thresholds for reporting on charitable contributions ranging from $5,000 to $10,000
- Five proposals went to vote, two were omitted and three are pending
  - Average support was 2.8% (ranging from 1.9%–4.3%)

Charitable Contributions Proposals

Company	Status	Proponent
McDonald's	Voted – 14.8% support	John C. Harrington
Walt Disney	Voted – 4.3% support	NCPPR
Pfizer	Voted – 3.8% support	NCPPR
Target	Voted – 2.2% support	NCPPR
Home Depot	Voted – 1.9% support; Voted – 1.5% support	NCPPR; NLPC
McDonald's	Voted – 1.9% support	NCPPR
Amazon	Voted – 1.0% support	NLPC
Alphabet	Voted – 0.3% support	NLPC

Table includes all voted proposals

Multi-Category: Lobbying; Political Contributions; Charitable Contributions

- Six contributions and expenditures proposals fell into multiple categories
- Pfizer and PepsiCo received proposals that requested disclosure of both political contributions and lobbying expenditures
  - The proposals received 14.2% and 15.0%, respectively
- Alphabet, Amazon, and Home Depot received proposals that requested disclosure of both political and charitable contributions
  - The proposals received 0.3%, 1.0% and 1.5%, respectively
- McDonald's received a proposal that requested political contribution, charitable contributions and lobbying expenditures
  - The proposal received 14.8% support

Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – AI and Data Privacy

As of June 14, 2024, 12 known proposals were submitted relating to AI

- Proposals generally request companies publish a Human Rights Impact Assessment, an annual risk report on misinformation and disinformation, an independent study on use of facial recognition technology and transparency reports and ethical guidelines on AI in business operations
  - Nine proposals went to vote, two were withdrawn and one was not in the proxy
  - Average support was 21.9% (ranging from 2.1%–43.1%)

AI Proposals

- Disney received a proposal requesting the company report on its use of AI in its business operations, the board's oversight role and disclose ethical AI guidelines adopted.
  - The SEC did not concur with Disney's request for no-action relief on the basis of ordinary business operations, but the proposal was not in the proxy
- Apple, Chipotle, Comcast, Netflix, Paramount Global, UnitedHealth and Warner Bros received AI-related proposals that requested the company report on and create an ethical guidelines framework for company's use of AI in business operations
  - Five proposals went to vote, two were withdrawn and one was not in the proxy
  - Average support was 25.0% (ranging from 2.1%–43.1%)

Data Privacy, AI in Ad Targeting and Human Rights

- Meta and Alphabet received proposals requesting the board publish a Human Rights Impact Assessment conducted by a third party on actual and potential impacts of AI-driven targeted advertising policies and practices. The proponents noted the potential for AI-driven ads to exacerbate systemic discrimination and other human rights violations
  - They received 14.5% and 18.5% support, respectively
- Meta and Alphabet also received proposals requesting the adoption and performance reporting of child safety targets, protecting minors from risks such as sextortion, grooming, cyberbullying and exposure to harmful content
  - They received 18.5% and 14.1% support, respectively
- Amazon received a resubmitted proposal calling for an independent study of its Rekognition facial comparison feature. The proponent noted concerns regarding the technology's ability for mass surveillance disproportionately targeting people of color, immigrants and civil society organizations
  - The proposal received 19.1% support, down from 40.7%, 34.3%, 32.0% and 28.2% in 2022, 2021, 2020 and 2019, respectively
- Amazon received a proposal requesting a report on its customer due diligence to determine whether customers' use of its surveillance, computer vision or cloud storage products and services contributes to human rights violations
  - The proposal received 16.8% support
- Meta also received a proposal to report the risks and benefits of raising the minimum age for social media use
  - The proposal received 0.3% support

Source: Freshfields analysis of ISS data as of June 14, 2024

Social Proposals – Other (Food, Tobacco, Patents and Privacy/Censorship)

Food-Related Proposals (Non-Animal Rights)

- Coco-Cola and PepsiCo received proposals to assess and mitigate potential health harms associated with non-sugar sweeteners
  - The proposals at Coca-Cola and PepsiCo received 10.7% and 11.5% support, respectively
- Coca-Cola also received a proposal to adopt an enterprise-wide policy to promote healthier products, beyond just reducing sugar, but received no-action relief on the basis of ordinary business operations
- Three airlines received proposals to ensure all in-flight special meals exclude common allergens and are gluten-free, vegan and lactose-free and five hospitals received proposals to adopt the American Medical Association's policy for healthful foods and implement NYC Health + Hospitals' healthful food program
  - All eight proposals were granted no-action relief by the SEC on the basis of ordinary business operations

Patents and Pharmaceutical Companies

- Six pharmaceutical companies received proposals requesting a process for evaluating the social impact of applying for "secondary or tertiary patents" prior to the companies pursuing the patents
  - Proponents were opposed to the pursuit of these types of patents, noting that receiving these patent protections would delay the availability of generic medicines and maintain high prices, preventing access to critical medications for those unable to afford them
  - Some proponents re-submitted patent proposals following limited support in 2023, although many companies, such as Johnson & Johnson, have increased patent-related disclosures and engaged with shareholders to address these concerns
  - Two proposals went to vote, one was withdrawn and three were not in the proxy
  - The proposals at AbbVie and Eli Lilly received 24.7% and 8.9% support, respectively

Tobacco

- Three casinos/gambling and entertainment companies received proposals to commission reports on potential cost savings through adopting a smoke-free policies
  - All three proposals went to vote
  - Average support was 17.6% (ranging from 11.4%–22.6%)
- Kroger received a pending proposal to report on the public health costs from selling tobacco products and how costs affect shareholders

Privacy Rights and Censorship

- American Express received a proposal regarding oversight of the merchant category code for gun and ammunition stores, citing potential regulatory, reputational and litigation risks including privacy rights
  - The proposal received 0.8% support
- Merck received a proposal to detail the company's policy and responses to government requests to aid censorship
  - The proposal received 1.4% support

Social Proposals – Other (Health and Executive Compensation)

Health

- Alphabet and Tesla received a proposal to issue an annual report on the health effects and financial risks associated with electromagnetic radiation and wireless technologies
  - The proposal at Alphabet received 0.8% support and the proposal to Tesla received 3.6% support
- HCA Healthcare received a proposal to issue a report detailing patient feedback on quality of care and actions taken in response
  - The proposal received 15.3% support
- Three companies received proposals to issue a report assessing the risks associated with pesticide use in their supply chain and detailing any strategies to mitigate these risks. Proponents argue a report is necessary due to the competitive marketplace and increasing consumer demand for clean food with reduced human and environmental harm
  - The proposal at Kellanova received 21.4% support, the proposal at Target was withdrawn and the proposal at General Mills is pending
- Three fast food companies received a total of five proposals to adopt a policy to phase out the use of antibiotics for disease in its food-producing animals throughout its supply chains
  - Three proposals went to vote and two were omitted
  - Average support was 12.8% (ranging from 11.6%–14.9%)

E&S in Executive Compensation

- Companies received conflicting proposals tying E&S considerations, such as DEI and GHG emission, to executive compensation metrics:
  - Conservative proponents requested environmental and social targets be removed
  - Other proponents requested the inclusion of metrics such as GHG reduction and human capital measures in executive compensation
- NLPC submitted proposals to ConocoPhillips, General Motors and Exxon Mobil seeking removal of GHG emission reduction targets (and EV production in the case of General Motors) from executive compensation
  - Average support was 1.1% (ranging from 0.8%–1.7%)
- Tenet Healthcare received a proposal requesting a report on how ESG metrics such as human capital management practices are integrated into executive performance measures
  - The proposal received 5.4% support
- Cummins, FirstEnergy, the Southern Company and WEC Energy each respectively received proposals seeking disclosure on the implementation of GHG reduction targets into executive compensation
  - The proposals at the Southern Company and WEC Energy did not appear in the proxy
  - The proposals at Cummins and FirstEnergy and 16.5% and 22.3% support, respectively

Freshfields

Sources: Freshfields analysis of ISS data as of June 14, 2024; Abigiail Paris,"Motivating Progress on Climate with CEO Compensation", Proxy Preview (March 14 2024); Michael W. Freichs, Southern Company Engagement Update, Office of the Illinois State Treasurer (June 3, 2024)

Social Proposals – Other (Animal Rights and Misinformation)

Animal Rights

- 11 companies received proposals focused on supply chain general animal welfare, calling for increased disclosures of animal welfare commitments, standards, enforcement and progress
  - Seven proposals went to vote, two were withdrawn and two were not in the proxy
  - Average support was 12.3% (ranging from 1.3%–35.5%)
- Four companies received proposals to establish or report measurable, timebound targets for a transition to cage-free eggs
  - Two proposals went to vote, one was withdrawn and one was not in the proxy
  - The proposals to Wendy's and Ingles Markets received 22.5% and 5.4% support, respectively
- Seven companies received proposals to disclose specific, time-bound targets for eliminating or significantly reducing gestation crates in their pork supply chain and report on progress
  - Five proposals went to vote and two were withdrawn
  - Average support was 22.5% (ranging from 12.5%–30.1%)

Voted proposals:

Non-human Primates

- Amazon received a later withdrawn proposal requesting it report on the feasibility that Whole Foods stop sourcing coconut milk from Thailand due to concerns that monkeys were exploited by being trained to pick coconuts
- Charles River Laboratories received a proposal with 24.9% support to provide an annual report to shareholders on various aspects of NHP importation by the company into the U.S.
- Laboratory Corporation of America received a proposal with 8.2% support to annually disclose the species and number of NHPs transported within the U.S.

