PREDICTING CORPORATE VOTING OUTCOMES FOR SHAREHOLDER SPONSORED PROPOSALS

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Abstract

We analyze voting support for shareholder sponsored corporate governance proposals. Specifically, we study the impact of institutional share ownership, board structure, firm size, historical share performance, and proposal sponsor on the proportion of yes votes received. We use data from 253 shareholder proposals that came to a vote in 2013 for our analysis. Among our findings are the following: (1) pension funds sponsored 14 of the 20 proposals receiving the highest level of voting support while individuals and labor unions sponsored 16 of the 20 proposals receiving the lowest voting support; (2) firms with a classified board received higher proposal support than those without a classified board; (3) firms with a higher percentage of institutional ownership received greater voter support, and (4) firm size was inversely related to voting support.

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1 Introduction

Shareholder voting in corporate elections is at the heart of corporate governance. Through corporate elections, shareholders choose the board of directors, approve mergers and acquisitions, authorize new stock offerings, and make choices about a myriad of other issues. Of particular interest to this study are corporate elections that decide the fate of shareholder proposals. Specifically, we investigate the role of a wide range of firm specific attributes, which are commonly thought to be important to good governance, on the outcomes of corporate elections involving shareholder proposals.[1]

This study extends previous work by Smith (1996), Gordon and Pound (1993), and Brickley, Lease and Smith (1988) to include an expanded cross-section of shareholder proposal outcomes decided in 2013 while adding additional explanatory variables which might affect the agency relationship between a firm's management team and its shareholders.

The paper is organized as follows: Section 2 provides a brief review of the corporate governance as it pertains to corporate elections and we discuss a theory of corporate voting that balances private versus public pressure. This theory provides the basis for optimizing the mix of private and public pressure and developing the hypotheses that we test in Section 3. Finally, Section 4 provides a brief summary of the paper's primary findings and their implications.

2 Ownership, Control and the Corporate Voting System

The U.S. corporate voting system is the primary mechanism used to direct and monitor those agents charged with the fiduciary duty of shareholder representation. The volume of academic research that focuses on corporate governance has exploded since the early eighties. At issue is the ability of shareholders to monitor the very individuals they appoint and charge with the duty of managing firm operations for the benefit of its owners. Corporate laws defining these rights and duties exist both at the state and federal levels. However, these rights and duties differ in their scope, application and effectiveness from state to state. Delaware for example, is known by most professionals to be a pro-management state, whereas Texas is considered a pro-shareholder state [Netter and Poulsen (1989), Dorfman (1996)].

[1] Indeed, Jensen and Warner (1988) noted that, "The precise effects of stockholdings by managers, outside blockholders, and institutions are not well understood and the interrelations between ownership, firm characteristics, and corporate performance require further investigation."

Sponsoring a Shareholder Proposal

A shareholder can monitor and influence management by submitting a proposal to the company. Historically, there have been severe procedural restrictions to qualify a shareholder proposal for inclusion in the company's proxy statement. For example, shareholder proposals under SEC Rule 14a-8 are limited to 500 words, they face challenges from the target company which will rely on specific Rule 14a-8 provisions to exclude the proposal from the proxy[2], and, finally, shareholder proposals face costly solicitation regulations (no more than 10 persons can be solicited, Rule 14a-2(b)(2)) before Sections 14a-3 to 14a-15 apply, which among other things, call for specific information to be filed with the SEC and furnished to each person solicited.

The sheer number of shareholder proposals submitted and defeated attests to the costs and difficulty of this method of influencing the corporation. For example, the Investor Responsibility Research Center ("IRRC") reported that the success rate of shareholder proposals in 1987 was only 1.0%. The success rate rose to 5.4% in 1990 and 21.3% by 2013. Even so, the majority of shareholder proposals failed to achieve sufficient votes to pass.[3] In addition, it is important to understand that voting outcomes for most types of proposals are advisory in nature which means the board is not obligated to pursue the wishes of the shareholders.

A controlling interest of a firm’s stock in the hands of one or a few outside (non-management) shareholders seems like a logical determinant of the possibility of a shareholder victory for value-enhancing proposals and against value decreasing proposals. But, the legal obstacles and risks for a shareholder increase as their ownership level passes a 5% threshold of the outstanding shares. A controlling shareholder or group, as legally defined, faces liability from securities law violations pursued by the target company, and faces severe restrictions on selling its stock under Securities Act Rule 144 [Steinberg (1989)]. Shareholders also face the possibility of short-swing profit forfeiture under the SEC's deputization principle. Deputization results in automatic profit forfeiture and occurs when an individual expressly or impliedly serves on the board of directors of a company as a representative for a shareholder or group. The act of deputization is based on a case-by-case fact-based analysis.

A shareholder, or group of shareholders, is likely to become more active in situations where their marginal costs can be reduced through economies of scale. A common structural or procedural proposal can be drafted and submitted to a number of companies in which the shareholder owns stock. Proposals which fall into this category typically include confidential voting, cumulative voting, anti-greenmail provisions and others where company specific information is not generally needed to craft and submit the proposal.

The deck is stacked in favor of a firm’s management. Pound (1988) documented the advantages that incumbent management has in proxy contests which carry over to shareholder and management proposals in general. Management controls the administration of shareholder lists, vote solicitation, and relationships with uninformed shareholders. The less concentrated is share ownership, the more difficult is the task of the dissident to identify shareholders and solicit votes. This difficulty is also experienced by shareholder proponents when sponsoring proposals, as well. Management may also reduce the dissident's ability to promote an objective simply by keeping the time between announcement of the shareholder meeting and the actual shareholder meeting date to the statutory minimum.

