

# New York City Pension Funds



## 2015 Shareowner Initiatives

POSTSEASON REPORT



New York City Comptroller  
**Scott M. Stringer**

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## Corporate Governance and Responsible Investment Program Overview

The New York City Comptroller, as investment adviser to the five New York City pension funds and retirement systems (collectively “the NYC Funds”), is responsible for voting the funds’ domestic proxies and developing and implementing the funds’ shareowner initiatives. The NYC Funds are:

- New York City Board of Education Retirement System (BERS)
- New York City Employees’ Retirement System (NYCERS)
- New York City Fire Department Pension Fund (Fire)
- New York City Police Pension Fund (Police)
- New York City Teachers’ Retirement System (TRS)

Consistent with the fiduciary obligations of the NYC Funds’ Boards of Trustees, the proxy voting and shareowner initiatives programs actively promote sound corporate governance, responsible executive compensation and sustainable business practices at portfolio companies in order to protect and enhance the long-term value of the NYC Funds’ investments.

The Corporate Governance and Responsible Investment program of the New York City Comptroller’s Office develops and implements the proxy voting and shareowner initiative programs of the five systems, including engagement with management and directors at portfolio companies. Program staff present the proposed programs to the Proxy Committee of each system for review and approval. Each Proxy Committee acts on behalf of its respective Board of Trustees.

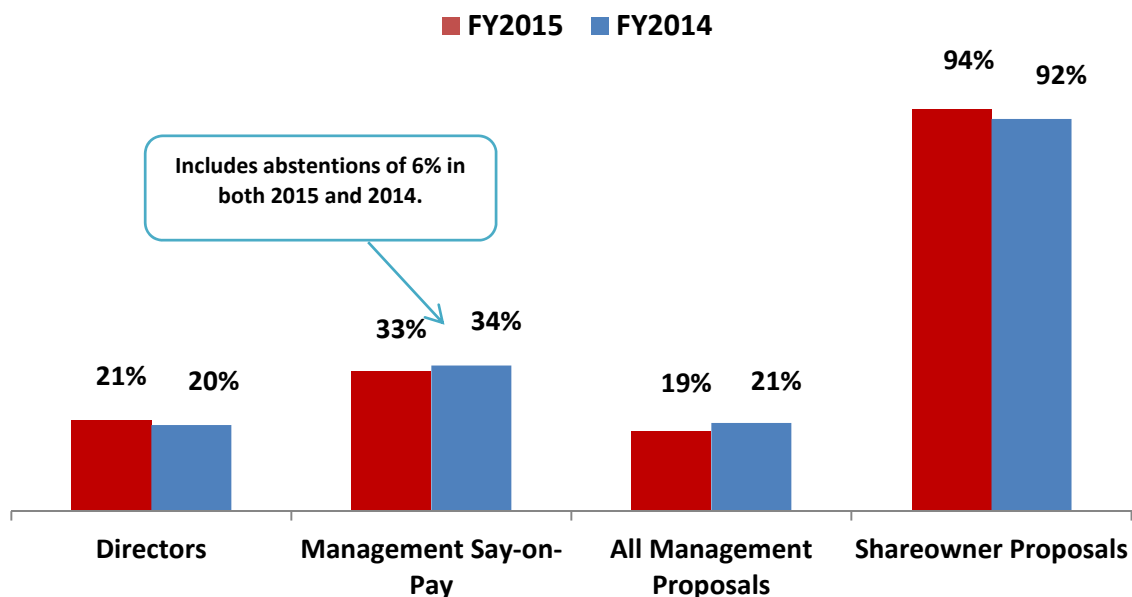
## PROXY VOTING

For the 12 months ending June 30, 2015, the Comptroller’s Office voted on 31,005 individual ballot items at 3,721 annual and special meetings for U.S. portfolio companies. Major proxy voting issues included: (a) the election of directors; (b) management proposals to ratify auditors and approve executive compensation, changes in corporate governance and mergers and acquisitions; and (c) shareowner proposals on a wide range of environmental, social and governance (ESG) policies and practices.

Of all votes cast, 78.7 percent were for the management-recommended vote. However, in accordance with the NYC Funds’ proxy voting guidelines, the Comptroller’s Office voted for most shareowner proposals notwithstanding any management opposition. These included shareowner proposals to strengthen board of director independence and accountability, align executive pay with long-term performance, and promote transparent, sustainable and responsible business practices.

During Fiscal Year 2015, these included, but were not limited to, shareowner proposals calling on companies to enact proxy access, name an independent chair, eliminate accelerated vesting of equity awards for departing executives, adopt a board diversity policy, adopt greenhouse gas emissions goals, conduct a human rights risk assessment, and disclose corporate political and lobbying spending.

### VOTES AGAINST MANAGEMENT RECOMMENDATION



## SHAREOWNER INITIATIVES

In addition to proxy voting, the NYC Funds proactively advance reforms to strengthen corporate governance, align executive pay with long-term performance, and promote sustainable business practices at select companies in which they are shareowners. The NYC Funds are among the most active institutional investors in terms of filing shareowner proposals and also seek to engage with portfolio companies using other approaches (e.g. letters), often in collaboration with other institutional investors.

For the 2015 proxy season, the NYC Funds leveraged both their capacity to file shareowner proposals and their collaborative relationships with leading institutional investors to launch the Boardroom Accountability Project, an ambitious initiative to make boards of directors at U.S. public companies more diverse, independent, and accountable by enacting a fundamental governance reform called “proxy access.”

Proxy access would give investors a meaningful voice in director elections by requiring companies to include shareowner-nominated director candidates in the corporate proxy materials furnished to all shareowners. As a first step, the NYC Funds submitted proxy access shareowner proposals to 75 companies for the 2015 proxy season, selected based on concerns regarding executive compensation, board diversity and risks related to climate change.

