WHITE PAPER | PROXY FOR PUBLIC COMPANIES

Cultivating Retail Voting Participation — What's Effective?

Introduction

Smooth or stressful? The nature and outcome of an organization's annual meeting and shareholder voting depend on a variety of factors, including the company's relative mix of investors (institutional, retail, insider, employee), particular ballot issues, vote requirements, proxy-adviser recommendations and level of solicitation outreach.

For some companies, particularly those with significant inside or friendly ownership, the proxy statement and related annual shareholder meeting remain primarily compliance exercises. For more widely owned companies, they are increasingly a way to communicate with — and obtain voting support from — the percentage of owners necessary to support management's proxy agenda. This agenda can be key to achieving strategic business goals, and can include measures such as the election of directors, Say on Pay, amendments to equity plans, increases in capital stock, mergers and rebutting shareholder proposals opposed by the company. In the current environment of heightened activism and concern over the role and influence of proxy advisers, the stakes are high, and companies must appeal to a range of investors for support.

Most companies understandably focus their proxy solicitation efforts primarily on their larger institutional investors, which may collectively own 70-90 percent of their shares. Many of these investors have fiduciary responsibilities to treat the proxy vote as a valuable asset and to support the best interests of their clients. As a result, they have a strong culture of voting, and it is not unusual for 90 percent or more of the institutionally controlled shares to vote.

The question is: How will they vote?

Cultivating the retail vote can help offset some negative institutional voting and blunt the impact of adverse proxy-adviser recommendations.

Pass/fail or sliding scale?

Many shareholder votes are uncomfortably close, particularly when one or more proxy advisers recommends against management's position on a particular issue.

While many votes are pass/fail, some issues, such as Say on Pay, are evaluated on a sliding scale. Certainly, 51 percent support is better than failing to gain majority support, but even votes of up to 80 percent support can land companies on very visible short lists of organizations experiencing significant opposition.

Proxy advisers will target companies with such levels of opposition for extra scrutiny. ISS, for example, will apply heightened scrutiny to companies with 75 percent support or less; Glass Lewis uses an 80 percent support threshold.

Retail investors as the swing vote

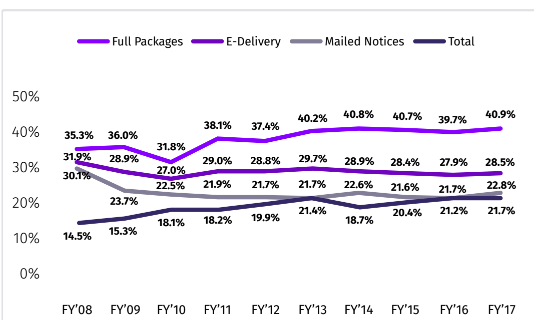
With most companies focusing their proxy messaging and contact efforts on their institutional investors, the retail shareholder base can become the swing vote. Historically, only a minority of retail investors vote, but most that do typically support management's voting recommendations. Also, "larger" retail investors (i.e., those with more shares, and thus a greater economic interest in the company) vote at higher rates than "smaller" retail holders.

Cultivating the retail vote can help offset some negative institutional voting and blunt the impact of adverse proxy-adviser recommendations — and can sometimes tip the balance of support, or help management reach successively higher decile levels of voter backing.

How retail investors receive materials prior to voting — directly or indirectly — can have a serious impact on their engagement. A marked correlation has been observed between the use of Notice & Access and a significant decline in retail voting participation.

Broadridge's recent publication, **Analysis of Traditional and Notice & Access Issuers: N&A Adoption, Distribution and Voting**, indicates that when they *directly* receive full sets of printed proxy materials, 30.9 percent of retail holders, owning 40.9 percent of retail shares, vote. However, when they receive *indirect*, mailed Notices of Internet Availability, those figures drop to just 5 percent of retail holders voting, representing only 21.7 percent of retail shares.

SHARES VOTED % BY DISTRIBUTION TYPE



While the 5 percent rate of retail holders voting upon receipt of notices has remained remarkably consistent over the past decade, there has been a meaningful increase in retail shares voting over this period, from 14.5 percent to 21.7 percent.

