

## Report on Social Equity – Related Proxy Voting in the USA



Australasian Centre for Corporate Responsibility (ACCR)

June 2018

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## Executive Summary

This report is an examination of the utilisation of shareholder resolutions put forward to companies and the outcome of proxy voting, within four prominent social equity issue areas. These being; gender, sexual orientation, race and disability. Through utilisation of historical databases and relevant literature, the report will analyse trends in the system across all forms of equity. The analysis includes a history of the social utilisation of proxy voting procedures in the context of legislative changes. Furthermore, current shareholder resolutions and voting outcomes are examined in reference to the broader social equity issues within American society.

The value of this project is in understanding the resolution timeline and the utilisation of shareholder resolutions within the American system. Through this understanding, Australians can see the value of the shareholder resolution system in supporting social equity issues. This value could be extended to wider societal issues including environment and governance. Through evidencing the effectiveness of the system when efficiently utilised, Australians can understand the value of the system and how to best implement it. From the data there are two main values for the Australian shareholder:

### **1. Shareholder Resolutions as a Tool to Respond to Shifts in Social Awareness**

The value of shareholder resolutions as a tool for individuals/ groups to create private pressure for important social issues. These issues can get raised and cause changes in corporate policy before legislative changes can be implemented.

### **2. Shareholder Resolutions as a Tool to Pressure for Widespread Legislative and Social Change**

The value of shareholder resolutions as a highly useful tool to pressure companies and the government for social, corporate and legislative changes. Through increasing pressure on private companies, political pressure and legislative change generally follows.

Overall, Australian shareholder engagement has been increasing in recent years and this report attempts to hasten these actions. The report analyses the use of shareholder resolutions for changes to social equity issues. Through understanding the outcomes of these, Australians can understand how the system can be utilised effectively for widespread social change.

## Introduction and Definitions

### Corporate Democracy

Companies hold Annual General Meetings (AGMs) to vote on company changes and influential decisions. The AGM held by a company involves the Board reporting to its shareholders about performance, electing directors/ seeking reappointment to the Board and remuneration. The AGM has a participatory element wherein input is sought from the shareholders through resolutions which may be proposed and voted on. The voting rights for shareholders emerged as an issue in the United States in the latter half of the nineteenth century and 'shareholder democracy' as is viewed today developed after World War II<sup>1</sup>. The U.S Securities and Exchange Commission (SEC) was developed in 1934 and sets the rules for "shareholders to file resolutions for companies listed on the U.S. stock exchanges."<sup>2</sup> Their ruling on the landmark case of Lewis Gilbert vs. Bethlehem Steel in 1939 "acknowledged that shareholders had the legal right to communicate to each other and to management through the medium of the company's proxy material"<sup>3</sup>.

### The Importance of the Proxy Advisor

Proxy advisors are firms which "analyze corporate elections and advise investor clients on how to vote their shares."<sup>4</sup> Notable proxy advisors within America are the Institutional Shareholder Services (ISS), who has 60% of the market share, Glass Lewis, Macro Consulting Group and Egan-Jones<sup>5</sup>. These advisors are very powerful due to their ability to influence the voting through their recommendations. Different commentators have claimed that the "ISS alone is able to influence shareholder votes by 19%, or even a third or more... thus the collective power of proxy advisors is arguably even greater."<sup>6</sup> Other studies have found that the result of a vote can be wholly predicted by the recommendation by ISS.<sup>7</sup> As the importance of shareholder voting continually increases, so too does the importance of the ability of proxy advisors to influence investor voting.

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<sup>1</sup> Colleen A. Dunlavy, "Social Conceptions of the Corporation: Insights from the History of Shareholder Voting Rights," *Washington and Lee Law Review* 63 (2006): 1347-1388

<sup>2</sup> William Bratton and Joseph A. Mcahery, *Institutional Investor Activism: Hedge Funds and Private Equity, Economics and Regulation* (Oxford: OUP Oxford, 2015): 41-42

<sup>3</sup> Richard Marens, "Inventing corporate governance: The mid-century emergence of shareholder activism," *Journal of Business Management* 8 (2002): 365-389

<sup>4</sup> Stephen Choi, Jill Fisch and Marcel Kahan, "The Power of Proxy Advisors: Myth or Reality," *Emory Law Journal* 59 (2010): 871

<sup>5</sup> Lars Klöhn and Phillip Schwarz, "The regulation of proxy advisors," *Capital Markets Law Journal* 8 (2013): 90-107

<sup>6</sup> Choi, Fisch and Kahan, "The Power of Proxy Advisors": 872

<sup>7</sup> Klöhn and Schwarz, "Regulation of proxy advisors"

It is imperative to understand the power yielded by proxy advisor firms and how their recommendations influence the overall voting outcomes on resolutions. Overall, companies may not be voting because of social or universal matters but rather, merely voting in line with the recommendation of their proxy advisor.

## Shareholder Proxy Voting

Shareholder proposals have been a readily available tool within American AGMs since the 1970's. As the system continues to grow in prominence, the right of the shareholder to vote is considered one of the most powerful methods to engage with the Board and express an opinion<sup>8</sup>. Early shareholders were primarily motivated by social concerns, however increasingly, social concerns are being viewed as financial concerns to the universal owner. These shareholders utilise the shareholder-proposal process during an AGM to indicate issues which are of concern to them<sup>9</sup>. These proposals may continue to be re-submitted if they "pass certain hurdles,<sup>10</sup>" and tend to gain support whilst the social issue is relevant. Shareholder resolutions must attain a minimum percent of the vote to be refiled- "three percent in the first year, six percent in the second year, and 10% in the third and subsequent years."<sup>11</sup> Additionally, the SEC outlines the shareholder requirements for resolution proposal. These being that the shareholder must hold

*"either \$2,000 worth of shares at their market value or 1% of the total number of securities ... they must also have held the shares for at least a year prior to the lodging of the proposal and must hold those securities through to the date of the meeting...shareholders may only submit one proposal to a company for a particular shareholders meeting"<sup>12</sup>*

The voting from shareholders during a company's AGM is highly important as it communicates their social agenda. Within these meetings many large funds who hold shares and individual shareholders may elect to vote through a proxy voter which is "a person authorised to act for another<sup>13</sup>." The appointed proxies have a "weighted vote equal to the shares," the shareholder (be

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<sup>8</sup> Chris Mallin and Andrea Melis, "Shareholder rights, shareholder voting, and corporate governance," *Journal of Management & Governance* 16 (2010): 171-176

<sup>9</sup> James R Copland and Margaret M O'Keefe, "Proxy Monitor 2017: Season Review," *Proxy Monitor Report*, November 2017, [http://www.proxymonitor.org/Forms/pmr\\_15.aspx](http://www.proxymonitor.org/Forms/pmr_15.aspx)

<sup>10</sup> Carolyn Mathiasen, "Social Policy Shareholder Resolutions in 2003," *IRRC* (2004): 1-67

<sup>11</sup> Jeanne M Logsdon and Harry J Van Buren III, "Beyond the Proxy Vote: Dialogues Between Shareholder Activists and Corporations," *Journal of Business Ethics* 87 (2009): 354-355

<sup>12</sup> Howard Pender and Josh Sheppard, "Shareholder resolutions at listed public companies in major English-speaking countries: comparative arrangements," *Australasian Centre for Corporate Responsibility* (2014): 31

<sup>13</sup> Dan Alger, "Voting by Proxy," *Public Choice* 126 (2006): 1-26

it an investment fund, superfund or an individual) holds within the company. Within the AGM, proxies can be given to the chairman of the meeting- Board appointed- or to another shareholder.

## Social Equity Issues within Shareholder Resolutions

Proposals may cover all aspects of the company's operation from Environment, Social and Governance issues (ESG issues) to highly publicised 'say on pay' issues concerning CEO remuneration.<sup>14</sup> Although "active shareholder participation is largely limited to making and voting upon proposals for director consideration,"<sup>15</sup> the current voting landscape sees more shareholder proposals submitted to American public corporations and higher support being achieved than ever before. As shown through data in Appendix K,<sup>16</sup> the drastic increase in proposal submissions by 68% in 2004, continues to increase and data suggests this trend will continue.

Equity issues within the workplace are highly prominent and mirror trends in social issues. There have been 142 resolutions which relate to equity issues since 2006 presented to the top 250 American companies<sup>17</sup>. Resolutions associated with these issues contribute to a substantial portion of the shareholder proposals every year. Based on the number of resolutions and social support for the issues, the four main equity issues within the workplace are; gender equity, sexual orientation equity, racial equity and, to a lesser extent, disability equity. The shareholder resolutions proposed in regard to these issues tend to be focused on non-discrimination or Equal Employment Opportunity (EEO) resolutions. Historically, these resolutions were of concern only to purely socially motivated shareholders, however there is an increasing move to universal ownership, bringing with it a rise in social concern from the economically conscience shareholder.