In addition to proxy access proposals, the NYC Funds also submitted shareowner proposals for 2015 requesting that companies adopt or strengthen “clawback” policies authorizing the board to recover incentive pay from executives whose improper conduct caused financial or reputational harm to the company; disclose corporate political spending; disclose data on the race and gender of their workforce across major job categories, including senior management; and eliminate dual class stock to ensure equal voting rights for all shareowners.

In total, the NYC Funds submitted 90 shareowner proposals to a total of 86 companies in Fiscal Year 2015, nearly double the number of proposals submitted during the prior fiscal year. The dramatic increase in proposals reflects the launch of the Boardroom Accountability Project. In addition, four proposals submitted in previous fiscal years went to a vote in Fiscal Year 2015.

See pages 19-21 for a complete list of proposals and outcomes by company.

## The Boardroom Accountability Project

### EXECUTIVE SUMMARY

Launched publicly in November 2014 by New York City Comptroller Scott Stringer and the NYC Funds, the Boardroom Accountability Project is a groundbreaking campaign to give shareowners the right to nominate directors at U.S. companies using the corporate ballot, known as “proxy access.” By submitting proxy access shareowner proposals to 75 companies at once, and working in close collaboration with other major institutional investors, the NYC Funds sought to take a major first step to enact proxy access across the U.S. market.

The proposals requested a proxy access bylaw permitting shareowners that have collectively held three percent of the company for at least three years to nominate up to 25 percent of the board using the company’s proxy materials. The terms are identical to those included in a rule enacted by the Securities and Exchange Commission (SEC) in 2010 that provided proxy access at all U.S. public companies, but that was vacated by a federal court on procedural grounds.

The 75 companies included companies that failed to align executive compensation with business performance, companies with little or no apparent gender or racial diversity on their board, and carbon-intensive energy companies that are among the most vulnerable to long-term business risks related to climate change. The 75 shareowner proposals produced very strong results. Among the highlights:

- Seven companies agreed to adopt a meaningful proxy access bylaw, prompting withdrawal of the shareowner proposal. (see page 11)
- Sixty-six proposals went to a vote, receiving very strong investor support averaging 56 percent. About two-thirds of the proposals received majority support, including at Chevron, ConocoPhillips, eBay, Hasbro, Netflix, and Priceline. (see page 12)
- An additional 11 proposals garnered near-majority support, including a 49.9 percent vote at Chipotle Mexican Grill, Inc. and 49.4 percent votes at both Exxon Mobil Corporation and Pioneer Natural Resources. (see page 13)
- Twenty-five companies have subsequently enacted 3-percent/3-year proxy access bylaws as of December 2015, including Anadarko Petroleum, Chevron, ConocoPhillips, Equity Residential, Hasbro, Occidental Petroleum and Priceline Group. Additional companies have said their boards are likely to enact proxy access in the coming months.
- In a July 2015 study, economic researchers at the SEC analyzed the public launch of the Boardroom Accountability Project and found a 0.5 percent average increase in shareowner value at the 75 targeted firms.<sup>1</sup> The findings are consistent with the 2014 CFA Institute study that found that proxy access on a market-wide basis has the potential to raise U.S. market capitalization by as much as one percent, or \$140 billion.<sup>2</sup>

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<sup>1</sup> See [http://www.sec.gov/dera/staff-papers/working-papers/24jul15\\_bhandari\\_public-vs-private.html](http://www.sec.gov/dera/staff-papers/working-papers/24jul15_bhandari_public-vs-private.html)

<sup>2</sup> See <http://www.cfapubs.org/doi/pdf/10.2469/ccb.v2014.n9.1>

- Many companies targeted because of inadequate board diversity named at least one woman and/or minority director after receiving the NYC Funds' proxy access proposal, including CF Industries, eBay, PACCAR, Roper Technologies, SBA Communications and Visteon. While director searches were likely already underway given prior investor engagement on diversity and the time required to select directors, the prospect of proxy access may have helped to accelerate the process and ensure follow through.

The most significant measure of the Project's success, however, is not the results on the 75 shareowner proposals, but rather its broader market impact. As of December 2015, **more than 100 U.S. companies have enacted proxy access bylaws largely consistent with the terms sought by the NYC Funds, up from only six companies one year ago**, and many additional companies have announced their commitment to enact proxy access.

The Manhattan Institute, a conservative think tank that is among the most vocal opponents of shareowner activism by public pension funds, called the Boardroom Accountability Project "the most broadly successful shareholder campaign ever launched by a single public-pension system."<sup>3</sup> The comment referred to the results of the initiative, not the merits of proxy access, which the Manhattan Institute opposes.

The Project's success was made possible with the support and collaboration of many large institutional investors. CalPERS, in particular, provided invaluable support, conducting joint solicitations with the Comptroller's Office in support of nearly 100 proxy access proposals (including those submitted by allied institutional investors) and attending dozens of company annual meetings to present the NYC Funds' proposals. Many other institutional investors also helped to present proposals at annual shareowner meetings across the country.

The Council of Institutional Investors (CII) played a key role. In addition to facilitating investor collaboration on proxy access, CII submitted comment letters to the SEC and published a proxy access best practice guide to inform companies and investors on key bylaw terms.

The rapid uptake of proxy access following years of resistance is the result of an extraordinary chain of events set in motion by the Boardroom Accountability Project. These events, together with relevant background and company-specific outcomes, are described below.

