Governance Changes through Shareholder Initiatives: The Case of Proxy Access*

Tara Bhandari† Peter Iliev‡ Jonathan Kalodimos§

September 1, 2016

Abstract

A regulatory change permitting shareholder resolutions for proxy access generated a large wave of proxy access proposals. We identify a 53 basis point increase in shareholder value for firms targeted with such proposals in a broad and unexpected initiative. However, using a surprise SEC announcement to identify which firms the market expected to benefit most from proxy access, we find that proponents do not selectively target the firms that were expected to benefit most, that management is more likely to challenge proposals at firms that stand to benefit more, and that conflicting shareholder interests affect voting outcomes for the proposals.

JEL classification: G34, G38, K22
Keywords: Shareholder Proposals, Proxy Access, Private Ordering, Corporate Governance, Activism, Regulation

*We greatly appreciate the valuable feedback received from Jonathan Cohn, Peter Cziraki, Matthew Denes, Craig Doidge, Alexander Dyck, Laura Fields, Stuart Gillan, Matthew Gustafson, John Hackney, Michelle Lowry, Nadya Malenko, Chester Spatt, Laura Starks, Ralph Walkling, Michael Weisbach, Tracie Woidtke, and participants in the 2016 SFS Finance Cavalcade, 2016 Drexel Corporate Governance Conference, and seminars at Oregon State University, Pennsylvania State University, University of Delaware, University of Oregon, University of Tennessee Neel Corporate Governance Center, University of Texas at Austin, and the U.S. Securities and Exchange Commission.

†Tara Bhandari (bhandarit@sec.gov) is at the U.S. Securities and Exchange Commission. The Securities and Exchange Commission, as a matter of policy, disclaims responsibility for any private publication or statement by any of its employees. The views expressed herein are those of the authors and do not necessarily reflect the views of the Commission or of the authors' colleagues on the staff of the Commission.

‡Peter Iliev (pgi1@psu.edu) is at Pennsylvania State University's Smeal College of Business.

§Jonathan Kalodimos (jonathan.kalodimos@oregonstate.edu) is at Oregon State University's College of Business.

It is becoming increasingly evident that one size does not fit all in governance. The optimal governance structure is likely to vary across companies and over a company's life cycle. Therefore, allowing shareholders to pursue tailored governance changes at individual companies by submitting resolutions to a vote could be instrumental in instituting governance changes where they are needed. This case-by-case pursuit of governance reform is often referred to as the "private ordering" of governance, as shareholders drive the governance change through private initiatives rather than regulatory mandates.

However, the effectiveness of shareholder proposals may be limited by several factors. Because shareholder action is costly and shareholder ownership is dispersed, collective action problems may prevent such initiatives from delivering first-best outcomes, as in the seminal theory of Coase (1960). Moreover, management can resist a shareholder proposal through actions such as preventing a vote on the proposal, campaigning against the proposal, or not taking action to implement the proposed change. Indeed, shareholder initiatives at companies with poor governance may face particularly strong managerial resistance because of existing agency problems first highlighted by Jensen and Meckling (1976). Hence, change may be opposed exactly where it is most needed.

In this paper, we study two fundamental questions about shareholder proposals for governance changes: (1) Are shareholder proposals a useful governance tool? and (2) What are the benefits and limitations of shareholder-driven governance initiatives? We explore these issues by studying shareholder proposals for "proxy access," a governance mechanism that would allow shareholders to nominate a limited number of their own candidates for director positions alongside the candidates of the incumbent board.

Proxy access is an important new mechanism that impacts the role of shareholders in electing directors, a fundamental aspect of corporate governance. The proxy access setting is also uniquely suited for examining our research questions because of a number of key developments. First, a regulatory change allowing shareholder proposals for proxy access led to a large wave of such proposals. Second, a rule that would have mandated proxy access at all public companies was challenged and invalidated, allowing us to use the market response to the removal of this expected mandate to identify which companies

were expected to benefit the most from proxy access. These results provide a baseline against which we can gauge the efficiency of the proposal process in delivering proxy access where it is needed. Third, the surprising announcement of a major proxy access initiative and the equally unexpected defense strategy employed by a number of companies provide a unique opportunity to measure the market response to proxy access proposals and the use of managerial discretion to resist proxy access.

Proxy access could increase corporate accountability by providing a low cost channel through which eligible shareholders could trigger changes in a board of directors. Shareholders that are dissatisfied with a corporate board could otherwise withhold votes from incumbent directors, as in a "vote no" campaign. However, as documented by Becker and Subramanian (2013), directors with low shareholder support often continue to serve on boards when there are no competing nominees. Alternatively, dissatisfied shareholders could launch a proxy contest, but such interventions can be very expensive. The ability to introduce a limited number of alternative director candidates through proxy access thus provides new "ammunition for shaking up a board."[1] As in the case of the disciplinary power of the market for corporate control (Malatesta and Walkling, 1988), the ability to nominate directors may serve as a powerful threat against non-responsive boards even if actual hostile nominations through proxy access end up being infrequent. However, proxy access may not be beneficial in cases where it could serve more to distract than to discipline a board or where it could be exploited to further special interests.