These equity concerns have their roots in different facets of history and the rise of support for the social issues. Legislation to overcome employment barriers has both led and followed from notable shareholder resolutions. The differences between the issues current shareholder resolutions and voting outcomes helps to demonstrate the current majority view on the topic and perceived holes in the legislative framework. Through examining the equity issues individually, including a brief history of their rise into social policy and proxy voting resolutions, a clear picture of the overall equity issue within companies becomes apparent.

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<sup>14</sup> Yonca Ertimur, Fabrizio Ferri and Volkan Muslu, "Shareholder Activism and CEO Pay," *The Review of Financial Studies* 24 (2011): 535-592

<sup>15</sup> Thomas W. Joo, "Corporate Hierarchy and Racial Justice," *St. Johns Law Review* 79 (2005): 960

<sup>16</sup> Andre R. Brownstein and Igo Kirman, "Can a Board Say No When Shareholders Say Yes? Responding to Majority Vote Resolutions," *The Business Lawyer* 60 (2004): 23-77

<sup>17</sup> "Proxy Monitor", *Proxy Monitor*, modified every day, <http://proxymonitor.org/>

## Background Information of The Company and Report

The Australasian Centre for Corporate Responsibility (ACCR) is a not-for-profit association which aims to promote ethical investment. The company attempts to facilitate shareholder knowledge and engagement for sustainable company development. The ACCR is focused on shareholder advocacy through corporate research and, assisting member engagement. The company works towards improving shareholder advocacy and company transparency through overall changes to corporate law. The ACCR is currently undertaking an audit of a select 55 (ACSI members, the largest and some randomly selected) Australian Superannuation Fund's proxy voting disclosures. This involves auditing each fund's voting history on important, select ESG issues as well as ESG and proxy voting policy and the time taken for disclosure. This audit aims to improve individual shareholder engagement with their superfund.

## Purpose and Objectives of the Internship Project

The purpose of this report is to provide an overview of the historical trends in shareholder resolutions on the four most prominent equity issues; gender, sexual orientation, race and disability. Through understanding the American perspective and timeline of these issues, there is value for an Australian audience to see the importance of the bottom-up shareholder advocacy and how this helps to drive corporate changes. This report hopes to demonstrate the similarities and discrepancies of the trends of the equity issues in line with their social importance and understanding. Through understanding the past use of shareholder resolutions for the equity issues, the current landscape can be placed into perspective and the overall value of the practice can be examined.

This report helps to demonstrate the connection of how the practice of shareholder resolutions and proxy voting can be utilised to effectively gain support for relevant issues. Through examining how these resolutions are a healthy aspect of American corporate democracy, there is a hope to understand how the tool would be applicable for an Australian shareholder, in an Australian context. This report hopes to demonstrate the value in utilising shareholder resolutions to communicate social issues to companies and influence social shifts in corporations.

## Methodologies Undertaken

Exploratory research using secondary sources was carried out focusing on secondary, notably the ProxyMonitor, the Interfaith Centre on Corporate Responsibility (ICCR) and the Investor Responsibility Research Centre (IRRC).

The ProxyMonitor<sup>18</sup> database tracks all current shareholder proposals, dating back to 2006, for the largest 250 publicly listed American companies. This database on the website is widely used throughout the report and summaries of proxy voting histories are drawn from this site. The 250 largest companies provide an efficient market segment for the overall analysis of proxy voting records with multiple industries being represented. The ProxyMonitor often allowed a good starting point for the research, showing overall proposal trends and guided further research. The reports based off the data from the site, including end-of-year season reviews, are also used throughout the report. Although the database was a highly useful too, it is important to note there are many resolutions which are presented but withdrawn before a vote as the board may make adequate concessions prior to the AGM. These resolutions are not noted in the ProxyMonitor and this is a downfall of this resource.

Large shareholder advocacy groups, notably the ICCR<sup>19</sup> utilise shareholder activism to highlight ESG issues. The ICCR is a peak body of universal, religiously motivated shareholders with a long-term financial goal to invest in socially responsible funds. The ICCR compiles a proxy resolution and voting guide with the 2016<sup>20</sup>, 2017<sup>21</sup> and 2018<sup>22</sup> publicly available guides utilised throughout this report. The report used this information to demonstrate the increased shareholder activism and the current landscape of workplace equity resolutions. The reports offer overview statistical data of proposed resolutions and accurate summaries of why they were initially filed. These summaries offer a perspective into the shareholder mindset and general political/social climate. Furthermore, these reports give background information on previously filed resolutions and current shareholder resolutions awaiting a vote.

The IRRC is a non-profit research organisation that “funds environment, social and corporate governance research”<sup>23</sup>. The company focuses on proxy voting resolutions, particularly social

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<sup>18</sup> “Proxy Monitor,” *Manhattan Institute for Policy Research*, last modified 2017, <http://proxymonitor.org/>

<sup>19</sup> “ICCR homepage,” *Interfaith Centre for Corporate Responsibility*, last updated 2018, <http://www.iccr.org/>

<sup>20</sup> ICCR, “2016 Proxy Resolution and Voting Guide,” *ICCR*, (2016): 1-224

<sup>21</sup> ICCR, “2017”

<sup>22</sup> ICCR, “2018 Proxy Resolution and Voting Guide,” *ICCR*, (2018): 1-239

<sup>23</sup> “IRRC homepage”, *Investor Responsibility Research Centre*, last updated 2018, <https://irrcinstitute.org/>

policy shareholder resolutions. The IRRIC issues reports regarding these voting disclosures ensuring their reports “empowers investors, policymakers, and other stakeholders to make better, data driven decisions”. The publicly available research reports have been utilised, as well as the compiled record of the IRRIC database and the Social Policy Shareholder Resolution documents from 2003<sup>24</sup>, 2004<sup>25</sup>, 2005<sup>26</sup>, 2006<sup>27</sup>, 2007<sup>28</sup> and 2008<sup>29</sup> as provided by Ben Jacobsen.

Finally, relevant literature including available proxy voting databases, informative reports and summaries on social resolutions informed the report. Relevant summary histories of the wider social issue across society was examined in reference to how this was reflected in proxy voting records. The qualitative and quantitative information was segregated based on the different areas of social equity issues. Although often strongly linked, the information was separated by the separate equity issues of gender, sexual orientation, race and disability.

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<sup>24</sup> Mathiasen, “2003,”: 1-67

<sup>25</sup> Carolyn Mathiasen, “Social Policy Shareholder Resolutions in 2004,” *IRRC* (2005): 1-50

<sup>26</sup> Carolyn Mathiasen, “Social Policy Shareholder Resolutions in 2005,” *IRRC* (2006): 1-79

<sup>27</sup> Carolyn Mathiasen & Heidi Welsh, “Social Policy Shareholder Resolution in 2006,” *IRRC* (2007): 1-87

<sup>28</sup> Carolyn Mathiasen & Heidi Welsh, “Social Policy Shareholder Resolutions in 2007,” *IRRC* (2008): 1-84

<sup>29</sup> Carolyn Mathiasen & Heidi Welsh, “Social Policy Shareholder Resolutions in 2008,” *IRRC* (2009): 1-94

## Proxy Voting of Social Equity Issues Analysis

The following is an examination of each of the equity issues; gender, sexual orientation, race and disability. The analysis includes a history of the movements of related proxy voting resolutions. These issues are examined within the societal movement for the social equity issues including the momentous legislative changes. Furthermore, current shareholder resolutions and voting outcomes are examined to determine where the equity issue currently stands within American society.

