

# INSIGHTIA

## MONTHLY

VOLUME 1 ISSUE 10 | DECEMBER 2022



### THE INSIGHTIA ADVISER AWARDS 2022

GOVERNANCE

ENGAGEMENT

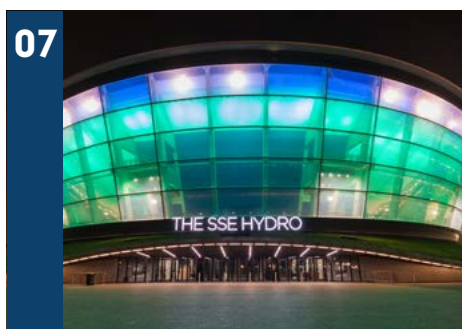
STEWARDSHIP

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# CONTENTS

INSIGHTIA MONTHLY, DECEMBER 2022.

- 03** EDITOR'S LETTER | *REBECCA SHERRATT, INSIGHTIA*
- 05** MONTHLY DATA SUMMARY
- 06** NEWS IN BRIEF
- 10** THE INSIGHTIA ADVISER AWARDS 2022 | *INSIGHTIA*
- 20** INTERVIEW | *ANNIE SANDERS, DIRECTOR OF SHAREHOLDER ADVOCACY, AND ANDREA RANGER, SHAREHOLDER ADVOCATE, AT GREEN CENTURY CAPITAL MANAGEMENT.*
- 22** NEW ACTIVIST INVESTMENTS
- 23** NEW ACTIVIST SHORT INVESTMENTS
- 24** ACTIVISM VULNERABILITY REPORT | *JASON BOOTH, INSIGHTIA*
- 28** PERSONNEL MOVES
- 29** INVESTORS GRAPPLE WITH CHANGING DIVERSITY DEMANDS | *JOSH BLACK, INSIGHTIA*
- 32** SAYING GOODBYE TO DUAL-CLASS SHARES | *REBECCA SHERRATT, INSIGHTIA*
- 34** UPCOMING EVENTS



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Published by  
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# WELCOME

REBECCA SHERRATT  
PUBLICATIONS EDITOR, INSIGHTIA.



Another year is winding to a close and the past 12 months have certainly borne witness to significant changes in the activism world. Geopolitical instability and rising inflation rates have fostered increased demands for board revamps, with remove personnel demands at their highest levels in the U.S. since 2017.

It's looking like 2023 will be an even busier season for activism, with Lawrence Elbaum, co-head of Vinson & Elkins' shareholder advisory practice, telling me in an interview this month that a "whole new crop of companies previously believed to be activism-proof are now in the crosshairs," thanks to the introduction of the universal proxy.

We dedicate the December edition of *Insightia Monthly* to the advisers that work behind the scenes on behalf of activists and companies. Congratulations to Olshan Frome Wolosky, which took home the gold among law firms this year for total representations as well as overall activist campaign involvement, and Innisfree, which took the top spot among proxy solicitors for total representations and total issuer representations for the second consecutive year.

For those wondering how they can participate in the rankings, we accept submissions year-round. We also do periodic data drives and a final push in October of each year. To keep us informed of your representations, please ask your marketing teams to add [insightia.research@diligent.com](mailto:insightia.research@diligent.com) to their mailing lists.

In this month's issue, we are also pleased to interview Annie Sanders, director of shareholder advocacy, and Andrea Ranger, shareholder advocate, at Green Century Capital Management. Readers are no doubt familiar with Green Century, the Massachusetts-based fund manager that is especially active on the ESG front.

Annie and Andrea take us through the fund's many successful engagements with issuers on deforestation, plastic pollution, and emissions reporting in 2022, as well as Green Century's plans for 2023 and why they think the growing anti-ESG sentiment is unlikely to impact their own engagements and initiatives.

Also in this issue, we explore why Citigroup may find itself under an activist's spotlight again, given its poor earnings-per-share and underperformance relative to peers. In addition, we delve into the growing regulatory pushback to dual-class share

structures and how investor expectations on board diversity evolved throughout 2022.

If you haven't already, make sure to download our *Compensation 2022* special report, which explores the latest trends relating to CEO pay and remuneration, with insights from Willis Towers Watson. The report follows the release of our new *Insightia One Compensation* module, providing unprecedented transparency and comparison tools for global pay plans. You can also rewatch our webinar reviewing the current compensation landscape [here](#).

“ WE DEDICATE THE DECEMBER EDITION TO THE ADVISERS THAT WORK BEHIND THE SCENES ON BEHALF OF ACTIVISTS AND COMPANIES. ”

The new year also marks the next stage of evolution for *Insightia*. *Insightia Monthly* will be winding down, with our editorial team focusing on expanding our special report offerings.

Following our acquisition by Diligent, *Insightia* can offer clients truly holistic analysis into all things corporate governance, and expanding our special reporting offerings will help showcase our wealth of data and expertise better than ever before.

Keep your eyes peeled in the new year for new and improved versions of our flagship reports, as well as brand-new reports that explore new trends, regions, and data. And, of course, clients can continue to keep abreast of all the latest trends through our newswire coverage, vulnerability reports, podcasts, newsletters, and in-depth reports.

As we go on this adventure with our readers, we also want to take the opportunity to thank you for your continued support. We wish all our readers a happy holiday season and look forward to providing you with the best in corporate governance and shareholder intelligence in 2023! [i&](#)

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# MONTHLY SUMMARY

THE LATEST TRENDS IN GOVERNANCE AND SHAREHOLDER ENGAGEMENT.

## DEMAND TYPE BREAKDOWN OF COMPANIES PUBLICLY SUBJECTED TO ACTIVIST DEMANDS

DEMAND GROUP	2021 YTD*	2022 YTD*	YOY CHANGE %
APPOINT PERSONNEL	277	294	↑ 6.14
CAPITAL STRUCTURE	36	48	↑ 33.33
DIVESTITURE	63	62	↓ 1.59
ENVIRONMENTAL	82	131	↑ 59.76
GOVERNANCE	381	396	↑ 3.94
OPERATIONAL	68	73	↑ 7.35
OPPOSE M&A	72	47	↓ 34.72
PUSH FOR M&A	68	72	↑ 5.88
REMOVE PERSONNEL	149	174	↑ 16.78
REMUNERATION	88	111	↑ 26.14
RETURN CASH TO SHAREHOLDERS	100	130	↑ 30.00
SOCIAL	111	146	↑ 31.53

SOURCE: INSIGHTIA / ACTIVISM  
\*DATA AS OF NOVEMBER 30, 2022

## NO. AND AVERAGE SUPPORT FOR (%) DIRECTOR RE/ELECTIONS

REGION	2021		2022*	
	NO. PROPOSALS	AVERAGE SUPPORT (%)	NO. PROPOSALS	AVERAGE SUPPORT (%)
U.S.	31,390	94.4	30,646	93.9
EUROPE	20,638	96.6	19,777	96.6
ASIA-PACIFIC	2,130	96.3	1,890	95.8

SOURCE: INSIGHTIA / VOTING  
\*DATA AS OF NOVEMBER 30, 2022

## AVERAGE REALIZED PAY BY INDEX

INDEX	CURRENCY	AVERAGE EXECUTIVE TOTAL REALIZED PAY	% OF TOTAL PAY THAT IS LONG-TERM INCENTIVE
CAC 40	EUR	23,759,155	44.95%
DAX	EUR	8,080,717	40.94%
FTSE 350	USD	9,489,940	41.18%
RUSSELL 3000	USD	20,941,833	40.54%
S&P 500	USD	65,402,268	39.45%
ASX	USD	9,681,333	43.00%
TSX	USD	12,192,825	41.59%

SOURCE: INSIGHTIA / COMPENSATION  
\*DATA AS OF MAY 31, 2022

## NO. COMPANIES PUBLICLY SUBJECTED TO ACTIVIST DEMANDS BY COMPANY REGION AND DEMAND YEAR

COMPANY REGION	2021 YTD*	2022 YTD*	YOY CHANGE %
ASIA	130	167	↑ 28.46
AUSTRALIA	67	57	↓ 14.93
CANADA	42	49	↑ 16.67
EUROPE (EXCLUDING U.K.)	123	86	↓ 30.08
OTHER	23	18	↓ 21.74
U.K.	46	41	↓ 10.87
U.S.	447	491	↑ 9.84
<b>TOTAL</b>	<b>878</b>	<b>909</b>	<b>↑ 3.53</b>

SOURCE: INSIGHTIA / ACTIVISM  
\*DATA AS OF NOVEMBER 30, 2022

## NO. SHORT CAMPAIGNS AT EUROPE-HEADQUARTERED COMPANIES BY ANNOUNCEMENT YEAR AND ALLEGATION (INCLUDING U.K.)

ALLEGATION	2021 YTD*	2022 YTD*	YOY CHANGE %
ACCOUNTING FRAUD	0	1	N/A
BUBBLE	0	0	0
COMPETITIVE PRESSURES	1	0	↓ 100
DIVIDEND CUT COMING	0	0	0
INDUSTRY ISSUES	0	1	N/A
INEFFECTIVE ROLL-UP	0	0	0
MAJOR BUSINESS FRAUD	1	1	0
MEDICAL EFFECTIVENESS	0	0	0
MISLEADING ACCOUNTING	2	1	↓ 50
OTHER ILLEGAL	0	0	0
OTHER OVERVALUATION	1	0	↓ 100
OVER-LEVERED	0	1	N/A
PATENT EXPIRATION	0	0	0
PATENT INVALID	0	0	0
PRODUCT INEFFECTIVE	0	2	N/A
PYRAMID SCHEME	0	0	0
STOCK PROMOTION	1	1	0
UPCOMING EARNINGS MISS	1	0	↓ 100

SOURCE: INSIGHTIA / SHORTS  
\*DATA AS OF NOVEMBER 30, 2022

## PROPORTION OF U.S.-HEADQUARTERED COMPANIES WITH POISON PILLS

YEAR	INDEX			
	S&P 500		RUSSELL 3000	
	NO. COMPANIES	PROPORTION	NO. COMPANIES	PROPORTION
2022*	7	1.40%	53	1.80%

SOURCE: INSIGHTIA / GOVERNANCE  
\*AS OF NOVEMBER 30, 2022



# NEWS IN BRIEF

## A ROUNDUP OF DEVELOPMENTS IN GOVERNANCE, STEWARDSHIP, AND SHAREHOLDER ENGAGEMENT.

### REGULATORY UPDATES

The U.S. Department of Labor (DoL) ruled that fiduciaries of employee retirement plans can consider material ESG risks when making investment and proxy voting decisions, dealing a blow to anti-ESG sentiment. [DETAIL](#)

The Federal Reserve invited public comment on its proposed framework aimed at helping large banking institutions manage climate-related financial risks. [DETAIL](#)

