



Corporate Governance

B U L L E T I N

— Covering Shareholder Issues Worldwide —

Volume XXV, Number 1

June 2007

Support for Pay Proposals Marks 2007 Proxy Season

Shareholders gave greater support to proposals seeking advisory votes on executive pay, majority voting in director elections, and the right to call special meetings this proxy season. "Clawback" and golden parachute resolutions also fared better this year, as did new resolutions seeking reforms in stock option practices and how companies calculate supplemental retirement benefits.

Pay-related proposals received the most attention; almost 40 proposals that seek an annual shareholder vote on compensation--or "say on pay"--have been voted on. As of June 15, support for advisory vote proposals averaged 42.6 percent at 28 meetings this year where preliminary or final results are available. The topic averaged 40 percent at seven meetings in 2006, the first year it appeared on U.S. ballots.

Four "say on pay" proposals received majority backing--the most recent winning 57 percent of votes cast at Ingersoll Rand on June 6, according to the proponent, the American Federation of State, County, and Municipal Employees (AFSCME). At least nine proposals received more than 45 percent support, according to ISS data.

Proponents also received a boost in February when Aflac announced it would start holding shareholder votes on pay in 2009. The U.S. House of Representatives approved pay vote legislation in April, and similar legislation is pending in the Senate.

Investors also voted on over 60

proposals requesting that firms more closely link executive pay and company performance. General pay-for-performance proposals have averaged 34.3 percent support over 18 meetings where results are known, a slight decrease from last year's average of 36.1 percent.

In addition, 12 proposals were withdrawn, which suggests that companies have been more willing to engage with stockholders in drawing up performance metrics for calculating executive pay. At least one company, Progressive, has committed to adopting pay-for-performance metrics this season.

Proposals asking for a specific link between stock awards and option grants to executives and shareholder returns fared better than general pay-for-performance measures, averaging 38.7 percent across 11 meetings. A majority of shareholders at KB Home and Hewlett-Packard backed a performance-based stock proposal this year, with 54.6 percent support at KB Home, and 53.8 percent at HP, according to regulatory filings.

A few resolutions proposed adding "performance criteria" to equity awards; one such proposal received 51.7 percent support at Allegheny Energy.

Meanwhile, "clawback" proposals averaged 35.5 percent support at six firms where voting results have been released, significantly higher than the 2006 season average of 23.6 percent. These proposals call for recouping bonus payments to executives if a