Misinformation (unrelated to AI)

- Meta received a proposal requesting a report on the effectiveness of measures taken to prevent and mitigate human rights risks in its five largest non-US markets related to hate speech, disinformation and incitement of violence on Instagram and Facebook. Another proposal requested Meta assess the benefits and drawbacks of prohibiting political advertising and restoring measures to reduce false information
  - The proposals received 5.5% and 3.1% support, respectively
- Tesla received a proposal requesting an educational, data-driven, comprehensive advertising strategy for the company's vehicles and report on its progress and results. Tesla received no-action relief on the basis of ordinary business operations

Freshfields

Source: Freshfields analysis of ISS data as of June 14, 2024

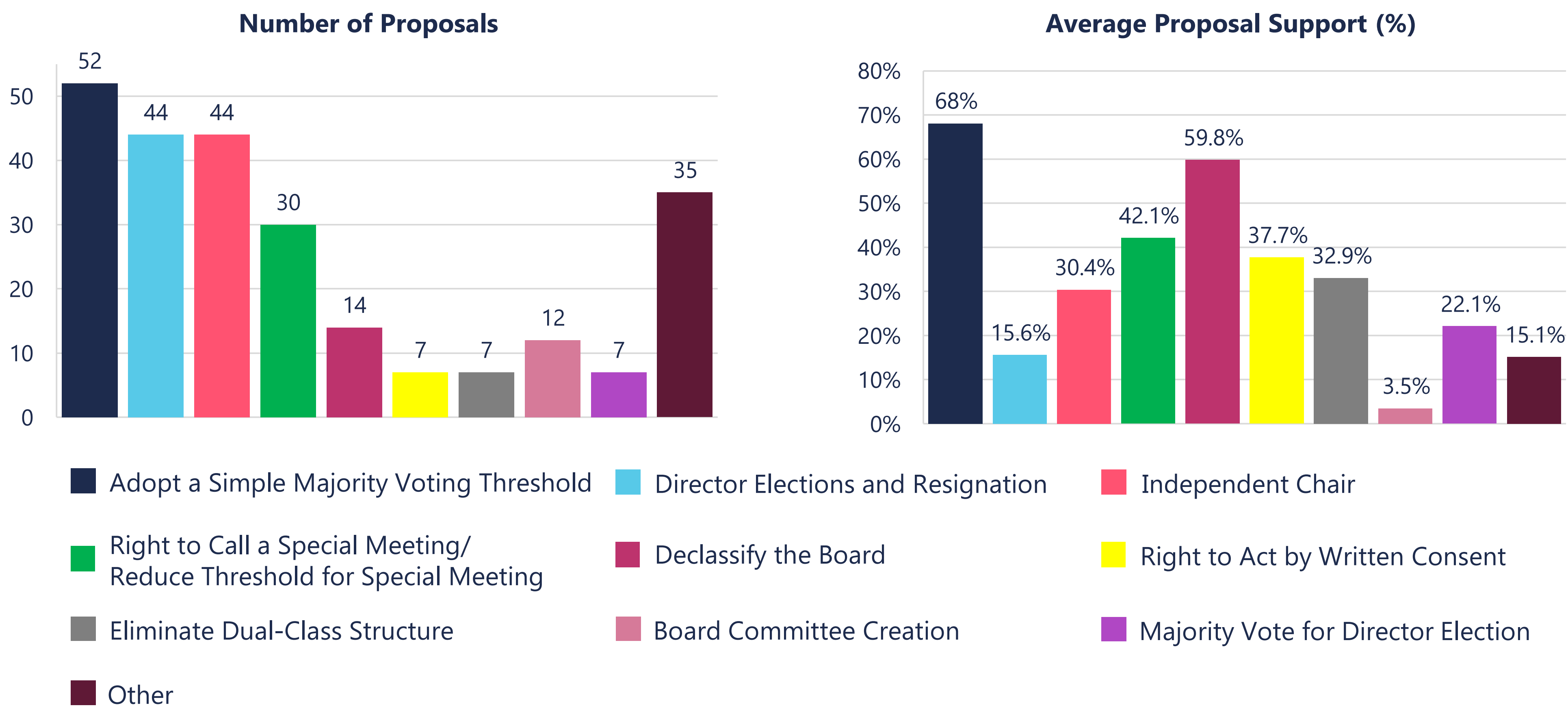
6

“G” Proposals

Overview of Governance Proposals

As of June 14, 2024, 252 known governance-related proposals were submitted covering topics such as director elections and resignations, adopting a simple majority and declassifying the board

- 38 governance proposals received majority support as of June 14, 2024. The percentage of governance shareholder proposals that received majority support increased to 15.1% from 7.2% in 2023
- Nine of these proposals were conservative or anti-ESG proposals, up from two in 2023
  – Seven proposals were submitted by the NCPPR, all of which went to vote and none received majority vote. Two proposals were submitted by the NLPC, all of which were omitted



Freshfields

Source: Freshfields analysis of ISS data as of June 14, 2024

Core Governance Proposals

John Chevedden and Kenneth Steiner accounted for 63% of all governance proposals voted this year compared to over 90% in 2023

Adopt a Simple Majority Voting Threshold

- 52 proposals, up from 22 in 2023, sought the voting threshold for all actions to be changed to a simple majority
  - 40 proposals went to vote, two were withdrawn, seven were omitted and three are pending
  - 28 received majority support
  - Average support was 68.1% (ranging from 1.5%–98.8%)

Independent Board Chair

- 44 proposals sought to split the chair and CEO position, down from 88 in 2023
  - 35 proposals went to vote, one was withdrawn, five were omitted and three are pending
  - Average support was 30.4% (ranging from 10.7%–48.8%)

Shareholders' Right to Call Special Meetings

- 30 proposals sought to reduce the ownership threshold required to call special meetings or requested the right for shareholders to call special meetings
  - 23 proposals went to vote, three were omitted, one was not included in the proxy and three are pending
  - Four total proposals received majority support
  - Average support was 42.1% (ranging from 5.7%–72.3%)

Declassify the Board

- 14 proposals sought to declassify the board, up from four in 2023
  - Five proposals went to vote, one was withdrawn, two were omitted and five are pending. Four received majority support
  - Average support was 59.8% (ranging from 7.0%–97.5%)

Action by Written Consent

- Seven proposals, same as 2023, sought to permit shareholders to act by written consent
  - All proposals went to vote
  - Average support was 37.7% (ranging from 13.4%–47.5%)

Eliminate Dual-Class Structure

- Seven proposals sought to eliminate dual-class structures, down from eight proposals in 2023
  - Four went to vote, one was withdrawn and two were omitted
  - Average support was 33.0% (ranging from 26.3%–38.1%)

Create Board Committees

- 12 proposals sought to create new board committees
  - 11 proposals went to vote and one was omitted. Average support was 3.5% (ranging from 0.4%–9.7%)
- Eight proposals were conservative proposals submitted by the NCPPR and NLPC asking companies to create committees on corporate financial sustainability to oversee the impact of the company's policies, advocacy and charitable giving
- Other new committees included:
  - Committees on AI oversight and/or related risks including a proposal at Alphabet requesting amendment to the audit and compliance committee charter to add AI oversight responsibility and a proposal at Amazon requesting that the board create a new committee to address the risks associated with AI systems usage and development
  - Railroad safety committee to review staffing levels and their impact on safety at the company's operations was proposed to Berkshire Hathaway and CSX Corporation

Source: Freshfields analysis of ISS data as of June 14, 2024

Director Election and Resignation Bylaws

- **As of June 14, 2024, there were a total of 44 proposals that requested the board adopt director election resignation bylaw amendments that would require directors to submit an irrevocable conditional resignation to the company that would be effective if the director failed to receive the required majority support in an uncontested election**
  - The proposals generally sought to require a board to accept a tendered resignation, absent the finding of a "compelling" reason not to accept the resignation
  - The proposals further requested that if a board did not accept a tendered resignation and a director remained on the board as a "holdover" director, the resignation bylaw must stipulate a "holdover" director failure to be re-elected at the next annual election of directors would result in a new tendered resignation that would be automatically effective 30 days after the certification of the election vote
  - North Atlantic States Carpenters Pension Fund, Mid-America Carpenters Pension Fund and New York City Carpenters Pension Fund were responsible for 36, or approximately 90%, of these proposals
  - 11 proposals went to vote, 12 were withdrawn, 19 were omitted, one was not included in the proxy and one is pending
  - Average support was 15.6% (ranging from 0.7%–25.9%)
- **High percentage of no-action relief requests**: Approximately 70% of companies that received direction election resignation bylaw amendment proposals (31) sought no-action relief. The companies argued that implementing these director resignation bylaw amendment proposals would violate state law, and that in several states, accepting the resignations may violate fiduciary duties. In Delaware specifically, implementing the proposal would also cause a removal of a director without the statutorily required vote to do so
  - The SEC concurred with 19 no-action requests and the proposals were omitted from the proxy
  - Eight requests for no-action relief were withdrawn
  - The SEC did not concur with four requests for no-action relief that asserted that the proposal would cause the company to violate applicable state law

Voted proposals

AIG | Capital One | cencora | CVS Health | NETFLIX

Olin | OTIS | PCA | PEPSICO | xerox | zoetis

7

Anti-ESG Legislation and Litigation Trends

Anti-ESG Legislation Landscape

The anti-ESG landscape has matured in the U.S. over the past few years and hundreds of anti-ESG bills have been introduced across nearly every state with mixed success. As of June 2024, there are 27 anti-ESG bills pending across various state legislatures and 42 bills have been signed and enacted into law, sometimes with narrowed scope. However, these types of laws are not going unchallenged and this is likely to remain a contested area in light of the upcoming election cycle

Types of Anti-ESG Legislation

Anti-Boycott Bills

These bills restrict state business with companies that boycott certain industries (commonly firearms and oil and gas)