### Gender Equity

Women in America did not receive the right to vote in America until 1920 and the disruptive labour market of World War II can be viewed as the first influx of women into paid work<sup>30</sup>. The following post-war era sparked debate over women's place in the workforce with 'wage justice' and 'unfair sex discrimination' legislative policies arising in the 1940's and 1950s. These debates culminated in the Equal Pay Act of 1963.<sup>31</sup> This Act stated "as a general rule, that men and women who work in jobs that are substantively equal in terms of skill, effort, responsibility, and working conditions shall receive the same pay"<sup>32</sup>. Although continual legislative changes are being made the average income for a full time working woman in the US is still reportedly only 79% of their male counterparts. At the current rate women are "not expected to reach pay parity until 2059"<sup>33</sup>. Furthermore, women remain significantly underrepresented on U.S. corporate boards comprising 18% of all S&P 15000 directorships.<sup>34</sup>

In 1947 Wilma Soss was snubbed at the U.S Steel stockholder's meeting when she called for a woman to be appointed to the board. This caused her to become the founder of the Federation for Women Shareholders. In 1950 she submitted a proxy resolution which can be viewed as "the first concerted effort to raise a particular social issue in a consistent and organized campaign across the companies in which she and her allies invested"<sup>35</sup>. Soss submitted a proxy resolution to American Radiator and Standard Sanitary which argued that "a qualified woman on our board would give better representation to women's equity in our company...company research and development

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<sup>30</sup> Dorothy Sue Cobble, *The Other Women's Movement: Workplace Justice and Social Rights in Modern America* (New Jersey: Princetown University Press, 2004), 315

<sup>31</sup> Dorothy Cobble, *The Other Women's Movement*

<sup>32</sup> Melissa Fugiero, *Encyclopaedia of Gender and Society* (Thousand Oaks, SAGE Publications Inc., 2009)

<sup>33</sup> ICCR, "2017": 148

<sup>34</sup> ICCR, "2018"

<sup>35</sup> Marens, "Inventing corporate governance": 374

work would benefit from a woman's angle."<sup>36</sup> This proposal can be viewed not only as the start of gender equity shareholder activism, but wider social shareholder activism. Soss' resolution was the first time an individual utilised the shareholder voting power within a company to raise a significant social issue, prevalent throughout wider society.

Gender equity resolutions have developed as having two main streams; equal opportunity employment and increasing board diversity. In the early twenty first century the amount shareholder resolutions regarding either form of gender equity has been surprisingly low; with only three resolutions proposed in 2003<sup>37</sup>, four in 2004<sup>38</sup> and three in 2005<sup>39</sup>. Within all these resolutions gender was viewed as a single aspect of 'equal employment' alongside race and occasionally sexual orientation and disability. This lack of specific shareholder resolutions may be due to the creation and implementation of legislation throughout these years. Shareholders may have perceived this legislation as adequately addressing the gender disparity issues and that it was better system to call for legislative change rather than changes to company policy. Political lobbying for the Paycheck Fairness Act was highly active being introduced to Congress 20 times by 2012<sup>40</sup>.

However, gender equity resolutions saw a resurgence in 2015 following pivotal lawsuits against company gender discrimination, the Hollywood call for gender pay equity and the political legislation of European nations and Canada which promoted gender equity<sup>41</sup>. In 2015, for the first time, Eve Sprunt successfully added gender pay equality to ExxonMobil's proxy voting agenda through challenging the SEC's motion to exclude these measures from their proxies<sup>42</sup>. "According to sustainable investment firm Arjuna Capital, the similar proposal made to eBay marks the first time that the gender pay gap has been put to the proxy ballot of a U.S. company."<sup>43</sup> The increasing prominence of the gender pay gap saw a social push for shareholders to utilise proxy voting to get companies to reveal gender pay inequities. As Appendix G shows, following 2015 the amount of

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<sup>36</sup> Frank D Emerson and Franklin C. Latcham, *Shareholder Democracy; a broader outlook for Corporations* (Cleveland: Press of Western Reserve University, 1954)

<sup>37</sup> Mathiasen, "Social Policy 2003,": 1-67

<sup>38</sup> Mathiasen, "Social Policy 2004,": 1-50

<sup>39</sup> Mathiasen, "Social Policy 2005,": 1-79

<sup>40</sup> Marlene Kim, "Policies to End the Gender Wage Gap in the United States", *Review of Radical Political Economics* 45 (2013): 278-283

<sup>41</sup> Li Zhou, "Year in Review: The Biggest Stories About Gender Inequality at Work," *The Atlantic*, December 31, 2015

<sup>42</sup> Eve Sprunt, "New Tactic to reveal gender pay inequalities: shareholder proposal," *San Francisco Chronicle*, April 13, 2015

<sup>43</sup> Jena McGregor, "When Shareholders want to talk about pay equality, but companies don't," *Washington Post*, March 3, 2015

specifically gender related equity shareholder resolutions increased exponentially. As Appendix H shows, the support for these resolutions also rose sharply following this period. Eve Sprunt's resolution was proposed to ExxonMobil three consecutive times in 2015, 2016 and 2017 culminating in ExxonMobil's annual gender pay report<sup>44</sup>, evidencing the effectiveness of the shareholder resolution approach.

The current gender equity landscape is more influenced by the rising awareness of gender based sexual assault, with the #MeToo movement and the anniversary of the women's march. This movements "shined a spotlight on gender justice and given new urgency to gender lens"<sup>45</sup>. Following the sexual harassment allegations of a now former Amazon executive in 2017 and a report exposing how just one of the sixteen top executives at Amazon is a woman, shareholders have been calling on the company to increase board diversity.<sup>46</sup> Overall in 2017 there was a huge call for data on sexual harassment. According to the research done by an arm of proxy advisor Institutional Shareholder Services (ISS), investors have not been pushing "proxy resolutions focused on corporate harassment policies"<sup>47</sup> but rather "proposals to boost gender and pay parity among companies as a way of addressing sexual harassment."<sup>48</sup> Indeed, proposals calling for gender diversity on the board "have been growing in recent years, from just seven in 2012 to 37 in 2017"<sup>49</sup>. In 2017, several mutual fund companies including "BlackRock and State Street, the world's largest and third-largest institutional investors" announced partial agreements "with social activists regarding the issue of gender diversity on boards"<sup>50</sup> which further demonstrates the growing social concern for this issue.

This has culminated in workplace gender diversity and EEO proposals being the second most filed resolution type by the ICCR in 2018<sup>51</sup>. Nine of these resolutions filed explicitly addressed the gender pay gap instead of combining areas such as gender, race and sexual orientation, as previously done. The 2018 proxy voting season also saw a new type of resolution calling for paid family leave being filed for the first time. This is an attempt to overcome the issue of women

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<sup>44</sup> "Gender Pay Report 2017" ExxonMobil, last updated 2017

<http://cdn.exxonmobil.com/~media/unitedkingdom/files/other/em-uk-gender-pay-report-2017.pdf>

<sup>45</sup> ICCR, "2018": 12

<sup>46</sup> Jena McGregor, "Investment group urges more women in Amazon's senior ranks following harassment allegations," *Washington Post*, December 6, 2017

<sup>47</sup> McGregor "Investment group"

<sup>48</sup> Leslie P. Norton, "We Won't Stand For It! Why Gender Will be in Focus During Proxy Season," *Barrons*, December 6, 2017

<sup>49</sup> McGregor "Investment group"

<sup>50</sup> Copland and O'Keefe, "2017: Season Review"

<sup>51</sup> ICCR, "2018": 12

leaving the workforce to start a family, further entrenching the gender inequality. The amount of gender equity shareholder resolutions is expected to continue to increase as awareness of widespread sexual assault increases. As allegations grow against the men in power of these companies, so too does the overall dissatisfaction for the representation of women within these areas and the pay equity facing all women.

## Sexuality Orientation Equity

In 2015 the United States Supreme Court declared it unconstitutional to deprive marriage regardless of sexual orientation in the *Obergefell v. Hodges* decision<sup>52</sup>. Despite this societal shift there is “no federal law that explicitly prohibits sexual orientation” discrimination within American companies<sup>53</sup>. Within company policy there has been a high rate of uptake of non-discrimination based on sexual orientation policies within the past decade. As Pizer et al. stated “in 1999, 72 percent of Fortune 500 companies included sexual orientation in their non-discrimination policies... by 2009, 87% of companies included sexual orientation”<sup>54</sup>. These policies changes can be attributed to, in part, to the push from shareholders and the shareholder advocacy groups to express their opinions for these equity policies.

The beginning of proxy voting shareholder activism against sexual orientation discriminatory practices is commonly viewed as the 1992 Cracker Barrel shareholder proposal.<sup>55</sup> This case involved a shareholder proposal “requesting that the company formally prohibit discrimination based on sexual orientation.”<sup>56</sup> Although there was strong shareholder support, the company encouraged shareholders to vote against. From this action however, the SEC penned an action letter which stated the proposal could be excluded. Overall, the resolution resulted in a ‘Cracker Barrel Standard’ which allowed shareholder proposals to be excludable by companies even if they implicated “significant social policy issues.”<sup>57</sup> This was not overturned until September 1997<sup>58</sup> and be attributed with slowing the momentum of shareholder resolution voting.