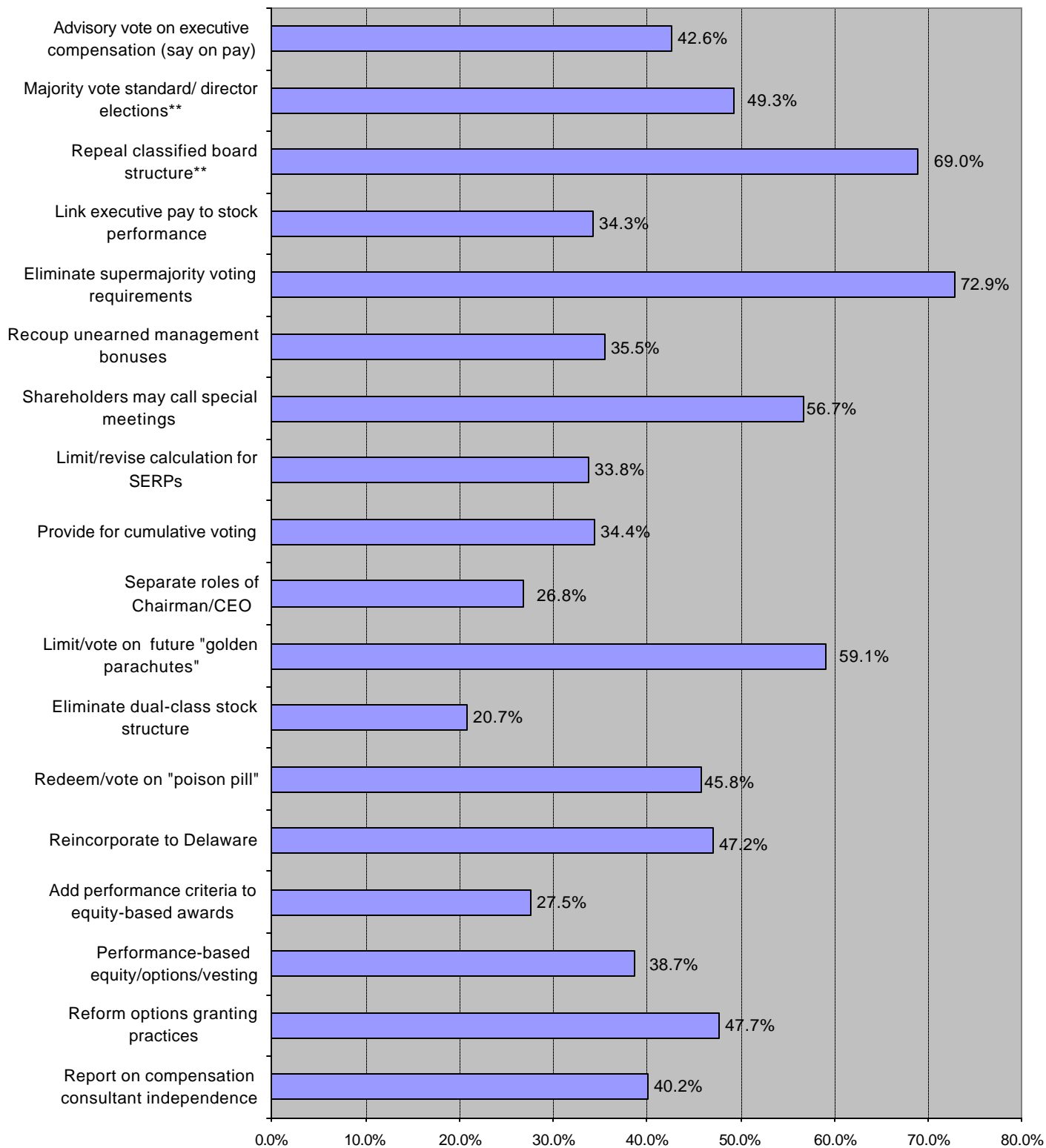
later investigation or restatement determines that their incentive goals weren't met. Two proposals have received majority support; the best showing was a 59.2 percent vote at Motorola.

Many of this year's pay-related proposals reflect a continued shareholder backlash against what the AFL-CIO has called "pay for failure." Executive retirement and severance payments have come under scrutiny in recent years as corporate exit packages, sometimes totaling in the hundreds of millions dollars, make headlines nationwide.

Another set of proposals asked companies to disclose, limit the amounts of, or let shareholders vote on Supplemental Executive Retirement Plans, or SERPs, which are benefits given to top management in addition to the company-sponsored pension plan. SERP proposals won an average of 33.8 percent support over 12 meetings where results are known, with at least one resolution attaining majority support: 51.7 percent at Goodyear, according to company regulatory filings.

Investors also were more receptive to resolutions that ask for a shareholder vote on future "golden parachute" packages for outgoing executives. The proposal averaged 59 percent support at five meetings, up from 50 percent support at 11 firms last year. A total of 13 such proposals were voted on this season. One golden parachute resolution won 65 percent at PPG Industries, accord-