During the late 1980's there was a clear trend among shareholders to become more active in the voting process and this trend continues.[4] This is evidenced by the growth in the number of corporate governance shareholder proposals from 55 in 1986 to 263 in 2013. Although there are multiple streams of research of shareholder activism our research focuses on corporate elections in response to shareholder proposals. One of the most influential, early studies in this arena was the work of Gordon and Pound (1993). They studied the outcomes of corporate elections after accounting for the shareholder sponsor, type of proposal, ownership structure, economic performance, governance structure, and certain ownership and protection threshold variables. They found no systematic impact of institutional ownership on voting outcomes; however, firm size (market capitalization) was marginally significant and negatively associated with the level of voting support. They also found that voting outcomes were positively associated with proposals sponsored by institutional investors and members of the United Shareholders Association ("USA"), a grass roots shareholder rights lobbying group founded by T. Boone Pickens. They speculate that the concentration of ownership by specific institutions may not be sufficient to change monitoring behavior. Their models do not include any concentration of ownership measure other than a dummy variable which switches when overall institutional ownership in a firm exceeds 70%.

[2] Securities Exchange Act Rule 14a-8, 17 C.F.R. 240.14a-8 (1990).

[3] It is important to note that not all shareholder proposals make it to the proxy, either because the issue is settled by management outside of the voting process or the proposal fails to meet the regulations regarding inclusion. If we assume that settled issues would have resulted in a successful vote for the proposal, then the success rate for shareholder proposals is understated here.

[4] See Gillan and Starks (2013) for a survey of the history of shareholder activism in the United States.

Collective Choice Theory and Shareholder Activism

Shareholder voting patterns can be explained to some extent using a collective choice argument. Specifically, collective action theory would suggest that where the likelihood of a shareholder proposal passing is low and a management proposal passing is high, shareholders would free-ride off the efforts of shareholder proponents. This would minimize their costs of becoming informed and exerting any effort, which takes time and money, because the pro rata benefit for a free-rider to become active does not exceed the internalized cost of doing so. Thus, one would expect a higher level of support for value-enhancing shareholder proposals and a lower level of support for value-diminishing management proposals for those companies which have a large single outside shareholder or where ownership is highly concentrated among outside shareholders. In these situations it is more likely that the expected pro rata benefit exceeds the costs of sponsorship.

As a result, large block ownership by outsiders may have a significant impact on voting outcome. In particular, institutional ownership has increased to the point where it is more than 50% of the U.S. equity market, and accounts for roughly 80% of all shares traded.

Since institutional ownership has become a larger percent of total equity investment in the U.S., it is important that we understand the voting behavior of these shareholders as well as other large outside blockholders. Some institutions tend to take a passive stance toward their investments and follow the 'Wall Street Rule'--if you don't like management or the stock's performance, sell your position instead of becoming an active participant in the voting process.

A financial institution’s decision to be passive or active with regard to the management of its investment portfolio is complicated by a myriad of rules and regulations that have evolved through time. Roe (1990) outlines the legal parameters which originated from a variety of sources including the Glass-Steagall National Bank Act, the Bank Holding Company Act of 1956, Comptroller regulations, bankruptcy case law, New York insurance law, the Investment Company Act of 1940, subchapter M of the Internal Revenue Code, and ERISA (the Employee Retirement Income Security Act of 1974).

Also playing a part in an institutional investor's decision whether to become an active investor and accumulate a sizable stock position are certain regulatory costs imposed by the Securities and Exchange Act of 1934. Specifically, sections 13 and 14 of this Act address controlling persons and Section 16(b) covers short-swing profits. In addition to these regulatory factors, institutional investors are concerned with the possibility of increased political controls and the social view that institutional control is seen as improper.

Board Composition and Corporate Governance

The oversight of corporate boards of directors has long been criticized for lacking "voices of authority". This is the result of the marginal costs of an outside director investing time becoming more than minimally familiar with the company he serves, which can exceed the pro rata marginal benefit from this effort.

Recommendations for intermediate solutions that could create more effective boards call for a nonexecutive chairman (which is common in Britain), and a change in the nominating process whereby large shareholders would either nominate or at least have the opportunity to screen directors. Lowenstein (1996) notes that currently, "the watchers are often picked by the watched - CEOs." He also suspects that institutional involvement may be minimized by virtue of the fact that many institutions run index funds.

Pound (1988) emphasizes inefficiencies in the proxy solicitation process brought about by state laws which govern the voting process and associated rights. Shareholder identification by the dissident when soliciting shareholders is made even more difficult and expensive as the market liquidity for the shares and thus share turnover increases. This results from the use of street or nominee name for recording ownership which relies on the nominee holder to contact and execute the wishes of the actual holder of shares. Many states presume the nominee retains the voting right, barring a contract stating otherwise.

In the Post Enron era many assume that the Sarbanes-Oxley Act corrected the shortcomings of board oversight. However, when the Sarbanes-Oxley Act was signed into law on July 29, 2002, it did not expressly address board composition, though the independence of public company boards was a primary objective of the legislation. Boards have slowly adopted models of board leadership which increase the independent oversight of the board. For instance, the percent of independent directors on S&P 500 boards has increased from 79 percent in 2002 to 84 percent in 2012, and the CEO was the only non-independent director on 31 percent of the boards in 2002 versus 59 percent in 2012.

3 Empirical Tests

Methodology

What determines the voting outcomes of shareholder proposals? Presumably shareholders vote for their own interests so to the extent that proposals are value enhancing one would expect a high level of shareholder support. So, in a sense, the level of support a proposal receives reflects shareholder perceived value from voting in favor of the proposal.

So, what drives shareholder perceptions as to whether a particular shareholder proposal is in their best interests? One possibility is who is sponsoring the proposal. For example, if the proposal comes from a pension fund or other financial institution whose economic interests are thought to be well aligned with shareholders, we would expect there to be a high level of shareholder support. Examples of such sponsoring institutions might include pension funds and other financial institutions whose own success hinges on increasing the values of their portfolio companies. We saw some anecdotal evidence supporting this idea in Table 3 where shareholder proposals from pension fund sponsors were involved in 12 of the 20 proposals that received the highest "yes" vote in 2013. Also, the lowest level of support was recorded for proposals from labor unions and individuals.