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<sup>52</sup> Joe Phillips & Joseph Yi, “Debating Same-Sex Marriage: Lessons from Loving, Roe and Reynolds,” *Society* 55 (2018): 25-34

<sup>53</sup> Jennifer Pizer et al. “Evidence of Persistent and Pervasive Workplace Discrimination Against LGBT People: The Need for Federal Legislation Prohibiting Discrimination and Providing for Equal Employment Benefits,” *Loyola of Los Angeles Law Review*, 45 (2012): 715

<sup>54</sup> Pizer et al., “Workplace Discrimination,” 759.

<sup>55</sup> Neele Rane, “Twenty Years of Shareholder Proposals after Cracker Barrel: An Effective Tool for Implementing LGBT Employment Protections,” *University of Pennsylvania Law Review* 162 (2014): 929-947

<sup>56</sup> Rane, “Twenty Years,”: 931

<sup>57</sup> Rane, “Twenty Years”: 931

<sup>58</sup> Maya Mueller, “The Shareholder Proposal Rule: Cracker Barrel, Institutional Investors, and the 1998 Amendments,” *Stenson Law Review* (1999): 452-515

The IRRC recorded the resolution to “amend its written equal employment opportunity policy to explicitly prohibit discrimination based on sexual orientation and to substantially implement that policy”<sup>59</sup> as being presented to twenty-one companies in 2003. Fourteen of these resolutions were withdrawn after the companies agreed to “implement the resolved clause fully and adopt the policy”<sup>60</sup>. The seven resolutions voted on at the AGM had a varying degree of support with, J.C. Penny’s management supporting the resolution and receiving 93.3% support. Appendix A evidences the strong support, aside from for AT&T which was proposing to exclude sexual orientation equity. All the resolutions made the minimum requirement in order to be re-submitted the following year and they were with many reaching agreements the following year.

Within 2006, the first year that ProxyMonitor published proxy voting decisions, six resolutions were voted on at the AGM’s of the 250 largest American Corporations<sup>61</sup>. Interestingly in 2006, of these six resolutions, five of them were proposing to exclude sexual orientation from corporate institutions’ discrimination policies. Similarly, with the wider societal push for sexual orientation equality those pushing to exclude it from corporate equity measures received an average resolution vote for of 2.52% whereas the push to include received a shareholder vote of 34.60% (as seen in Appendix B). In 2007, resolutions “asking companies to adopt sexual orientation anti-bias policies averaged the most support- 33 percent up from 30 percent in 2006<sup>62</sup>”. This support was mirrored throughout all companies shown through Appendix C, which covers the 69 sexual-orientation resolutions which were proposed across all companies between 2005 and 2012. The average support of sexual orientation inclusive resolutions was 29.6% over this time evidencing the strong and stable support for this equity issue.

The same shareholder proposal was made for both Ford Motor Company and ExxonMobil in both 2006 and 2007.<sup>63</sup> Interestingly, although the ExxonMobil resolution regarded including sexual orientation equity checks and the Ford Motor Company regarded excluding sexual orientation equity checks both resolutions gained support (as shown in Appendix D & E). The same sexual orientation equity resolution was first presented to ExxonMobil Corporation in 1999 with the initial support of 6%<sup>64</sup>. This resolution was since proposed 15 consecutive times<sup>65</sup>, gaining steady

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<sup>59</sup> Mathiasen, “Social Policy 2003,”: 48

<sup>60</sup> Mathiasen, “Social Policy 2003,”: 14

<sup>61</sup> “Proxy Monitor”, results from equity

<sup>62</sup> Carolyn Mathiasen and Heidi Welsh, “Social Policy Shareholder Resolutions in 2007,” *IRRC* (2008): 1-84

<sup>63</sup> “Proxy Monitor”, results from equity

<sup>64</sup> Mathiasen, “Social Policy 2003”

<sup>65</sup> “ExxonMobil shareholders vote down LGBT protections,” *Dallas Voice*, last modified May 29, 2013, <https://www.dallasvoice.com/breaking-exxonmobil-shareholders-vote-lgbt-protections-10148970.html>

support until a drastic reduction in 2010 (Appendix F). After 2010 support held steadily at around 20% which demonstrated a loss of shareholder support for the issue. This drastic decline in support could be attributed to the induction of the Obama administration and the executive order establishing LGBT-related workplace protections and requiring federal contractors to include sexual orientation and non-discrimination policies<sup>66</sup>.

There is consistently strong support for this issue and shareholders continue to present resolutions which concern sexual orientation equity. Although progress has been made and 82% of Fortune 500 companies prohibit workplace discrimination based on sexual orientation, 18% of these companies do not. The ICCR continues to file shareholder resolutions concerning this issue with seven resolutions in 2017<sup>67</sup> and eight in 2018<sup>68</sup>. Within 2018, six of these resolutions have already been withdrawn following agreements, evidencing the willingness of the companies to change.

Although the Executive Order establishing LGBT protections remain in place, the Trump administration continues to take steps to roll back many of the Obama-era changes<sup>69</sup>. These changes to the legislative sexual orientation equity protections could cause an increase in shareholder resolutions as people pivot back to the bottom-up approach.

## Racial Equity

The legislative decision of the Civil Rights Act of 1964 “prohibits employment discrimination based on race, color, religion, sex, and national origin.”<sup>70</sup> Consequent rulings including the Voting Rights Act of 1965<sup>71</sup> sought to break down economic and civil barriers stemming from racial discrimination within the U.S. Despite numerous legislative changes widespread racial inequality remains prompting progressive policy makers to agree that there are “limitations of fair employment legislation.”<sup>72</sup> The racial disparity is evident as the “average hourly wages for black

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<sup>66</sup> “In Sexual Orientation Nondiscrimination Claims, “EEO Is the Law” and Not Just for Government Contractors” Jeff Bozman & Scott A. Freling, Inside Government Contracts, last modified 5 March 2018, <https://www.insidegovernmentcontracts.com/2018/03/sexual-orientation-nondiscrimination-claims-eo-law-not-just-government-contractors/>

<sup>67</sup> ICCR, “2017”

<sup>68</sup> ICCR, “2018”

<sup>69</sup> “Sexual Orientation Nondiscrimination” Jeff Bozman & Scott Freling

<sup>70</sup> Rane, “Twenty Years,”: 933

<sup>71</sup> Touré R. Reed, “Title VII, the Rise of Workplace Fairness, and the Decline of Economic Justice, 1964-2013,” *Labor* 11 (2014): 31-36

<sup>72</sup> Reed, “Title VII”: 31

men are 78 percent ...and wages for black women are 66 percent of those of comparable white men.”<sup>73</sup>

The beginning of shareholder activism for this issue can be seen as James Peck, who, on behalf of the Congress for Racial Equity (CORE), put forth a shareholder resolution in 1948 to Greyhound<sup>74</sup>. The resolution targeted segregated seating on buses in the South<sup>75</sup>. Interestingly, Peck bought shares within Greyhound and became a shareholder in the company solely for the purpose of confronting the social issue through a shareholder resolution. This resolution failed to be included at the 1984 AGM, having been delayed by the SEC decided whether it was an acceptable resolution for voting. “Peck reintroduced the issue as a shareholder resolution for the next three years and defended his right to do so in court.”<sup>76</sup> Greyhound took Peck to court and he was forced to defend his right to buy shares for purely social issues and place these on the voting agenda. Peck lost at both the district and circuit level as the SEC had ruled that social issues of this nature were excludable from the agenda. Shortly after in 1952, the SEC tightened the restrictions on shareholder resolutions covering “political, social and economic issues.”<sup>77</sup> This was not overturned until 1954, as a “result of corporate lobbying.”<sup>78</sup> Although Peck’s campaign failed to gain traction or shareholder attention, he can be viewed as the “first militant social issue shareholder activist”<sup>79</sup>. Although his strategy failed, Peck revolutionised social shareholder activism through the strategy of becoming an investor solely for the purpose of confronting corporate behaviour.<sup>80</sup>

Following the legislative push of the mid 1960’s to quell racial discrimination, racial equity resolutions declined. However, the “rate of decline in [overall] occupation segregation by gender that began in the 1970s slowed during the 1990s”<sup>81</sup>. Due to this, many experts called it “unrealistic- at least for the foreseeable future... to expect the government to pursue new legal initiatives that explicitly address racial issues in the corporate context”<sup>82</sup>. These experts explain the need for shareholder resolutions to establish corporate regulation to combat the issue. Following in line with the legislation, racial discrimination was addressed within the wider concern of discrimination and all resolutions regarding racial equity in the early 21<sup>st</sup> century were presented

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<sup>73</sup> ICCR, “2017”: 150

<sup>74</sup> Marens, “Inventing corporate governance”: 374

<sup>75</sup> Barry B. Burr, “Lessons of activism,” *Pensions & Investments* 33 (2005): 8

<sup>76</sup> Marens, “Inventing corporate governance”: 375

<sup>77</sup> Marens, “Inventing corporate governance”: 379

<sup>78</sup> Marens, “Inventing corporate governance”: 376

<sup>79</sup> Burr, “Lessons of activism”: 8

<sup>80</sup> Marens, “Inventing corporate governance”: 375

<sup>81</sup> William T. Bielby, “Minimizing Workplace Gender and Racial Bias,” *Contemporary Sociology* 29(2000): 120

<sup>82</sup> Joo, “Corporate Hierarchy”: 963

encompassing both race and gender. Within these resolutions, race was viewed as one part of 'Glass ceiling reports' and overall company 'Diversity Reports'<sup>83</sup>. This lack of specific shareholder resolutions may evidence a perception of adequate legislation that addressed the issue.