The European Parliament adopted a new law setting targets for gender balance on corporate boards. The EU law means that, by 2026, companies will need to have 40% of the underrepresented sex among non-executive directors or 33% among all directors. [DETAIL](#)

Switzerland passed new legislation requiring large companies and financial institutions to report in line with Task Force on Climate-related Financial Disclosure (TCFD) recommendations. The rules will apply to companies with a minimum of 500 employees, at least 20 million Swiss Francs (\$21 million) in total assets, or more than 40 million Francs (\$42.4 million) in revenue. [DETAIL](#)

### BOARDROOM BATTLES

Independent Franchise Partners, a big shareholder in News Corp. and Fox Corp., believes a combination of the two media groups would not unlock value on its own. Irenic Capital Management is leading a campaign against the deal. [DETAIL](#)

Activist hedge fund Engine Capital called on Univar Solutions to launch a “competitive and formal sale process,” suggesting this could lead to an offer 35% above the chemical distributor’s current share price. [DETAIL](#)

London-based activist Palliser Capital argued that Capricorn Energy’s recently unveiled plan to bolster its options for shareholder payouts could pave the way for an alternative to the company’s proposed sale to NewMed Energy, a deal opposed by many investors. [DETAIL](#)

Salesforce shares fell more than 7% in early December following news Slack Technologies Executive Stewart Butterfield will leave the enterprise software maker in January, along with co-CEO Bret Taylor. [DETAIL](#)

US Foods Holding appointed David Flitman as CEO after agreeing to replace Pietro Satriano in a settlement with activist investor Sachem Head Capital Management earlier this year. [DETAIL](#)

Ooway Group and its allies announced that their five nominees were elected as replacements for five Kitchen Culture directors, but the Singapore-based company did not acknowledge the vote after stating the requisition notice was invalid. [DETAIL](#)

Texas Pacific Land took Horizon Kinetics and SoftVest Advisors to court over a 2020 contract the real estate company believes the two firms recently beached when opposing a key management proposal. [DETAIL](#)

Diffusion Pharmaceuticals urged investors to elect its six nominees, who will be running against a six-person slate backed by activist investor LifeSci Capital at the biotechnology company’s December 30 annual meeting. [DETAIL](#)



SWITZERLAND PASSED NEW LEGISLATION REQUIRING LARGE COMPANIES AND FINANCIAL INSTITUTIONS TO REPORT IN LINE WITH TASK FORCE ON CLIMATE-RELATED FINANCIAL DISCLOSURE (TCFD) RECOMMENDATIONS.

## ESG ENGAGEMENTS

Glass Lewis updated its proxy voting guidelines for 2023, revealing that the adviser may recommend voting against Russell 1000 and S&P/TSX Composite governance committee chairs in instances when the company is deemed to have failed to provide “explicit disclosure” concerning board oversight of environmental and social issues. [DETAIL](#)

Florida Chief Financial Officer Jimmy Patronis announced that the U.S. state will begin the process of divesting \$2 billion in assets from BlackRock due to the fund's ESG commitments. [DETAIL](#)

Principles for Responsible Investment (PRI) launched one of the world's largest stewardship initiatives on social issues and human rights. Under the initiative, known as Advance, each investor has committed to developing their own human rights due diligence processes. [DETAIL](#)

Minority shareholder Dorothy Carvello nominated herself to the board of Warner Music Group (WMG), with plans to amend the company's “broken” culture. She has alleged sexual assault by current and former WMG executives against herself, other former Warner employees, and female artists. [DETAIL](#)

The American Baptist Home Mission Society filed a proposal urging Chevron to commission a racial equity audit. A similar proposal won 47.5% support at Chevron's 2022 annual meeting. [DETAIL](#)

Energy group SSE sold a 25% stake in its electricity transmission grid business, making good on a pledge made one year ago to raise capital to fund a shift to renewable energy. Elliott Investment Management had called for the company's breakup. [DETAIL](#)

A shareholder proposal asking Sysco to report on plastic packaging use won 92% support at the food distribution company's November annual meeting. Management made no recommendation on the proposal, revealing its intention to enhance its plastic-related reporting in the coming year. [DETAIL](#)

## ASIA-PACIFIC ACTIVISM

A potential deal to take Toshiba private by a consortium led by Japan Industrial Partners (JIP) was delayed, with banks reportedly taking longer than expected to green light loans for the preferred bidding group. [DETAIL](#)



ENERGY GROUP SSE SOLD A 25% STAKE IN ITS ELECTRICITY TRANSMISSION GRID BUSINESS, MAKING GOOD ON A PLEDGE MADE ONE YEAR AGO TO RAISE CAPITAL TO FUND A SHIFT TO RENEWABLE ENERGY.

Firetail Resources shareholders voted down a bid by dissident Warwick Smyth to join the Australian miner's board. Smyth proposed himself as a director after two other activists, Moray Holdings and Japan & China Holdings, tried to remove two incumbents and install their own nominee to the board.

[DETAIL](#)

Australian-listed Heavy Minerals agreed to hold a special meeting on December 30 when a group of dissidents will push to oust non-executive Chairman Christopher Schofield and install their own nominee. [DETAIL](#)

Tokyo-listed venture capital firm Jafco Group unveiled a 42-billion-yen (\$35 million) buyback plan and measures to increase shareholder returns, yielding to demands from activist investor Yoshiaki Murakami. [DETAIL](#)

Fujisoft shareholders voted in two of the four director nominees proposed by 3D Investment Partners, which after the vote insisted that the refreshed board pay heed to its suggestions on capital allocation and strategy. [DETAIL](#)

David Dominic Pevcic initiated a proxy contest at Carbonxt Group, seeking to remove the company's chairman. Pevcic has a 6% stake in the Australian specialty chemicals company. [DETAIL](#)

Australia and New Zealand Banking Group (ANZ) released an investor presentation highlighting its approach to climate change following criticism from Market Forces which had claimed it was off target. [DETAIL](#)

## SHORT SELLING

Spruce Point contended that Canadian dairy company Saputo has become less transparent with its financial reporting in the past year because it is experiencing "growing financial strains". The short seller predicted a fall of as much as 60% in the share price. [DETAIL](#)

Boatman Capital Research argued that U.K. social housing company Home REIT needs a new leadership team after failing to calm markets in the wake of a short attack from Viceroy Research. [DETAIL](#)

DLocal argued a report by short seller Muddy Waters Research, claiming the Uruguayan payments company is "likely a fraud," contains "groundless claims" and speculation. [DETAIL](#)

Short seller J Capital Research doubled down on its claim that Australian lithium miner Lake Resources has been misleading investors in order to pump up its share price. [DETAIL](#)

Citron Research claimed that a court ruling has "torpedoed" Agilon Health's business model. In July, Andrew Left's short outfit published an initial report alleging the health care platform's "business model [is] designed for abuse" and the company's best days are "behind it." [DETAIL](#)



AUSTRALIA AND NEW ZEALAND BANKING GROUP (ANZ) RELEASED AN INVESTOR PRESENTATION HIGHLIGHTING ITS APPROACH TO CLIMATE CHANGE FOLLOWING CRITICISM FROM MARKET FORCES WHICH HAD CLAIMED IT WAS OFF TARGET.





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# ADVISER AWARDS 2022

Every December, Insightia profiles the most prolific law and proxy solicitation firms in the activism space.

In a year plagued by geopolitical uncertainty, rising interest rates, and tightening markets, activism blossomed. As of November 30, 2022, 491 U.S.-headquartered companies were subject to activist demands, a 9.8% increase compared to 12 months prior. Asia proved even more popular, experiencing a 28.4% increase in companies subjected to demands across the same period.

“Activism is causing corporate insomnia and companies are calling us nonstop,” Lawrence Elbaum, co-head of shareholder activism at Vinson & Elkins, told *Insightia Monthly*.

ESG also took centerstage this season, with campaigns directed toward a company’s environmental and social shortcomings being led by Elliott Management, Bluebell Capital, and even activism godfather Carl Icahn himself. These campaigns brought forth would-be activists looking to “flex their muscles, based on the success of other first-time activists,” noted Okapi Partners CEO Bruce Goldfarb.

Looking ahead to 2023, the much-anticipated introduction of the universal proxy will also provide activists with ample engagement opportunities, making it easier for investors to shake up boards of directors and offer smaller investors the opportunity to have their voices more readily heard.

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# OLSHAN FROME WOLOSKY



AWARDS

**TOTAL REPRESENTATIONS**  
**TOTAL ACTIVIST REPRESENTATIONS**

**TOTAL REPRESENTATIONS: 121**  
**ACTIVIST REPRESENTATIONS: 121**  
**ISSUER REPRESENTATIONS: 0**  
**AVERAGE MARKET CAPITALIZATION: \$4.98BN**

**O**lshan Frome Wolosky retained its title this year as the busiest activist law firm both in terms of total representations and representing activists, with 121 campaigns, compared to 91 a year prior.

With COVID-19 receding and stock valuations down sharply, activists are starting to feel more confident making demands, Andrew Freedman, co-head of Olshan's activist & equity investment group, told *Insightia Monthly* in an interview.

"There was a little chill in the air during the pandemic when companies were getting some differential treatment by proxy advisory firms, but that's now history we're moving back into a period that'll be more like what we saw in 2017 - 2019," he said.

Olshan remained the go-to law firm for top activists. It represented Elliott Management at PayPal Holdings and Cardinal Health. Land & Buildings also used Olshan in its fights at Apartment Investment and Management Co. (Aimco), and Duke Realty Corp.

The law firm also kept busy representing relatively new activists. Olshan represented Alta Fox Capital Management in its high-profile, but eventually unsuccessful, campaign at Hasbro. Among its most active clients was recently formed Irenic, which, just months into its existence, targeted News Corp. and Barnes Group.

Looking to 2023, Freedman sees more first-time activists coming into the market. "They view it as the right time because of the market volatility and their access to capital to strike out on their own."

# VINSON & ELKINS



AWARDS

**TOTAL ISSUER REPRESENTATIONS**

**TOTAL REPRESENTATIONS: 64**  
**ACTIVIST REPRESENTATIONS: 6**  
**ISSUER REPRESENTATIONS: 58**  
**AVERAGE MARKET CAPITALIZATION: \$2.10BN**

**V**inson & Elkins takes home the gold for total issuer representations for the seventh year running, with 58 issuer representations in 2022, compared to 47 throughout 2021. The firm also placed second in terms of total representations in 2022, having had a busy year featuring 64 representations, compared to 53 one year prior.

"2022 confirmed that shareholder activism is impervious to recessions, global pandemics, and geopolitical unrest," Lawrence Elbaum, co-head of Vinson & Elkins' shareholder advisory practice told *Insightia Monthly* in an interview.