Still, this means that 19 out of 20 holders accessing proxy materials indirectly only after receiving the notice will *not* vote, reducing highly supportive retail voting participation almost by half when compared to traditional, direct, full-set mailings.

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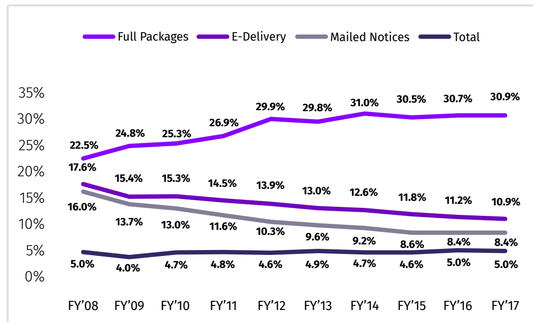
POSITIONS VOTED % BY DISTRIBUTION TYPE



Was this effect of N&A completely unanticipated? In establishing N&A in 2007, the SEC indicated it could not be used for "business-combination transactions" (i.e., merger votes), presumably because such change-in-control transactions were deemed too important to risk with a then-unproven process. Since that time, while its use has been permitted in contested director elections (i.e., proxy fights), we are not aware of it having been used in a major proxy contest, again presumably because the stakes are too high and, given how close some proxy contests have been over the years, every vote truly counts.

This is not to say that N&A has been a complete failure. Companies report success using N&A to achieve environmental goals, to project a tech-savvy appearance and to reduce costs; certainly, many organizations have saved money using N&A, without jeopardizing their vote.

At the same time, many smaller companies have reported that the anticipated cost savings were disappointing or even absent. This may result from companies' straight-line assumptions about cost savings from lowering printing runs. These expectations aren't realistic, since the first proxy statement or annual report costs more to print than the marginal ones (given that design and setup costs are relatively fixed). In other words, when you reduce a print run, you save marginal, not average costs.

It’s within your control!

There are a variety of stratification techniques that companies can employ to maximize cost savings while minimizing retail voting participation impairment.

One of the simplest is to mail full sets to larger retail owners and others with a history of voting participation, and notices to the majority of smaller holders — employing what is commonly known as “the 80/20 rule.”

Companies are also experimenting with different ways to encourage strong retail voting participation, including:

- Redesigning proxy materials — and their packaging — to make them more investor-friendly. This may mean using plain English, including proxy summaries with clear links to expanded discussion of key issues for investors who wish to learn more, adding easy-to-understand graphs and other visual elements, and improving navigation by including a detailed table of contents.
- Reviewing and reconsidering past use of N&A and stratification tactics, in light of the upcoming proposals, vote requirements and solicitation goals.
- Mailing reminder letters and duplicate voting cards to larger shareholders who haven’t voted.
- Having proxy solicitors make telephone calls encouraging voting. (While this has proven effective, some companies and their investors may find such calls intrusive, and sensitive timing is critical.)
- Offering innovative inducements to encourage retail voting. For example, Prudential Financial promised to plant a tree for every registered holder who cast a vote, while Bank of America offered to support worthy charities on behalf of retail investors voting for the first time.

All of these tactics deserve consideration, and together they can function to improve retail voter turnout.

What should you do?

There is no one-size-fits-all answer. In most cases, the best strategy involves a holistic review, including:

1. Analysis of your ownership profile, including the mix of institutional versus retail shareholders.
2. Past voting participation rates from different segments of your shareholder base.
3. Your likely future proxy agenda and vote requirements.
4. Past use of N&A and the financial savings actually achieved.

To help you in this analysis and review process, we encourage you to involve various parties with a stake in the process and a commitment to your success, including:

- Your transfer agent
- Your proxy solicitor
- Broadridge, Mediant and other street-name distribution agents
- Your Donnelley Financial Solutions (DFIN) representative

DFIN will be pleased to provide price quotes for your traditional print quantity, and, for N&A users, potential increases to this run should you expand your use of full-set mailing to enhance retail voting participation. With this information, you’ll be able to truly see the difference between average and marginal printing costs, and make an informed decision.

To discuss these issues further, please contact your DFIN representative, or Ron Schneider, director of corporate governance services, at **ronald.m.schneider@dfinsolutions.com**.