In the past two years (2016 and 2017) however, there has been a growing concern regarding board diversity. Following the 2016 criticism of the all-white Oscar nominees, the nomination board voted to diversify adding "new members from diverse backgrounds."<sup>84</sup> This discussion of racial diversity throughout wider society was reflected in research conducted in 2017 which demonstrated that "65% of executives are dissatisfied with the levels of racial and ethnic diversity on their boards."<sup>85</sup> Although some companies, such as Apple, began increasing women board representation in after 2010<sup>86</sup>, racial equity was driven by shareholder resolutions. As shown in Appendix I, shareholders are responding to this issue with resolutions to increase racial diversity on boards. Indeed, Apple had a proposal to increase racial board diversity which stated that the board needed to have the inclusion of "two bodies that presently fails to adequately represent diversity (particularly Hispanic, African-American, Native-American and other people of colour)."<sup>87</sup> Interestingly, this proposal was presented in both 2016 and 2017 and support decreased during this time, as shown in Appendix J.

The ICCR 2017/18 resolutions were focused on racial wage disparities and EEO resolutions. However, the move away from racial equity resolutions is evident with all proposals covering this topic being filed combined with issues of sexual orientation and especially gender. Overall, although information about racial inequality is evident with studies such as the 2015 U.S report by Equal Employment Opportunity Commission which "reported racial minorities comprised 37.2 percent of the private industry workforce, but just 14.01 percent of executives and managers,"<sup>88</sup> racial equal employment is not a lead issue. Instead, resolutions covering wider board diversity and EEO resolutions covering greater gender and racial inclusion is more common.

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<sup>83</sup> Mathiasen, "Social Policy 2003": 47

<sup>84</sup> Michael Cieply, "Academy Board Endorses Changes to Increase Diversity in Oscar Nominees and Itself," *New York Times*, Jan 22, 2016

<sup>85</sup> Jeff Straton, "Increase Board Diversity," *Board & Administrator* 34 (2018): 1

<sup>86</sup> "Wall St. Cheat Sheet: Apple's Board Increases Diversity After Longest-Serving Member Retires," *Newstex Finance & Accounting Blogs*, July 18, 2014

<sup>87</sup> ProxyMonitor, "Increase Diversity Proposal," last updated 2017, <http://proxymonitor.org/reports/prtproposal.aspx?pid=5687>

<sup>88</sup> ICCR, "2017": 105

## Disability Equity

Legislative movements such as the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 have attempted to combat societal and workplace discrimination<sup>89</sup>. Disability EEO's are constantly updated with programs such as the Military and Veterans Affairs program which began in 2011. This program has successfully seen more than 400,000 disabled veterans hired<sup>90</sup>. These programs tend to target physical disabilities, notably veteran disabilities with mental disabilities generally withheld from the issue.

The Vietnam War is often viewed as the start of the overall socially responsible investment movement. The first "socially responsible shareholder resolution was submitted to Dow Jones in 1969, questioning the morality of the production by the company of war materials."<sup>91</sup> Furthermore, in response to the social outrage of the Vietnam War, in 1971 several U.S. churches formed shareholder activist groups, which would later form into the ICCR.<sup>92</sup> Following the widespread social activism of individuals and Veterans Group, notably the "American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, and the American Veterans,"<sup>93</sup> legislative developments in regard to Veteran disability and thus, wider disability equity was made. These legislative developments are the first example of a momentous social push against the government with fast legislative support.

In spite of, or rather because of the strong legislative push, disability inclusion in the workplace was never fully adopted as a major issue for social shareholder activists. Disability focused resolutions were submitted and responded to adequately by the government. There was no need for a shareholder push for disability equity resolutions as there was adequate top-down approach with legislation addressing these issues. Thus, disability equity is an example of shareholders over-reaching from company policies and successfully lobbying the government for adequate resolutions.

The current shareholder resolution landscape only has specific disability resolutions when referring to veterans. The ICCR since 2016 has been pushing for a supplier diversity with a focus on

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<sup>89</sup> Susan Stefan, *Unequal rights: discrimination against people with mental disabilities and the Americans with Disabilities Act* (Washington: American Psychology Association, 2001): 2

<sup>90</sup> "Annual Meeting of Shareholders Proxy Statement 2018," JPMorgan Chase & Co, modified April 5, 2018, <https://www.jpmorganchase.com/corporate/investor-relations/document/proxy-statement2018.pdf>

<sup>91</sup> Russell Sparkes, *Socially Responsible Investment: A Global Revolution* (Chichester: John Wiley & Sons Ltd, 2002): 49

<sup>92</sup> Sparkes, *Socially Responsible Investment*

<sup>93</sup> Paul R. Camacho and Paul Sutton, 'A Sociological View of the Vietnam Veterans' Lobby,' *Armed Forces & Society* 33(2007): 317

“veteran-owned small businesses; and/or service disabled veteran-owned businesses.”<sup>94</sup>

Furthermore, disability equity continues to be included only within select EEO resolutions. This however, tends to be limited to physical disability with no mention to mental disability or illness. Overall, there is the general shareholder mindset that government employment schemes and equal opportunity legislation are adequately addressing the issue of disability equity in the workplace. This equity issue does not have a history within shareholder resolutions, evidencing how sometimes this line of lobbying can be seen as superfluous to legislative action.

## Overall

Many companies are now receiving proposals which combine discrimination based on sexual orientation, race and gender (and seldom disability) in recent years. This movement started in 2007 when more than half of the proposals asked companies to implement steps against discrimination on grounds of both sexual orientation and gender identity.<sup>95</sup> This encompasses the increased social movement for gender equity, the anticipation that sexual equity legislation may be rolled back in following years and the increasing focus on racial disparity within companies. These resolutions generally take the form of an EEO with multiple clauses covering the different social equity areas.

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<sup>94</sup> ICCR, “2016”: 162

<sup>95</sup> Mathiasen, “Social Policy 2007”:

## Value of the Analysis: What Australian's can learn

Through the analysis of this report, an individual can gather an understanding of the history of shareholder resolutions and how they were effectively utilised for social change. The different equity issues employed the tool of shareholder resolutions in different ways with varying degrees of success. From this, it is clear the overall benefit of the process when successfully utilised. America is a country which currently has healthy shareholder advocacy and employs shareholder resolutions as a healthy aspect of corporate democracy. Through examination of these issues, Australians can understand the value of shareholder resolutions. There are two highly valuable lessons from this analysis:

### 1. Shareholder Resolutions as a Tool to Respond to Shifts in Social Awareness

An issue such as gender diversity and equal opportunity for women was highlighted in the mid-20<sup>th</sup> century but stalled in shareholder resolutions as legislation was introduced to combat the issue. These were prompted again in 2015 following the increased awareness of sexual assault and harassment in the workplace. This evidences how quickly resolutions can follow the shift in social climate. Shown in Appendix G & H, the amount of resolutions, and support for these resolutions, following the rise of this concern in 2015, much faster than legislation can be implemented.

The value of shareholder resolutions as a tool for private pressure is evident to show that power can come without top-down government action. The advantage of the American approach, within the SEC's rules, is that shareholders can present and vote for issues that are of great importance to them. These issues can get raised and win changes in corporate policy before legislative changes.

### 2. Shareholder Resolutions as a Tool to Pressure for Widespread Legislative and Social Change

The other value of the shareholder resolution is that it is a highly useful tool to pressure companies and the government for social corporate and legislative changes. The drastic reduction in support for sexual orientation resolutions following Obama's election (Appendix F), evidences how shareholder resolutions pre-empted and prompted legislative change. The increasing pressure put forward to companies, resolved with legislative change shows how the private, individual pressure can pre-date and cause government legislature to follow.

## Other Value

There is also value in understanding why the resolutions regarding racial and disability equity failed. Through seeing the success of disabled equity lobbying through the government, Australians can understand that sometimes equity issues can be overcome through government action without the need for corporate resolutions. However, there is value within the process when legislation fails or when the social support movement is still developing.