The traditionally issuer-focussed law firm helped Catalyst BioSciences establish its \$65 million cash distribution plan that led to a cooperation agreement with Julian Singer and JEC Capital Partners, following longstanding pushback to the company's proposed asset sale. Vinson & Elkins also represented Gyrodyne, Republic First Bancorp, and Mercury Systems this year.

**"2022 CONFIRMED THAT SHAREHOLDER ACTIVISM IS IMPERVIOUS TO RECESSIONS, GLOBAL PANDEMICS AND GEOPOLITICAL UNREST."**

Looking ahead to 2023, Elbaum suspects that the "continued tightness" in the capital markets will keep underperforming companies on the activists' radars. "Companies in industries no longer benefiting from COVID-19 and global political tailwinds will also be targeted," he said.



# SCHULTE ROTH & ZABEL

TOTAL REPRESENTATIONS: **54**  
ACTIVIST REPRESENTATIONS: **54**  
ISSUER REPRESENTATIONS: **0**  
AVERAGE MARKET CAPITALIZATION: **\$5.36BN**

Schulte Roth & Zabel brought a variety of activist campaigns to market in 2022, including helping Jana Partners close out a campaign at Zendesk with a sale of the company, after first targeting the software firm over an acquisition.

Eleazer Klein, co-chair of Schulte's shareholder activism group, says that companies doing M&A in 2023 can expect to find their deals challenged. "M&A activism was particularly busy last year," he told *Insightia Monthly* in an interview. "We expect there to be less M&A in 2023 but you could see more activism in M&A, in terms of objections to prices and how things are getting done."

The law firm has a well-stocked pipeline of new campaigns, including at dual-class companies Alphabet and News Corp., and is also involved in the litigation against Masimo's bylaws, which have caught the attention of the industry.

Klein also told *Insightia Monthly* that he believes ESG activism is "here to stay," even if more people are questioning its relevance if the economy weakens, and that more companies that went public via special purpose acquisition companies (SPACs) are becoming vulnerable to activism. "There are a lot of underperforming companies, while sponsors are selling out," he explained. "It's early in that cycle but we're starting to see it."

# SIDLEY AUSTIN

TOTAL REPRESENTATIONS: **48**  
ACTIVIST REPRESENTATIONS: **0**  
ISSUER REPRESENTATIONS: **48**  
AVERAGE MARKET CAPITALIZATION: **\$5.04BN**

Sidley Austin represented 48 issuers over the past year, including several big names, not the least helping toy maker Hasbro defend itself from high-profile pushes for board representation from Alta Fox and Ancora Advisers. The adviser also helped New Relic and LivePerson reach beneficial settlement agreements with Jana Partners and Starboard Value, respectively.

With 2022 being one of the busiest years on record for Sidley Austin, the uptick can be attributed to increased market confidence in the wake of COVID, as well as the advent of the universal proxy era in the U.S., Derek Zaba, partner and co-chair of the firm's shareholder activism practice, told *Insightia Monthly* in an interview.

"We're aware of several campaigns that would not exist if not for the fact that we have a universal proxy card," Zaba said. "We've also seen a bit of a market correction, with activists migrating towards sectors, such as technology, that have been hit the hardest."

Looking ahead to 2023, the current level of activity that we're seeing behind the scenes "portends to a really busy proxy season in 2023, in which these hardest hit sectors are likely to experience a significantly increased level of activity from one year ago," Zaba said.

# WHITE & CASE

TOTAL REPRESENTATIONS: **27**  
ACTIVIST REPRESENTATIONS: **16**  
ISSUER REPRESENTATIONS: **11**  
AVERAGE MARKET CAPITALIZATION: **\$16.81BN**

White & Case had a particularly busy year in 2022, nearly doubling its total representations to 27 in the period, compared to 15 throughout 2021.

The law firm handled a range of campaigns this year, supporting a mix of companies and investors based across Europe and the Asia-Pacific. One of its most memorable campaigns was supporting Trian Partners in getting its founder and CEO, Nelson Peltz, appointed to the board of consumer giant Unilever, after the company faced pressure to reinvigorate its performance following a failed acquisition. The Unilever campaign points to a wider move towards "constructivism" in the U.K., with activists and boards increasingly "embracing the benefits of consensual dialogue," Matthews said.

Looking forward, Matthews suspects more activists may turn their attention to the U.K., as depressed markets and a weak currency make U.K. public companies "particularly attractive to prospective bidders, in particular those from outside the U.K."

THE INSIGHTIA ADVISER AWARDS 2022 | LAW FIRMS



Law Firm	Total Representations	Total Activist Representations	Total Issuer Representations	Average Market-Cap for Total Representations (\$M)	Average Market-Cap for Activist Representations (\$M)	Average Market-Cap for Issuer Representations (\$M)	Awards
Akin Gump Strauss Hauer & Feld	3	3	-	2,157	2,157	-	
Arnold Bloch Leibler	2	2	-	263	263	-	
Baker Botts	1	1	-	11	11	-	
Baker McKenzie	3	1	2	6,140	320	9,050	
BakerHostetler	2	2	-	101	101	-	
Ballard Spahr LLP	2	2	-	1,782	1,782	-	
Bennett Jones LLP	1	1	-	253	253	-	
Bird & Bird LLP	1	-	1	228	-	228	
Blake, Cassels & Graydon LLP	2	-	2	2,824	-	2,824	
Buchalter Nemer	2	1	1	1,372	2,019	725	
Burnet, Duckworth and Palmer LLP	1	-	1	228	-	228	
Cadwalader, Wickersham & Taft	12	11	1	15,057	16,324	1,131	
Cahill, Gordon & Reindel	1	1	-	1,002	1,002	-	
Campbells LLP	1	1	-	146	146	-	
Child & Child	1	1	-	4,154	4,154	-	
Cleary Gottlieb Steen & Hamilton	1	-	1	1,780	-	1,780	
Cliffe Dekker Hofmeyr	1	-	1	796	-	796	
Clifford Chance	2	-	2	9,050	-	9,050	
Cozen O'Connor	1	-	1	107	-	107	
Cravath, Swaine & Moore	5	-	5	6,426	-	6,426	
Crawley Mackewn Brush LLP	1	1	-	19	19	-	
Davies Ward Phillips & Vineberg	4	3	1	22,520	29,625	1,207	
Davis Polk & Wardwell	4	2	2	10,745	4,479	17,010	
Debevoise & Plimpton LLP	3	2	1	2,234	1,889	2,924	
Dentons	1	1	-	81	81	-	
DLA Piper	1	-	1	8,209	-	8,209	
Dykema Gossett PLLC	1	1	-	104	104	-	
Faegre Drinker LLP	2	-	2	6,266	-	6,266	
Farris Vaughan Wills & Murphy LLP	1	1	-	177	177	-	
Foley & Lardner LLP	3	2	1	2,178	419	5,695	
Foley Hoag LLP	1	1	-	1,052	1,052	-	
Freshfields Bruckhaus Deringer	1	1	-	3,557	3,557	-	
Fried Frank	3	1	2	21,896	86	32,801	Highest Average Market-Cap for Issuer Representations
Frost Brown Todd LLC	1	1	-	112	112	-	
Gibson Dunn	3	3	-	3,920	3,920	-	
Godfrey & Kahn S.C.	2	2	-	369	369	-	
Goodmans	3	2	1	194	164	253	
Goodwin Procter LLP	10	-	10	808	-	808	
Gottfried Legal Advisory PLLC	1	1	-	28	28	-	
Greenberg Traurig	2	1	1	94	81	108	
Hakim Law Group	1	1	-	165	165	-	
Hannuri Law	1	1	-	1,319	1,319	-	
Herbert Smith Freehills	1	1	-	8,209	8,209	-	
Hogan Lovells	1	-	1	186	-	186	
Hunton Andrews Kurth LLP	1	1	-	28	28	-	
Jones & Keller, P.C.	1	-	1	51	-	51	
King & Wood Mallesons	1	-	1	796	-	796	
Kirkland & Ellis	11	2	9	1,912	1,283	2,051	
Kleinberg, Kaplan, Wolff & Cohen, P.C.	1	1	-	147	147	-	
Lane & Waterman LLP	1	-	1	138	-	138	
Latham & Watkins	15	-	15	2,971	-	2,971	
Linklaters	1	1	-	3,399	3,399	-	
Lucosky Brookman LLP	1	-	1	466	-	466	
McCarthy Tetrault	2	2	-	1,224	1,224	-	
McDermott Will & Emery LLP	4	1	3	9,753	38,927	28	
McMillan LP	2	1	1	109	19	200	
Meitar Law Offices	1	1	-	176	176	-	
Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo	2	-	2	73	-	73	
Morgan, Lewis & Bockius LLP	2	1	1	123	177	68	
Morris Nichols Arsht & Tunnell LLP	1	1	-	3,310	3,310	-	
Morrison & Foerster LLP	1	-	1	3,943	-	3,943	
Nishimura & Asahi	1	-	1	18,116	-	18,116	
Norton Rose Fulbright	4	1	3	14,519	274	19,268	
Nova Legal	1	1	-	22	22	-	
Ogilvy Watson	1	1	-	360	360	-	
Olshan Frome Wolosky	121	121	-	4,980	4,980	-	Total Representations and Total Activist Representations
O'Melveny & Myers LLP	1	-	1	5,238	-	5,238	
Orrick Herrington & Sutcliffe LLP	2	-	2	196	-	196	
Paul Hastings Janofsky & Walker	1	-	1	164	-	164	
Paul, Weiss, Rifkind, Wharton & Garrison LLP	6	-	6	10,919	-	10,919	
Perkins Coie	1	-	1	8,094	-	8,094	
Quinn Emanuel Urquhart & Sullivan LLP	1	1	-	38,927	38,927	-	
Reed Smith LLP	1	1	-	2,624	2,624	-	
Richards Layton & Finger	1	1	-	3,310	3,310	-	
Schulte Roth & Zabel LLP	54	54	-	5,362	5,362	-	
Seward & Kissel LLP	2	2	-	1,897	1,897	-	
Sharkawy & Sarhan Law Firm	1	-	1	228	-	228	
Shearman & Sterling LLP	2	1	1	1,582	2,924	240	
Shibolet & Co	1	-	1	176	-	176	
Sidley Austin LLP	48	-	48	5,042	-	5,042	
Simpson Thacher & Bartlett	2	-	2	23,511	-	23,511	
Skadden	16	3	13	21,797	16,565	23,005	
Slaughter and May	1	-	1	355	-	355	
Stevens & Lee	1	1	-	177	177	-	
Stikeman Elliott LLP	2	1	1	1,791	1,207	2,374	
Stradley Ronon Stevens & Young, LLP	1	-	1	247	-	247	
Stroock & Stroock & Lavan LLP	1	-	1	28	-	28	
Sullivan & Cromwell LLP	2	2	-	625	625	-	
Thompson Hine LLP	1	1	-	28	28	-	
Venable LLP	1	-	1	40	-	40	
Vinson & Elkins LLP	64	6	58	2,107	2,439	2,078	Total Issuer Representations
Wachtell, Lipton, Rosen & Katz	19	1	18	13,157	43,036	11,497	Highest Average Market-Cap for Activist Representations
Weil, Gotshal & Manges LLP	1	1	-	3,310	3,310	-	
White & Case LLP	27	16	11	16,813	12,008	23,803	
Wildeboer Dellelce LLP	1	1	-	19	19	-	
Willkie Farr & Gallagher LLP	3	2	1	818	1,155	146	
Wilson Sonsini Goodrich & Rosati	17	3	14	2,884	123	3,476	
Winston & Strawn LLP	1	-	1	440	-	440	
Winthrop & Weinstine, P.A.	1	-	1	167	-	167	
Wyrick Robbins Yates & Ponton LLP	1	-	1	422	-	422	



# INNISFREE M&A



AWARDS

**TOTAL REPRESENTATIONS**  
**TOTAL ISSUER REPRESENTATIONS**

**TOTAL REPRESENTATIONS: 70**  
**ACTIVIST REPRESENTATIONS: 14**  
**ISSUER REPRESENTATIONS: 56**  
**AVERAGE MARKET CAPITALIZATION: \$8.73BN**

Innisfree M&A tops the proxy solicitor league table for the second consecutive year, ranking highest not only in the total number of representations but also for total issuer representations.