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<sup>3</sup> See (see [http://www.manhattan-institute.org/events/clp\\_09-29-15.htm](http://www.manhattan-institute.org/events/clp_09-29-15.htm) (accessed 10/14/2015))

## BACKGROUND ON PROXY ACCESS, 2003 TO 2014

Proxy access has long been a top priority for the NYC Funds and other institutional investors. When the Securities and Exchange Commission (SEC) first proposed a proxy access rule in 2003 in response to board failures at Enron and WorldCom, then-New York City Comptroller William Thompson called it “undoubtedly, one of the most significant actions taken to reform corporate governance and restore investor confidence in the aftermath of corporate scandals.” There was strong corporate opposition to the proposed rule, however, and the SEC never acted on its proposal.

The NYC Funds welcomed the SEC’s 2009 decision to again propose proxy access as a key response to the governance failures that contributed to the financial crisis of 2008. Following an extensive analysis and public comment period, and pursuant to authorization under the Dodd Frank Act of 2010, the SEC enacted a proxy access rule (Exchange Act Rule 14a-11) in August 2010. The rule provided shareowners that collectively held three percent of a company’s shares for at least three years the ability to nominate director candidates representing up to 25 percent of the board using the company’s proxy materials.

As part of its new rules, the SEC also amended existing Exchange Act Rule 14a-8(i)(8) to remove a prohibition on shareowner proposals relating to proxy access. The SEC’s intent was to: (1) establish “universal” proxy access with a three percent ownership requirement and other terms by enacting Rule 14a-11, and (2) provide investors with the right to submit shareowner proposals to impose less, but not more, restrictive terms at individual companies (“private ordering”) by amending Rule 14a-8(i)(8).

In September 2010, however, the Business Roundtable (BRT) and U.S. Chamber of Commerce challenged the universal rule (Rule 14a-11) in federal court. The NYC Funds, jointly with the Council of Institutional Investors (CII) and other institutional investors, submitted an Amicus brief to the court in support of the rule. The court, however, vacated the universal rule on procedural grounds. The SEC did not appeal, thereby leaving shareowners with only the right to submit proposals seeking proxy access, effective with the 2012 proxy season.

The NYC Funds have been among the most active and successful proponents of proxy access proposals in the first three proxy seasons they were permissible, in all cases requesting terms identical to those in the vacated SEC rule. Six of their seven proxy access proposals that went to a vote between 2012 and 2014 received majority support, and two additional proposals were withdrawn following negotiated agreements.

Given their strong preference for the SEC to reissue its universal rule, which would be the most efficient means to enact uniform and viable proxy access in the U.S., the NYC Funds refrained from filing a larger number of proxy access proposals. Nor did other investors submit many proposals; in total, only 38 proxy access proposals went to a vote between 2012 and 2014, and only a handful of additional proposals were withdrawn due to a company’s agreement to enact proxy access.

By fall of 2014, however, it had become apparent that a re-issued SEC rule was nowhere on the horizon. In addition, an August 2014 study by the CFA Institute found that proxy access, if enacted on a market-wide basis, has the potential to raise U.S. market capitalization by as much as 1.1 percent, or \$140 billion. It also found that in other developed markets around the world where proxy access is allowed, it is used infrequently and with little disruption.



## THE LAUNCH OF THE BOARDROOM ACCOUNTABILITY PROJECT

In October 2014, the Comptroller's Office, on behalf of the NYC Funds, submitted shareowner proposals to 75 companies requesting a proxy access bylaw permitting shareowners that have collectively held three percent of the company for at least three years to nominate up to 25 percent of the board using the company's proxy materials. The NYC Funds publicly announced the Boardroom Accountability Project on November 6, 2014.

In an early indication of investor support and collaboration, major institutional investors joined with the NYC Funds to launch the Project and/or shortly thereafter filed or co-filed proxy access proposals in coordination with the NYC Funds. These institutional investors included CalPERS, CalSTRS, Connecticut Retirement Plans and Trust Funds, Illinois State Board of Investment, Kansas City Firefighters' Pension System, Marco Consulting Group, Miami Firefighters' Relief and Pension Fund, New York State Common Retirement Fund, North Carolina Retirement Systems, Philadelphia Board of Pensions & Retirement, and the UAW Retiree Medical Benefits Trust.

In total, institutional and individual shareowners submitted proxy access proposals to more than 115 companies for the 2015 proxy season, up from only 18 proposals in 2014.

## CORPORATE PUSHBACK

SEC rules require a company to include a properly submitted shareowner proposal in its proxy materials unless the proposal falls within certain defined exclusions. Companies that believe they may exclude a shareowner proposal under one of these exclusions may request that SEC staff issue guidance as to whether the staff concurs with the company's view. If the SEC staff agrees, the SEC staff is said to grant the company "no action relief," and the company may exclude the proposal without fear of recourse from the SEC.

On December 1, 2014, the SEC staff granted Whole Foods no action relief to exclude a proxy access proposal submitted by an individual shareowner, James McRitchie, under Act Rule 14a-8(i)(9), which allows a company to exclude a proposal that "directly conflicts" with a proposal that management expects to present to shareowners for a vote. The management proposal put forward by Whole Foods included highly restrictive and unworkable terms (e.g. a 9 percent ownership requirement limited to one investor).

The Whole Foods decision opened the floodgates and the SEC was quickly inundated with no action requests from companies seeking to deny investors the right to vote on proxy access on the basis that, like Whole Foods, they intended to put forward their own proposal with more restrictive, and likely unworkable, terms. Within six weeks, more than two dozen companies, including 18 NYC Fund focus list companies, sought such relief.

Mr. McRitchie requested an appeal of the staff's decision to the full Commission on December 23, 2014. Prompted by the apparent gaming of the SEC's no action rules, which threatened to undermine the Boardroom Accountability Project, major institutional investors also weighed in at the SEC in support of Mr. McRitchie's appeal. CII, the NYC Comptroller's Office, CalPERS, and the Marco Consulting Group all submitted letters urging the SEC to reverse its decision.