It is also reasonable to think that shareholder proposals aimed at firms with poor governance protection might also be viewed as having the most value to shareholders. This would mean that firms with lots of insider board members, low levels of managerial stock ownership, and classified boards might be ripe targets for shareholder value enhancing shareholder initiated proposals.

To test the impact of a set of corporate governance and control variables on voter support for shareholder proposals we begin with the premise that shareholder proposals are made by shareholders whose interests are self-serving. In other words, all shareholder proposals are intended to increase shareholder welfare. We test the importance of institutional ownership of corporate shares, the percent of beneficial ownership, the percent of shares held by corporate insiders, the dispersion of institutional ownership, the percent of inside directors and whether the firm has a classified board using a linear model (Since the number of shareholder proposals which received majority support are so few, any logit or probit model specifications for predicting which proposals will actually pass (Pound (1988); Brickley, Lease, and Smith (1988); Smith and Ramsey (1990)) are not useful.). More formally, we estimate the regression equation:

$$\begin{matrix} Voted\ in \\ Favor \end{matrix} = \beta_0 + \beta_1 \begin{pmatrix} Percent \\ Institutional \end{pmatrix} + \beta_2 \begin{pmatrix} Percent \\ Beneficial \end{pmatrix} + \beta_3 \begin{pmatrix} Percent \\ Insider \end{pmatrix} + \beta_4 \begin{pmatrix} Coefficient\ of \\ Variation - Institutional \\ Ownership \end{pmatrix} + \beta_5 \begin{pmatrix} Percent \\ Inside \\ Directors \end{pmatrix} + \beta_6 \begin{pmatrix} Classified \\ Board \end{pmatrix} + \epsilon \quad (1)$$

where each of these variables and their hypothesized relationship to the level of voting support for the shareholder proposals are outlined in the grid found below:

Variable	Definition	Hypothesized Relationship to Voter Support
Voted in Favor	the percent of shares voted in favor of the proposal as a percent of votes cast	Not applicable.
Percent Institutional	the fractional ownership position of institutional shareholders as defined herein	+ Institutional owners are value oriented investors.
Percent Beneficial	the fractional ownership position of beneficial shareholders as defined herein	+ Beneficial owners are value oriented investors.
Percent Insider	the fractional ownership position of inside shareholders as defined herein	- The ownership stake of directors and officers (insider ownership) influences voting outcome. Holding everything else constant, the greater the ownership stake of directors and officers in the corporation, the more likely they will vote for value-enhancing proposals. This is because directors and officers financially benefit from any stock price appreciation by a higher absolute amount resulting from the voting outcome. Consequently, the likelihood that a shareholder proposal is value enhancing is less where insiders own a larger fraction of the firm's shares.
Coefficient of Variation — Institutional Ownership	the coefficient of variation of institutional ownership as defined herein	- The higher the dispersion of institutional ownership the lower the support for shareholder proposals based on the increased cost to organize collective support for a proposal.
Percent Inside Directors	the fraction of directors who are insiders as defined herein	+ Insider directors hold managerial positions or have close ties to the firm's management thus a higher percentage of inside directors would imply a higher likelihood that a shareholder proposal is value enhancing to shareholders.
Classified Board	a binary variable taking a value of one if a classified or staggered board and zero otherwise	+ Classified boards are more difficult to change and favor managerial over shareholder interests. Consequently, we would expect more support for shareholder proposals for firms with classified boards.

Data Sources

The 2013 voting results were assembled by Georgeson from an independent survey of companies that (1) were U.S. members of the S&P Composite 1500 Index as of January 2013 and (2) held annual meetings within the first six months of the calendar year. Georgeson reported 263 corporate governance shareholder proposals. Our sample contains 253 shareholder proposals where a complete data set was able to be compiled.

The voting outcomes were reported and compiled by Georgeson as the percent of votes cast. The data for 2013 on beneficial share ownership was obtained from each company's proxy statement as required to be reported by the SEC.

The SEC also requires timely disclosure by officers, directors and 10% principal stockholders of any company having securities registered with the SEC. The security positions for all restricted and unrestricted common stock and convertible issues are included. This information is compiled from Forms 3 and 4 filed with the SEC. The total direct ownership for each company was used. This reduced the possibility of situations of shared voting authority and/or dispositive power since the indirect ownership line items may reflect ownership claims of the same shares. This prevents double counting when aggregating inside ownership amounts. The data for 2013 on inside share ownership was obtained from each company's proxy statement.

Rule 13f-1 of the Securities Act Amendments of 1975 requires institutional investment managers to file Form 13F if they exercise discretion over accounts with combined equity assets exceeding $100 million. A filing exemption is allowed for equity holdings under 10,000 shares and less than $200,000. The data for 2013 on institutional ownership was obtained from Thomson-Reuters Institutional Holdings 13F database.

By the very nature of the reporting deadlines with the SEC relative to any ownership change made by institutional, beneficial, and inside owners and the voting date of the proposals, there is temporal mismatching in the data. We rely on the findings of Brickley, Lease and Smith (1988) in their study on ownership structure and voting on antitakeover amendments, where they found virtually identical results whether using institutional ownership data as of one specific date for all companies in the sample, as we did, using data from calendar yearend or using data from the month closest to the vote.

The coefficient of variation of share ownership by institutional shareholders was calculated as the standard deviation of shares owned by institutions divided by the average number of shares held by institutions.

Information on the board of director's composition for 2013 was obtained from each company's proxy statement. The election of directors section of each proxy statement for 2013 provided the information necessary to determine whether a company had a classified board of directors.

The data for 2013 on the book value of total assets and the market value of the common stock held by non-affiliates of the companies was obtained from each company's balance sheet for the most recent quarter ended prior to each shareholder meeting date. The natural logarithm was computed for the book value of total assets and used in the regressions.

Sample Description

Tables 1 through 6 provide descriptive information for our test sample. Table 1 describes the number of corporate governance shareholder proposals both for 1990 and 2013. We include the 1990 data to provide historical perspective for the 2013 test year.