After supporting Engine No. 1 in its landmark campaign against oil major ExxonMobil last season, Innisfree M&A continued to represent clients in high-profile ESG campaigns in 2022, helping McDonald's in an animal welfare-fueled proxy fight with activism legend Carl Icahn.

"It may be easier to support ESG activism when the market is flying, but it becomes tougher to do so when companies have to make difficult decisions about where to focus resources," Gabrielle Wolf, director at Innisfree told *Insightia Monthly* in an interview. "If 2023 macro dynamics are challenging, it will be interesting to see whether the more prescriptive ESG campaigns receive broad investor support."

Perhaps most notably, Innisfree also supported Twitter in its unexpected \$44 billion buyout by Tesla CEO Elon Musk.

"The deal illustrated the importance of tightly coordinated litigation and communications teams, so that the voting process could not be pulled off course," Innisfree Founding Managing Partner, Jennifer Shotwell, said.

Looking to 2023, the firm expects the universal proxy card to further bolster ESG activism. "Special interest groups may nominate directors to address specific ESG issues, like reducing emissions," Wolf said. "This may prove especially common at companies where ESG shareholder proposals passed but the issuer didn't respond to the requests."

# OKAPI PARTNERS



AWARDS

**TOTAL ACTIVIST REPRESENTATIONS**

**TOTAL REPRESENTATIONS: 42**  
**ACTIVIST REPRESENTATIONS: 21**  
**ISSUER REPRESENTATIONS: 21**  
**AVERAGE MARKET CAPITALIZATION: \$7.44BN**

Okapi Partners' CEO Bruce Goldfarb is another industry leader to note the importance of M&A activism in 2022.

"We also devoted great effort to the activism in the M&A market this year, representing sellers and buyers," Goldfarb told *Insightia Monthly*, pointing to Spirit Airlines, which was at the center of a tug-of-war between Frontier Airlines and JetBlue Airways, and Zendesk, where Okapi represented the eventual buyer against a challenge from Light Street Capital.

**"NEW ACTIVISTS WILL CONTINUE TO BRING FORTH CAMPAIGNS AND TRY TO FLEX THEIR MUSCLES BASED ON THE SUCCESSES OF OTHER FIRST-TIME ACTIVISTS."**

The proxy solicitor also had a traditional proxy fight go the distance, with Cruiser Capital winning all three board seats up for a vote at American Vanguard in a year when many campaigns settled, and few activists had luck at the ballot box.

Next year, Goldfarb warns boards to be on the lookout for activists demanding CEO changes. "In a massive downmarket with rising interest rates, activists were still launching campaigns at some of the largest companies out there and, in some cases, seeking to bring in new leadership," he said. "New activists will continue to bring forth campaigns and try to flex their muscles based on the successes of other first-time activists."



# MORROW SODALI

TOTAL REPRESENTATIONS: **40**  
ACTIVIST REPRESENTATIONS: **7**  
ISSUER REPRESENTATIONS: **33**  
AVERAGE MARKET CAPITALIZATION: **\$3.96BN**

**M**orrow Sodali secured the third-place spot for total representations in 2022, continuing its trend of representing leading U.S. issuers, while also engaging in campaigns across Israel, Australia, Puerto Rico, and Canada.

The proxy firm boasted many successful representations in June, helping U.S. toymaker Hasbro defend itself from a campaign by Alta Fox. The very next day, SpartanNash saw all nine of its director nominees reelected to the food distributor's board, despite Ancora Advisors' and Macellum Advisors' heated push for board renewal.

"With the market volatility and general expectation for increased activism in the year ahead, we are working with more companies to adopt a more robust activism preparedness plan," Paul Schulman, co-head of M&A and shareholder advisory at Morrow Sodali, told *Insightia Monthly* in an interview.

"That plan includes a better understanding of their shareholders, detecting activist accumulations, and a comprehensive shareholder engagement plan with all stockholders, activists included, and assist in communications strategies across all shareholder constituencies," fellow Morrow Sodali Co-head of M&A and shareholder advisory, Michael Verrechia, said.

# GEORGESON

TOTAL REPRESENTATIONS: **37**  
ACTIVIST REPRESENTATIONS: **3**  
ISSUER REPRESENTATIONS: **34**  
AVERAGE MARKET CAPITALIZATION: **\$16.7BN**

**G**eorgeson roared up the rankings for total representations, up from eighth place in 2021. The upturn was driven partly by shareholders reacting to stock market volatility, said Dom Brancati, global chief operating officer at Georgeson.

"Many investors are working to protect and preserve the value of their portfolio by taking measured steps, for example, opposing share issuance resolutions to guard against share dilution and reduce the chances of a takeover," he told *Insightia Monthly*.

**"WE ARE WORKING WITH MORE COMPANIES TO ADOPT A MORE ROBUST ACTIVISM PREPAREDNESS PLAN."**

Much of the advisor's new business came from almost tripling the number of issuers it represented to 34 in 2022, up from 12 a year prior. Georgeson represented Unilever's management early in the year as it was targeted by Trian Fund Management, but also went on to represent Trian's publicly traded vehicle, Trian Investors 1, when it faced demands from Janus Henderson and other investors.

The introduction of universal proxy could result in more U.S. campaigns going to a shareholder vote, predicted Georgeson Managing Director Edward Greene, who said the use of a single proxy card "may embolden activists who use the opportunity as a lever and, as a result, create uncertainty around the potential settlement."

# MACKENZIE PARTNERS

TOTAL REPRESENTATIONS: **27**  
ACTIVIST REPRESENTATIONS: **3**  
ISSUER REPRESENTATIONS: **24**  
AVERAGE MARKET CAPITALIZATION: **\$4.73BN**

**M** MacKenzie Partners had a busy 2022, with a 50% increase in the number of issuers it represented compared to one year prior and increasing its total representations from 21 to 27.

Perhaps MacKenzie's most high-profile campaign of the season was representing Tesla CEO Elon Musk in his infamous \$44 billion takeover of Twitter, a campaign that continues to dominate headlines.

MacKenzie also helped LivePerson reach a settlement with Starboard Value, following calls for a board refresh, as well as helping Gyrodyne win the favor of investors at a proxy contest versus Star Equity Fund.

"What has struck me the most is how robust M&A activism has been this year," Bob Marese, president at MacKenzie Partners, told *Insightia Monthly* in an interview. "In almost every deal we are now engaged with there have been concerns, from companies and investors alike, as to whether activism could arise from the deal."

# SARATOGA PROXY CONSULTING



**TOTAL ACTIVIST REPRESENTATIONS**

TOTAL REPRESENTATIONS: **21**  
ACTIVIST REPRESENTATIONS: **21**  
ISSUER REPRESENTATIONS: **0**  
AVERAGE MARKET CAPITALIZATION: **\$2.19BN**

**W**hile Saratoga Proxy Consulting fell just short of the top five proxy firms by total representations, it came in joint first place with Okapi Partners for the highest number of activist representations in 2022.

Perhaps Saratoga's most notable campaign this season was representing Legion Partners in its push for the removal of Guess co-founders Paul and Maurice Marciano, following allegations of sexual misconduct spanning toward the former brother spanning four decades. Paul Marciano's reelection faced 83% opposition from independent shareholders at the April shareholder meeting.

"The Guess campaign was undeniably successful in highlighting the serious reputational risks that the fashion retailer suffers from," John Ferguson, senior partner at Saratoga told *Insightia Monthly* in an interview. "Despite the Marciano brothers' high share ownership, the campaign set the wheels in motion to help the board understand that these directors will transition out and there is a need to protect the brand."

## THE INSIGHTIA ADVISER AWARDS 2022 | PROXY FIRMS

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Proxy Firm	Total Representations	Total Activist Representations	Total Issuer Representations	Average Market-Cap for Total Representations (\$M)	Average Market-Cap for Activist Representations (\$M)	Average Market-Cap for Issuer Representations (\$M)	Awards
Alliance Advisors	6	3	3	164	28	300	
AST Fund Solutions, LLC	1	-	1	718	-	718	
AST Phoenix Advisors	1	-	1	2,536	-	2,536	
Carson Proxy Advisors	4	3	1	91	120	4	
D.F. King & Co.	23	11	12	15,830	13,023	18,404	
Georgeson	37	3	34	16,713	11,213	17,199	
Harkins Kovler	5	5	-	48,076	48,076	-	Highest Average Market-Cap for Activist Representations
Innisfree	70	14	56	8,739	2,542	10,288	Total Representations and Total Issuer Representations
Investorcom	10	10	-	1,698	1,698	-	
Kingsdale Advisors	16	3	13	16,264	418	19,921	Highest Average Market-Cap for Issuer Representations
Laurel Hill	4	2	2	14,341	26,205	2,477	
LDG Advisory*	5	5	-	8,021	8,021	-	
Mackenzie Partners	27	3	24	4,737	16,708	3,241	
Morrow & Co.	2	-	2	696	-	696	
Morrow Sodali	40	7	33	3,962	19,759	1,089	
Okapi Partners	42	21	21	7,446	7,314	7,584	Total Activist Representations
Saratoga Proxy Consulting	21	21	-	2,194	2,194	-	Total Activist Representations

\*Classified by Insightia as a Proxy Advisor for the purposes of the Adviser Awards.

# GOING GREEN



AN INTERVIEW WITH ANNIE SANDERS, DIRECTOR OF SHAREHOLDER ADVOCACY, AND ANDREA RANGER, SHAREHOLDER ADVOCATE, AT GREEN CENTURY CAPITAL MANAGEMENT.