In a critical victory for investors, SEC Chair Mary Jo White issued a statement on January 16, 2015, suspending no action decisions under Rule 14a-8(i)(9) during the current proxy season and directing staff to review the Rule and report to the Commission on its review. Chair White's decision drew strong praise

from institutional investors, including Comptroller Stringer, as well as strong opposition from both the Business Roundtable (BRT) and the U.S. Chamber of Commerce.

The decision meant that a company that excluded a shareowner proposal under Rule 14a-8(i)(9) would do so without the benefit of an SEC no action letter, but it did not change the rule itself. In a letter to proxy advisors ISS and Glass Lewis, the BRT warned that a company's decision to seek court approval to exclude a shareowner proposal should not affect the advisors' vote recommendations (e.g. on the election of directors).

The U.S. Chamber, in a letter to SEC Chair White, expressed "significant concern" regarding her decision and called on the SEC to "undertake a top-to-bottom review" of Rule 14a-8 governing the shareowner proposal process. "It is well-known," according to the U.S. Chamber letter, "that the shareholder proposal process has been dominated by a small group of special interest activists, including groups affiliated with organized labor, certain religious orders, social and public policy advocates, and a handful of serial activists. These special interests use the shareholder proposal process to pursue their own idiosyncratic agendas."

## INSTITUTIONAL INVESTORS RESPOND

Prompted by the BRT's warning to ISS and Glass Lewis, CII responded in late January with its own letter urging the two proxy advisory firms to "pay close attention to the views of investors in shaping the voting policies and recommendations intended for their use." CII said global institutional investors representing trillions in equity investments intended "to hold some directors or the entire board accountable if," based on a conflicting management proposal, "a company elects to litigate or to exclude from its proxy statement a non-binding proxy access shareholder proposal."

Two weeks later, during a proxy access panel discussion at the SEC Investor Advisory Committee meeting, a representative from BlackRock, the largest asset manager in the world, stated that the firm supports proxy access as a fundamental right, generally on terms consistent with the vacated SEC rule. He further stated that BlackRock "may vote against certain directors ...where it appears that boards are provided the opportunity to provide shareholders with a meaningful right to proxy access but do not appear to be acting in good faith to do so."

Other large U.S. investment managers also became increasingly active in support of meaningful proxy access. In February, TIAA-CREF sent a letter to its 100 largest holdings requesting that they adopt proxy access bylaws consistent with the three percent ownership threshold included in the vacated SEC rule.

The extent of global investor support for viable proxy access became clearer in March, when the world's largest pension fund signaled its support. Norges Bank, which manages the \$1 trillion Government Pension Fund of Norway, issued a position paper on proxy access in the U.S. and confirmed it would "support shareholder proposals on proxy access as long as they do not have ownership requirements that are stricter than the proposal put forward by the SEC in 2010."

## THE LANDSCAPE SHIFTS

By March 2015, a month before the first proposals were scheduled to go to a vote, there was a distinct shift in the proxy access debate. Recognizing that major institutional investors were remarkably unified in support of viable proxy access as a fundamental right, a growing number of companies agreed to enact bylaws on terms largely consistent with the NYC Funds' proposals.

The NYC Funds announced agreements with Abercrombie and Fitch, Big Lots, Staples and Whiting Petroleum to implement proxy access bylaws, prompting withdrawal of the shareowner proposals. Jointly with CalPERS and CalSTRS, the NYC Funds also announced that Bank of America had enacted a proxy access bylaw following discussions (the bank had received a proxy access proposal from another investor, with whom it also had discussions).

Several companies that received proposals from other investors also agreed to enact proxy access. And in an especially significant development, Prudential Financial announced in March that its board had adopted a three percent proxy access bylaw, becoming the first company to enact unilaterally a viable proxy access bylaw without having received a shareowner proposal.

The shift in tone – away from contentious debate about the merits of proxy access and toward constructive dialogue regarding specific implementation terms – accelerated once annual meeting season commenced and the level of voting support became apparent.

## COMPANY-SPECIFIC PROPOSAL OUTCOMES

### NEGOTIATED AGREEMENTS AND OTHER WITHDRAWALS

Company	Diversity	Fossil Fuel	Pay	*Other Governance	Final Vote
Abercrombie & Fitch Co.				X	Withdrawn/Settled
Big Lots Inc.				X	Withdrawn/Settled
Splunk, Inc.			X		Withdrawn/Settled
Staples, Inc.			X		Withdrawn/Settled
United Therapeutics Corporation			X		Withdrawn/Settled
VEREIT (f/k/a American Realty Capital Properties, Inc.) <sup>1</sup>			X		Withdrawn/Settled
Whiting Petroleum Corp.	X	X	X		Withdrawn/Settled
Mylan, Inc.			X	X	Withdrawn/Moot
TRW Automotive Holdings Corp.			X		Withdrawn/Moot

\*Other Governance includes companies that were also on last year's focus list for proxy access or other proposal.

<sup>1</sup>Withdrawal occurred in August 2015, which is Fiscal Year 2016.

Seven companies agreed to adopt proxy access prior to the vote in the NYC Funds' proposal, prompting withdrawal of the proposal. The proposals were rendered moot at Mylan, which inverted to become a Dutch company, and TRW Automotive, which was acquired.

The remaining 66 proposals went to a vote, receiving very strong investor support averaging 56 percent. About two-thirds of the proposals received majority support. Company-specific vote results, sorted in descending order by vote, are listed below. (See page 20 for complete list of proposal outcomes sorted by company.)