- **Idaho H.B. 190** (effective July 1, 2023): prohibits banks and credit unions designated as state depositories from boycotting companies or individuals for ESG reasons
- **Arkansas H.B. 1307** (effective Aug. 1, 2023): directs state Treasurer to maintain a list of financial service providers that discriminate against companies based on ESG-related factors. Prohibits state entities from investing in listed financial service providers

No-ESG Investment Bills

These bills prohibit the investment of state funds in ESG plans and the use of public funds for social investment purposes

- **Florida H.B. 3** (effective July 1, 2023): limits the exercise of shareholder rights like proxy voting to only pecuniary reasons
- **South Carolina H.B. 3690** (effective February 5, 2024): requires the state's Retirement System Investment Commission to only consider pecuniary factors for investing retirement system assets and cast shareholder proxy votes only in line with its fiduciary duties to maximize shareholder value

No-ESG Discrimination Bills

These bills prohibit public entities from making investment decisions or discriminating against individuals or companies, based on ESG scores

- **North Dakota H.B. 1429** (signed August 1, 2023): prohibits insurers from refusing to insure or charge different prices based on ESG-related criteria
- **Tennessee H.B. 2100** (effective July 1, 2024): bars financial institutions from cancelling or denying services based on failure to meet ESG criteria

Contracting Restriction Laws

These bills prohibit public entities from entering into or rejecting contracts based on ESG-related reasons

- **Arkansas S.B. 62** (effective August 1, 2023): prohibits public entities from contracting for goods or services over $75K without including a provision that the company will not and does not engage in ESG-related boycotts
- Other states, including Idaho and Montana, have passed similar laws, some without a monetary limit

ESG and Anti-ESG Litigation and State Action

Anti-ESG measures are also playing out in litigation and state attorney general investigations across the U.S.

State Attorney General Anti-ESG Investigations into Net Zero Alliances

Since late 2022, a number of State Attorneys General have launched investigations into signatories of Net Zero Alliances, such as the Net Zero Financial Services Provider Alliance and the Net Zero Banking Alliance, over allegations of antitrust and consumer protection violations connected to the coalitions' net-zero GHG emissions targets

NY Common Retirement Fund Announces New Measures to Protect State Pension Fund from Climate Risk and Invest in Climate Solutions

On February 15, 2024, the New York State Common Retirement Fund announced its plans to divest its holdings from Guanghui Energy Company, Echo Energy, IOG, Oil and Natural Gas Corporation, Delek Group, Danas Gas and Unit Corporation and Exxon Mobil because it determined these companies are not transition-ready after reviewing their strategies to shift to a low-carbon economy. The decision to divest was part of the comptroller's Climate Action Plan to mitigate investment risks posed by climate change

Spence v. American Airlines, Inc.

A 401(k) Plan participant sued American Airlines, claiming the company failed to oversee employee retirement funds efficiently because their asset managers pursued investments based on nonfinancial ESG objectives instead of maximizing the financial benefits of Plan participants. On February 21, 2024, the U.S. District Court of the Northern District of Texas denied American Airlines' motion to dismiss

State ex rel. Skrmetti v. BlackRock, Inc.

On December 18, 2023, Tennessee filed a complaint against BlackRock alleging the investment company breached consumer protection laws by making misleading statements about its ESG investment strategies. Specifically, the Attorney General charged that BlackRock "falsely convey[ed] that certain of its funds do not incorporate ESG considerations" and "overstat[ed] the extent to which ESG factors creates financial benefits to investors"

8

Shareholder Activism

2024 Activism Trends

Activists work across market participants

- Activists rely on and communicate with both active and passive managers, other stakeholders and leverage areas of stakeholder focus (e.g., ESG, board skillset, diversity and tenure) to find themes that resonate across the shareholder base

IR and PR considerations are significant drivers of campaigns

- High profile missteps can make companies activism targets
- Media increasingly fuels activism campaigns
- Reputational issues and the ability to preserve reputation capital drive both activists and companies

Traditional barriers to activists have largely been eroded

- Activists have been successful at companies where the potential for winning a proxy contest is unlikely; as a result, activists are increasingly less likely to be deterred by traditional barriers (e.g., mega-caps or controlled companies)

Activism tactics are being adopted by non-traditional activists

- One of the first single-issue proxy contests occurred in 2024 launched by a labor union
- Similarly, labor issues and the ability to leverage universal proxy cost-efficiently drove a full-scale solicitation (rather than submitting a shareholder proposal) at another company

Universal proxy changes some dynamics

- Universal proxy has resulted in increased and quicker settlements and decreased proxy votes
- Propensity for more personal campaigns has changed the tenor of much of private activism engagement, but also driven boardroom discussions regarding preparedness and board composition

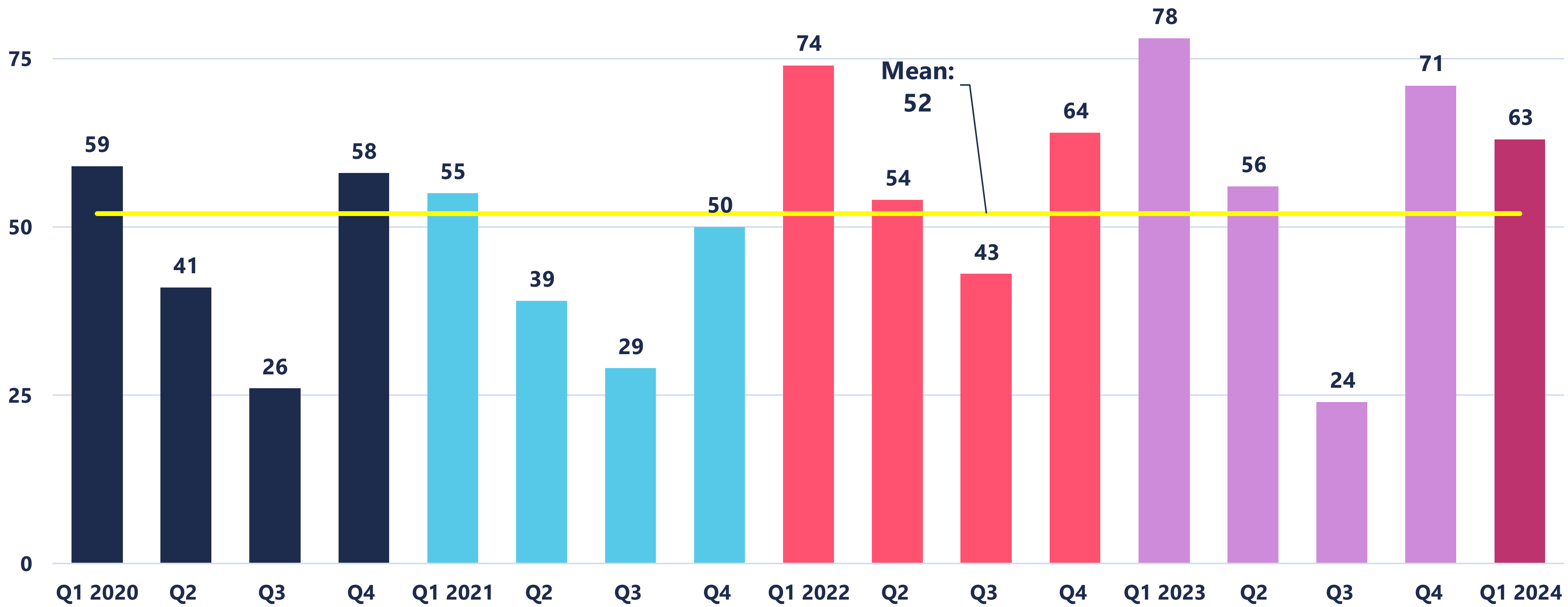
Activity not limited to brand name funds

- New and smaller activists continue to make up a significant portion of public and private activism activity, which affects the dynamics of engagement
- Almost 30% of known campaign activity was driven by first-time activists in the first quarter of 2024[1]