The most prominent changes in shareholder proposals between 1990 and 2013 relate to the increase in the number and breadth of compensation related proposals. Additionally, several entity risk and governance structure proposals were submitted in large numbers in 2013, including 53 proposals for "independent board Chairman/separate Chair-CEO". The proliferation of several high profile fraud cases and the enactment of the Sarbanes-Oxley legislation are likely two major reasons for the change in the types of proposals being submitted.

Table 2 describes the average level of support for each of the types of shareholder proposals for both 1990 and 2013. Overall, the percent support increased between the two periods with 25.9% voting for the shareholder proposals in 1990 compared to 38.1% in 2013. Note, however that there were only six types of proposals that were made in both 1990 and 2013 with the remainder being unique to each period. Tables 3 and 4 provide further details regarding the support for shareholder proposals by listing the 20 proposals that received the most (Table 3) and least (Table 4) voter support. The average percent of the ballots cast for the proposals in 2013 was 87.5% for the top 20 proposals, 70% were sponsored by pension funds, with "repeal classified board" being the most frequently sponsored proposal type out of the top 20 at 70%. On the other hand, labor unions and individuals represented 80% of the 20 proposals receiving the lowest level of voting support.

Table 5 provides summary statistics regarding the number of proposals, the number of sponsors and the success rate. This data indicates that the success rate for passage of shareholder proposals increased four-fold from 1990 to 2013 (5.4% and 21.3%, respectively) although the total number of proposals dropped from 294 to 263.

Table 6 lists the top 10 shareholder proponents as well as the type of proposal they favor and total number of such proposals. These ten proponents were responsible for submitting 158 of the 263 shareholder proposals contained in our study. It is apparent from this list that individual activists and labor unions are the most active sources of shareholder proposals and, as we noted earlier in Table 4, these two groups offered 80% of the proposals receiving the lowest level of voter support.

For our original 2013 sample of 263 shareholder proposals, 253 proposals had a complete set of data required to estimate equation (7).

Predicting Voting Outcomes for Shareholder Proposals

Table 7 reports the results from two regressions estimated using ordinary least squares (OLS). Each regression estimates the relation between the voting outcome based on the percent of shares voted in favor of the proposal and specific independent variables capturing ownership and corporate governance statistics of each firm.

Regression 1 reports results for the model utilizing all shareholder proposals in 2013 but none of the three control variables. We include one control variable for firm size (book value of total assets), and two control variables related to historical performance. The latter include the market to book value of equity ratio, and the most recent one year stock return. Regression 2 adds all three control variables to the model as explanatory variables.

Only one of the control variables (book value of total assets) achieves significance. The larger the firm, the lower the vote support for the shareholder proposal. Neither of the two historical performance measures is significantly related to voting outcome.

Ownership (Inside, Beneficial and Institutional)

Table 7 reveals that the coefficient on "Percent Institutional" is positive and significant indicating that higher institutional ownership is associated with greater voter support for shareholder proposals. For example, in Regression 1, the coefficient on "Percent Institutional" indicates voting outcome is predicted to increase 2% for every 10% increase in the percent of shares owned by institutions. For the other outside shareholder category, "Percent Beneficial", which accounts for the fraction of beneficial ownership, for 2013 the coefficient is negative and statistically insignificant.

These findings can have a major impact on proxy solicitation strategies by management and dissident shareholders. This method of "flexing some muscle" by the institutional owners is probably the least costly form of exerting influence in terms of liability, regulation and policy exposure. A similar argument can no longer be made for beneficial owners.

Table 7 reports the results for the coefficients on inside ownership. The coefficients on the "Percent Insider" variable are negative but insignificant. Thus, although a high insider ownership might be consistent with a greater shareholder focus we find no evidence that insider holdings impact voter outcome.

Board Composition and Structure

Higher fractions of insiders on the board of directors, other things remaining the same, is generally thought to be an indication of managerial control of the board and an indication a potential lack of shareholder focus. Given the arguments we have posed earlier, poor governance should indicate a need for value focused shareholder proposals and consequently higher voter support. Indeed, this is what we find as higher insider board composition is associated with higher voter support for shareholder proposals (again, we are operating under the premise that shareholder proposals are shareholder interest focused).

Another board structure variable which has a statistically significant positive relationship with shareholder proposal voting outcomes is the staggered or classified/not staggered or classified director elections. If one views share ownership as a "bundle or portfolio of rights," a staggered board in isolation diminishes the ability of the shareholder to make timely changes to the board membership thus reducing one aspect of the rights in the "portfolio." A shareholder can offset this by enhancing his rights in some other area of the "rights portfolio." If shareholders understand the wealth effects of more entrenched directors and thus management, then they should logically attempt to offset this effect by increasing their support for other wealth enhancing shareholder proposals.

The results in Table 7 show that the coefficient on the "Classified Board" variable is positive and significant for the all shareholder proposals specifications for 2013. The impact on voting outcome is substantial with the level of support for shareholder proposals increasing no less than 17.7% if a company's board is classified. It is clear the increased level of support on voting outcome for companies with a classified board is important for shareholder proponents to consider. This supports the idea that shareholders attempt to increase their "bundle of rights" as reflected through the voting outcome on corporate governance shareholder proposals when they own stock in companies with staggered boards.

Proposal Sponsor

Earlier we argued that stockholder perceptions as to whether a particular shareholder proposal is shareholder friendly (i.e., value enhancing) or not may be influenced by who sponsors the proposal. The Georgeson database separately tracks each of the shareholder proponents that have submitted corporate governance proposals that came to a vote. In addition, Georgeson identifies who the sponsor is of each shareholder proposal.