Subsequent to the below votes, 25 companies at which the proposals received majority or strong support have enacted 3-percent/3-year proxy access bylaws as of December 2015, including Anadarko Petroleum, Chevron, ConocoPhillips, DTE Energy, EOG Resources, Hasbro, Marathon Oil, Occidental Petroleum and Priceline Group. Additional companies have said their boards are likely to enact proxy access in the coming months.

PROPOSALS RECEIVING MAJORITY SUPPORT

Company	Diversity	Fossil Fuel	Pay	*Other Governance	Final Vote
Apache Corp.		X			92.72%
Republic Services			X		89.90%
Avon Products Inc.			X		75.70%
Visteon Corporation	X				75.67%
FirstEnergy Corp.		X			71.41%
Cloud Peak Energy Inc.	X	X			71.12%
Netflix, Inc.				X	70.97%
Hasbro Inc.			X		68.62%
Roper Technologies Inc.	X				67.60%
American Electric Power Co., Inc.		X			67.15%
Alpha Natural Resources, Inc.		X			67.14%
Nabors Industries Ltd.	X		X	X	67.04%
AES Corporation, The		X			66.36%
EQT Corporation		X			66.31%
AvalonBay Communities Inc.	X				64.97%
Freeport-McMoRan Copper & Gold Inc.		X	X		64.86%
Cheniere Energy, Inc.			X		63.14%
Duke Energy Corporation		X			62.73%
Marathon Oil Corporation		X			62.71%
Occidental Petroleum Corporation		X			62.01%
DTE Energy Company		X			61.68%
PPL Corporation		X			61.43%
Range Resources Corporation		X			60.91%
Fidelity National Financial, Inc.	X				60.86%
Anadarko Petroleum Corporation		X			59.44%
eBay Inc.	X				59.44%
Precision Castparts Corp. <sup>1</sup>	X				58.68%
Vertex Pharmaceuticals Incorporated			X		58.44%
Devon Energy Corporation		X			58.15%
Apartment Investment and Management Company (AIMCO)			X		57.69%
CF Industries Holdings, Inc.	X				57.35%
Southwestern Energy Co.		X			56.41%
Cimarex Energy Co.	X	X			56.19%
Equity Residential			X		56.05%
Alliance Data Systems Corporation	X				55.74%
HCP, Inc.			X		55.49%

Company	Diversity	Fossil Fuel	Pay	*Other Governance	Final Vote
Chevron Corporation		X			55.34%
Electronic Arts Inc. <sup>1</sup>			X		54.96%
ConocoPhillips		X			54.28%
Priceline Group Inc., The	X				53.67%
Murphy Oil Corporation		X			52.96%
Hess Corporation		X			51.09%
EOG Resources, Inc.		X			50.72%

\*Other Governance includes companies that were also on last year's focus list for proxy access or other proposal.

<sup>1</sup>Proposal vote occurred in August 2015, which is Fiscal Year 2016.

<sup>2</sup>Proposal filed by a subset of the NYC Funds: Police and TRS at DTE Energy; and Fire, NYCERS and TRS at PPL Corporation.

**PROXY ACCESS PROPOSALS RECEIVING LESS THAN MAJORITY SUPPORT**

Company	Diversity	Fossil Fuel	Pay	*Other Governance	Final Vote
Chipotle Mexican Grill, Inc.			X		49.86%
Exxon Mobil Corporation		X			49.40%
Pioneer Natural Resources Co.		X			49.35%
Alexion Pharmaceuticals, Inc.	X				49.22%
Peabody Energy Corp.		X			48.66%
CONSOL Energy Inc.		X			46.96%
FleetCor Technologies, Inc.	X		X		46.90%
SBA Communications Corp.	X				46.28%
Southern Company		X			46.16%
VCA Inc.	X		X		45.93%
Cabot Oil & Gas Corporation	X	X			45.26%
New York Community Bancorp Inc.			X		44.38%
Exelon Corporation			X		43.60%
Level 3 Communications, Inc.	X				43.60%
Noble Energy, Inc.		X			42.35%
PACCAR Inc.	X				41.97%
Monster Beverage Corporation <sup>1</sup>	X				41.92%
NVR, Inc.	X				41.50%
Urban Outfitters Inc.	X			X	40.63%
Arch Coal Inc.		X			36.28%
Westmoreland Coal Co.		X			35.80%
Expeditors International of Washington Inc.			X		35.03%
Regeneron Pharmaceuticals, Inc.	X		X		27.97%

\*Other Governance includes companies that were also on last year's focus list for proxy access or other proposal.

<sup>1</sup>Proposal vote occurred in August 2015, which is Fiscal Year 2016.

<sup>2</sup>Proposal filed specifically by BERS and Police at Cabot Oil & Gas.

## Other 2015 Shareowner Proposals

### POLITICAL SPENDING DISCLOSURE

	FYE 6/30/13	FYE 6/30/14	FYE 6/30/15	FYE 6/30/16
AutoZone Inc. <sup>1</sup>	--	--	34.0%	Pending
Cabot Oil & Gas	--	44.7%	45.3%	--
Charles Schwab Corporation <sup>2</sup>	25.3%	26.6%	26.4%	--
DTE Energy Company <sup>3</sup>	30.1%	34.1%	32.6%	--
FedEx <sup>1,4</sup>	25.5%	25.4%	27.8%	36.2%
PPL Corporation	38.6%	41.0%	44.6%	--
Sprint Corporation <sup>5</sup>	--	--	1.0%	--

<sup>1</sup>Company has fall annual meeting, thus 2015 meeting took place in Fiscal Year 2016.

<sup>2</sup>Sponsored by Fire, NYCERS and TRS; <sup>3</sup>Sponsored by Police and TRS; <sup>4</sup>Sponsored by Fire and BERS.