Source: [1]*Barclays*

Global Quarterly Review of Campaigns

Number of Campaigns Initiated Each Quarter Globally Since 2020



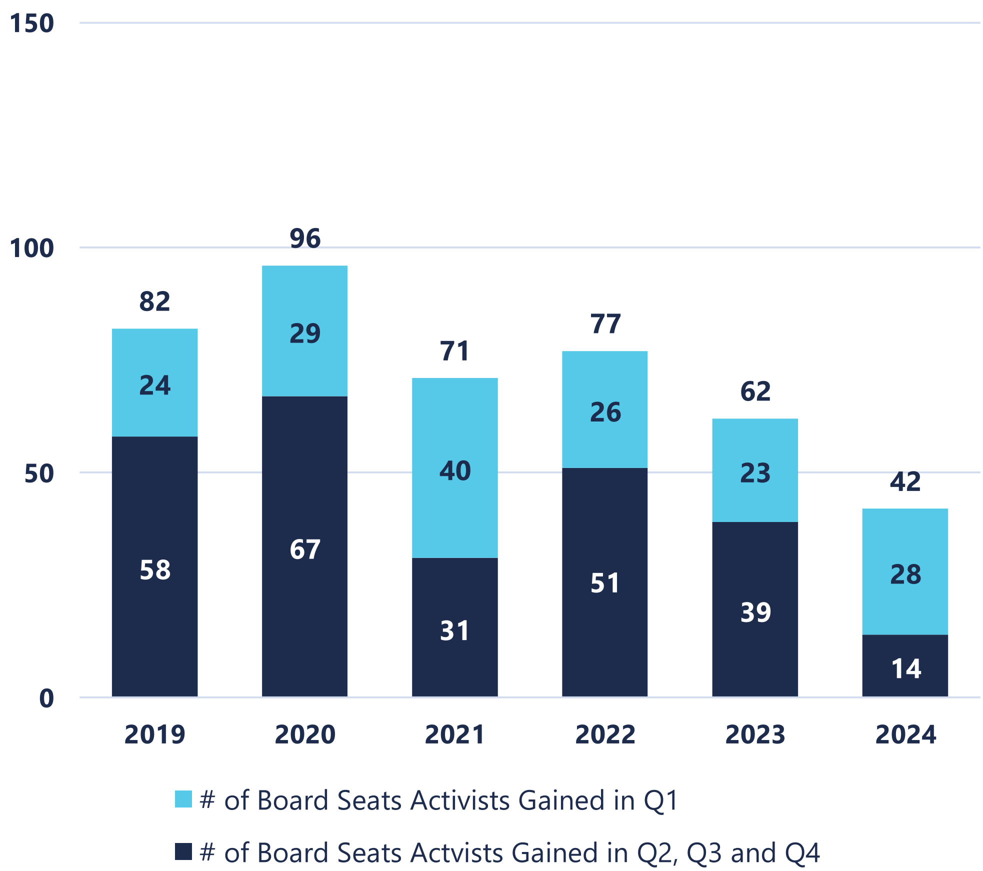
- In Q1 2024, 63 new campaigns launched globally. Q1 2024 reflected significant activity, compared to prior periods, although below the highs of Q4 2022 and Q1 2023
- Companies in the technology sector accounted for a significant share (~21%) of campaigns in Q1 2024, followed by industrials sector (~16%) and consumer sector (~16%)

Note: All data is for campaigns conducted globally by activists at companies with market capitalizations greater than $500 million at the time of campaign announcement

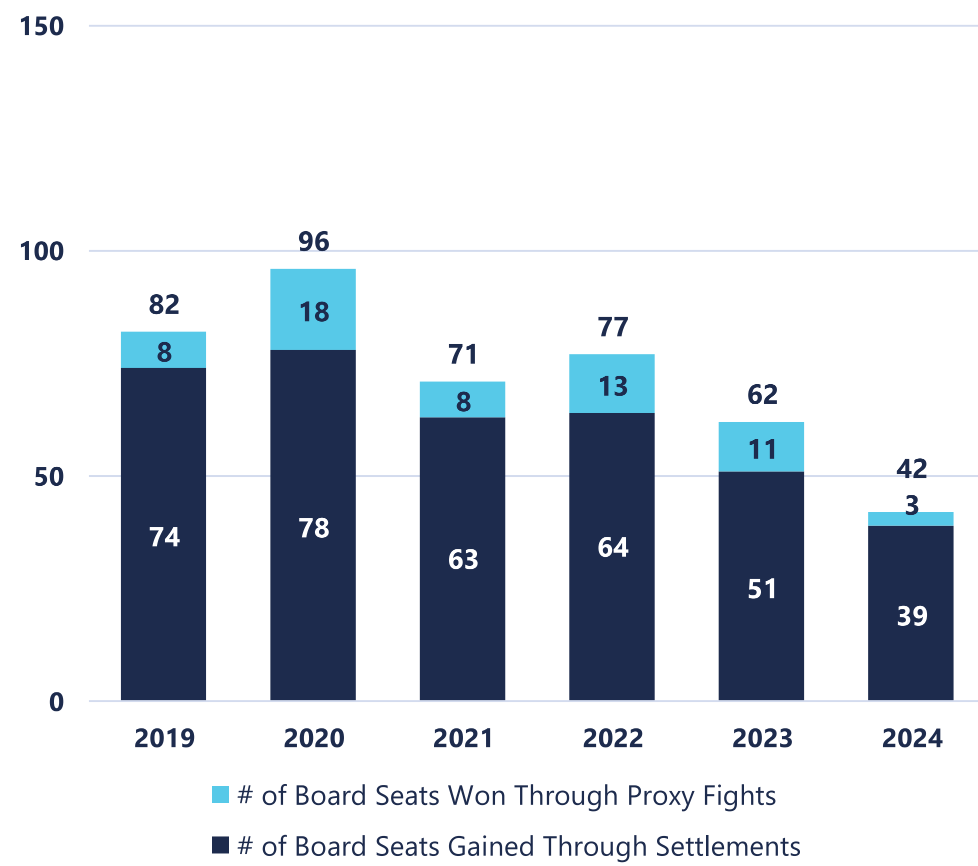
Sources: Lazard, Barclays

US Activism Fight and Settlement Trends

As of June 14, 2024, activists claimed 42 board seats



39 seats of the 42 seats gained (92.8%) were through settlements between the activist and the company



Note: All data is for campaigns conducted by activists at companies with market capitalizations greater than $500 million at the time of campaign announcement

Source: FactSet

Notable US Contested Elections With Board Meetings in Q2 2024*

April 1, 2024
Ancora Advisors
Slate/proposal: Announced nomination of 4 directors; no proxy filed
Result: Settled for 2 directors

April 3, 2024
Trian Fund Management / Blackwells Capital LLC
Slate/proposal: Proxy fight for 3 / 2 respectively
Result: Company won all seats (in a multi-year battle)

April 10, 2024
Arkhouse Management
Slate/proposal: Filed proxy for 9 directors and repeal of certain bylaws
Result: Settled for 2 directors and continued evaluation of take-private proposal

May 6, 2024
Starboard Value
Slate/proposal: Announced nomination of 4 directors; no proxy filed
Result: Settled for 2 directors

May 9, 2024
Ancora Advisors
Slate/proposal: Proxy fight for 7 directors, replace CEO/COO and repeal certain bylaws
Result: Ancora won 3 seats

May 16, 2024
Sphinx Investment, Maryport Navigation, George Economou
Slate/proposal: Proxy fight for 1 director, board declassification, certain bylaws
Result: Withdrawn

May 22, 2024
Ted Miller (co-founder of Crown Castle)
Slate/proposal: Proxy fight for 4 director seats and repeal of certain bylaws
Result: Company won all seats

May 24, 2024
Rubric Capital
Slate/proposal: Proxy fight for 2 seats
Result: Company won all seats

May 29, 2024
Kimmeridge Energy Management
Slate/proposal: Proxy fight for 3 directors
Result: Withdrawn due to ongoing company sale

June 13, 2024
Shah Capital Management,
Slate/proposal: Filed proxy for 2 directors
Result: Withdrawn

June 27, 2024
Madryn Asset Management
Slate/proposal: Notified company of 2 directors and a proposal to declassify the board
Result: Withdrawn without filing a proxy

July 25, 2024
Politan Capital Management
Slate/proposal: Filed proxy for 2 directors (full slate)
Result: Pending, but part of a multi-year proxy fight

Timeline reflects dates of the 2024 annual shareholder meeting
Source: FactSet

Proxy Fight Case Study – Disney/Trian

($185.1B market cap)

First campaign (2023)

Theses: Classic white paper critique of Disney focused on: governance (succession, compensation, shareholder engagement); performance relative to the S&P 500; strategy and operations (lack of cost discipline and leveraging some parts of the business to cover losses in others) and capital allocation (decreasing return on investment, poor M&A strategy, increased leverage and eliminated dividend)

- January 11: Disney offered to enter an information sharing and observer/advisory arrangement with Trian; Trian requested board representation and issued press release announcing it is nominating Nelson Peltz; Disney recommended shareholders vote against Peltz
- January 12-17: Trian sent a letter to Disney's board outlining reasoning for wanting board representation; released management and board testimonials on its campaign and asserted it is not seeking to replace Bob Iger; Disney published a presentation defending its board
- February 8: Disney issued earnings for Q1 2023, announced cost saving measures and intent to reinstate dividends by end of 2023
- February 9: Trian withdrew nomination following Disney's Q1 2023 earnings announcement

Second campaign (2023-2024)

- May – November: Trian re-engaged in discussion with Disney after Q2 2023 earnings release; Trian accumulated nearly 33 million shares including 25 million shares managed on behalf of Isaac Perlmutter, a former Disney executive
- November 19 and 24: Trian proposed to Disney that Peltz be added to Disney board together with two mutually agreed candidates; Trian sent a letter to Disney's board outlining the reasoning
- November 29: Disney announced the appointment of two new directors, increasing the board to 13 members
- November 30: Trian issued a statement that Trian intends to once again take the case for change directly to shareholders following the fall of Disney's share price, supported by Isaac Perlmutter, a former Disney executive and one of Disney's largest independent shareholders; Disney filed a Form 8-K disclosing bylaws amendments to add new procedural mechanics and additional disclosure requirements relating to director nominations by shareholders and other business proposals
- December 14: Trian informed Disney of its intention to nominate Peltz and James Rasulo, the former CFO of Disney, and proposed to repeal bylaw amendments
- January 16: Disney refused Trian's board representation; Disney filed a preliminary proxy statement
- January 18: Trian filed a preliminary proxy statement anticipating the use of universal proxies and launched media campaigns
- March 4: Trian released a 133-page whitepaper outlining Trian's plan for the company, including successful CEO succession process, performance-based compensation, shareholder engagement, a strategy to reach improved margins and decentralized decision-making
- March 14: Disney launched public PR/IR campaigns (e.g., placing targeted social media ads, launching a landing website with expert analysis)
- March 18 – 21: Glass Lewis recommended votes for all of Disney's nominees. ISS recommended a vote for Peltz but withheld for Rasulo
- April 3: At the contested election, Disney shareholders voted for Disney nominees
- Post-election, Peltz sold all of its stake. Disney adopted some of Trian's suggestions including setting financial targets for its streaming services and committing to new investments

Proxy Fight Case Study – Norfolk Southern/Ancora

($48B market cap)