The model specification also leads to an indirect test of the hypothesis of Black (1990) which posits that the level of shareholder proposal sponsorship by institutions will be primarily a result of marginal cost/benefit analysis which in turn is a function of agenda control, conflicts of interest and economies of scale. Based on his assumptions he concludes that public pension funds are expected to be the most active proponents. Black stresses, however, that the legal risks faced by shareholder proponents not only once a proposal is successfully put on the proxy, but particularly the hurdles faced to get it on the proxy, were insurmountable in most cases. This may be a major reason why the number of shareholder proposals put to a vote in 2013 was only 263.

The model specification we use to include different categories of shareholder sponsors utilizes a dummy variable structure to identify a proposal sponsor. The results of these models are reported in Table 8.

These results may certainly be influenced by the type of proposal submitted by the sponsor. There may also be selection bias in that the pensions are more likely to sponsor proposals where they expect to garner a higher level of support than the individual sponsors who may have utility maximizing functions which include other factors than high levels of shareholder support (a "do it for the principle" mentality). The results may be a misleading indicator of activism since the pension sponsors, like many of the other proponents, will negotiate settlements with a target company in return for withdrawing its proposal. Thus, there are more proposals initiated than ultimately voted on.

One group that has impacted the 2013 results from efforts several decades ago would be the United Shareholders Association ("USA"). This non-profit grassroots organization was formed to promote the rights of the individual shareholder. Disbanded in 1991 after claiming to have achieved its goals, the group's largest impact was on trying to create a "level playing field" for shareholders. This was accomplished primarily through lobbying efforts with Congress and the SEC on proxy reform, and one share one vote issues.

In the Gordon and Pound (1993) study and consistent with our findings is that none of their sponsor types had a negative association with the voting outcomes. For 2013 we grouped the sponsors into four types—labor union, pension fund, individual and other. The data reveals that no sponsor type had a negative coefficient, whether a union or individual. In particular, proposals sponsored by pension funds had the largest positive impact on voting support exceeding 15%.

Control Variables—Firm Size, Market to Book Value and One Year Return

Tables 7 and 8 show the effect of all three control variables on the regressions. When all three measures are included in the model specification, the coefficient on "Market to Book Value" is insignificant. However, the coefficient on "Book Value--Total Assets" is significant and negative indicating that proposal support is weaker for larger firms. Finally, the coefficient on "1 Year Return" is insignificant which indicates that a firm's prior year performance has no bearing on the level of support for a shareholder proposal.

Conclusion

This study analyzes ownership and board structure characteristics and their effect on the level of support for shareholder governance proposals. Our findings suggest that a poor internal governance structure increases the likelihood that shareholder proposals will receive a higher proportion of yes votes. Of particular note was the fact that firms with classified boards experienced higher voting support (yes votes) for shareholder sponsored proposals. In addition, firms with higher levels of institutional ownership also received greater voting support for shareholder proposals suggesting that institutions generally support shareholder interests by voting for shareholder proposals.

When variables identifying sponsor types were incorporated into the analysis only proposals sponsored by pension funds received significantly higher voting support. This result, like institutional ownership, suggests that shareholder proposals from pension fund sponsors are viewed by voting shareholders as being consistent with shareholder interests. The other shareholder proposal groups analyzed were labor unions and individuals and neither of these groups had a significant effect on voting outcomes.

Limitations of the Study

Studies of shareholder proposals face a selection bias problem. Specifically, the results of any study of proxy voting outcomes reflects only those shareholder proposals that were not settled outside of the proxy vote, and which met all of the provisions of SEC Rule 14a-8 of the Securities Exchange Act of 1934 pertaining to proposal submission for inclusion in a proxy. In other words, there are many shareholder proposals that never make it to a proxy vote either because they failed to meet the SEC compliance requirements to be put on the proxy, or were settled between the company and the shareholder outside of a vote. Since we study shareholder proposals that make it to the proxy vote, we study a subset of the universe of shareholder proposals initially submitted to companies.

This sample bias serves to make it even more difficult to predict voting outcomes. The reason is that management might use the same variables we use when deciding whether to settle the issue privately. That is, it is surprising that we are able to predict voter support for shareholder proposals given that management could have used the same variables we include in our analysis when analyzing whether or not to settle with the proponents of the shareholder proposal.

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Appendix

Table 1. Number Corporate Governance Shareholder Proposals, 1990 vs. 2013

Shareholder proposals	1990	2013
Add sustainability performance metrics to compensation	--	2
Adopt and disclose CEO succession planning guidelines	--	1
Adopt performance metric for compensation plans	--	2
Advisory committees	1	--
Amend supermajority vote requirement	4	15
Annual meeting location	2	--
Anti-greenmail	2	--
Approve auditors	2	--
Approve or limit executive death benefits	--	2
Approve reincorporation	--	2
Approve/disclose supplemental retirement plans	--	3
Award performance-based stock options	--	1
Benchmarking compensation vs. peers	--	4
Compliance disclosure	--	1
Confidential voting	51	1
Counting shareholder votes	1	--
Deny indemnification of directors	--	1
Disclose compensation	13	--
Eliminate accelerated vesting in termination/change-of-control	--	26
Eliminate cumulative voting	--	1
Eliminate dual class stock	--	5
Equal access to the proxy	--	11
Establish bonus deferral policy	--	1
Golden parachutes	12	3
Improve post-meeting reports	2	--
Independent board Chairman/separate Chair-CEO	--	53
Independent nominating committee	1	--
Limit director tenure	7	1
Limit director's service on outside boards	--	3
Majority vote to elect directors	--	20
Minimum stock ownership by directors	24	--
Multiple candidate elections	--	1
Nominate director with environmental expertise	--	2
Opt out of state takeover law	6	--
Other corporate governance proposals	18	--
Provide for cumulative voting	50	--
Redeem or vote on poison pill	41	--
Repeal classified board	47	23
Report on employee code of conduct	--	1
Report on pay disparity	--	2
Report on recouping executive compensation	--	1
Report on risk oversight management	--	1
Require equity to be retained	--	34
Restore preemptive rights	8	--
Restrict compensation	1	1
Shareholders' right to act by written consent	--	26
Shareholders' right to call a special meeting	--	10
Study sale or spinoff/increase shareholder value	--	2
Targeted share placements	1	--
Totals	294	263

Source: Sander, William F., 1991, Shareholder voting almanac, (Investor Responsibility Research Center, Washington, DC), and 2013 Annual corporate governance review, (Georgeson, New York, NY).