Overall, within Australia shareholder engagement has begun to increase since 2007, when Australians began viewing it as a legitimate source of social change. It is important that Australians understand the overall value of the system and how it can be best implemented to influence social change. However, it is important for Australian shareholders to note that “while history provides constructive lessons... as a tool to direct shareholders to become more active in corporate governance issues,”<sup>96</sup> it does not dictate future implications of shareholder resolutions. Thus, Australians should view the shareholder resolution best practice, as a general guideline of how to effectively increase shareholder activism and engagement.

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<sup>96</sup> Burr, “Lessons of activism”: 8

## Potential Future Project Directions

In the future, it would be valuable to be able to place the current social equity voting climate within the social timeline context more specially. This would involve greater access to past proxy voting databases, including resolutions which were withdrawn due to concessions and thus did not make it to the vote. The benefit of this would be to identify the assistance that proxy voting decisions made within the push for social change and demonstrate the effectiveness of utilising this system. A complete analysis would also provide an in-depth and beneficial database for future proposals. This would facilitate a thorough understanding of the political climate which surrounds proxy voting decisions.

Furthermore, another potential future direction would be to examine the proxy voting decisions within the Australian, Canadian or English systems. This information would allow for a detailed cross-contextual analysis. This would provide insight into the current social equity resolution climate of each nation. Analysing the discrepancies and similarities of past trends would allow for accurate assessment of the future climate and influence future shareholder resolutions. Finally, a cross-cultural database would allow those countries which are slightly behind (e.g. Australia) in utilising social resolutions to understand the full potential of the practice and know how to implement it more effectively.

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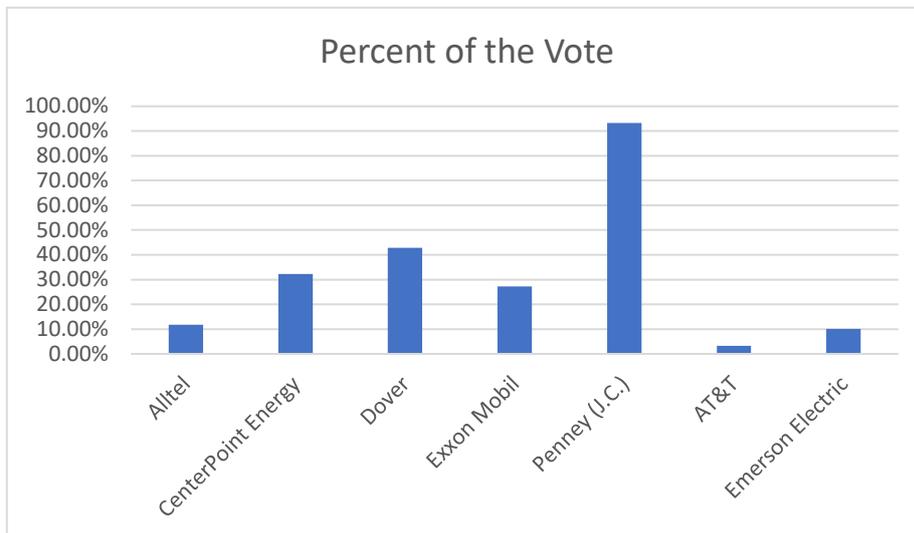
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## Appendix

### Appendix A: The % of support for votes on the EEO resolutions for sexual orientation equity as shown in the IRRC in 2003

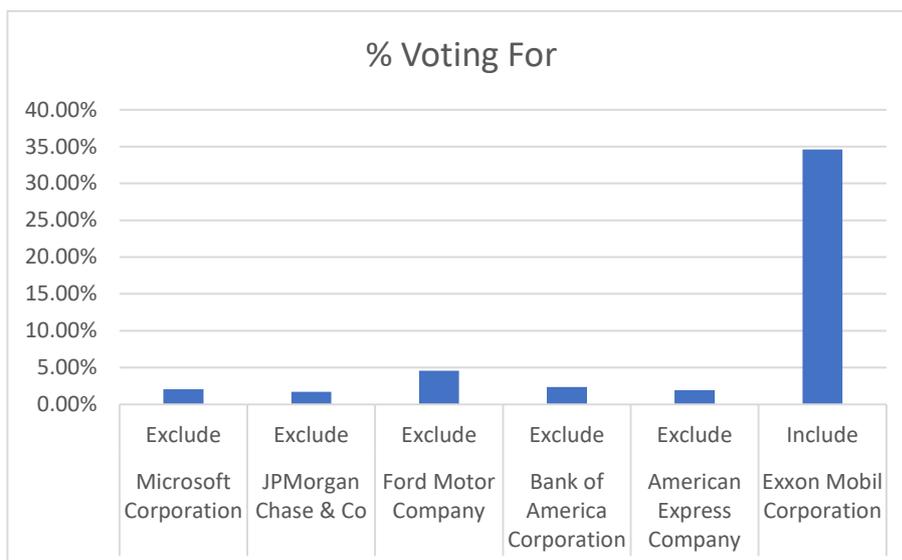


The resolutions presented to companies by the IRRC in 2003 regarding an amendment to its “equal employment opportunity policy to explicitly prohibit discrimination based on sexual orientation.”<sup>97</sup>

The data is presented with separation by company evidencing the high amount of support for the company (J.C. Penney) which suggested shareholders voted for the resolution. Also evidences the low support for the company (AT&T) which voted on a resolution to exclude a sexual orientationi discrimination policy.

<sup>97</sup> Mathiasen, “Social Policy 2003,”: 48

## Appendix B: The % of support for votes on the EEO resolutions for sexual orientation equity as recorded in the ProxyMonitor in 2006



The 2006 proxy voting resolutions regarding sexual orientation resolutions presented and voted on by the 250 biggest corporations in America, as recorded in the Proxy Monitor.<sup>98</sup> These resolutions are separated by resolutions that were made to include/exclude sexual orientation within company policy and evidences the much higher level of support for the company (ExxonMobil), which had an inclusionary resolution.

## Appendix C: Support for sexual orientation equity resolutions from 2005-2012

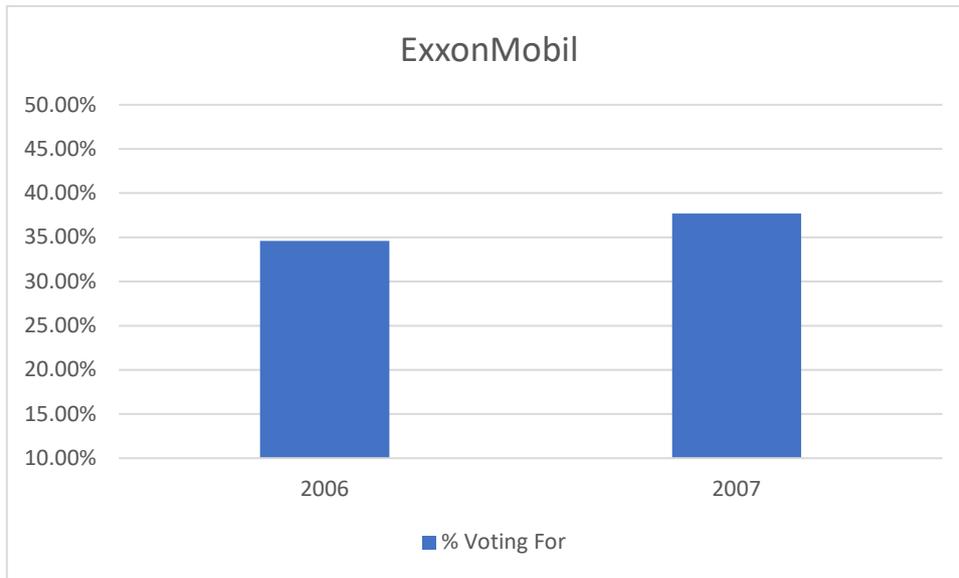
	LGBT-Exclusive Resolutions	LGBT-Inclusive Resolutions			Total Inclusive Resolutions
		Sexual Orientation	Gender Identity	Both	
Average Vote in Favor of Resolution <sup>146</sup>	3.3%	29.6%	24.2%	31.6%	30.0%
Minimum	1.8% <sup>147</sup>	1.6% <sup>148</sup>	6.3% <sup>149</sup>	2.3% <sup>150</sup>	1.6%
Maximum	6.1% <sup>151</sup>	52.3% <sup>152</sup>	43.2% <sup>153</sup>	61.7% <sup>154</sup>	61.7%
Number of Resolutions	8	14	11	44	69

Statistical analysis of support for shareholder presented proxy voting decisions regarding sexual orientation equity between 2005 and 2012<sup>99</sup>. The graph evidences the higher amount of support for inclusionary sexual orientation resolutions and the total amount of resolutions regarding this social equity issue.