Fig. 1 Proxy Season 2007: Average Support*

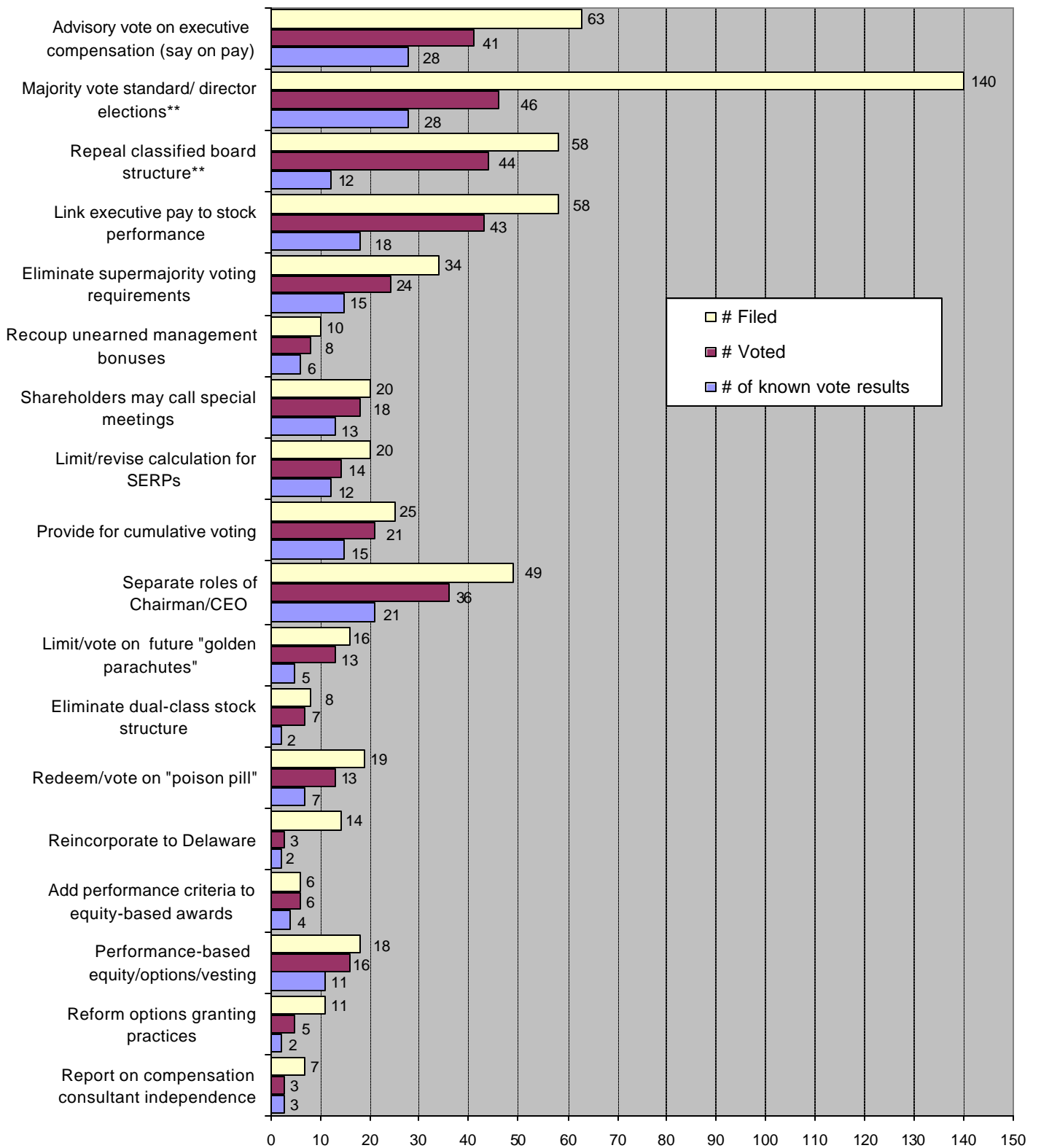


*Preliminary results as of June 15

**Does not include management-supported proposals

Source: ISS

Fig. 2 Proxy Season 2007: Proposals At a Glance



**Does not include management-supported proposals

Source: ISS

ing to company regulatory filings, while a Bricklayers & Trowel Trades proposal got 85.6 percent support at KB Home, the company reported.

The stock options backdating scandal that engulfed more than 200 U.S. companies has spawned a number of resolutions this year. The Amalgamated Bank's LongView Fund submitted nine proposals asking companies to fix grant dates before the fiscal year begins and to price options at an average of the stock's opening and closing price on the grant date.

According to Cornish Hitchcock, an attorney for LongView, most of the proposals were withdrawn following constructive talks with the companies. The proposal won 47 percent at Apple, Hitchcock said. At CVS/Caremark, a similar proposal received a 48.4 percent vote, a strong showing for a first-year resolution. Another proposal was filed at McAfee, but the software company could not hold an annual meeting because it has been unable to file timely financial reports due to options-related adjustments.