<sup>5</sup>Submitted in November 2012.

The NYC Funds believe that boards should oversee and disclose the use of corporate assets for political purposes, in order to mitigate the legal and regulatory risks that accompany political contributions and to ensure that corporate political spending is in line with the company's business strategy and not at the whim of individual executives' political preferences.

Accordingly, the NYC Funds submitted proposals to six companies for calendar 2015 calling for public disclosure of direct and indirect corporate political spending. A proposal at a seventh company, Sprint, was submitted in November 2012 for the 2013 proxy season; the company, however, did not hold an annual meeting until August 2014 (Fiscal Year 2015) due to a pending corporate transaction. Softbank Corp. a Japanese telecom firm, now owns 81.2 percent of Sprint (representing an even higher percentage of votes cast), which explains the low voting support for the proposal.

### WORKPLACE DIVERSITY/EEO-1 REPORT DISCLOSURE

	FYE 6/30/13	FYE 6/30/14	FYE 6/30/15
American Express	--	25.1%	24.7%
Charles Schwab Corporation <sup>1</sup>	--	20.3%	21.1%
Omnicom Group	26.4%	--	27.5%

<sup>1</sup>Sponsored by BERS and Police.

The NYC Funds continued to request that financial services and advertising companies annually disclose workforce diversity data based on the EEO-1 report that each company is required to file with the U.S. Equal Employment Opportunity Commission. Both industries are characterized by pervasive and persistent underrepresentation of women and minorities, especially in senior positions.

Companies often cite their commitment to diversity and describe their various efforts to recruit, retain, and promote minorities and women. Disclosure of the EEO-1 report data, which details the composition of the company's workforce by race and gender across employment categories, including senior management, would allow shareowners to evaluate and benchmark the effectiveness of these efforts.



Most of the largest financial services firms disclose EEO-1 data, including BNY Mellon, Citigroup, Goldman Sachs, JPMorgan, MetLife, Morgan Stanley and U.S. Bancorp, in many cases in response to requests from the NYC Funds. The advertising industry has generally resisted full disclosure.

## ONE SHARE, ONE VOTE STRUCTURE

	FYE 6/30/14	FYE 6/30/15
Universal Health Services	--	10.4%

The NYC Funds submitted a proposal requesting that the Universal Health Services (UHS) board take the necessary steps to provide that each outstanding share of common stock has one vote on all matters. At present, UHS has four separate classes of stock with unequal voting rights. As a result, CEO Alan Miller controls 83.9 percent of total voting power despite holding less than 15 percent of outstanding shares. He also controls the election of five of UHS's seven directors.

Multiple-class structures distort incentives and increase agency costs by misaligning economic incentives and voting power. Governance expert Charles Elson has stated that multiple-class structures create "a culture with no accountability." In addition, a 2008 study by Harvard's Paul Gompers and two co-authors found that multiple-class structures with disparate voting rights were correlated with lower firm value.

At the time that the UHS proposal was submitted in December 2014, the Department of Health and Human Services Office of Inspector General and Department of Justice were investigating 18 UHS facilities. On March 31, 2015, UHS disclosed that the Department of Justice had expanded its criminal investigation to include the parent company. According to the company's 8-K, it is a False Claim Act investigation focused on billings submitted to government payers.

The proposal received 10.4 percent of votes cast at UHS's May 20, 2015 annual meeting, but would have passed with an estimated 67 percent of the votes cast if UHS had a "one share, one vote" structure, according to a report in the *Philadelphia Business Journal* (5/27/15).

## EXECUTIVE COMPENSATION CLAWBACKS

	FYE 6/30/14	FYE 6/30/15
BB&T Corporation	34.6	36.9%
Boeing Company	Omitted	22.4%
Goldman Sachs Group, Inc. <sup>1</sup>	--	Other
JP Morgan Chase & Co. <sup>1</sup>	--	44.1%

<sup>1</sup>Co-sponsored by the UAW Retiree Medical Benefits Trust.

The NYC Funds submitted proposals to BB&T Corporation and The Boeing Company requesting policies that (a) authorize the board to recover compensation from executives whose improper conduct causes financial or reputational harm to the company and (b) require disclosure of the circumstances of any recoupment under the policy.

At Goldman Sachs and JPMorgan Chase, both of which have misconduct triggers in their existing clawback policies, the proposals sought to amend the policies to require disclosure of the circumstances of any recoupment. The Goldman Sachs proposal was withdrawn after the company requested no action relief from the SEC based on its adoption of a clawback disclosure provision covering a limited number of senior executives.

Clawback policies that include misconduct-based triggers can increase financial accountability for senior executives and help set the proper “tone-at-the-top” for effective legal and regulatory compliance. A growing number of companies have adopted clawback policies that include misconduct triggers and provide for disclosure, including Allergan, Capital One, PNC Bank, United Technologies, Haliburton and Lockheed Martin.

### EXECUTIVE COMPENSATION – MULTIPLE PERFORMANCE METRICS

	FYE 6/30/13	FYE 6/30/14	FYE 6/30/15
Oracle <sup>1</sup>	31.8%	37.3%	27.0%

<sup>1</sup>Fiscal 2015 results are for Oracle’s fall 2014 annual meeting.

The NYC Funds re-submitted a proposal for Oracle’s fall 2014 annual meeting requesting that the compensation committee, in setting performance measures for top executives, include multiple weighted metrics. CEO Larry Ellison is consistently among the highest paid CEOs despite lackluster company performance. The proposal received 27 percent of votes cast.