FOUNDED IN 1991, GREEN CENTURY CAPITAL MANAGEMENT IS AN INVESTMENT ADVISORY FIRM BASED IN MASSACHUSETTS THAT MANAGES ENVIRONMENTALLY RESPONSIBLE FUNDS.

**GREEN CENTURY'S SUSTAINABILITY PROPOSALS TARGET A BROAD RANGE OF ISSUES. HOW DO YOU IDENTIFY COMPANIES TO ENGAGE WITH ON THESE TOPICS?**

**Annie Sanders (AS):** To speak on plastic pollution and deforestation engagements, we contemplate a number of factors when working out who to engage with. One of our key considerations is identifying which companies are not only well-positioned to drive change but also lagging behind peers in their sustainability commitments. We also analyze a company's supply chain to identify how companies in the chain could help move an issue or affect the decision-making of a larger entity.

Looking broadly across all sectors is also important, and we try to engage with issuers in sectors where perhaps not a lot of activity has taken place on deforestation, right-to-repair reporting, or plastic pollution. We are often one of the first investors to engage with a particular company around a given issue, so we like to think of ourselves as ESG trailblazers, in that sense.

**Andrea Ranger (AR):** In terms of climate change, our remit as a mutual fund that excludes any companies involved in fossil fuels from developers to utilities is to look for ways to continue to phase out fossil fuels to prevent the worst impacts of climate change. We look for opportunities to really push the envelope out on climate commitments, like asking companies to commit to near-, medium-, and long-term science-based greenhouse gas emission reduction targets. Now, we are also making a foray into asking companies to disclose their climate transition action plans.

**SHAREHOLDER PROPOSALS FACED CRITICISM THIS YEAR FOR BEING OVERLY PRESCRIPTIVE AND POORLY TARGETED. WHAT ARE YOUR THOUGHTS ON THIS?**

**AR:** This narrative is certainly an interesting one. This trend basically boils down to the Securities and Exchange Commission (SEC) issuing a legal bulletin last November, mandating that shareholder proposals can no longer be omitted if they relate to issues of broad social or ethical concern. Because of this bulletin, everyone pushed the envelope out. Investors were no longer filing proposals asking for watered-down reporting, which, in prior years, was the only way to get ESG proposals past the SEC. The new Biden-era SEC administration has a much broader view of material risks and so investors took a more aggressive approach in their engagements to mirror the urgency needed to address climate change.

Investors asked companies to adopt more specific policies and report on specific goals, like science-based emissions targets, for example. The advent of the war in Ukraine also tipped the scales, so leading fund managers could say ESG proposals were not providing boards with enough flexibility. We see this whole pushback to ESG as the "BlackRocks" of the world walking back on their ESG commitments, especially on climate.

**GREEN CENTURY MADE THE HISTORY BOOKS THIS YEAR FOR RECEIVING THE HIGHEST LEVEL OF SUPPORT FOR ANY PLASTIC-RELATED SHAREHOLDER PROPOSAL IN HISTORY, WITH ITS REQUEST FOR JACK IN THE BOX TO REPORT ON ITS SUSTAINABLE PACKAGING ENDEAVORS WINNING 95.4% SUPPORT, DESPITE FACING MANAGEMENT OPPOSITION.**



## IN YOUR EXPERIENCE, ARE COMPANIES MORE OPEN TO ENGAGING WITH SHAREHOLDERS NOW THAN THEY HAVE BEEN IN PREVIOUS YEARS?

**AS:** I think that certainly seems to be the trend. Companies are realizing that climate risk is also economic risk and so they need to start taking these concerns seriously.

**AR:** ESG issues are becoming unavoidable and I think companies are now seeing it's best to get on top of these issues rather than giving investors the stiff arm and ignoring us. I can think of several companies that, in previous years, have certainly just given investors the stiff arm but are now starting to engage with and recognize these issues.

## TEXAS COMPTROLLER GLENN HEGAR RECENTLY PLACED GREEN CENTURY ON A LIST OF FINANCIAL INSTITUTIONS DEEMED TO BE "BOYCOTTING" ENERGY FIRMS. DO YOU THINK THE GROWING ANTI-ESG MOVEMENT COULD POSE AN ISSUE FOR RESPONSIBLE INVESTORS?

**AR:** The way we view ESG at Green Century is that it is a continuum of the broad spectrum of risks investors look at when deciding whether to invest in a company, so it is unfortunate ESG has been categorized as a separate set of risks from financial risks. They're just risks. As a fiduciary, we have to look at the financial value and performance of a stock but also need to look at those ESG risks which are just as pertinent to financial performance. In terms of what we do, the anti-ESG kerfuffle is not affecting us. Investors come to us because of the values we hold, they are not going to divest from us because of "woke" capitalism.

I think a lot of the sound and fury coming from anti-ESG groups like the Texas Comptroller have given some of the larger asset managers pause. BlackRock is in this weird position, saying on the one hand that yes, it is committed to ESG but, on other hand, proclaiming it has invested millions of dollars into Texas oil and gas. BlackRock is very much between a rock and a hard place.

**AS:** Although the ESG backlash is very vocal, it does also form a relatively small minority of investors and other entities. I think ESG and sustainable investing will only continue to grow, despite the barrage of criticism and accusations.

## WHAT KEY TOPICS WILL GREEN CENTURY BE FOCUSING ON IN THE COMING PROXY SEASON?

**AR:** Currently, we are engaging with a fast-food chain and a food producer on antimicrobial resistance (AMR). Unlike in

Europe, where antibiotic use in all forms is more restricted, here in the U.S. we are starting at a much lower tier of getting routine use of medically important antibiotics out of the food chain.

We will also be calling on companies to commit to science-based emissions targets through the Science-based Targets Initiative (SBTi), looking for climate action transition plans, and again looking at the fossil fuel underwriting of leading U.S. insurance companies. We have meetings coming up with many issuers on these topics so we will see what happens. Some engagements may escalate to proposal filings.

**“ WE ARE OFTEN ONE OF THE FIRST INVESTORS TO ENGAGE WITH A PARTICULAR COMPANY AROUND A GIVEN ISSUE, SO WE LIKE TO THINK OF OURSELVES AS ESG TRAILBLAZERS. ”**

**AS:** We'll also be continuing our work to urge companies that source forest-risk commodities to mitigate climate and nature-related risk by eliminating deforestation and native vegetation conversion from their supply chains. Finally, we'll continue our focus on plastic pollution by asking companies to reduce their plastic packaging footprint in order to mitigate the flow of 11 million tons of plastic waste released into the ocean every year.

## IF YOU COULD INTRODUCE ONE CORPORATE GOVERNANCE REFORM, EITHER IN THE U.S. OR INTERNATIONALLY, WHAT WOULD IT BE?

**AR:** Both issuers and investors would benefit from having someone on the board who is actually fluent in sustainability issues. A director well-versed in climate change would be very valuable, but even someone who has some understanding of broader sustainability issues like deforestation or plastic pollution would be welcomed. Looking at the qualifications of U.S. corporate board members, there is very little ESG experience among directors. And even when you find a director with what might still be only a limited amount of ESG experience, these directors sit on each others' boards, bringing little new perspective to the table.

THANK YOU, ANNIE AND ANDREA. 

# NEW ACTIVIST INVESTMENTS









THE LATEST ACTIVIST INVESTMENTS FROM AROUND THE WORLD.

ACTIVIST (S)	COMPANY	HQ	CAMPAIGN START DATE	CURRENT HOLDING	PUBLIC DEMAND								
					APPOINT PERSONNEL	OPERATIONAL	REMOVE PERSONNEL	PUSH FOR M&A	DIVESTITURE	RETURN CASH TO SHAREHOLDERS	OPPOSE M&A	DETAIL	
EDWARD SPENCER	METALNRG		DEC 30, 2022	7.30%	●	-	●	-	-	-	-	-	<a href="#">DETAIL</a>
ENGINE CAPITAL	UNIVAR SOLUTIONS		DEC 01, 2022	N/A	-	-	-	●	-	●	-	-	<a href="#">DETAIL</a>
UNION PACIFIC EQUITIES PTY	PAPYRUS AUSTRALIA		NOV 30, 2022	7.61%	-	-	●	-	-	-	-	-	<a href="#">DETAIL</a>
HIBIKI PATH ADVISERS	STAR MICA HOLDINGS		NOV 29, 2022	N/A	-	-	-	●	-	-	-	-	<a href="#">DETAIL</a>
HIBIKI PATH ADVISERS	INTELLEX CO.		NOV 29, 2022	N/A	-	●	-	●	-	-	-	-	<a href="#">DETAIL</a>
T. ROWE PRICE	NEWS CORP.		NOV 26, 2022	11.91%	-	-	-	-	-	-	●	-	<a href="#">DETAIL</a>
LM ASSET FUND LIMITED PARTNERSHIP	NORANDA INCOME FUND		NOV 25, 2022	12.20%	●	-	-	-	-	-	-	-	<a href="#">DETAIL</a>
DAVID DOMINIC PEVCIC	CARBONXT GROUP		NOV 25, 2022	6.12%	-	-	●	-	-	-	-	-	<a href="#">DETAIL</a>
INDEPENDENT FRANCHISE PARTNERS	NEWS CORP.		NOV 24, 2022	6.50%	-	-	-	-	●	-	-	-	<a href="#">DETAIL</a>

SOURCE: INSIGHTIA / ACTIVISM

# NEW SHORT INVESTMENTS

THE LATEST DISCLOSED ACTIVIST SHORT INVESTMENTS.

				ALLEGATIONS										
SHORT SELLER	COMPANY	HQ	CAMPAIGN START DATE	MISLEADING ACCOUNTING	INDUSTRY ISSUES	PRODUCT INEFFECTIVE	MEDICAL EFFECTIVENESS	MAJOR BUSINESS FRAUD	PYRAMID SCHEME	DIVIDEND CUT COMING	COMPETITIVE PRESSURES	STOCK PROMOTION	OVER-LEVERED	DETAIL
BLEECKER STREET RESEARCH	ENERGY VAULT HOLDINGS		DEC 03, 2022	-	-	-	-	-	-	-	-	●	-	<a href="#">DETAIL</a>
FUZZY PANDA	FISKER INC.		DEC 02, 2022	●	-	●	-	-	-	-	-	-	●	<a href="#">DETAIL</a>
ICEBERG RESEARCH	AMERICAN RESOURCES CORP.		DEC 01, 2022	-	●	●	-	-	-	-	-	-	-	<a href="#">DETAIL</a>
SPRUCE POINT CAPITAL MANAGEMENT	SAPUTO		NOV 30, 2022	-	●	●	-	-	-	●	●	-	-	<a href="#">DETAIL</a>
VICEROY RESEARCH	HOME REIT		NOV 24, 2022	-	●	●	-	-	-	-	-	-	-	<a href="#">DETAIL</a>
MUDDY WATERS RESEARCH	DLOCAL		NOV 17, 2022	●	-	-	-	●	-	-	-	-	-	<a href="#">DETAIL</a>
CULPER RESEARCH	TREACE MEDICAL CONCEPTS		NOV 16, 2022	-	-	●	●	-	-	-	-	-	-	<a href="#">DETAIL</a>
SCORPION CAPITAL	TWIST BIOSCIENCE CORP.		NOV 16, 2022	●	-	●	-	●	●	-	-	-	-	<a href="#">DETAIL</a>

SOURCE: INSIGHTIA / SHORTS



# BIG BANK BLUES

Citigroup is no stranger to activist engagement but may find itself in the spotlight once again, given its poor earnings-per-share and underperformance relative to peers, writes Jason Booth.