Until recently, proxy access bylaws were extremely rare and shareholders did not have the ability to propose that firms adopt such bylaws. This changed after August 2010, when the SEC adopted proxy access rules that set standardized terms of access which applied universally to all domestic public companies. These rules would have allowed a shareholder or group of shareholders that had held at least three percent of a firm's equity for at least three years to nominate a limited number of their own competing candidates for director positions on the firm's ballot. Additionally, the rules permitted shareholder proposals seeking expanded terms of access at any given firm. However, the

[1]See "Ammunition for Shaking up a Board," The Wall Street Journal, August 14, 2015, by Emily Chasan.

universal proxy access rule was subject to a judicial challenge and never came into effect. Nonetheless, the complementary amendment that would have facilitated the pursuit of expanded proxy access was not challenged and became effective in September 2011. In the absence of mandated proxy access, this amendment permitted the pursuit of proxy access at individual firms through the shareholder proposal process.

A number of recent papers that study the 2010 rules that would have mandated proxy access find that this mandate would have been value-increasing on average. For example, Becker, Bergstresser, and Subramanian (2013) and Jochem (2012) conduct event studies around the stay and invalidation of the mandatory proxy access rule, and identify positive average wealth effects of mandated proxy access. Campbell, Campbell, Sirmon, Bierman, and Tuggle (2012) and Cohn, Gillan, and Hartzell (2014) examine other events associated with the 2010 proxy access rules and find similar results. These studies also find that the expected value of proxy access varies across firms. For example, proxy access may be more valuable at a firm with more institutional holders, with weak governance characteristics, or with poor performance. Proxy access might be even value-decreasing in some cases (Stratmann and Verret, 2012; Larcker, Ormazabal, and Taylor, 2011; Akyol, Lim, and Verwijmeren, 2012). In this paper, we use the cross-sectional variation in the value of mandatory proxy access at different firms as a baseline against which to judge the effectiveness of the shareholder proposal process.

We begin by analyzing the usefulness of shareholder proposals for governance changes, considering both the extent to which proponents put forth proxy access proposals and the value of such proposals to shareholders at large. It is not obvious that a shareholder would submit a proposal even if he expected proxy access to be value-enhancing. A proposing shareholder bears the full cost of the proposal while receiving only a fraction of its expected benefits, leading to a classic collective action problem.[2] Moreover, while the costs are real and immediate, the expected benefits are unclear because shareholder proposals

[2]For example, Anne Simpson, the head of corporate governance at CalPERS commented that "[S]hareholders should have the ability to hire and fire the board of directors, but I have a team of 20 people, and they could be doing something else productive if we weren't having to go door to door to companies in our portfolio to get this right." She also added that a market-wide rule would have saved "both companies and investors an enormous amount of time and effort." See "Are Investors Bearing Proxy Access Costs?" The Wall Street Journal Online: CFO Journal, September 3, 2015.

are generally non-binding and entrenched management might impede the adoption of proxy access.

We find, nonetheless, that the shareholder proposal process has been active, with at least 338 shareholder proposals for proxy access submitted by institutional as well as individual shareholders over the five proxy seasons since this channel was made available. Figure 1 shows the remarkable ramp up in proxy access proposals that make it to a vote, while also documenting that the wave of proxy access proposals is larger than or comparable to other recent waves of governance proposals, namely those regarding a majority voting standard for directors, the ability to call special meetings, and the ability to act by written consent. In fact, proxy access proposals filed in 2016 represented the highest number of shareholder proposals ever filed in a given year on a single topic "by a long shot."[3]

The prevalence of proxy access proposals does not tell us whether the average shareholder views this process favorably. Given their non-binding nature, shareholders might not expect proposals to be effective. Also, proponents may target firms based on idiosyncratic concerns or special interests, thereby submitting proxy access proposals at firms where shareholders collectively feel that proxy access would not be value-enhancing. To evaluate the impact on the average shareholder, we require a measure of the market's expectations as to the value of these proposals. This is an empirical challenge because the date at which the market first became aware of such targeting is usually unclear. However, in November 2014, the NYC Comptroller's office announced the Boardroom Accountability Project ("BAP"), an initiative under which it targeted 75 firms with shareholder proposals for proxy access. The fact that the NYC Comptroller's office made a prominent and unexpected public announcement about its proposals allows us to estimate the market expectation of the impact of these proposals.