Ancora Catalyst Institutional, LP (Ancora) launched a proxy contest against Norfolk Southern Corporation (NSC) to replace its entire board and the CEO and COO, following the derailments of NSC-operated trains that occurred in 2023 and 2024, which raised safety and accountability concerns within the railroad industry and resulted in litigation, an NSC settlement and significant expenses. Labor unions were divided over the proxy fight

- November 2023 – January 2024: Ancora had multiple meetings with members of the NSC management team and certain directors regarding strategy, operational performance and plans and board and leadership changes, particularly with respect to the CEO's leadership; Ancora and Edgepoint Investment Group delivered a nomination notice to NSC for seven director candidates and a bylaws proposal to repeal changes to the company's bylaws made by the board after July 25, 2023 without shareholder approval; subsequently Ancora and Edgepoint added a nominee for a control slate of eight directors
- February 9: NSC proposed mutually agreeing on adding two or three of director candidates; Ancora wanted five board seats and noted that any settlement would need to include a CEO change
- February 14: NSC told Ancora that the board fully supports its CEO but was still open to board refreshment; Ancora sent a letter to the chair of NSC board expressing concern about NSC management's communications with the regulators and customers encouraging them publicly support Mr. Shaw
- February 20: Ancora released a whitepaper on NSC, introduced seven Ancora nominees and announced the intention to replace the CEO and appoint a new COO
- February 26: NSC files its preliminary proxy statement recommending to vote for its own thirteen director nominees (11 incumbents and two new nominees) and expressed support for the company's strategy and CEO
- March 2: NSC trains were involved in a collision and derailment in Pennsylvania; Ancora issued a statement expressing ongoing concern over NSC's safety record
- April 16 and 25: AFL-CIO, expressed support for NSC management; another labor union, BMWED Teamsters, expressed support for Ancora
- April 26-29: Ancora signed a MOU with a labor union, BLET Teamsters, committing its director nominees to future actions; BLET Teamsters which previously expressed support for NSC management reversed its position and publicly expressed support for Ancora, together with BMWED Teamsters representing around half of NSC's unionized employees; following the news, a coalition of nearly a dozen unions expressed support for NSC management; NSC responded that Ancora has no authority to enter into such MOU and that it demonstrated that Ancora nominees are not independent
- April 29-30: Glass Lewis recommended withholding on six NSC nominees, including the NSC chair and CEO for six of Ancora's nominees, and noted that Ancora's proposed CEO and COO have "compelling credentials and track records"; ISS recommended voting for eight of NSC's nominees (recommending withhold on five NSC director nominees, including the NSC chair, and for five Ancora nominees), and ISS recommended against Ancora's proposed CEO
- May 6: Regulators including US Department of Transportation expressed support for NSC's plan and strategy
- May 9: Ancora won three seats on the 13-person board, including the NSC chair's seat, although the NSC CEO was re-elected; the Ancora bylaws proposal was approved

Taxonomy of ESG Activism

Vanity Activism

ESG activism that is not principally motivated by financial return and is based on alternative motivation

- Example: Icahn's proxy fight for two seats at McDonald's over the treatment of pigs in its supply chain; Icahn owned only 200 shares, compared to his typical activism play of accumulating significant equity stakes

Financial Activism

Traditional financial activism that relies on a principal ESG-related thesis

- Example: Third Point agitating for Shell to split its liquefied natural gas and renewables business from its legacy carbon-intensive energy business

"True Believers" Activism

Activism from a coalition of labor unions seeking to support unionization efforts

- Example: Strategic Organizing Center, together with the Service Employees International Union, agitated for Starbucks to improve its labor relations and make collective bargaining efforts

Anti-ESG Activism

Traditional financial activism that advocates for anti-ESG objectives

- Example: Strive Asset Management has a motto of "profits over politics" and criticized Chevron over ESG initiatives and Disney over vocalizing opposition to Florida legislation regarding LGBTQ+ education in schools

2024 Notable Campaign: Starbucks/SOC

($90.8B market cap.)

Strategic Organizing Center (SOC), together with the Service Employees International Union (SEIU) and a number of individuals who held 162 shares of Starbucks submitted a nomination for three directors in one of the first single-issue campaigns under universal proxy

SOC and SEIU noted that their campaign was initiated as a result of Starbucks' efforts to counter unionization and made allegations about Starbucks' compliance with federal labor law and the company's human capital management strategy and tied the employment considerations to shareholder value and potential future growth of the company

- SOC and SEIU noted that between 2022 and fall of 2023 a number of shareholders, including SOC and SEIU, engaged with Starbucks regarding labor considerations, including its employees' unionization efforts
- Fall 2022 – Fall 2023: Shareholder proposals submitted in fall 2022 requested the board strengthen CEO succession planning (which received approximately 21% support) and in fall 2023 requested the company adopt an amendment to exclude from indemnification instances in which covered persons are pursued by National Labor Relations Board issued or alleged to have violated the National Labor Relations Act (which was subsequently withdrawn)
- November 2023: SOC requested the written questionnaire pursuant to Starbucks' advance notice bylaws
- November 2023: SOC submitted its intent to nominate directors for election and issued a press release highlighting SOC's concerns regarding board oversight and its intent to nominate directors
- December 2023: SOC and Starbucks entered into a confidentiality agreement related to SOC's request to access certain shareholder list records
- January 2024: Starbucks announced it appointed three independent directors, expanding the board from eight to 11 directors
- January 2024: Starbucks counsel informed SOC that its nominees would not be included in Starbucks' slate
- January 2024: SOC and SEIU filed its preliminary proxy statement, subsequently amended their proxy statement and filed their definitive proxy statement
- January – March 2024: SOC and SEIU engaged in a press campaign, including release of their "case for change" that criticized company performance
- February 2024: Starbucks announced it agreed to begin discussions on a collective bargaining agreement and will provide union workers with benefits previously only provided to non-unionized workers
- March 2024: ISS and Glass Lewis issued reports recommending for all of Starbucks nominees and none of SOC's and SEIU's nominees, with ISS noting that SOC already achieved a portion or what it set to accomplish through Starbuck's announcement regarding collective bargaining agreement talks and provision of benefits to unionized workers; ISS further noted that ownership of 162 shares for a quarter of seats on the board of a $100B company may not be justified (although it did note that even shareholders of small percentages of stock have a right to run a proxy contest)
- March 2024: SOC and SEIU withdrew their nominations for directors

2024 Notable Campaign: Warrior Met Coal/AFL-CIO

The AFL-CIO held 100 shares of Warrior Met Coal (WMC) and launched a multi-issue campaign

Background

- After initial contract negotiations in 2020, in 2021, the United Mine Workers of America (UMWA), a labor union affiliated with the AFL-CIO, walked out of WMC with demands including restoration of the company's pre-takeover wages and benefits. After 23 months, the UMWA issued a letter to WMC's executives offering an unconditional return to work for certain terms

The Campaign

- On March 22, 2024, the UMWA, alongside the AFL-CIO, filed a definitive proxy statement to solicit votes on five proposals AFL-CIO deemed would strengthen WMC's corporate governance, but did not request director seats
- The five proposals sought to have the board take necessary steps to adopt each of the following proposals:
  - Poison pill: Adopt a poison pill bylaw provision to require that any poison pill be submitted to a shareholder vote within one year of the pill being adopted, extended or renewed by the board **(51.3% support)**
  - Proxy access: Adopt a proxy access bylaw provision to require the company to include shareholder-nominated candidates in the company's proxy materials for up to 20% of the seats on the board, so long as the nominating stockholder (or a group of up to 20 stockholders) has beneficially owned at least 3% of WMC's outstanding shares continuously for at least three years
    - The board recommended "For" the proposal and the proposal received **99.2% support**
  - Blank-check stock: Adopt a "blank check" preferred stock amendment to WMC's charter to prohibit the issuance of preferred stock without prior shareholder approval for any defensive or anti-takeover purpose or for the purpose of implementing any rights plan that has not been approved by shareholders within one year of adoption **(22.4% support)**
  - Golden parachutes: Adopt a "golden parachute" severance agreement policy to require that all adopted, extended or renewed severance agreements with WMC's senior executives be submitted for shareholder approval **(3.9% support)**
  - Freedom of association and collective bargaining: Commission and publicly disclose an independent, third-party assessment of WMC's respect for the internationally recognized human rights of freedom of association and collective bargaining **(46.1% support)**
    - ISS and Glass Lewis both recommended for the freedom of association and collective bargaining proposal
- The proposals were precatory, advisory and non-binding and the voting standard for each was a majority of the votes cast "for" and "against"

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Executive and Director Compensation

Executive and Director Compensation Proposals

As of June 14, 2024, over 65 known compensation-related proposals were submitted covering topics such as shareholder approval of termination pay, adoption of executive share retention policies, clawback provisions or binding bylaw proposals

Shareholder Approval of Termination Pay

- 33 proposals requested shareholder approval of termination pay for executives exceeding 2.99x the sum of the executive's base salary plus target short-term bonus
  - 27 proposals went to vote, three were omitted and three are pending
  - Average support was 15.2% (ranging from 4.6%–41.7%), down from 23.5% in 2023
- Companies that received >30% support, but less than 50%:

International Paper, Invesco, ITW, John Deere, JPMorgan Chase & Co., Valley, xerox

Clawback Provisions

- 12 proposals requested the company broaden the scope of existing management and executive clawback policies
  - Eight proposals went to vote and four were omitted
  - Average support was 17.3% (ranging from 3.2%–32.8%), down from 41.6% in 2023
- Companies that received >30% support, but less than 50%:

Booking Holdings, verizon

Adopting Executive Share Retention Policies

- Six proposals requested companies adopt policies requiring named executive officers and certain others to retain a percentage of stock acquired through equity programs until reaching retirement age
  - Four proposals submitted by John Chevedden suggested thresholds of 25% of net after-tax shares until at least age 60, down from 30% last year
- Five proposals went to vote, none received majority support
  - Average support was 28.8% (ranging from 4.8%–38.5%), up from 24.4% in 2023
- One omitted proposal at GE Healthcare Technologies sought to require executives to hold shares they receive in connection with the exercise of stock options for the life of the executive

Baxter, Bristol Myers Squibb, Duke Energy, Gilead, GE HealthCare

Source: Freshfields analysis of ISS data as of June 14, 2024

Executive and Director Compensation Proposals – Binding Bylaw Proposal: Shareholder Approval of Director Compensation

As of June 14, 2024, John Chevedden submitted proposals to 13 companies, seeking binding bylaw amendments that would fix the compensation of outside directors at $1 per year and that the board cannot fix their compensation. Instead, the company may provide outside director compensation greater than $1 only if the compensation has been: (1) disclosed and submitted to a shareholder vote in advance and (2) approved by a majority of shareholders entitled to vote (excluding company directors)

- Five proposals went to vote and all of them received less than 5% support
- Eight companies including eBay, General Motors, McDonald's and Verisign submitted a request for no-action relief to the SEC noting that, among other things:
  - Implementation of the proposal would cause the company to violate the "one vote for each share" standard under applicable state law; and
  - The company lacks the authority to implement the proposal as it would cause the company to violate the applicable state law or result in a breach of its contractual obligations under its existing director compensation programs
- The SEC concurred with all requests for the no-action relief

Omitted proposals

Company	Status
PayPal	Voted – 3.0% support
NiSource	Voted – 2.3% support
Fortive Corporation	Voted – 1.6% support
Devon Energy	Voted – 1.5% support
Alphabet	Voted – 0.6% support

Table includes all voted proposals

YTD Say-on-Pay Results

91.2%

Approximate average support for Russell 3000 companies

89.8%

Approximate average support for S&P 500 companies

- 2024 year-to-date support is above the 2023 average, with 76% of Russell 3000 companies receiving greater than 90% support as compared to 74% at this time last year
- The average support rate does not vary much by sector this year, with the highest in consumer staples sector (93.8%) and lowest in information technology sector (90%)
- The Russell 3000 average vote result is the highest in any single year since 2017, when it reached 91.7%

0.9%

Approximate percentage of companies that have not received majority vote on say-on-pay proposals (down from 1.6% at this time in 2023)

- 14 Russell 3000 companies (0.9%) have not received majority vote on say-on-pay proposals, compared to 19 at this time last year
- Most common reasons for failed say-on-pay votes were perceived misalignment with pay vs. performance, lack of rigorous performance goals and other identified problematic pay practices by proxy advisory firms

8.8% | 7.6%

Approximate percentages of Russell 3000 and S&P 500 companies, respectively, that received an ISS "against" recommendation for say-on-pay proposals to date in 2024

- Proxy advisory firm recommendations continue to have a significant impact on say-on-pay results; current ISS "against" recommendation rates are lower in 2024 than in 2023
- Almost 24% downward impact on average support level at Russell 3000 and 28% downward impact on average support at S&P 500 where ISS recommended "against" compared to companies that received a vote "for" recommendation
- According to Semler Brossy, of 80 companies in the Russell 3000 that received Say on Pay vote support below 75%, in half the companies recommendations between ISS and Glass Lewis were split

Sources: Semler Brossy, 2024 Say on Pay & Proxy Results (June 20, 2024) and Semler Brossy, How Should Compensation Committees View 2024 Say on Pay Results (June 13, 2024)

Equity Plan and Related Considerations

88.9%

Average support for equity plan proposals remains relatively high in 2024 for Russell 3000 companies, approximately 1.4% above the average support observed over the same period in 2023

Two proposals received below 50% support, compared with three in 2023 during the same period

23.4%

ISS has recommended against 23.4% of equity plan proposals in 2024 so far, the median of the historical range

The average result for companies that receive an ISS "against" recommendation on an equity plan proposal is 22% lower than those that receive an ISS "for" thus far in 2024, down from 27.9% in 2023

Source: Semler Brossy, 2024 Say on Pay & Proxy Results (June 20, 2024)

FTC Ban on Non-Competes

- In April 2024, the Federal Trade Commission (FTC) issued a final rule banning new post-termination non-compete clauses between employers and workers that prevent workers from working or operating a business in the U.S., with limited exceptions for:
  - New non-competes that are entered into pursuant to a bona fide sale of a business
  - Existing post-termination non-competes for workers who are "senior executives"
  - Causes of action that accrue before the rule's effective date (currently scheduled for September 4, 2024)
  - Employers who are not-for-profit entities
- Other existing post-termination non-competes will not require rescission, but employers must provide notice to workers that those post-termination non-competes subject to the rule will not be enforced
- The rule is being challenged in several lawsuits seeking, among other things, a temporary stay of the rule's effective date. In one case, the district court has indicated it will rule on whether to issue a stay before the scheduled effective date
- The ultimate impact of the FTC's final rule is uncertain. With ongoing litigation and the potential for a preliminary injunction or other relief, it may be premature for employers to begin taking any meaningful steps in response to the FTC's final rule
- Employers are encouraged to continue to monitor developments in this area in order to be able to swiftly respond to inquiries by employees and other stakeholders

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Investor Updates

BlackRock 2024 Annual Chairman Letter

BlackRock

On March 26, 2024, BlackRock CEO Larry Fink released his annual letter to investors. The letter focused on the success of American capital markets, the retirement crisis and the need to investment in proper infrastructure, including through public-private partnerships

Evolution of Capital Markets

- The letter highlights that capital markets will be key to addressing two major economic challenges:
  - Money for retirement as populations live longer to allow people to live with dignity and financial freedom
  - The need to invest in the infrastructure needed for countries to digitize their economies and decarbonize

Addressing Modern Retirement Challenges

- The letter renewed one of BlackRock's common themes on the "silent crisis" regarding retirement. BlackRock argues that robust capital markets can encourage more saving by reducing barriers to saving for retirement and can help companies encourage automatic retirement savings for workers
- Once retirees have saved, they must be encouraged to spend their savings

Infrastructure Investment

- As economies continue to grow, there is increased demand for infrastructure investment and governments will not be able to fund the infrastructure investment alone
- The letter focuses on "energy pragmatism" coupling "energy transition" and "energy security"
  - BlackRock sees the greatest demand in energy infrastructure as wind and solar power become more affordable than fossil-fuel-generated electricity
  - As conflicts can disrupt the world's oil and gas supply, there is increased focus on energy security
- Public-private partnerships can help fund the expansion of renewable energy projects to encourage energy pragmatism

BlackRock Investment Stewardship and its Climate Expectations

BlackRock

BlackRock Investment Stewardship (BIS) priorities are consistent with last year's and focus on driving long-term value creation, but with more detailed expectations. No material changes to approach

In January 2024, BIS updated its expectations related to climate-related risk and low-carbon transition as part of a "complex series of structural shifts in energy, materials, food and law usage toward a low-carbon world"

Engagement Priorities

- Board quality and effectiveness
- Strategy, purpose and financial resilience
- Incentives aligned with financial value creation
- Climate and natural capital
- Company impacts on people

Climate Related Disclosure and Governance

- To evaluate a company's resilience to climate-related risks, BIS encourages companies to disclose how they intend to deliver long-term financial performance through the transition to a low-carbon economy, including a transition plan to have sound corporate governance and business practices
- BIS expects disclosure consistent with the International Sustainability Standards Board (ISSB) standard, including IFRS S1 and S2, even if companies phase in reporting over several years. BIS expects companies to highlight metrics that may be industry- or company-specific if not using ISSB
  - BIS encourages Scope 1 & 2 GHG emissions disclosures and short-, medium- and long-term reduction targets
- If companies include carbon credits in climate-related strategies and goals, they should disclose details on how credits will be used to meet GHG emissions reduction targets, including in relation to already purchased carbon credits

Engagements to Foster Long-Term Resilience

- BIS continues to focus on engagement with companies where it believes the energy transition is "most likely to materially impact a company's long-term performance" using a "BIS Climate Focus Universe" of 1,000 companies
- BIS seeks insights on how management and boards assess material climate-related risks and opportunities related to the company's strategy, measures, sets and executes against emissions reduction targets and other climate-risk related efforts, consider shifting demand for goods and services, assess impact of climate-related risks on capital allocation decisions and investments and quantify and account for material climate-related risks in its financial statements

Source: BlackRock Investment Stewardship Engagement Priorities (2024)

State Street Global Advisors

In 2024, State Street Global Advisors (SSGA) released its 2023 Asset Stewardship Report on its engagement and voting activity in the 2023 proxy season and its Global Proxy Voting and Engagement Policy

Engagement Approach: There are no material updates to its engagement approach but some changes are highlighted below

Effective Board Oversight (450+ engagements on governance)

- Continues to focus on similar governance issues, and 2024 was the first year that SSGA announced it may vote against the nominating committee chairs at S&P 500 companies that do not publicly disclose a policy that complies with its time commitment guidelines or do not commit to do so within a reasonable timeframe
- SSGA engaged with companies to discuss risk management in an uncertain interest rate environment, director time commitments and risks and opportunities related to emerging technologies

Climate Risk Management (160+ engagements)

- Focuses on how companies are managing climate-related risks and opportunities but does not require companies to adopt net-zero targets or join industry initiatives
- Voted against 130 directors at companies in 2023 that failed to provide sufficient disclosure on climate-related risks and opportunities based on Task Force on Climate-related Financial Disclosures (TCFD)