CITIGROUP	
SECTOR	FINANCIAL SERVICES
MARKET CAP	\$93.7 BN (MID-CAP)
EXCHANGE	NYSE
TICKER	C
HQ	NY, U.S.
CORPORATE GOVERNANCE SCORE*	19/20 (EXCELLENT)



Originally published on the Insightia One platform on November 22, 2022. Data correct as of that date.

Citigroup (Citi) replaced its chief executive following a 2019 settlement with activist ValueAct Capital Partners and set out to cut costs, reduce risk, and enhance shareholder value. Since then, the mega bank’s stock has continued to underperform its peers amid concerns over asset quality and a slowdown in its investment banking business.

Citi now finds itself in the 95th percentile of companies most likely to face activism in the coming nine months, according to Insightia’s *Vulnerability* module.

### ACTIVIST THESIS

An activist might call for a slowdown in the bank’s investment in “transformation initiatives” that weakened earnings-per-share, according to its third quarter earnings report. The savings could be used to restart Citi’s share buyback program, which was halted earlier this year.

An activist could also call for a review of Citi’s investment banking operations, a key part of management’s long-term growth strategy. Revenue from segment is down around 64% from 2021, according to Goldman Sach’s research, more than at banking peers’ comparable units.

An activist could also call for an accelerated divestment of higher risk non-core assets to boost the bank’s Common Equity Tier 1 (CET1) ratio. CET1 ratio compares a bank’s capital against its risk-weighted assets to determine its ability to withstand financial distress. In 2020, Citi paid a \$400 million penalty for shortcomings in its risk management and other

internal controls processes. The U.S. Office of the Comptroller of the Currency called the bank’s deficiencies a “longstanding failure to establish effective risk management.”

In October, Goldman Sachs downgraded its rating on Citi to hold, citing the bank’s need to raise Tier 1 capital while shedding riskier ones. “Citi still needs to build capital, which delays the resumption of buybacks into 2023 and also potentially could impact revenue,” wrote Goldman.

### CORPORATE STRUCTURE

Citi provides consumers, corporations, governments, and institutions with a broad range of financial products and services, including consumer banking and credit, corporate and investment banking, securities brokerage, transaction services, and wealth management. It claims to have around 200 million customers and 220,000 employees worldwide.

That global reach could work against the bank in an inflationary environment, analysts warn. Because less of its asset base is U.S. dollar denominated, Citi benefits less than peers from interest income gained as the U.S. Treasury raises interest rates.

Citi signed an “information sharing and engagement agreement” with ValueAct in January 2019. The following year it announced the appointment of Jane Fraser as CEO, replacing Michael Corbat in a move reportedly driven by the activist’s involvement.

\*SOURCE: INSIGHTIA / GOVERNANCE  
A higher score indicates a more shareholder-friendly corporate governance structure.

In August, Citi completed the sale of its Philippines consumer business and is in the process of winding down consumer banking in South Korea. Both moves were taken as part of a plan to reduce costs and lower exposure to higher risk assets.

## PEERS AND INDUSTRY

Citi is the third largest banking institution in the U.S., alongside JPMorgan Chase, Bank of America, and Wells Fargo.

With a \$95 billion market capitalization, Citi would be a big target for any activist. But size didn't stop Ping An Insurance recommending \$116 billion HSBC Holdings separate out its China business, or Artisan Partners demanding the removal of the CEO and other board members at Credit Suisse Group in May.

## FINANCIALS

Citibank posted return on average equity (ROAE) of 7.8% over the prior 12 months, according to Insightia's *Vulnerability* module, less than its peer median 10.1% over the same period. And while its gross profit margin of 96.8% was somewhat higher than peers' 92.3%, its net profit margin of 20.9% lags 28.7% for peers.

“ WITH A \$95 BILLION MARKET CAPITALIZATION, CITI WOULD BE A BIG TARGET FOR ANY ACTIVIST. BUT SIZE DIDN'T STOP PING AN INSURANCE RECOMMENDING \$116 BILLION HSBC HOLDINGS SEPARATE OUT ITS CHINA BUSINESS. ”

Citi has posted annualized revenue growth of 0.6% over the last three years, in line with its peer group, according to Insightia's *Vulnerability* module. Earnings have disappointed, however, declining 6.1% annually over the past three years, versus a median positive earnings growth of 2.9% for peers.

Third quarter results indicated that recovery is still a work in progress. Net income for the quarter fell 24% to \$3.5 billion. Revenues increased 6% to \$18.5 billion, primarily due to the gain on sale of the Philippines consumer business.

An activist would likely note that return on average tangible common equity (RoTCE) stood at 8.2%, down from 11.0% in the same period of 2021 and well below the 11-12% ROTCE target set by management in March.

## PERFORMANCE AND VALUATION

Citi shareholders have seen a total shareholder return (TSR) of negative 24% over the last 12 months, while median TSR for peers was negative 12.5%. Over a three-year period TSR was negative 26.5%, versus healthy returns of 14.2% for its peers. JPMorgan and Bank of America are down roughly 18% and Wells Fargo is down just over 4%.

Citi stock looks relatively undervalued versus peers. It has a price-to-EBITDA ratio of 2.5, versus 6.9 for peers. Its price-to-book ratio stands at 0.5, versus 1.28 against its default-selected Insightia *Vulnerability* peer group.

## GOVERNANCE AND MANAGEMENT

Citi gets an “excellent” rating from Insightia's *Governance* module. Its few governance weaknesses include no overboarding threshold for the CEO or other directors and no director term limits.

In a sign of mild shareholder concerns, a non-binding proposal on executive compensation faced nearly 20% opposition at this year's annual meeting, with dissenting shareholders citing a lack of parity between pay and performance.

Total granted compensation for Citi's chief executive fell by around 38% between 2020 and 2021 to its lowest level since 2016, according to Insightia's *Compensation* module. Though other executives have enjoyed significant pay increases, including Chief Financial Officer Mark Mason seeing his compensation double since 2019 to over \$14 million last year.

## SHAREHOLDER REGISTRY

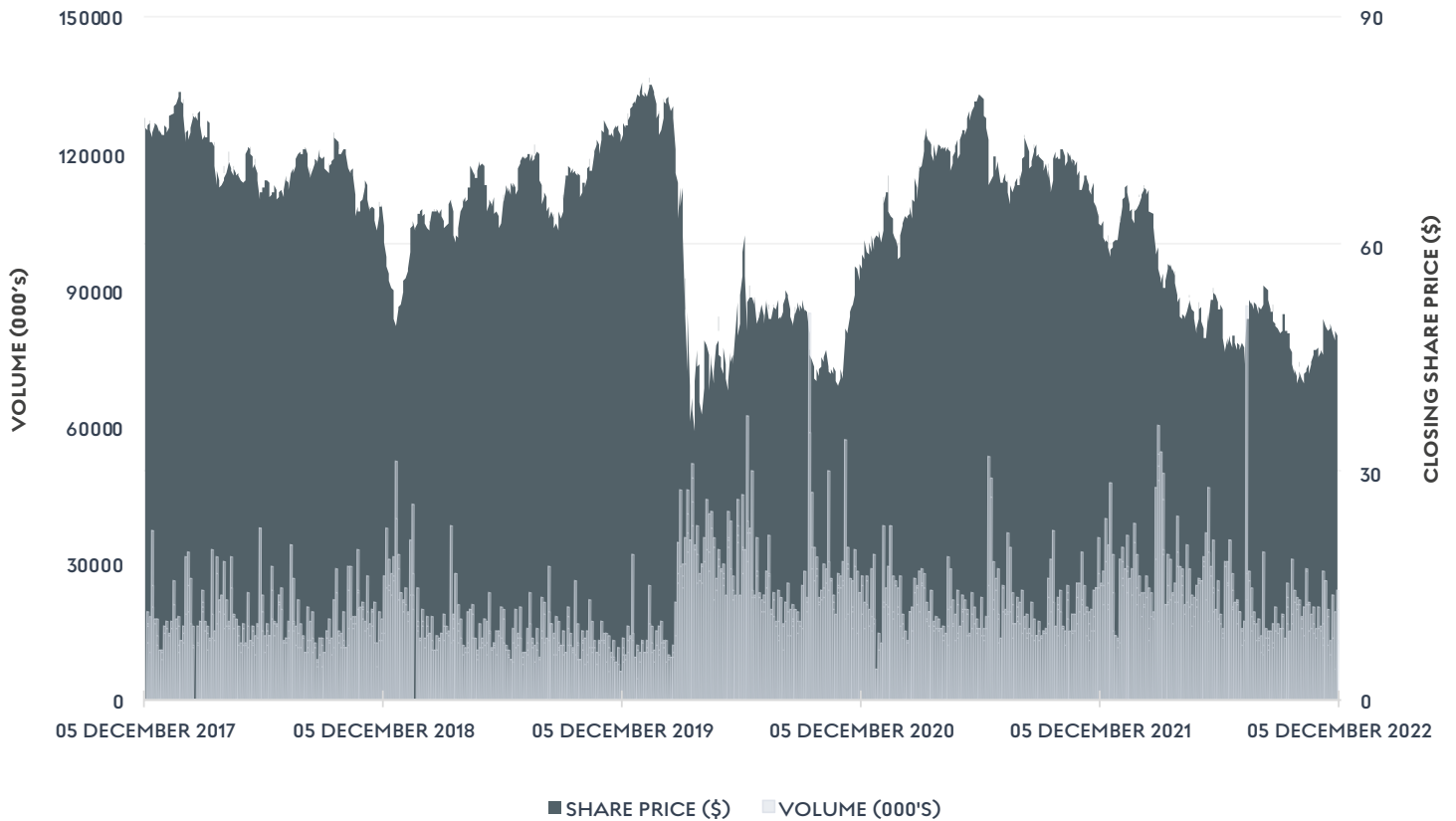
Vanguard Group, State Street Corp., and Berkshire Hathaway hold the top three spots on Citi's shareholder roster, with a combined stake of around 16%.