Table 2. Average Level of Support for Corporate Governance Shareholder Proposals, 1990 vs. 2013

Shareholder Proposals	1990	2013
Add sustainability performance metrics to compensation	--	6.9*
Adopt and disclose CEO succession planning guidelines	--	7.0*
Adopt performance metric for compensation plans	--	23.2*
Advisory committees	45.5*	--
Amend supermajority vote requirement	41.4	71.7
Annual meeting location	9.4*	--
Antigreenmail	24.8*	--
Approve auditors	29.4*	--
Approve or limit executive death benefits	--	38.0*
Approve reincorporation	--	3.3*
Approve/disclose supplemental retirement plans	--	30.1
Award performance-based stock options	--	36.6*
Benchmarking compensation vs. peers	--	12.2
Compliance disclosure	--	38.8*
Confidential voting	33.5	41.5*
Counting shareholder votes	29.3*	--
Deny indemnification of directors	--	3.3*
Disclose compensation	7.8	--
Eliminate accelerated vesting in termination/change-of-control	--	32.9
Eliminate cumulative voting	--	26.5*
Eliminate dual class stock	--	29.5
Equal access to the proxy	--	31.8
Establish bonus deferral policy	--	24.9*
Golden parachutes	28.1	44.4
Improve post-meeting reports	18.9*	--
Independent board Chairman/separate Chair-CEO	--	31.5
Independent nominating committee	13.2*	--
Limit director tenure	9.0	5.7*
Limit director's service on outside boards	--	4.1
Majority vote to elect directors	--	58.6
Minimum stock ownership by directors	13.6	--
Multiple candidate elections	--	3.7*
Nominate director with environmental expertise	--	12.9*
Opt out of state takeover law	36.6	--
Other corporate governance proposals	16.0	--
Provide for cumulative voting	17.7	--
Redeem or vote on poison pill	42.1	--
Repeal classified board	25.8	79.5
Report on employee code of conduct	--	0.0*
Report on pay disparity	--	6.9*
Report on recouping executive compensation	--	14.7*
Report on risk oversight management	--	4.0*
Require equity to be retained	--	24.3
Restore preemptive rights	11.2	--
Restrict compensation	10.2*	4.4*
Shareholders' right to act by written consent	--	40.3
Shareholders' right to call a special meeting	--	41.7
Study sale or spinoff/increase shareholder value	--	27.1*
Targeted share placements	26.9*	--

* Votes on fewer than three proposals were used to calculate this average.

Sources: Sander, William F., 1991, Shareholder voting almanac, (Investor Responsibility Research Center, Washington, DC), and the 2013 Annual corporate governance review, (Georgeson, New York, NY).

Table 3. Twenty Shareholder Proposals Receiving the Highest Proportion of Supporting Votes

This table provides data on the twenty corporate governance shareholder proposals that received the highest proportion of votes cast for the 255 proposals in the sample voted on from January 1, 2013 to June 30, 2013. The data includes the name of the firm, name of the shareholder sponsor, type of sponsor, the type of proposal, and the percentage of votes cast for the proposal.

Firm	Sponsor	Type	Proposal	Votes Cast for Proposal
BorgWarner	Nathan Cummings Foundation	Other	Repeal classified board	98.4%
Teradata Corporation	North Carolina Dept. of State Treasurer	Pension Fund	Repeal classified board	98.4%
Foot Locker, Inc.	North Carolina Dept. of State Treasurer	Pension Fund	Repeal classified board	91.2%
CareFusion Corporation	LACERA	Pension Fund	Repeal classified board	90.7%
Mentor Graphics Corporation	CalSTRS	Pension Fund	Majority vote to elect directors	90.6%
Hospitality Properties Trust	CalPERS	Pension Fund	Repeal classified board	90.1%
Kansas City Southern	J. McRitchie	Individual	Repeal classified board	89.2%
Jarden Corporation	North Carolina Dept. of State Treasurer	Pension Fund	Repeal classified board	88.5%
Netflix, Inc.	Florida State Board of Administration	Pension Fund	Repeal classified board	88.4%
Koppers Holdings Inc.	CalSTRS	Pension Fund	Majority vote to elect directors	87.3%
Rock-Tenn Company	Pension Reserves Investment Mgmt. Board	Pension Fund	Repeal classified board	85.6%
Ameriprise Financial, Inc.	K. Steiner	Individual	Eliminate or reduce supermajority vote requirement	85.4%
Quest Diagnostics Incorporated	J. Chevedden	Individual	Eliminate or reduce supermajority vote requirement	84.8%
Vornado Realty Trust	Illinois State Board of Investment	Pension Fund	Repeal classified board	83.8%
Vornado Realty Trust	UBCJA	Labor Union	Majority vote to elect directors	83.7%
Hess Corporation	J. McRitchie	Individual	Eliminate or reduce supermajority vote requirement	83.5%
Texas Roadhouse, Inc.	New York State Pension Funds	Pension Fund	Repeal classified board	83.3%
Rockwell Collins, Inc.	Pension Reserves Investment Mgmt. Board	Pension Fund	Repeal classified board	83.0%
Ashland Inc.	Pension Reserves Investment Mgmt. Board	Pension Fund	Repeal classified board	82.6%
Jacobs Engineering Group Inc.	Pension Reserves Investment Mgmt. Board	Pension Fund	Repeal classified board	82.2%

Source: The 2013 Annual Corporate Governance Review, (Georgeson, New York, NY).