Human Capital Management (HCM) (120+ engagements)

- SSGA focuses on the following HCM topics: oversight of recruitment and retention efforts, innovation in tight labor markets and challenging economic conditions, progress towards DEI goals and board oversight of the effectiveness of key performance indicators
- Plans to engage 20 of the largest US employers on topics including board oversight, human capital strategy, compensation strategies, employee voice and DEI

Voting Policy Updates

- Starting in 2024, SSGA streamlined its stewardship framework by merging regional policies into a unified Global Proxy Voting and Engagement Policy, detailing region-specific provisions and integrating annual updates on thematic ESG topics like climate and diversity directly into the main policy
- SSGA revised its policy on director time commitments, which includes an expectation to disclose:
  - Description of the annual review process undertaken by the nominating committee to evaluate director time commitments
  - Numerical limit(s) on public company board seat(s) the company's directors can serve on
- In 2023, SSGA voted against directors at 132 companies for lack of sufficient disclosure in line with TCFD and supported 14% of environmental shareholder proposals

Sources: SSGA 2023 Stewardship Report & 2024 Global Proxy Voting and Engagement Policy

Vanguard

In January 2024, Vanguard released its U.S. Proxy Voting Guidelines, outlining its stewardship approach and setting expectations effective February 2024. This year's guidelines refine policies on board composition, board accountability, ESG proposals and executive compensation

Environmental and Social

- Proposals will be evaluated on their merits and in the context of a company's current practices and public disclosure, however, analysis will also consider market norms or widely accepted frameworks endorsed
- Likely to support environmental proposals requesting disclosure of Scope 1 and Scope 2 emissions data, and Scope 3 in categories where climate-related risks are deemed material by the board
- Likely to support assessment of a changing climate's impact on the company, disclosing scenario analysis and related impacts on strategic planning

Board Composition and Diversity

- Seek boards to be "fit for purpose" by reflecting sufficient diversity of skills, experience, perspective and personal characteristics (gender, age, race and ethnicity) resulting in cognitive diversity
- Expects disclosure of tenure, skills and experience of directors that relate to the company's strategy
- Expect personal characteristic disclosure on a self-identified basis and may occur on an aggregate level
- Expect companies to provide disclosure on the process to evaluate the composition and effectiveness of their board

Board and Director Accountability

- Vanguard may hold committee members accountable instead of the committee chair or board leadership in instances when the board has failed to respond to actions approved by a majority of shareholders, unilaterally taken action against shareholder interests or, in Vanguard's view, failed in its oversight role

Shareholder Rights

- Will support proposals that safeguard shareholders rights, irrespective of the proponent
- For advance notice requirements, Vanguard expects reasonable disclosure and ownership requirements that promote fairness and prevent overly restrictive shareholder participation

Executive Compensation

- No materials changes from the 2023 policy but clarifies that executive compensation will be evaluated based on alignment of pay and performance, compensation plan structure and governance of compensation plans

New York State Common Retirement Fund and New York City Employees' Retirement System

The New York State Common Retirement Fund (NYSCRF) released its most recent voting guidelines in January 2024, setting forth its current expectations on ESG and diversity

Climate

- NYSCRP expects companies to be prepared to transition to a net-zero economy and to have short, medium and long-term targets for reducing GHG emissions in line with Paris Agreement
- Companies in TCFD high impact sectors should possess climate risk competency on the board to effectively manage long-term material climate risks and opportunities

Governance and Executive Compensation

- Per the updated guidelines, NYSCRP will vote against:
  - Incumbent board nominees at companies that have adopted a classified board structure without a reasonable sunset or proposed charter amendments seeking to extend exculpation to corporate officers
  - Governance committee members (on a case-by-case basis) when a company fails to disclose the identity of shareholder proposal proponents
  - Proposals that seek to adopt onerous or overly restrictive advance notice requirements
- The updated guidelines clarifies time horizon expectations for long-term incentive plans and specifies voting against incumbent compensation committee members where there is a lack of a comprehensive clawback policy

ESG Strategy & Expectations

- ESG strategy & expectations remains largely unchanged from 2023

New York City Employees' Retirement System (NYCERS) has been focusing on a wide range of issues covering climate change, corporate governance and DEI

Climate Change

- In 2023, NYCERS issued its Net Zero Implementation Plan to decarbonize its portfolio and achieve net zero greenhouse gas emissions and released its first report in April 2024
  - NYCERS filed shareholder proposals at five major U.S. banks urging adoption of 2030 interim GHG emissions reduction targets based on absolute emissions in addition to emissions intensity
  - The engagement activities of NYCERS and NYC Comptroller's Bureau of Asset Management have been focusing on the utilities sector
    - On behalf of NYCERS, the NYC Comptroller has engaged with 35 utilities without SBTs representing 18.8% of Scopes 1 & 2 financed emissions and served as thematic lead for Climate Action 100+ on topic of science-based targets and net zero

Corporate Governance and Workforce Management

- NYCERS reached settlements with nine of the 13 companies that received proposals requesting the disclosure of a board diversity matrix and actively supports "one share, one vote"
- The NYC comptroller has also been focusing on EEO-1 report disclosure, freedom of association, anti-harassment and discrimination report, child labor and human capital and worker rights in general

Sources: New York State Common Retirement Fund (2024), New York City Employees' Retirement System (2024)

LGIM

In May 2024, LGIM released its voting intentions for 2024:

- Will continue to identify and vote against "misleading" shareholder proposals that appear to support ESG but, upon closer examination, are designed to advance anti-ESG views
- Believes decarbonizing the banking sector and its clients is critical to achieving Paris Agreement goals so continues to request disclosure of green finance ratio and climate lobbying activities at Bank of America, Wells Fargo, Goldman Sachs, JPMorgan Chase and Morgan Stanley
- Will vote in favor of proposals at Apple, Nestle, Woodside Energy, North American and Nordic banks, oil & gas companies, Glencore, Amazon, Chevron, Walmart, Restaurant Brands International and Nippon Steel

LGIM's Investment Stewardship team made 2,050 engagements in 2023 (held 364 meetings/calls and 2,136 written engagements, significantly higher than 2022). Focused on nature and health in policy work in 2023

Climate Engagement

Continued to hold companies and directors accountable for management of climate risk

- Identified nearly 300 companies under Climate Impact Pledge for voting sanctions for failing to meet minimum, qualitatively assessed, climate change standards, divested from two companies and reinstated one
- Expects companies to publicly commit to net zero by 2050; disclose short-, medium- and long-term targets covering Scope 1 and 2 emissions and material Scope 3 emissions; disclose current Scope 1, 2 and material Scope 3 emissions and disclose credible targets aligned to a 1.5°C trajectory, ambition to obtain verification by the Science-Based Targets Initiative (or equivalent)

Nature Engagement

In 2023 updated deforestation policy and engaged with over 160 companies, was the first year LGIM applied specific deforestation vote sanctions

People

Expanded campaign on ethnic diversity in 2023. Updated diversity expectations that women represent at least 40% of the board and executive leadership team and there be at least one person of ethnic minority background on the board, clearly disclose diversity and inclusion policies and representation data

Governance Advocacy

Continued to advocate for better governance structure and transparency

- Continued to vote against dual-class companies in the U.S. and to push for "one share, one vote" standards
- Few substantial changes to pay-related practices but beginning 2024 will apply voting sanctions against 1) say-on-pay proposals in the U.S. where executives use corporate jets for private purposes and 2) at S&P 500 companies whose total shareholder return has underperformance the S&P 500 over the previous three years, and their CEO pay ratio exceeds 300

Sources: LGIM, LGIM's voting intentions for 2024 (May 29, 2024), LGIM Active Ownership Report 2023

Investor Overboarding Policies

	Maximum Number of Board Memberships Permitted Based as of 2024*		
	Independent Directors	**CEO (including own board)**	**Named Executive Officer (other than CEO)**
	Institutional Investor		
Goldman Sachs	5	3	(not addressed)
BlackRock	4	2	2
State Street†	4 (3 for board chairs or lead directors), but subject to waiver	2	2
Vanguard†	4	2	2
Alliance Bernstein	5	4	(not addressed)
BNY Mellon	5	3	(not addressed)
CalPERS	4	2	2
CalSTRS	**"Excessive number of boards"**	2	**2**
J.P.Morgan	4	3	(not addressed)
Legal & General	5	2	2
Neuberger Berman	4	2	2
Norges Bank	5 (no more than 2 board chairs)	(not addressed)	(not addressed)
T. Rowe Price	5	2	(not addressed)
NYS Comptroller	4	2	(not addressed)
	Proxy Advisory Firm		
Glass Lewis	5	2	**2 (other than executive chair)**
ISS	5	3	(not addressed)

NCPPR submitted proposals to three companies (Lowe's, Verizon and J&J) to adopt a policy requiring directors to disclose their expected allocation of hours among all formal commitments set forth in the director's official bio on a weekly, monthly or annual basis

***Bold text reflects change from 2023**

† indicates requirements for public disclosure of director time commitment/overboarding policies

Pass-through Voting Trends

Some of the largest institutional investors continue to provide more autonomy in proxy voting through "pass through" allowing beneficial owners to direct proxy voting for respective owned shares

BlackRock.