Dedicated and partial-focused activists hold around 1.7% of outstanding shares, headed by Artisan Partners and ValueAct. That compares to a median of just 0.38% activist holdings at peer companies. Occasional activists Harris Associates and Susquehanna (SIG) hold 2.4% and 1.1% of Citi stock, respectively.

The director nomination deadline for the 2023 annual meeting is January 26. [ia](#)

DISCLAIMER: Insightia Vulnerability reports use proprietary data, along with third-party analyst reports and, in certain cases, interviews with industry sources to identify companies that might become activist targets. They represent an analytical attempt at predicting companies that may be engaged by an activist from a wide range of possible targets and are in no way intended to indicate that a speculated event is imminent or will take place. Insightia does not provide investment advice or accept responsibility for the result of trades based on Insightia Vulnerability reports or descriptions of Insightia Vulnerability reports by third-party media.

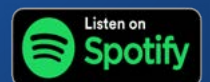
### CITIGROUP FIVE-YEAR SHARE PRICE PERFORMANCE



Share price data sources: CSI - www.csidata.com and Xignite



IN THE LATEST EPISODE OF *BEYOND THE BOARDROOM*, HOST KIERAN POOLE IS JOINED BY DANIEL MCCRUM TO DISCUSS HIS NEW BOOK, REFLECTING ON THE FINANCIAL TIMES' INVESTIGATION INTO THE WIRECARD SCANDAL.



THIS MONTH ON *THE CORPORATE DIRECTOR PODCAST*, ALAN MURRAY, CEO OF FORTUNE MEDIA, DISCUSSES THE BIGGEST CHALLENGES FACING COMPANIES TODAY AND THE FUTURE OF STAKEHOLDER CAPITALISM.



# PERSONNEL MOVES

THE LATEST HIRES AND APPOINTMENTS IN THE GOVERNANCE INDUSTRY.

## U.S.

### **Drew Hambly – California Public Employees’ Retirement System (CalPERS)**

*Investment director*

Stewardship veteran Drew Hambly joined CalPERS as an investment director. Hambly had previously served as executive director, corporate governance, at Morgan Stanley Investment Management since 2011, having also held senior positions at State Street Global Advisors, Moody’s, and Institutional Shareholder Services (ISS).

## EUROPE

### **Nisha Long – Credit Suisse Asset Management (CSAM)**

*Head of sustainability research*

CSAM appointed Nisha Long as head of sustainability research, where she will lead the investment bank’s new sustainability research team and support the ESG integration process. Previously, Long spent 16 years at financial news company Citywire where she most recently served as head of ESG and cross-board investment research.

### **Laura Jockers – M&G Real Estate**

*Global head of ESG*

M&G Real Estate, which forms part of M&G’s private assets and alternatives division, revealed Laura Jockers will join as global head of ESG, responsible for leading its responsible investment team. Jockers will help drive the firm toward its net-zero targets.

## REST OF THE WORLD

### **Richard Manley – CPP Investments**

*Chief sustainability officer*

Fund manager CPP Investments appointed Richard Manley as chief sustainability officer, responsible for leading the further refinement and execution of CPP’s climate roadmap. After joining the fund manager in 2019, Manley most recently served as head of sustainable investing. He joined CPP after 18 years at Goldman Sachs, where he latterly served as global head of thematic equity and ESG research.

# DIRECTOR UPDATES

THE LATEST DIRECTOR MOVES ON PUBLIC BOARDS.

### **Robert Iger – Walt Disney Co.**

Walt Disney announced that Bob Iger will return as CEO after departing last year to make way for outgoing Bob Chapek. The shock change in leadership came after Disney reported weaker-than-expected fourth-quarter financial results in November, despite strong revenues and profits throughout the year in multiple divisions.

### **Chaney Sheffield, Peter Thomas, and Meredith Harper – Berry Global**

Packaging company Berry Global agreed to name three new directors, including an activist, and create a capital allocation committee after striking a settlement deal with Ancora Advisors and Eminence Capital. Ancora’s deal with Berry comes about a year after the activist asked the packaging specialist to weigh its options, including a sale, and consider boosting share buybacks.

### **Heinrich Loechteken – Structural Monitoring Systems (SMS)**

Drake Private Investments installed a director at Australian technology company SMS and prompted the exit of one of its targets, though the activist’s own Andrew Roberto failed to win a seat. Drake, a Delaware-based macro fund controlling 18.6% of SMS, had also targeted two company directors, Secretary Sam Wright and Bryant McLarty. Wright survived the vote while McLarty resigned just before the meeting.

### **Cynthia Paul – Allot**

Lynrock Lake increased its stake in Allot after the activist’s CEO Cynthia Paul was offered a position on the Israeli telecom software company’s board. The fund manager said that Paul had been engaging with Allot since late September. [iQ](#)

# INVESTORS GRAPPLE WITH CHANGING DIVERSITY DEMANDS

RECENT YEARS HAVE SEEN A GROWING AWARENESS ON THE PART OF INVESTORS THAT DIVERSITY IS TOO IMPORTANT A TOPIC NOT TO BE ADDRESSED IN THEIR ENGAGEMENTS, WRITES JOSH BLACK.

After the 2008 global financial crisis, investors quickly accepted that if boards of directors were to play an important role in the corporation, the directors themselves should be independent of management. More recently, that viewpoint has evolved to include diversity as an important characteristic of boards, thus ensuring that a range of viewpoints are considered.

As a result, investors have come to adopt more stringent voting policies to ensure that board composition reflects the diversity of society. This has been reinforced more recently by legislation and regulation, especially in the U.S.

Investors have also historically taken an interest in the composition of listed companies' workforces. However, the COVID-19 pandemic and resurgence of Black Lives Matter in 2020 has accelerated engagement on this topic, leading to an increase in support for resolutions advanced by nonprofit shareholders and new resolution types that go beyond disclosure and force companies to consider whether they contribute toward an equitable society.

## THE STATE OF DIVERSITY TODAY

Insightia's *Governance* module tracks the gender and racial or ethnic diversity of boards where the data are available. That is much more commonly the case for gender diversity than racial or ethnic diversity, which are considered more sensitive data points, and besides director gender, disclosure is generally more advanced in the U.S. than in other markets.

However, recent quasi-regulatory developments, including legislation affecting companies based in California and the adoption of a non-gender diversity requirement for a public listing on the Nasdaq stock exchange (Nasdaq-listed companies must publish a board diversity matrix and "have at least two diverse directors, including one who self-identifies as female and one who self-identifies as either an underrepresented minority or LGBTQ+," or explain why they have not complied) have raised the issue of disclosure to new heights.

So far, board ethnic diversity disclosure is becoming more widespread, with 87% and 74.6% of the S&P 500 and Russell 3000 indexes, respectively, disclosing at least partial director

## PROPORTION OF RUSSELL 3000 COMPANIES WHICH DISCLOSE ANY DIRECTOR ETHNICITY DATA

NUMBER OF COMPANIES	
YES	NO
2,199	748



SOURCE: INSIGHTIA / GOVERNANCE  
\*AS OF NOVEMBER 31, 2022.

## PROPORTION OF S&P 500 COMPANIES WHICH DISCLOSE ANY DIRECTOR ETHNICITY DATA

NUMBER OF COMPANIES	
YES	NO
435	65



SOURCE: INSIGHTIA / GOVERNANCE  
\*AS OF NOVEMBER 31, 2022.



ethnicity data, as of November 30, 2022. Based on those companies that do disclose at least a partial ethnic breakdown of their boards, boards of companies in the S&P 500 index are 72% white and those in the Russell 3000 index are 71% white.

The true figures may show a lower proportion of non-white directors, since those companies that have disclosed are expected to be larger, more progressive, and more likely to have non-white board members.

The pandemic had a negative impact on gender diversity on boards, at least in the Russell 3000. Although more female directors were appointed in 2020 than in 2019, the proportion of

female directors fell as many more men were added to boards. The proportion of new female appointments increased in 2021 but is yet to exceed 50%.

## INVESTOR STEWARDSHIP AND DIVERSITY

Although investors have been a key part of the increasing pressure on issuers to adopt diversity policies for their boards and workforces, only 21% of the asset managers tracked by Insightia's *Voting* platform have a publicly stated diversity policy. Although the proportion sounds small, that represents \$78.5 trillion of assets under management – over half of global institutional assets under management.

Many smaller investors that struggle to afford extensive proxy voting teams rely on proxy voting advisers such as Institutional Shareholder Services (ISS) and Glass Lewis for recommendations on how to vote on proposals such as director reelections.

In the 2022 proxy season, ISS' policy for shareholder meetings at U.S. companies is to generally recommend against the chair of a nominating committee and occasionally against other directors when a board is lacking any female or ethnically diverse representation.

**“ FOR THE FIRST TIME IN 2023, GLASS LEWIS WILL RECOMMEND VOTING AGAINST THE NOMINATING COMMITTEE CHAIR OF ANY RUSSELL 1000 BOARD WITH FEWER THAN ONE DIRECTOR FROM AN UNDERREPRESENTED COMMUNITY. ”**

### ETHNICITY OF DIRECTORS AT RUSSELL 3000 COMPANIES WITH FULL DISCLOSURE

ETHNICITY	NUMBER	PERCENTAGE
AMERICAN INDIAN OR ALASKA NATIVE	3	0.08%
ASIAN	171	4.78%
BLACK OR AFRICAN AMERICAN	344	9.63%
HISPANIC OR LATIN	144	4.03%
MIXED	52	1.45%
NOT DISCLOSED	239	6.69%
OTHER	11	0.31%
PACIFIC ISLANDER	4	0.11%
WHITE	2,606	72.92%
<b>TOTAL</b>	<b>3,574</b>	<b>100.00%</b>

SOURCE: INSIGHTIA / GOVERNANCE  
\*AS OF NOVEMBER 31, 2022.

### ETHNICITY OF DIRECTORS AT S&P 500 COMPANIES WITH FULL DISCLOSURE

ETHNICITY	NUMBER	PERCENTAGE
AMERICAN INDIAN OR ALASKA NATIVE	2	0.13%
ASIAN	74	4.94%
BLACK OR AFRICAN AMERICAN	200	13.35%
HISPANIC OR LATIN	69	4.61%
MIXED	18	1.20%
NOT DISCLOSED	63	4.21%
OTHER	4	0.27%
PACIFIC ISLANDER	2	0.13%
WHITE	1,066	71.16%
<b>TOTAL</b>	<b>1,498</b>	<b>100.00%</b>

SOURCE: INSIGHTIA / GOVERNANCE  
\*AS OF NOVEMBER 31, 2022.

For the first time in 2023, Glass Lewis will recommend voting against the nominating committee chair of any Russell 1000 board with fewer than one director from an underrepresented community – in terms of race, LGBT status or gender identity – on the board.