Another new proposal seeks information that relates to the indepen-

dence of the executive pay consultants hired by boards, such as on other work that the consultant may be doing for the company. Only three of these proposals were voted on, averaging 40 percent support.

Director Elections

Proposals seeking majority voting in director elections continued to do well this year. Support for majority voting averaged 49.3 percent at 28 meetings where results are known, up from 47.7 percent in 2006.

This season, there was notably high support at International Paper (85 percent, according to news reports) and Newell Rubbermaid (74.8 percent, according to company records). Morgan Stanley reported that it adopted a majority vote standard after the measure received 70 percent shareholder support. More than 50 majority vote proposals had been voted on as of June 15.

The number of majority vote resolutions continues to be high, even after many companies followed the example of Intel in adopting majority voting bylaws and director resigna-

tion policies. While investors filed 140 proposals, what is notable this year is the significant number of withdrawals. More than 75 proposals slated for meetings in January through June were withdrawn by proponents following discussions with companies. As was the case last year, many firms have agreed to introduce the measure at the next meeting or to change their bylaws or certificates of incorporation to provide for a majority vote.

A novel approach to majority voting were proposals that asked firms to reincorporate in Delaware. This season, the Carpenters and the Sheet Metal Workers International Association filed reincorporation proposals at 13 Ohio companies to prod them to support legislation to repeal the state's plurality vote requirement for board elections. Around 10 proposals were withdrawn, likely following dialogue with the companies about majority vote standards.

One of the three proposals voted on earned majority support--59.5 percent at Convergys. A similar proposal won 34.9 percent support at FirstEnergy on May 15.

Table 1 - Notable Results on Pay-Related Proposals

Resolution	Company	% Support
Add performance criteria to equity-based awards	Allegheny Energy	51.6%
Limit/vote on future "golden parachutes"	KB Home	85.6%
Link executive pay to stock performance	Mattel	47.3%
Performance-based equity/options/vesting	KB Home	54.6%
Recoup unearned management bonuses	Motorola	59.2%
Reform options granting practices	CVS/Caremark	48.4%
Report on compensation consultant independence	Verizon Comm.	46.9%
Advisory vote on executive compensation (say on pay)	Blockbuster	57%
Advisory vote on executive compensation (say on pay)	Ingersoll-Rand	57%
Limit/revise calculation for SERPs	Goodyear	51.7%

Source: ISS

Proposals on cumulative voting, which averaged 39.8 percent last year, did not do as well this year, with an average of 34.4 percent support over 15 meetings. Average support for cumulative voting proposals has remained around 40 percent since 2005.

The board election issue that received the most attention this season was proxy access. After investors won a court ruling last September, the Securities and Exchange Commission did not allow companies to omit access proposals this year. Two proposals went to a vote; both called for management proxy statements to include director nominations by shareholders with at least a 3 percent stake. A non-binding proposal filed by the California Public Employees' Retirement System (CalPERS) received 45.3 percent at UnitedHealth Group, according to a company filing. Earlier, a binding proxy access proposal filed by AFSCME and three state pension funds won 43 percent support at Hewlett-Packard.

Proposals that advocate a separation of the roles of chairman and CEO--through the adoption of an in-

dependent board chair--did less well than last year. Of 21 meetings where results are known, measures aimed at separating the board chair and CEO posts have averaged 24.2 percent, compared with 30.2 percent last year.

Of the 36 such proposals voted on, only two received majority support--52.7 at CVS/Caremark, according to company filings. The other, voted on at mining company Newmont, received over 50 percent according to investor John Chevedden, but the company declined to release exact vote totals until its next regulatory filing.

Takeover Defenses

Investors provided strong support this season for proposals that target takeover defenses, such as "poison pills" (also known as "shareholder rights plans"), classified boards, supermajority requirements, and dual-class equity structures. In addition, proposals seeking the right to call special meetings have done well.