- In February 2024, BlackRock issued an update on its "BlackRock Voting Choice" program (launched in 2022), including extension of the voting policies that clients can choose from and expansion of eligible investment strategies
  - $2.6tn of $5.2tn (50%) of BlackRock's index equity assets and 92% of the institutional index equity assets are eligible to participate in the program
- Eligible clients can choose one of four options as to how to vote: client choice of voting policy, a hybrid approach that relies on a mix of BlackRock and the client's selections, alignment with a third-party advisor or reliance fully on BlackRock's choice

STATE STREET GLOBAL ADVISORS

- In 2022, SSGA announced it would offer investors the ability to direct how shares held in eligible funds are voted, which includes working with ISS and Broadridge on mechanics and permits investors to express views to vote with the board recommendation or a variety of ISS policies
- SSGA's voting choice program now covers more than 80% of eligible index equity assets and $1.9tn of SSGA's index equity assets are eligible for the program

Vanguard®

- Following the conclusion of an initial pilot program in June 2023, in December 2023, Vanguard announced it would expand its proxy choice program by introducing proxy voting choices to investors in additional funds in 2024
- Program is voluntary, opt-in, and will include funds which represent over $1b in combined assets under management

- James McRitchie submitted proposals at Goldman Sachs and Bank of America, urging them to explore the feasibility of offering granular proxy voting preferences to move beyond just offering two or three template voting policies and thus maximize portfolio-wide returns by pushing companies to address social and environmental concerns

Investor Proxy Voting Record and Guideline Review

- Investors are facing increased ESG and anti-ESG pressures, including through their public statements and commitments, proxy voting guidelines and voting records
  - Increasingly, institutional investors are receiving shareholder proposals asking for reviews of their voting records and guidelines, or reports on reputational and financial risks to the company from misalignment between proxy voting and their guidelines, as well as strategies to address important economic and social issues
- Nine institutional investors received a total of 12 proposals generally seeking a review of the institutional investors' proxy voting records and guidelines, reports relating to climate change, diversity and/or general ESG metrics or reports on the reputation and financial risks of misalignment of values
- Four proposals went to vote, one was withdrawn, three were omitted and four were not in the proxy
  - Average support was 7.5% (ranging from 5.9%-8.2%)

Company	Status	Proponent
Goldman Sachs	Voted – 8.2% support	Presbyterian Church (U.S.A); Portico Benefit Services
BlackRock	Voted – 8.1% support	Mercy Investment Services
JPMorgan Chase	Voted – 7.8% support	Maryknoll Sisters of St. Dominic
Northern Trust	Voted – 5.9% support	James McRitchie

Table includes all voted proposals

Investors Move Away from Investor Coalitions – A Trend?

- In 2024, BlackRock, Invesco, J.P.Morgan Asset Management, PIMCO and SSGA announced they would withdraw from the Climate Action 100+
- SSGA announced that Climate Action 100+'s Phase 2 conflicted with internal investing policies
- BlackRock transferred its participation to BlackRock International, noting in a letter to the Climate Action 100+ that BlackRock International's participation remains subject to conditions
- Vanguard left the Net Zero Asset Managers Initiative in 2022

Sources: Freshfields analysis of ISS data as of June 14, 2024; Alastair Marsh, Silla Bruch and Sajjel Kishan, "JPMorgan, State Street Leave Biggest Climate-Investor Group," Bloomberg (February 15, 2024); Patrick Temple-West and Brooke Masters, "JPMorgan and State Street quit climate group as BlackRock scale back." Financial Times (February 15, 2024)

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Proxy Advisory Firm Updates

ISS Voting Policy Considerations 2024

ISS had minimal changes to its voting policies this year, with updates only to executive compensation related matters

Compensation

- **Severance Agreements for Executives / Golden Parachutes:**
  - ISS's sole change to its voting policy updates revised an existing policy on shareholder proposals seeking to require that golden parachutes or executive severance agreements be submitted for shareholder ratification
    - ISS noted this change is aimed at harmonizing its analysis of both regular termination severance as well as change-in-control related ("golden parachute") severance and clarifies the key factors considered
  - ISS will now recommend voting **case-by-case** on all shareholder proposals requiring that executive severance (including change-in-control related) arrangements or payments be submitted for shareholder ratification
  - Factors to be considered include but are not limited to:
    - Whether severance agreements have problematic features (excessive severance entitlements, single triggers, excise tax gross-ups, etc.)
    - Existing limits on severance or polices that require shareholder ratification for payments exceeding a certain level
    - Recent severance-related controversies and whether proposal is overly prescriptive
- ISS' 2024 Compensation Policies FAQ notes its view that excessive payments made to executives in connection with an apparent voluntary resignation or retirement will be regarded as a "problematic pay practice" that may lead to an adverse say-on-pay recommendation
  - The FAQ cautions against disclosure indicating an executive "stepped down" or that the executive and the board have "mutually agreed" on departure, positing that such statements do not enable investors to fully evaluate severance payments

Glass Lewis Voting Policy Considerations 2024

Glass Lewis took a more expansive approach than ISS to updates this year, focusing on revisions related to executive compensation, cybersecurity considerations and climate and ESG oversight issues

Compensation & Equity Ownership

- **Pay Versus Performance Disclosure**: Glass Lewis has revised its guidelines to note that pay-versus-performance disclosure may be used as part of its supplemental quantitative assessments supporting its primary pay-for-performance grade
- **Clawback Policy Update**: In 2024, Glass Lewis notes that policies should go beyond the new minimum NYSE and Nasdaq listing requirements. Glass Lewis expects clawback policies to authorize companies to recoup incentive compensation from executives when there is evidence of problematic decisions or actions, such as material misconduct, a material reputational failure, a material risk management failure or a material operational failure
- **Non-GAAP Incentive Plan Adjustment**: Companies are expected to include detailed discussions to enable shareholders to reconcile GAAP to non-GAAP results and the corresponding impact on incentive payouts. The lack of such disclosure will impact Glass Lewis' assessment of the quality of executive pay disclosure and may be a factor in its recommendation for the say-on-pay
- **Executive Ownership Requirements**: Glass Lewis formalized its expectation that companies should adopt and enforce minimum share ownership rules for NEOs, with disclosure of the ownership requirements in the Compensation Discussion & Analysis of the proxy statement. Glass Lewis has indicated that companies should not count unearned performance-based full value awards or unexercised options under their ownership guidelines without a clear rationale for doing so

Cyber Risks and Material Weakness

Cyber Risk Oversight:

- In conjunction with the new SEC cybersecurity requirements, Glass Lewis expanded its consideration of cyber risk oversight for companies that have been materially impacted by a cyber-attack
- Companies should provide periodic updates communicating its ongoing progress towards resolving and remediating the impact of the cyber-attack. These disclosures should focus on the company's response to address the impacts to affected stakeholders and should not reveal specific and/or technical details that could impede the company's response or remediation of the incident or that could assist threat actors
- Any perceived deficiency in oversight, response or disclosure could result in recommendations **against** votes for "appropriate directors"

Material Weakness:

- In 2024, Glass Lewis emphasizes that it believes the audit committee has the responsibility to ensure material weaknesses are remediated in a timely manner and that companies should disclose remediation plans that include detailed steps to resolve a material weakness
- Failure to disclose a remediation plan, or material weaknesses ongoing for more than a year without updated remediation plan disclosure that clearly outlines the company's progress toward remediating the material weakness, will result in Glass Lewis considering recommending **against** all members of a company's audit committee that served at the time the material weakness was identified

Source: Glass Lewis (2024)

Glass Lewis Voting Policy Considerations 2024 (cont'd)

Social and Environmental Issues

Environmental And Social Risk Oversight:

- Glass Lewis notes that board oversight and responsibility of environmental and social issues should be formally codified in committee charters or other governing documents
- Glass Lewis expanded its expectations for climate-related issues from what it considered the "largest, most significant emitters" to the entire S&P 500 index operating in industries where the Sustainability Accounting Standards Board (SASB) has determined that such companies' GHG emission represent a financially material risk as well as companies where Glass Lewis believes emissions or climate impacts represent a financially material risk
- Glass Lewis will assess (1) the adequacy of disclosure in line with the recommendations of the Task Force on Climate-related Financial Disclosures and (2) whether companies have clearly defined and disclosed board-level oversight responsibility for climate-related issues
- In instances where Glass Lewis finds disclosures in either of the above two areas to be lacking, it may recommend **against** the responsible directors

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Methodology and Team

Methodology

- Freshfields categorized the proposals highlighted in this Trends and Updates from the 2024 Proxy Season report from ISS data as of June 14, 2024, and categorized or sub-categorized proposals based on a review of the proposals and/or proponents
  - For instance:
    - Conservative proposals were categorized within their relevant ESG subcategory
    - Proposals requesting environmental justice assessment were classified as environmental – other
    - Proposals requesting disclosure or adoption of sustainable supply chain practices were classified as environmental – sustainability
    - Proposals requesting investor proxy voting record data in relation to environmental and social issues were classified as environmental – climate change or social issues – other
    - Proposals requesting financial sustainability reporting in relation to specific social issues were classified as social
    - Proposals requesting reports on integrated ESG metrics into executive compensation programs were classified as social
    - Proposals requesting the creation of a new board committee were classified as governance
- As part of Freshfields' review, certain proposals that were identified separately were combined and only counted once
  - For instance, two companies jointly filed a single proxy statement but were counted as separate proposals. Freshfields only counted the proposals once
- Votes were reported in accordance with the respective company's voting standards

Freshfields Team

TEAM

Pamela Marcogliese is a partner and Head of US Transactions. Pam is top ranked for capital markets, corporate governance and activism defense and among top women dealmakers (*Legal 500, The Deal*)

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David Livshiz is a partner and represents clients in complex commercial disputes, criminal and civil fraud actions, and bankruptcy litigation. He is recognized as a leader in commercial litigation (Chambers, Legal 500 and Benchmark Litigation)

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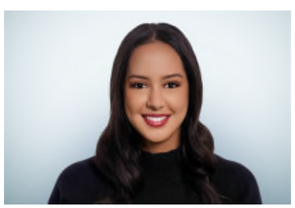

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Thank You

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