<sup>98</sup> "Proxy Monitor", <http://proxymonitor.org/>

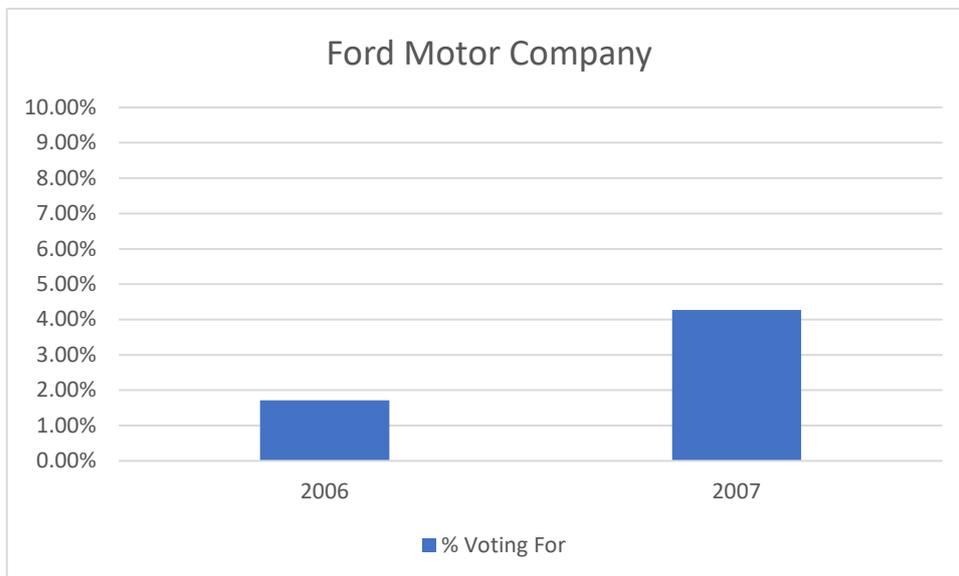
<sup>99</sup> Rane, "Twenty Years," : 955

### Appendix D: The shift in support for sexual orientation equity resolutions, presented to ExxonMobil in 2006 and 2007



Drawn from data on the ProxyMonitor<sup>100</sup>. It evidences the increased support for the ExxonMobil resolution to include a sexual orientation discrimination policy, between 2006 and 2007. This can be taken as evidence for a wider societal increase in support for this social issue.

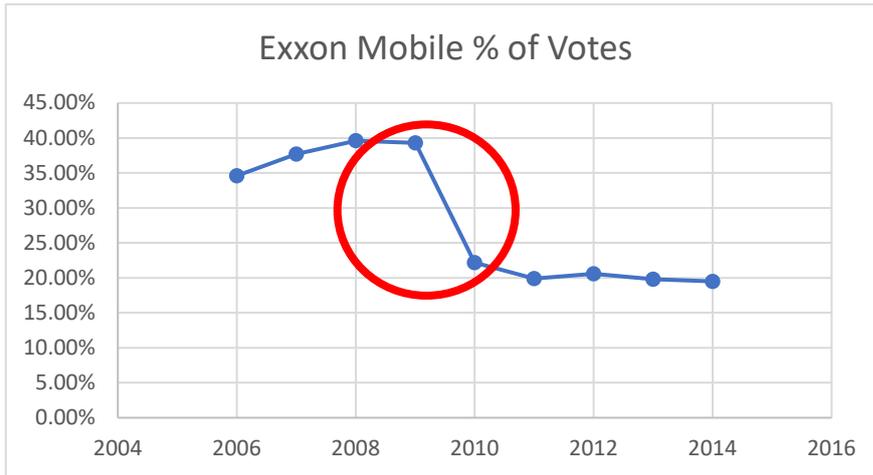
### Appendix E: The shift in support for sexual orientation inequity resolutions, presented to Ford Motor Company in 2006 and 2007



<sup>100</sup> "Proxy Monitor", <http://proxymonitor.org/>

This graph is also drawn from data on the ProxyMonitor<sup>101</sup>. It evidences the increased support for the Ford Motor Company resolution to exclude a sexual orientation discrimination policy, between 2006 and 2007. When viewed alongside, Appendix D it evidences a conflicting societal view as support for inclusionary and exclusionary policies grew simultaneously.

#### Appendix F: The shift in support for sexual orientation equity resolutions, presented to ExxonMobil between 2006 and 2014

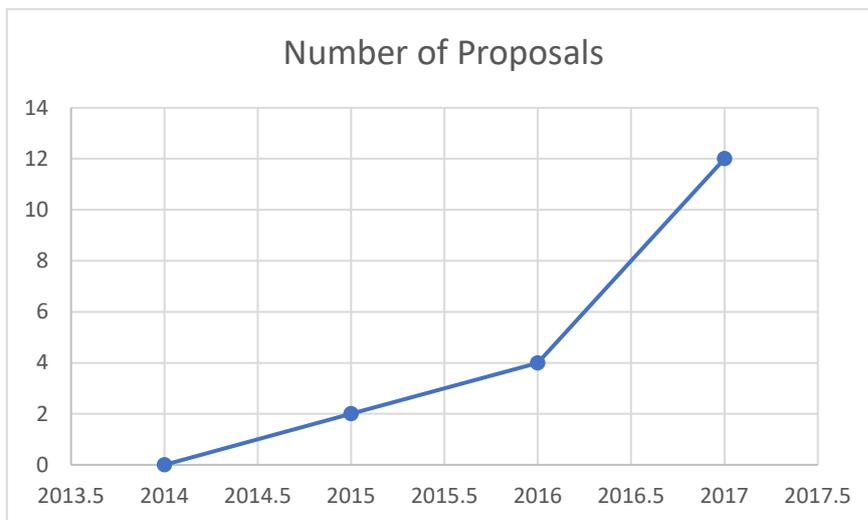


Drawn from data on the ProxyMonitor<sup>102</sup>. This graph shows the support for the ExxonMobil resolution to include a sexual orientation discrimination policy, between 2006 and 2014. The graph demonstrates the increase in support until 2010 when support almost halved overnight, as circled above. This can be attributed to an increase in legislative activity causing a reduction in shareholder activism through resolution support.

<sup>101</sup> "Proxy Monitor", <http://proxymonitor.org/>

<sup>102</sup> "Proxy Monitor", <http://proxymonitor.org/>

**Appendix G: The number of proposals involving gender equity EEO submitted to the top 250 companies, as recorded in the Proxy Monitor**

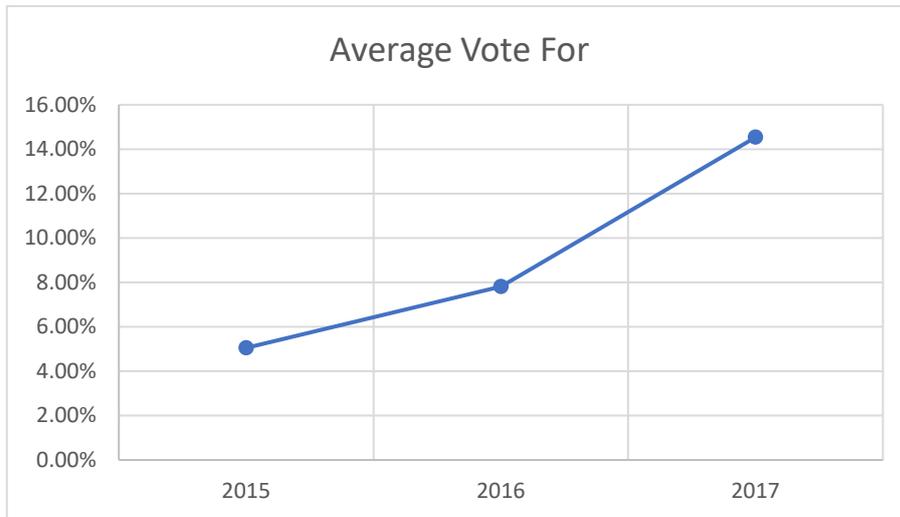


Drawn from data on the ProxyMonitor<sup>103</sup>. This graph outlines the number of resolutions submitted involving gender equity EEO between 2014 and 2017. It evidences the drastic increase in resolutions about this issue following the 2015 movement to increase awareness of sexual assault and harassment in the workplace affecting women.