We find that the BAP announcement led to a positive, statistically significant 53 basis point abnormal return for the average targeted firm, equivalent to a total increase

[3]See "Proxy season shaping up to be huge," Pensions & Investments, February 22, 2016, quoting an executive at Institutional Shareholder Services. Note that many of the 2016 proposals were subject to negotiated settlements and therefore do not appear in Figure 1.

of $10.3 billion in market value. The positive reaction to being targeted suggests that, on average across the targeted firms, adopting proxy access is expected to be beneficial and to provide value beyond the governance mechanisms that are already in place. Importantly, these results also indicate that the market expects a net positive impact of the proposals despite the uncertainty and frictions in the process from proposal to implementation.

However, we also find that these returns vary significantly across the targeted firms. The return to the BAP announcement is most positive for the firms that were expected to benefit most from mandated proxy access. We measure the expected benefits of proxy access based on returns on the day of the surprise announcement that the 2010 proxy access rule would be stayed. We find consistent results when using alternative measures of the expected benefits. Thus, being targeted with a shareholder proposal can be valuable, but only where the proposed change is expected to be value-enhancing.

The terms of proxy access proposals provide an opportunity to examine whether shareholder proposals can customize governance to the unique situation of different firms. Proxy access provisions include terms of access, such as a required level of ownership and holding periods to qualify to use proxy access. It is likely that the optimal terms of access would vary across firms with, for example, different ownership structures. Interestingly, we document that shareholder proponents have instead, over time, converged to a nearly uniform set of terms of access — proxy access would be available to groups of shareholders that hold at least three percent of the company's stock for three years, mirroring the terms of the invalidated 2010 proxy access rule. This lack of tailoring may result from another aspect of the collective action problem, in that pursuing variation in the terms of access would require significant analysis and coordination on the part of voting shareholders with respect to the optimal terms of access at different companies.

In the absence of variation in the access terms, another way to customize proxy access would be to adopt it only at the companies that need it the most. We therefore test whether proponents target the firms that were expected to benefit the most from proxy access. Once again, we measure the expected benefits of proxy access using returns on the day the 2010 proxy access rule was unexpectedly stayed, though our results are robust

to alternative benchmarks. We find that proponents are just as likely to target firms that were expected to benefit the least from proxy access as those that were expected to benefit the most. In addition, we find evidence that in some cases proponents are actually less likely to target the firms that would benefit the most from proxy access, perhaps because they expect to face greater managerial resistance at firms with strong entrenchment problems.

Next, we directly examine to the agency conflicts embedded in the process of adopting a proxy access proposal. Incumbent management may prefer to avoid the disciplining mechanism of a proxy access bylaw, especially in cases where management is entrenched through stagnant boards. Managers can resist proposals in a number of ways, most of which are difficult to measure empirically. Among the actions available to managers is the ability to request no-action relief from the SEC staff to exclude a proposal from their proxy voting materials. In general, such no-action requests do not provide an unbiased measure of managerial resistance because exclusion must be requested on the grounds of certain technical deficiencies. Notably, in the 2015 proxy season, an alternative and unexpected style of no-action request which did not rely on the technical details of the proposals became very popular for a short time.

We find that these arguably fully discretionary requests to exclude proxy access proposals are significantly more likely to be made by the firms that were expected to benefit more from proxy access. Our results are consistent whether we identify the firms expected to benefit more from proxy access based on the benchmarks used in previous tests, such as returns on the day the 2010 proxy access rules were stayed, or the more recent abnormal returns upon the BAP announcement. These results suggest that managers are more likely to impede proxy access proposals where a proxy access bylaw would be most beneficial.

Finally, we find that the proposals receive significant shareholder support when they come to a vote. Proposals using the three percent for three years ownership requirement around which proponents gradually converged are particularly likely to receive high voting support, suggesting that difficulties in coordinating around the ideal threshold for a given

company may indeed impose a constraint on the tailoring of proposals. We also find substantial heterogeneity in voting behavior across shareholder types. Large institutional blockholders, who may already have influence over management, are significantly less likely to support proxy access proposals. This may represent a further collective action problem, as variation in the private benefits and costs of proxy access to individual shareholders may impede the optimal voting outcome. Thus, the voting process may reflect an additional friction in the shareholder proposal process.