Table 4. Description of the Twenty Shareholder Proposals Receiving the Lowest Proportion of Supporting Votes

This table provides data on the twenty governance shareholder proposals receiving the lowest proportion of votes cast for the 255 proposals in the sample voted on from January 1, 2013 to June 30, 2013. The data includes the name of the firm, name of the shareholder sponsor, type of sponsor, the type of proposal, and the percentage of votes cast for the proposal.

Firm	Sponsor	Type	Proposal	Votes Cast for Proposal
Google Inc.	Laborers	Labor Union	Adopt and disclose CEO succession planning guidelines	7.0%
Wal-Mart Stores, Inc.	IBEW	Labor Union	Require equity to be retained	7.0%
Caterpillar Inc.	Nathan Cummings Foundation	Other	Add sustainability performance metrics to compensation	6.9%
Dominion Resources, Inc.	R. Amundsen	Individual	Add sustainability performance metrics to compensation	6.8%
E.I du Pont de Nemours and Co.	Int’l Brotherhood of DuPont Workers	Labor Union	Report on pay disparity	6.4%
NiSource Inc.	Utility Workers Union of America	Labor Union	Benchmarking compensation vs. peers	6.1%
Exxon Mobil Corporation	K. Steiner	Individual	Limit director’s service on outside boards	5.7%
General Electric Company	D. Rocheleau	Individual	Limit director tenure	5.7%
Goldman Sachs Group, Inc.	J. McRitchie	Individual	Proxy access	5.2%
Newfield Exploration Company	New York State Pension Funds	Pension Fund	Nominate director with environmental expertise	4.9%
General Electric Company	T. Roberts	Individual	Restrict or cap executive compensation	4.4%
Netflix, Inc.	M. Young	Individual	Proxy access	4.4%
Bank of America Corporation	K. Steiner	Individual	Limit director’s service on outside boards	4.3%
Chesapeake Energy Corporation	New York State Pension Funds	Pension Fund	Report on risk oversight management	4.0%
OGE Energy Corp.	G. Armstrong	Individual	Approve reincorporation	3.8%
General Electric Company	M. Harangozo	Individual	Multiple candidate elections	3.7%
Citigroup Inc.	Harrington Investments	Other	Deny indemnifications of directors	3.3%
Chesapeake Energy Corporation	G. Armstrong	Individual	Approve reincorporation	2.7%
American International Group, Inc.	K. Steiner	Individual	Limit director’s service on outside boards	2.3%
Goldman Sachs Group, Inc.	E. Fogel	Individual	Study sale or spinoff/increase shareholder value	1.3%

Source: The 2013 Annual Corporate Governance Review, (Georgeson, New York, NY)

Table 5. Descriptive Statistics for Corporate Governance Shareholder Proposals, 1990 vs. 2013

	1990	**2013**
Number of Shareholder Proposals	294	263
Shareholder Proposals that Passed	16	56
Success Rate	5.4%	21.3%
Shareholder Sponsors	86	59

Compiled from data in: Sander, William F., 1991, Shareholder voting almanac, (Investor Responsibility Research Center, Washington, DC), and the 2013 Annual corporate governance review, (Georgeson, New York, NY).

Table 6. Top 10 Shareholder Proponents, Proponent Type, and Number of Proposals Submitted for Vote in 2013

Proponent	**Type of Proponent**	**Number**
J. Chevedden	Individual	53
K. Steiner	Individual	25
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)	Labor Union	15
J. McRitchie	Individual	12
International Brotherhood of Electrical Workers (IBEW)	Labor Union	11
G. Armstrong	Individual	9
United Brotherhood of Carpenters and Joiners of America (UBC)	Labor Union	9
California State Teachers' Retirement System (CalSTRS)	Pension Fund	9
American Federation of State, County & Municipal Employees (AFSCME)	Labor Union	8
R. Chevedden	Individual	7

Source: The 2013 Annual Corporate Governance Review, (Georgeson, New York, NY).

Table 7. Predicting Voting Outcome on Shareholder Proposals

The Results from a Linear Analysis of Voting Outcomes for Shareholder Proposals using the Percent of Stock Held by Institutions, Percent of Stock Held by Beneficial Owners, Percent of Stock Held by Insiders, Coefficient of Variation of Institutional Stock Ownership, Percent of Inside Directors, a Dummy Variable for Classified or Non-Classified Board, Total Assets, Market to Book Value and 1 Year Return as Explanatory Variables

Model	Voting Method	N	Intercept	Percent Institutional	Percent Beneficial	Percent Insider	Coefficient of Variation-Institutional Ownership	Percent Inside Directors	Classified Board	Book Value-Total Assets	Market to Book Value	1 Year Return	R^2	F-statistic
1 All Shareholder Proposals	Percent Voted	253	0.2285 1.83*	0.2392 2.14*	(0.0749) (0.75)	(0.4093) (1.21)	(0.0228) (1.88)*	0.3480 1.81*	0.1770 6.03*				0.2505	15.0344
2 All Shareholder Proposals	Percent Voted	253	0.6330 3.59*	0.2226 1.94*	(0.2473) (2.16)*	(0.4994) (1.49)	0.0061 0.39	0.2921 1.50	0.1575 5.33*	(0.0444) (3.07)*	(0.0203) (1.20)	0.0358 1.10	0.2732	11.5263

Note - The equation estimated is Voted in Favor = $\beta_0 + \beta_1$ (Percent Institutional) + β_2 (Percent Beneficial) + β_3 (Percent Insider) + β_4 (Coefficient of Variation-Institutional Ownership) + β_5 (Percent Inside Directors) + β_6 (Classified Board) + β_7 (Book Value-Total Assets) + β_8 (Market to Book Value) + β_9 (1 Year Return)

where

Voted in Favor	=	the percent of shares voted in favor of the proposal as a percent of votes cast.
Percent Institutional	=	the fractional ownership position of institutional shareholders as defined herein.
Percent Beneficial	=	the fractional ownership position of beneficial shareholders as defined herein.
Percent Insider	=	the fractional ownership position of inside shareholders as defined herein.
Coefficient of Variation	=	the coefficient of variation of share ownership by institutions as defined herein.
Percent Inside Directors	=	the fraction of directors who are insiders as defined herein.
Classified Board	=	a binary variable taking a value of one if a classified or staggered board and zero otherwise.
Book Value–Total Assets	=	the natural logarithm of the book value of total assets.
Market to Book Value	=	market value of equity to book value of total assets.
1 Year Return	=	1 year stock return.