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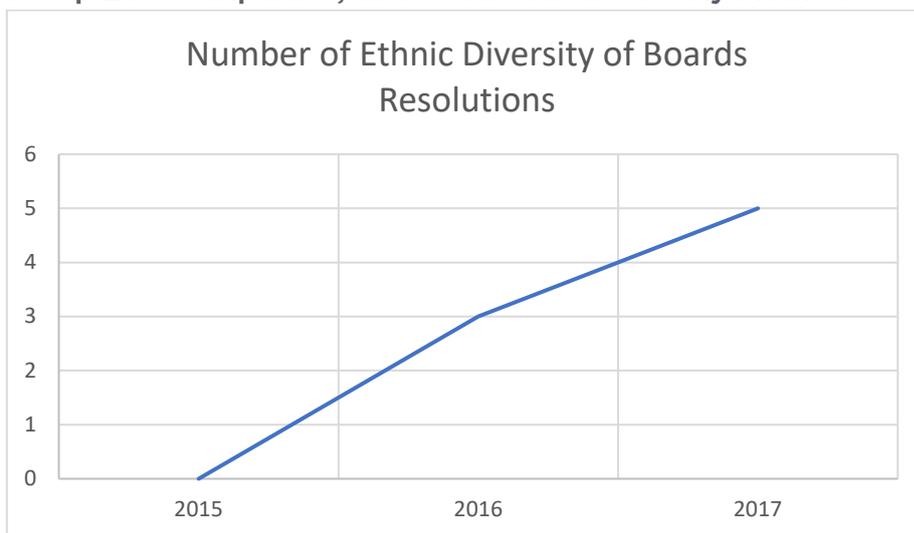
<sup>103</sup> "Proxy Monitor", <http://proxymonitor.org/>

**Appendix H: The average support for sexual orientation equity resolutions, between 2015 and 2017 as recorded in the ProxyMonitor**



Drawn from data on the ProxyMonitor<sup>104</sup>. This graph outlines the average support for the resolutions involving gender equity EEO between 2015 and 2017. It evidences the increasing support of these resolutions. When this data is viewed in conjunction with Appendix G, it evidences the increasing awareness and support for the social issue of gender equity within the workplace.

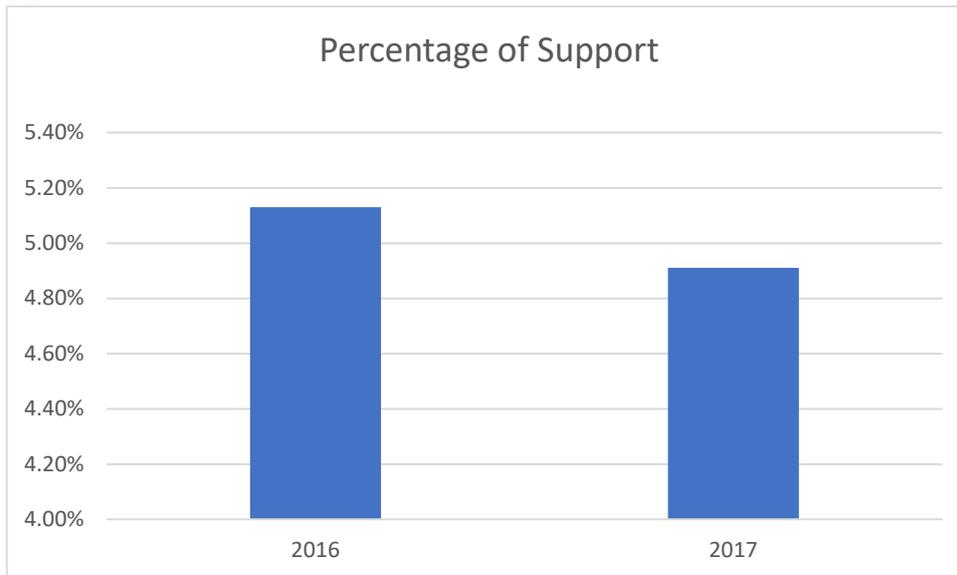
**Appendix I: The number of proposals involving racial equity EEO submitted to the top 250 companies, as recorded in the Proxy Monitor**



<sup>104</sup> "Proxy Monitor", <http://proxymonitor.org/>

Drawn from data on the ProxyMonitor<sup>105</sup>. This graph outlines the average support for the resolutions involving racial equity EEO between 2015 and 2017. This graph evidences the recent increase in these resolutions, which identifies this area of equity as of concern to current shareholders.

### Appendix J: The shift in support for a racial equity resolution, presented to Apple in 2016 and 2017



Drawn from data on the ProxyMonitor<sup>106</sup>. This graph evidences the decreased support from 2016 to 2017 of the Apple Diversity Resolution to “increase board diversity to... adequately represent diversity and inclusion (particularly Hispanic, African American, Native American and other people of colour.” The decreasing support presents an interesting note of the social support for this issue and whether this decline is limited to Apple or is indicative of a wider social decline.

### Appendix K: The increasing utilisation of the shareholder resolution proposal and voting mechanism

*In the 2003 proxy season, for example, 166 majority votes were obtained, a record 68 percent increase from the previous peak of ninety-nine majority vote resolutions in 2002, while in 2004 so far the number of majority vote resolutions is 132<sup>107</sup>.*

<sup>105</sup> “Proxy Monitor”, <http://proxymonitor.org/>

<sup>106</sup> “Proxy Monitor”, <http://proxymonitor.org/>

<sup>107</sup> Brownstein and Kirman, “Can a Board Say No”: 23

This discussion of data evidences the increasing support and interaction with the tool of shareholder resolutions. Thus, it demonstrates the power and growing importance of shareholder resolutions for creating societal change.

## Glossary

<b>Equity:</b>	Referring to the justice and fairness of social policy. In 1996 the President’s Council on Sustainable Development defined social equity as the “equal opportunity, in a safe and healthy environment.” <sup>108</sup> The major elements of equity include non-discrimination policies and diversity within the workplace. This is different to shareholder equity which is not discussed within the report.
<b>Gender Equity:</b>	Refers to the equality of women within the workplace. Generally tackled with EEO resolutions or increased board diversity.
<b>Sexual Orientation Equity:</b>	Also referred to as LGBT, queer or gay workplace equity within relevant literature and shareholder resolutions. Generally, covers employment rights and non-discrimination policies.
<b>Racial Equity:</b>	Refers primarily to the employment opportunities of racial minorities with EEO and board diversity resolutions.
<b>Resolution:</b>	A resolution is a non-binding recommendation to the board regarding a prominent social or company related issue. While successful resolutions are only advisory, they are a powerful way to advocate for changes in board policy <sup>109</sup> .
<b>Shareholders:</b>	Any person, company, or institution that owns at least one share of company stock.
<b>Proponent Shareholders:</b>	This refers to the shareholders which are filing the resolution. In the case of multiple proponents there would be a lead filer and co-filers. Large advocacy groups, such as the ICCR as discussed throughout the report help enable these groups to file. Within America, proponent shareholder tends to be religious congregations such as the Congregation of St. Joseph and Benedictine Sisters of Virginia <sup>110</sup> who were once gifted stocks. Shareholders must adhere to the American requirements for proposing shareholder resolutions as stated by the SEC to submit a resolution.

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<sup>108</sup> J.K. Summers and L.M. Smith, “The Role of Social and Intergenerational Equity in Making Changes in Human Well-Being Sustainable,” *Ambio* 43 (2014): 718-728

<sup>109</sup> “What Is a Shareholder Resolution?,” Kelly Mroz, Chron, last accessed 05/06/2018, <http://smallbusiness.chron.com/shareholder-resolution-66531.html>

<sup>110</sup> ICCR, “2017 Proxy Resolution and Voting Guide,” *ICCR*, (2017): 1-240

<b>Supportive Shareholders:</b>	These are shareholders who did not propose the resolution but vote in support and/ or are vocal about their support for the issue. This includes large funds which vote for a resolution. Supportive shareholders may rely on the recommendations by proxy advisors.
<b>Universal Owners:</b>	Shareholders historically proposed resolutions purely based on social or political reasons but large institutions like pension funds own most stocks so it's in their interests to address environmental and social externalities which is in the economic long-term interest of the shareholder <sup>111</sup> . This is highly evident through religious proponents who, although motivated by social and political concerns require money to keep the order running and thus are highly economically motivated. These people tend not to screen, own shares in everything and propose resolutions.
<b>Issues/Concerns</b>	Prominent social movements, mostly used within the report in reference to the social equity issues of gender, sexual orientation, race and disability

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<sup>111</sup> Roger Urwin, "Pensions Funds as Universal Owners: Opportunity Beckons and Leadership Calls," *Rotman International Journal of Pension Management* 4 (2011): 26-33