## SHAREHOLDER PROPOSALS

The other way in which investors encourage corporate diversity is through supporting resolutions from shareholder advocates. More than three-quarters of shareholder proposals on diversity topics are filed at U.S. companies in any given year, where they are usually nonbinding – meaning that management is not obligated to respond.

The number of proposals on diversity have grown sharply in recent years. In 2018, there were 16 proposals on various diversity topics, including requests for issuers to publish internal workforce composition data, the adoption of diversity policies, and details about the diversity of the board of directors. That had risen to 26 in 2020. Average support for these proposals fluctuated around a level that showed significant support but only occasionally resulted in the proposals gaining majority support.

However, the resurgence of the Black Lives Matter movement in June 2020 – toward the end of proxy season – has clearly changed the dynamic for shareholder proposals on diversity. Average support for board diversity report proposals leapt from 36% in 2020 to 62% in 2021. Proposals regarding workforce

diversity, including disclosure of employee identification data, averaged 50% in 2021.

Another big change in the 2021 proxy season was the introduction of a new type of proposal, the racial equity audit, which calls on the target company to consider all of the ways in which its operations and policies impact on inequitable outcomes for stakeholders. There were nine racial equity proposals in 2021 and 23 so far in 2022 with growing average support (as well as 11 counterproposals from conservative groups that deem anti-racist programs to be discriminatory), dramatically increasing the overall number of proposals on diversity topics to over 60 for the first time.

Racial equity proposals have so far been well-supported, receiving on average one-third support (eight, including at Apple and Johnson & Johnson have won majority support). Furthermore, several companies, including BlackRock and Amazon, have agreed to conduct audits in return for the proponent withdrawing its resolution.

While the continued high number of shareholder proposals in 2022 confirms that diversity is still a key priority for proponents, support from the wider investor community has dropped below recent averages. This may be because companies have made advances over recent years or because proposals have become increasingly prescriptive, and investors are generally loathe to support anything that management considers to interfere with its ability to manage a business. [i3](#)

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# SAYING GOODBYE TO DUAL-CLASS SHARES

SUSTAINED REGULATORY AND INVESTOR PRESSURE IS CONVINCING COMPANIES GOING PUBLIC TO THINK TWICE ABOUT IMPLEMENTING MULTI-CLASS SHARE STRUCTURES, WRITES REBECCA SHERRATT.

The proportion of U.S. companies with dual-class share structures (DCSS) has consistently declined in recent years, but increased engagement between investors and policymakers is speeding up the process.

As of November 30, 2022, 6.8% of S&P 500 constituents had dual-class structures in place, compared to 7.2% at the end of 2021, according to Insightia's *Governance* module. Nutanix and Constellation Brands are among the companies to convert to a single-class share structure this year.

Companies launching initial public offerings (IPOs) this year are also leaning away from dual-class structures, aware of the controversy that plagues them. In the first half of 2022, 17.4% of U.S. IPOs implemented multi-class share structures, compared to 22.4% throughout the first half of 2021, according to Council of Institutional Investors (CII) data.

## TAKE IT UP WITH MANAGEMENT

Contributing to the decline in DCSS is increasing evidence that companies looking to go public with dual-class structures will face stricter regulations in coming years.

“AS OF NOVEMBER 30, 2022, 6.8% OF S&P 500 CONSTITUENTS HAD DUAL-CLASS STRUCTURES IN PLACE, COMPARED TO 7.2% AT THE END OF 2021.”

In October 2021, the U.S. House of Representatives opened discussions on amending the Securities Exchange Act of 1934's Multi-class Bill. The draft legislation, submitted by CII, would require newly-listed companies that choose to implement multi-class stock structures to include a seven-year sunset provision, eventually leading to a one-share, one-vote structure. The policy will face further debate in a March 2023 hearing.

“Our campaign pushing companies to adopt single-share voting structures is certainly gaining traction. Slack and Yelp! are just a few companies that recently went public with sunset provisions in place,” Amy Borrus, executive director at CII, told *Insightia Monthly* in an interview. “It is, however, a slow process trying to juggle engagement with all these companies, whereas our bill promotes the importance of sunset provisions much more easily.”

Investors may be even more vocal with policymakers on multi-class structures in the future. In June, CII and RPMI Railpen launched the Investor Coalition for Equal Votes (ICEV), a \$1 trillion initiative aimed at pushing back against unequal voting rights through “dialogue with key market participants and policymakers.”

According to Borrus, next year, ICEV will reach out to private companies about the importance of sunset provisions, “getting our foot in the door pre-IPO.”

## ALL IN AGREEMENT

Along with the mounting regulatory focus on multi-class structures, recapitalization shareholder proposals are winning more support year-on-year, even against the backdrop of a broader decline in support for ESG proposals this season.

## US COMPANIES WITH DUAL-CLASS SHARE STRUCTURES

YEAR	INDEX			
	S&P 500		RUSSELL 3000	
	NO. COMPANIES	PROPORTION	NO. COMPANIES	PROPORTION
2021	36	7.20%	356	11.80%
2022*	34	6.80%	391	13.30%

SOURCE: INSIGHTIA / GOVERNANCE  
\*AS OF NOVEMBER 30, 2022.

As of November 30, 2022, the four proposals asking S&P 500 companies to convert to a one-share-per-vote structure have garnered 32.7% average support, compared to 30.8% and 31.7% average support throughout 2020 and 2021, respectively.

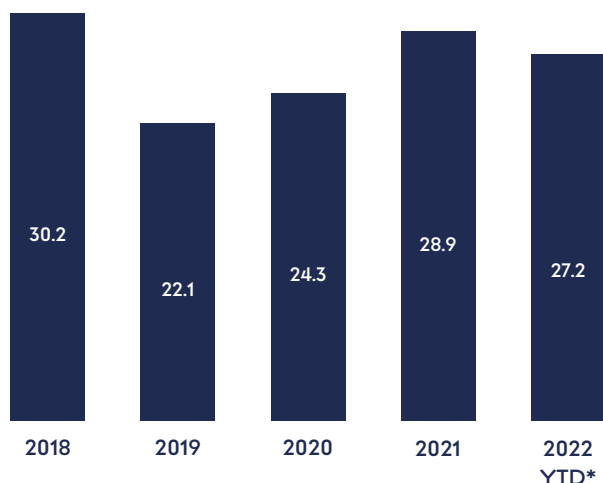
NorthStar Asset Management's proposal calling on Alphabet to collapse its dual-class structure won 33.2% support at the company's June 1 annual meeting, the highest level of support such a proposal has ever won in its 11 years on the technology giant's ballot. It was much the same story at Meta Platforms' May 25 annual meeting, where a recapitalization proposal won 28.1% support, the highest level in its ninth year on the ballot.

If both votes had been conducted on a one-share-one-vote basis, the latest recapitalization proposals at Alphabet and Meta would have won 98.2% and 94.8% support, respectively, according to Insightia's *Voting* module.

### SUPPORT FOR (%) 'ONE SHARE ONE VOTE' SHAREHOLDER PROPOSALS AT US-HEADQUARTERED COMPANIES

NO. PROPOSALS				
2018	2019	2020	2021	2022*
10	9	7	13	7

### AVERAGE SUPPORT %



SOURCE: INSIGHTIA / VOTING  
\*AS OF NOVEMBER 30, 2022.

"We will continue to see recapitalization proposals, but it's not easy for these to achieve success," Borrus said. "But regardless, these proposals serve as valuable signaling of investors' wants."

BlackRock voted in favor of three of the four proposals seeking recapitalization at S&P 500 companies this season, noting in a voting bulletin that the fund manager "strongly prefer[s] a one-vote for one-share structure" as it "provides control proportionate to shareholders' capital at risk."

**“REGULATORY ACTION AND PRESSURE FROM INVESTORS SEEM TO SUGGEST MULTI-CLASS SHARE STRUCTURES HAVE INDEED OUTSTAYED THEIR WELCOME.”**

Expect more proposals in 2023. At the International Corporate Governance Network's (ICGN) 2022 proxy season review last month, NorthStar CEO Julie Goodridge revealed that new proposals recommending companies set deadlines by which to eliminate their multi-class structures, in order to remedy their "lopsided governance," will hit proxy ballots.

### REMNANT OF A BYGONE ERA

Regulatory action and pressure from investors seem to suggest multi-class share structures have indeed outstayed their welcome, and current market trends could be the nail in the coffin.







Current market volatility further supports the argument against dual-class voting structures, as evidenced at Meta Platforms. The technology giant has lost more than 70% of its share value this year, due to poor capital allocation decisions and, according to Goodridge, the company's failure to implement a board structure that holds CEO Mark Zuckerberg accountable. The NorthStar CEO said Meta has singlehandedly ensured that multi-class shares are now "finally seen as detrimental."

"Anywhere else, the CEO would be gone or at least be facing significant pressure to step down," Borrus of CII noted. Instead, shareholders have little power to enact change, with CEO Mark Zuckerberg holding 74% voting power, despite his measly 13% equity stake. [iQ](#)




# UPCOMING EVENTS

A SELECTION OF UPCOMING MEETINGS AND SHAREHOLDER PROPOSALS.

## Meetings

ISSUER	TYPE	HQ	DATE	
AUTOZONE	ANNUAL		DEC 14, 2022	<a href="#">DETAIL</a>
SK-ELECTRONICS CO.	ANNUAL		DEC 16, 2022	<a href="#">DETAIL</a>
LGL GROUP	ANNUAL		DEC 20, 2022	<a href="#">DETAIL</a>
FINANCIAL PRODUCTS GROUP	ANNUAL		DEC 22, 2022	<a href="#">DETAIL</a>
VISA INC.	ANNUAL		JAN 24, 2023	<a href="#">DETAIL</a>
LANNETT CO.	ANNUAL		JAN 25, 2023	<a href="#">DETAIL</a>

## Shareholder proposals

ISSUER	INVESTOR	HQ	MEETING DATE	
MICROSOFT	BOSTON COMMON ASSET MANAGEMENT		DEC 13, 2022	<a href="#">DETAIL</a>
<b>Report on defense consumer use of technology.</b>				
Commission a third-party report assessing whether government use of Microsoft technology contributes to human rights violations.				
PACIFIC SMILES	ALEXANDER ABRAHAMS		DEC 19, 2022	<a href="#">DETAIL</a>
<b>Removal of Zita Peach as director.</b>				
Remove Zita Peach as board director with immediate effect from the close of the general meeting.				
DIFFUSION PHARMACEUTICALS	LIFESCI CAPITAL		DEC 30, 2022	<a href="#">DETAIL</a>
<b>Appoint Jill Davidson as director.</b>				
Appoint dissident nominee Jill Davidson to the board.				

SOURCE: INSIGHTIA / VOTING