N = the number of observations.

The coefficient estimate divided by the standard error of the estimate is below each estimated coefficient.
For the t-statistics, * indicates statistical significance from zero at the 5-percent level in a one-tail test for all coefficients except the intercept.

Table 8. Analysis of Voting Outcomes on Shareholder Proposals—Controlling for Proposal Sponsor

The Results from a Linear Regression Analysis of Voting Outcome to Shareholder Proposals using the Percent of Stock Held by Institutions, Percent of Stock Held by Beneficial Owners, Percent of Stock Held by Insiders, Coefficient of Variation of Institutional Stock Ownership, Percent of Inside Directors, a Dummy Variable for Classified or Non-Classified Board, Dummy Variables for Shareholder Sponsors (Labor Union, Pension Fund, Individual), Total Assets, Market to Book Value, and 1 Year Return as Explanatory Variables

Model	**Voting Method**	**N**	**Intercept**	**Percent Institutional**	**Percent Beneficial**	**Percent Insider**	**Coefficient of Variation-Institutional Ownership**	**Percent Inside Directors**	**Classified Board**	**Labor Union**	**Pension Fund**	**Individual**	**Book Value-Total Assets**	**Market to Book Value**
3 All Shareholder Proposals	Percent Voted	253	0.1710 1.20	0.2485 2.28*	(0.0464) (0.48)	(0.5133) (1.57)	(0.0216) (1.83)*	0.3172 1.70*	0.1391 4.66*	0.0139 0.20	0.1632 2.35*	0.0387 0.58		
4 All Shareholder Proposals	Percent Voted	253	0.5623 3.00*	0.2399 2.15*	(0.2124) (1.91)*	(0.6081) (1.87)*	0.0069 0.45	0.2889 1.53	0.1229 4.11*	0.0037 0.05	0.1537 2.24*	0.0409 0.62	(0.0433) (3.05)*	(0.0246) (1.49)
			1 Year Return	**R^2**	**F-statistic**									
3 All Shareholder Proposals				0.2981	12.8941									
4 All Shareholder Proposals			0.0322 1.02	0.3177	10.7782									

Table 8. (Continued)

The Results from a Linear Regression Analysis of Voting Outcome to Shareholder Proposals using the Percent of Stock Held by Institutions, Percent of Stock Held by Beneficial Owners, Percent of Stock Held by Insiders, Coefficient of Variation of Institutional Stock Ownership, Percent of Inside Directors, a Dummy Variable for Classified or Non-Classified Board, Dummy Variables for Shareholder Sponsors (Labor Union, Pension Fund, Individual), Total Assets, Market to Book Value, and 1 Year Return as Explanatory Variables

Note - The equation estimated is

Voted in Favor = β_0 + β_1 (Percent Institutional) + β_2 (Percent Beneficial) + β_3 (Percent Insider) + β_4 (Coefficient of Variation-Institutional Ownership) + β_5 (Percent Inside Directors) + β_6 (Classified Board) + β_7 (Labor Union) + β_8 (Pension Fund) + β_9 (Individual) + β_{10} (Book Value-Total Assets) + β_{11} (Market to Book Value) + β_{12} (1 Year Return)
where

Voted in Favor	=	the percent of shares voted in favor of the proposal as a percent of votes cast.
Percent Institutional	=	the fractional ownership position of institutional shareholders as defined herein.
Percent Beneficial	=	the fractional ownership position of beneficial shareholders as defined herein.
Percent Insider	=	the fractional ownership position of inside shareholders as defined herein.
Coefficient of Variation	=	the coefficient of variation of share ownership by institutions as defined herein.
Percent Inside Directors	=	the fraction of directors who are insiders as defined herein.
Classified Board	=	a binary variable taking a value of one if a classified or staggered board and zero otherwise.
Labor Union	=	a binary variable taking a value of one if proposal sponsored by a labor union and zero otherwise.
Pension Fund	=	a binary variable taking a value of one if proposal sponsored by a pension fund and zero otherwise.
Individual	=	a binary variable taking a value of one if proposal sponsored by an individual and zero otherwise.
Book Value–Total Assets	=	the natural logarithm of the book value of total assets.
Market to Book Value	=	market value of equity to book value of total assets.
1 Year Return	=	1 year stock return.

N = the number of observations.

The coefficient estimate divided by the standard error of the estimate is below each estimated coefficient.
For the t-statistics, * indicates statistical significance from zero at the 5-percent level in a one-tail test for all coefficients except the intercept.

Table 9. Descriptive Statistics of Firm Characteristics for Firms Involved in Shareholder Proposals in 2013

Model	Voting Method	Percent Voted for Proposal	Percent of Shares Owned By: Institutions	Percent of Shares Owned By: 5% Beneficial	Percent of Shares Owned By: Insiders	Coefficient of Variation of Shares Owned by Institutions	Percent of Insiders on Board	Board Type-Classified (1), Not Classified (0)	Book Value – Total Assets ($thousands)	Market to Book Value	1 Year Return (Percent)
All Shareholder Proposals	Percent Voted	38.09 (22.87)	73.55 (14.49)	21.44 (14.12)	2.52 (4.52)	4.64 (1.38)	14.49 (8.01)	0.33 (0.47)	133,149.54 (360,458.54)	1.10 (0.98)	10.48 (40.83)
	Sponsor- Labor Union (1), Other (0)	**Sponsor – Pension Fund (1), Other (0)**	**Sponsor – Individual (1), Other (0)**								
All Shareholder Proposals	0.25 (0.44)	0.22 (0.42)	0.49 (0.50)								