## Supplier Diversity Initiative

In April 2014, the NYC Funds called on 20 large companies to disclose quantitative performance metrics on their supplier diversity programs. Ninety percent of S&P 100 firms have supplier diversity programs but fewer than half of them disclose data on program performance. Supplier diversity is generally defined as programs to purchase competitively priced goods and services from businesses owned by minorities, women, veterans and disabled individuals, among others.

In letters to each firm, Comptroller Stringer, on behalf of the NYC Funds, specifically asked each company to provide the requested disclosures on their web site or in a sustainability report. Recently, numerous firms have begun to report quantitative performance information on their supplier diversity programs, including Altria, Apple, Nike, Pfizer, Qualcomm, US Bancorp and United Technologies. In addition, 3M and ConocoPhillips are expected to begin disclosing quantitative data, while Amgen, Bristol-Myers Squibb and United Healthcare have enhanced the qualitative information they disclose about their programs.

The initiative may also be having an impact beyond the focus list companies. At least seven S&P 100 companies that did not receive Comptroller Stringer's letter – BNY Mellon, Capital One, Exxon Mobil, Ford Motor Company, Halliburton, MetLife & Raytheon – have also recently initiated disclosure of quantitative performance data on their supplier diversity programs.

## Collaborative Shareowner Initiatives

In addition to submitting shareowner proposals, the NYC Funds continued to be active participants in both the Carbon Asset Risk Initiative and the Human Capital Management working group during Fiscal Year 2015, among other initiatives:

### **CARBON ASSET RISK INITIATIVE**

In September 2013, the NYC Funds joined an international group of 75 institutional investors, representing \$3.5 trillion in assets, to launch the Carbon Asset Risk (CAR) Initiative—a coordinated effort to spur 45 of the world's largest oil and gas, coal, and electric power companies to address the physical, regulatory and financial risks posed by climate change. The initiative is coordinated by Ceres and the Carbon Tracker Initiative (CTI), with support from the Global Investor Coalition on Climate Change.

According to CTI, the world's fossil fuel companies hold at least three times more proven reserves of oil, gas, and coal than can be burned to achieve the international goal of limiting global warming to below 2°C unless Carbon Capture and Storage technology becomes commercially viable. In their letters, the investor asked each company to assess both the risks to their undeveloped fossil fuel reserves due to lower fossil fuel demand as the world transitions to a low-carbon energy system – as well as the risks to their operations from climate change impacts.

In summer 2015, CERES released “Carbon Asset Risk: A Review of Progress and Opportunities” as an update on the initiative.<sup>4</sup> The report identified five key changes that highlight the momentum the CAR

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<sup>4</sup> Available at <https://www.ceres.org/resources/reports/carbon-asset-risk-a-review-of-progress-and-opportunities/view>

Initiative has directly spurred or helped accelerate. Among the five key changes, the report found that “Investors are turning up the pressure on boards to be accountable on carbon asset risk” and specifically cited the nearly three-dozen fossil fuel companies that faced proxy access resolutions submitted by the NYC Funds.

## **HUMAN CAPITAL MANAGEMENT WORKING GROUP**

As long-term shareowners, the NYC Funds encourage companies to articulate their strategies for sustainable value creation. While companies frequently assert that their employees are their “most valuable asset,” they generally disclose very little information about how they are managing their workforce – or, their “human capital” – to protect and create sustainable shareowner value.

Accordingly, during Fiscal Year 2014, the Comptroller’s Office, on behalf of the NYC Funds, joined with a group of 16 large institutional investors with over \$1.2 trillion in assets to form a Human Capital Management Working Group. Led by the UAW Retiree Medical Benefits Trust, the Group is focused on understanding the relationship between portfolio companies’ human capital management practices and long-term performance.

The Working Group members continued dialogue in Fiscal Year 2015 to encourage companies to articulate clear strategies and objectives for workforce management that the companies believe will drive business objectives. For some companies, such strategies may incorporate metrics to measure employee engagement and investment in training and talent retention, while others may measure the link between enhanced compensation and business unit productivity, revenue or profitability.

In collaboration with the other investors in the Working Group, the NYC Funds seek to identify practices that generate improved performance, as well as strategies to mitigate downside risks to value, such as inadequate controls and compliance with respect to the workplace practices throughout a company’s global supply chain.

