

NAVIGATING SHAREHOLDER ENGAGEMENT DISCLOSURES

Effective investor outreach can help boards understand and address investor issues—and avoid negative board votes. *By Etelvina Martinez and Michael Vogeles*

WITH JANUARY 2024 in the books, most companies have concluded their shareholder and proxy advisor engagement sessions and are commencing the unenviable task of drafting their annual proxy disclosures. These engagements were centered on hearing what compensation, governance, environmental and social (E&S), or sustainability risks an investor may perceive and ways to avoid future negative voting decisions. With this feedback in hand, companies are now asking themselves how much of it they ought to disclose in their 2024 proxy statements.

While for many companies investor outreach has become an annual practice, aimed at building relationships and staying attuned to evolving investor expectations, others undergo this process to demonstrate board responsiveness following a low vote or to get ahead of a potential issue during proxy voting season. For those companies, thoroughly communicating the engagement process and the board's response to feedback received from investors is a critical exercise that if not completed adequately can land directors in hot water.

In fact, perceived lack of responsiveness following either a management proposal with low support or a shareholder proposal with majority support is a key driver of low director support the following year. According to ISS, inadequate board responsiveness was the probable leading vote driver for 17 directors who received less than majority support from shareholders during the first half of 2023¹. For context, within the Russell 3000, 38 directors failed to receive majority support during the first half of 2023.

To get any type of credit from investors and proxy advisors, proxy disclosures must disclose engagement efforts in detail. Companies should acknowledge the scope of the outreach, which includes disclosing the number of shareholders contacted and the number of shareholders the company engaged with. From the company side, many engagements are led by an independent



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director. Particularly for companies attempting to rebound from a poor vote, it is important to note the company participants, including independent directors. It is also critical that the proxy disclosure note the feedback the company heard from investors, both the positive and negative, and, most importantly, how the company is reacting to shareholder concerns. Are changes being made based on this feedback and if not, why?

This type of information not only reinforces cooperation by demonstrating actions through dialogue, but it also exhibits to those shareholders that the company didn't interact with that it can change its policies. Companies, for their part, hope that the recent conversations will result in support at their shareholder meetings, be that board elections, say-on-pay, equity grants, article amendments or even the support against any shareholder proposals.

One obstacle that some companies run

into when making decisions on changes to reflect shareholder feedback is that many institutional investors will not have published their updated proxy voting guidelines. Meaning that companies may not know if their stakeholders will have adopted new red line policies or whether they have moved the goal posts on another guiding principle, such as the number of external mandates for non-executive board members. Furthermore, this timing on the publication of updated guidelines complicates even the addressing of comply-or-explain matters, as companies are not able to determine what shifts have occurred in proxy voting guidelines.

This again is another area where professionally managed shareholder engagement pays effective long-term dividends. By speaking with governance/stewardship teams in late fall or early winter, companies may be able to determine where the pressure points are going to be in the next voting cycle. Additionally, Alliance Advisors' experience has been that should an investor have pre-existing concerns with a policy, they will be forthcoming in their feedback and offer suggestions for improvement.



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¹ 2023 Proxy Season Review – Director Elections & Governance, Institutional Shareholder Services [ISS].