

HOW TO CHOOSE A PROXY SOLICITOR

This special feature by *David Drake* is sponsored by *Georgeson*.

Shareholders are a lot more engaged than they used to be – and a lot more powerful. Whether you're facing a vote on employee stock options, director elections or an activist campaign, you need a proxy solicitor that can help you identify shareholders, recognize trends in corporate governance, reach proxy decision-makers and maximize results while working within ever-changing rules and regulations.

STRATEGIC INTELLIGENCE

Many clients come to us for head-to-toe governance consulting, and we also take a big-picture view when we work with industry associations, exchanges and regulators on rule-making and setting policy. In an era of shareholder rights, we provide balance through our work on behalf of companies and other institutions.

Our most valuable contribution this proxy season, however, will be

strategic intelligence. We analyze the makeup of your shareholder base, the type of proposal or situation, and historic patterns based on what other proxy decision-makers have done in similar circumstances. Then we project possible outcomes based on the different courses of action you could follow. That involves a lot of data-crunching, plus we use knowledge from our long-standing relationships with institutional investors and proxy advisers.

Consider the importance of good intelligence as you confront the following trends in 2008.

Reaching the decision-makers: Institutions now take proxy voting seriously and often have dedicated proxy groups that examine incentive plans, shareholder proposals and related governance issues. Meanwhile, there has been a gradual increase in companies reaching out to these voting decision-makers, even

going on the road during the off-season to talk about issues expected at future annual meetings, especially topics around executive compensation. Some of our clients have used those interactions to craft better arguments in their proxy statements. But how do you find the decision-makers? That's where Georgeson's intelligence comes in. We also leverage our relationships to help you get your foot in the door.

Proxy advisers: The influence of proxy advisory firms like Glass Lewis, Proxy Governance and – especially – RiskMetrics (formerly ISS) keeps growing. Also note that RiskMetrics is getting much stronger in M&A. It's critical to be smart about RiskMetrics' guidelines, understanding which way it will swing on any given issue and which of your shareholders will choose to follow its advice. Georgeson recently hired Rajeev Kumar from



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David Drake, president

RiskMetrics, which means that we now have two former directors of ISS' US research on staff. Kumar is helping clients with governance issues in general and RiskMetrics' policies in particular.

Know when to fold 'em: We're facing another record year of shareholder proposals. Last year majority voting was hot; this year it is all about say on pay. For any proposal, we analyze your shareholder base and predict whether you will prevail. If there is a way to settle the proposal and keep it off the ballot, we advise on modifications that will win shareholder support.

According to our Annual Corporate Governance Review, out of 130 majority vote resolutions at S&P 1500 companies last year, fewer than 30 made it onto ballots.

Companies have begun to understand that if change is coming, they should be a part of it.

Activist investors: Say you get a phone call or a letter from an unfamiliar hedge fund. How do you respond? Is it a big fund you should ignore at your peril, or is it a two-bit player? Will it take the high road or get nasty? We have a lot of experience dealing with a great many activist investors. Beyond telling you who they are and what they can do, we can also advise on their style of engagement and how they deal with other shareholders.

Notice and access: This proxy season you can save money by printing and mailing less. But early results show only 10 percent to 15 percent of retail investors vote their proxies when they don't receive printed materials, compared with about 35 percent in the past. We use our predictive intelligence to determine whether you need that retail vote, and you can then decide whether to mail a notice only or send printed materials just to large shareholders. If it looks like the vote will pass with a razor-thin margin, you'd probably mail to everyone.

Voting patterns: We expect the SEC to decide this year whether to bar the discretionary broker vote in director elections. Combined with majority voting, withhold campaigns and the possibility of proxy access, the loss of the broker vote could make director elections extremely difficult. Even without an SEC decision, we are already seeing some brokers introducing proportional voting; others, meanwhile, have simply stopped issuing the discre-

tionary vote. It's up to us as a proxy solicitor to stay on top of these changing patterns.

Risk management: Intelligence doesn't come into play here, but it's worth mentioning because Georgeson might be the only proxy solicitor to introduce rigid enterprise risk management systems, including business continuity planning to protect our clients' shareholder records in case of disaster. Also, our call centers are now SAS 70-compliant, a SOX requirement for service organizations. We go the extra mile to provide our clients with an environment that aligns with their compliance needs.

CONCLUSION

As the proxy solicitor that participates in the largest number of meetings, Georgeson has a wealth of data for use in forecasting voting outcomes. But we also have knowledge and experience that can come only through constant interaction with institutional investors. They know us, they trust us – and they're willing to share their views with us. In short, we have the right intelligence. ■

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