A bylaw proposal by investor Nick Rossi that sought a shareholder vote on future poison pills won 73 percent

at Hewlett-Packard, according to company filings. Investors gave 79.3 percent support for William Steiner's proposal at MeadWestvaco asking the company to redeem its poison pill or put it to a shareholder vote, according to the company. At Walt Disney, 43 percent of shares outstanding supported a novel bylaw proposal by Harvard University Professor Lucian Bebchuk that called for a 75 percent vote by independent directors to adopt or amend a pill plan. (For more on that proposal, see "Poison Pill Critics Seek Guidance in SEC No-Action Decisions" in this issue of the *Corporate Governance Bulletin*.)

However, due to low support at companies such as Praxair and Home Depot, pill-related proposals only saw 46 percent support across seven meetings where results are known. In 2006, pill proposals averaged 55.6 percent support.

Meanwhile, shareholders gave greater support to proposals asking companies to do away with classified boards and hold annual elections for all directors. More than 40 requests for a declassified board structure were

Table 2 - Notable Results on Governance-Related Proposals

Resolution	Company	% Support
Provide for cumulative voting	Bristol-Myers Squibb	47.6%
Eliminate dual-class stock structure	Ford Motor*	27.4%
Eliminate supermajority voting requirements	Kimberly-Clark	81.4%
Majority vote standard/ director elections	International Paper	84%
Redeem/vote on "poison pill"	MeadWestvaco	79.3%
Reincorporate to Delaware	Convergys	59.5%
Repeal classified board structure	Kellwood	89.1%
Separate roles of Chairman/CEO	CVS/Caremark	52.7%
Shareholders may call special meetings	Honeywell	72.4%

*A majority of Ford Motor stock is insider-owned.

Source: ISS

voted on this year, and the measure averaged 69 percent support over 12 meetings where results are currently known, including 89 percent at apparel marketer Kellwood, which may be a new record for a management-opposed resolution. (Last year, board declassification proposals averaged 66.8 percent support.)

Investor support also increased for proposals that ask companies to eliminate supermajority requirements on bylaw changes and other matters. These resolutions have averaged 73 percent across 15 meetings, up from 67.8 percent in 2006.

Individual or family investors led the charge this year in asking for the right of holders of a 10 to 25 percent stake to call special meetings. At the 13 companies where preliminary or final results have been released, those proposals averaged 57 percent support, according to ISS data. The highest vote so far, 72.4 percent, occurred at Honeywell, the company said. The lowest vote, 19.3 percent, came in at Ford Motor, where a significant portion of the stock is insider-owned.

This season has also seen increased investor scrutiny of companies with dual-class stock, which can be an insurmountable takeover defense. Shareholders are targeting companies with "A" and "B" class stock that give multiple votes per share to one share class, which is often controlled by a family or founder. Seven proposals aimed at eliminating dual-class stock were voted on, but most of the companies, as of June 15, declined to release vote totals in advance of their quarterly reports.

Shareholder proposals seeking to end dual-class structures won significant support from outside investors at Hovnanian Enterprises and Ford Motor, proponents said. A LongView resolution won 14 percent at Hovnanian, where insiders control 75 percent of the voting power. At Ford, a similar proposal received 27 percent

support. With the Ford family controlling 40 percent of the voting power, proponent John Chevedden estimates that about 45 percent of the non-family investors supported the measure.

Morgan Stanley Investment Management filed a dual-class proposal at the New York Times Co., but the SEC allowed the company to exclude the resolution from its proxy. Instead, the Morgan Stanley fund and other investors protested the company's equity structure by withholding 42 percent support from the four directors who are elected by outside stockholders.

Editor's note: ISS reports vote percentages based on "for" and "against" votes cast and doesn't include abstentions or broker votes. This is the same approach the SEC uses under Rule 14a-8(i)(12) to evaluate the support received by proposals in previous years. Please also note that these results are preliminary as of June 15 and do not include all 2007 meetings, because some companies have declined to release vote totals on shareholder resolutions until their next quarterly regulatory filing. Finally, the 2006 averages include only those meetings that occurred from Jan. 1 through June 30 of that year.

— L. Reed Walton