## 2015 Shareowner Proposal Results by Company

Company	Issue/Proposal	FYE	FYE	FYE	FYE
		6/30/13	6/30/14	6/30/15	6/30/16
Abercrombie & Fitch Co.	Proxy Access	--	55.2%	Settled	
AES Corporation, The	Proxy Access	--	--	66.4%	
Alexion Pharmaceuticals	Proxy Access	--	--	49.2%	
Alliance Data Systems	Proxy Access	--	--	55.7%	
Alpha Natural Resources	Proxy Access	--	--	67.1%	
American Electric Power Company	Proxy Access	--	--	67.2%	
American Express Company	Diversity/EEO-1 Disclosure	--	25.1%	24.7%	
Anadarko Petroleum Corporation	Proxy Access	--	--	59.4%	
Apache Corp	Proxy Access	--	--	92.7%	
Apartment Investment and Management Company	Proxy Access	--	--	57.7%	
Arch Coal	Proxy Access	--	--	36.3%	
Autozone (1)	Political Spending Disclosure	--	--	34.0%	Pending
Avalon Bay Communities	Proxy Access	--	--	65.0%	
Avon Products	Proxy Access	--	--	75.7%	
BB&T Corporation	Executive Pay/Clawback	--	34.6%	36.9%	
Big Lots	Proxy Access	--	56.8%	Settled	
Boeing Company, The	Executive Pay/Clawback	--	Omitted	22.4%	
Cabot Oil & Gas Corporation	Political Spending Disclosure		44.7%	45.3%	
Cabot Oil & Gas Corporation	Proxy Access	--	--	45.3%	
CF Industries Holdings	Proxy Access	--	--	57.4%	
Charles Schwab Corporation	Diversity/EEO-1 Disclosure	--	20.3%	21.1%	
Charles Schwab Corporation	Political Spending Disclosure	25.3%	26.6%	26.4%	
Cheniere Energy	Proxy Access	--	--	63.1%	
Chevron Corp	Proxy Access	--	--	55.3%	
Chipotle Mexican Grill	Proxy Access	--	--	49.9%	
Cimarex Energy Co.	Proxy Access	--	--	56.2%	
Cloud Peak Energy Inc.	Proxy Access	--	--	71.1%	
ConocoPhillips	Proxy Access	--	--	54.3%	
Consol Energy, Inc.	Proxy Access	--	--	47.0%	
Devon Energy Corporation	Proxy Access	--	--	58.2%	
DTE Energy Company	Political Spending Disclosure	30.1%	34.1%	32.6%	
DTE Energy Company	Proxy Access	--	--	61.7%	
Duke Energy Corporation	Proxy Access	--	--	62.7%	
Ebay Inc.	Proxy Access	--	--	59.4%	
Electronic Arts Inc. (1)	Proxy Access	--	--	--	55.0%
EOG Resources, Inc.	Proxy Access	--	--	50.7%	
EQT Corporation	Proxy Access	--	--	66.3%	
Equity Residential	Proxy Access	--	--	56.1%	
Exelon Corporation	Proxy Access	--	--	43.6%	
Expeditors International Of Washington	Proxy Access	--	--	35.0%	
Exxon Mobil Corporation	Proxy Access	--	--	49.4%	
FedEx Corporation (1)	Executive Pay/Clawback	--	--	--	31.4%
Fedex Corporation (1)	Political Spending Disclosure	25.5%	25.4%	27.8%	36.2%
Fidelity National Financial	Proxy Access	--	--	60.9%	
First Energy Corporation	Proxy Access	--	--	71.4%	

Company	Issue/Proposal	FYE	FYE	FYE	FYE
		6/30/13	6/30/14	6/30/15	6/30/16
Fleetcor Technologies	Proxy Access	--	--	46.9%	
Freeport-Mcmoran Copper & Gold	Proxy Access	--	--	64.9%	
Goldman Sachs Group	Executive Pay/Clawback	--	--	Other	
Hasbro	Proxy Access	--	--	68.6%	
HCP	Proxy Access	--	--	55.5%	
Hess Corporation	Proxy Access	--	--	51.1%	
JP Morgan Chase & Co.	Executive Pay/Clawback	--	--	44.1%	
Level 3 Communications	Proxy Access	--	--	43.6%	
Marathon Oil Corporation	Proxy Access	--	--	62.7%	
Monster Beverage Inc. (1)	Proxy Access	--	--	--	41.9%
Murphy Oil Corporation	Proxy Access	--	--	53.0%	
Mylan Inc.	Proxy Access	--	--	Other	
Nabors Industries Ltd	Proxy Access	52.1%	51.8%	67.0%	
Netflix	Proxy Access	--	--	71.0%	
New York Community Bancorp	Proxy Access	--	--	44.4%	
Noble Energy	Proxy Access	--	--	42.4%	
NVR	Proxy Access	--	--	41.5%	
Occidental Petroleum Corp.	Proxy Access	--	--	62.0%	
Omnicom Group	Diversity/EEO-1 Disclosure	--		27.5%	
Oracle Corporation (1)	Executive Pay/Multiple Metrics	31.8%	37.3%	27.0%	
Paccar	Proxy Access	--	--	42.0%	
Peabody Energy Corporation	Proxy Access	--	--	48.7%	
Pioneer Natural Resources Company	Proxy Access	--	--	49.4%	
PPL Corporation	Political Spending Disclosure	38.6%	41.0%	44.6%	
PPL Corporation	Proxy Access	--	--	61.4%	
Precision Castparts Corporation (1)	Proxy Access	--	--	--	58.7%
Priceline Group	Proxy Access	--	--	53.7%	
Range Resources Corp.	Proxy Access	--	--	60.9%	
Regeneron Pharmaceutical Co.	Proxy Access	--	--	28.0%	
Republic Services	Proxy Access	--	--	89.9%	
Roper Technologies	Proxy Access	--	--	67.6%	
SBA Communications Corporation	Proxy Access	--	--	46.3%	
Southern Company, The	Proxy Access	--	--	46.2%	
Southwestern Energy Company	Proxy Access	--	--	56.4%	
Splunk	Proxy Access	--	--	Settled	
Sprint Corporation	Political Spending Disclosure	--	--	1.0%	
Staples	Proxy Access	--	--	Settled	
TRW Automotive Holdings Corp.	Proxy Access	--	--	Acquired	
United Therapeutics Corporation	Proxy Access	--	--	Settled	
Universal Health Services	Eliminate Multiple Class Stock	--	--	10.4%	
Urban Outfitters	Proxy Access	--	--	40.6%	
VCA	Proxy Access	--	--	45.9%	
VEREIT (f/k/a American Realty Capital Partners) (1)	Proxy Access	--	--	--	Settled
Vertex Pharmaceuticals Incorporated	Proxy Access	--	--	58.4%	
Visteon Corp.	Proxy Access	--	--	75.7%	
Westmoreland Coal Company	Proxy Access	--	--	35.8%	
Whiting Petroleum Corporation	Proxy Access	--	--	Settled	

(1) Company's 2015 annual meeting is subsequent to June 30, and therefore after the NYC Funds' fiscal year-end.



New York City Comptroller  
**Scott M. Stringer**