Our paper contributes to the extensive body of literature on shareholder activism. The effectiveness of activism through shareholder proposals is highly debated. Historically, these proposals have been found to have very limited effects (Karpoff, Malatesta, and Walkling, 1996; Smith, 1996; Wahal, 1996; Strickland, Wiles, and Zenner, 1996; Del Guercio and Hawkins, 1999; Gillan and Starks, 2000; Prevost and Rao, 2000; Del Guercio, Seery, and Woidtke, 2008; Cai and Walkling, 2011). On the other hand, several studies have found that shareholder proposals have become more effective over time, achieving higher voting support and higher likelihoods of implementation in more recent years (Thomas and Cotter, 2007; Ertimur, Ferri, and Stubben, 2010; Ertimur, Ferri, and Muslu, 2011; Renneboog and Szilagyi, 2011). We provide new evidence of a positive average value impact of being targeted with a proposal in a setting where this impact can be cleanly identified. In addition, we extend this literature by providing direct evidence of the frictions that can reduce the effectiveness of this governance channel.

We also contribute to the literature on the adoption and evolution of governance structures. Several seminal papers argue that observed governance structures are the equilibrium outcome of optimization based on market forces (Demsetz and Lehn, 1985; Hermalin and Weisbach, 1998). In contrast, others present evidence that suboptimal governance structures may arise and can persist despite market forces, perhaps because of the influence of entrenched managers on those structures (Bebchuk and Fried, 2003; Schoar and Washington, 2011) or other factors such as the choice of legal counsel (Coates, 2001). We provide direct evidence relevant to this debate by documenting the pursuit of a new governance mechanism and identifying the specific factors that may impede market

forces from instituting governance changes where they would be value-enhancing.

2. Data and Sample Description

Proxy access proposals were made feasible by a rule amendment that became effective in September 2011. Therefore, we hand-collect a sample of shareholder proposals for proxy access submitted to firms in the 2012 through 2016 proxy seasons. We identify proposals by searching documents from two sources: all definitive proxy materials on Schedule 14A filed in the SEC's EDGAR database and the no-action requests posted online by the SEC's Division of Corporation Finance. Screening no-action requests in addition to proxy statements allows us to include proposals which were submitted to firms but were excluded from the proxy statement by management. Our sample does not include proxy access proposals that were submitted to firms but were withdrawn by the proponent before the final proxy statement was filed as these might not be publicly reported and cannot be identify in a systematic way.

We read each proxy access proposal and classify the relevant characteristics of the proposal, such as the proposed terms of access. For proposals that reached the vote stage, we collect the voting results from the Form 8-K filed after the annual meeting of shareholders. We match the sample of firms with proposals to the CRSP, Compustat, TAQ, Thomson Reuters 13F, ISS governance, and ISS mutual fund voting databases.[4] We also collect information from these databases for non-targeted firms. However, we exclude foreign private issuers from our sample because they are not subject to the U.S. proxy rules. Our full sample, including targeted as well as non-targeted firms, consists of 4,065 firms that have accounting data available in the sample period.

Based on public filings, we are able to identify proxy access proposals at 24 firms in 2012, growing to 171 in 2016. As illustrated in subfigure (a) of Figure 1 proxy access proposals were gaining momentum in 2013 and 2014. The 2015 and 2016 proxy seasons witnessed a huge increase in the proposals. In particular, with each proxy season, an increasing number of proxy access proposals have made it onto ballots and have received

[4]Details about the timing and alignment of the relevant variables can be found in Appendix B.

majority support from shareholders. In 2012, 12 proposals were voted on and two received greater than 50 percent shareholder support. By 2015, these numbers had grown to 91 proposals voted on, of which 53 received majority support. This dramatic increase has continued well into 2016. We recorded 78 proposals voted on before June 2016 (when we add our sample), of which 39 received majority support. This evidence is consistent with shareholder initiatives for proxy access being an active effort that is gaining momentum. To judge the size of this shareholder proposal wave, in Subfigure (b) of Figure 1 we contrast proxy access shareholder proposals with other recent waves of shareholder proposals, based on the number of proposals that came to a vote. Shareholder proposals for proxy access are on par with the drive to propose a majority voting standard in director elections (Cai, Garner, and Walkling, 2013) and larger than the recent waves of proposals regarding the ability of shareholders to call special meetings and to act by written consent.

In total, we analyze 338 proxy access proposals at 262 firms, including 146 proposals that were submitted as part of the NYC Comptroller's Boardroom Accountability Project in the 2015 and 2016 proxy seasons (the "BAP" proposals), and 192 other proposals submitted in the 2012 through 2016 proxy seasons (the "non-BAP" proposals). Panel A of Table 1 presents summary statistics for the sample of firms targeted with a proxy access proposal relative to those that did not receive a proposal. Targeted firms are significantly under-performing in terms of 12-month stock returns and year-over-year sales growth in advance of the targeting decision. Targeted firms also differ from the average firm in terms of firm size and financial policies such as financial leverage and the paying of dividends. We explore these variables in a multivariate setting below when considering the proponent's targeting decision.

Panel B of Table 1 focuses on the firms targeted in the BAP initiative. While this sample is similar in many ways to the full sample of targets, the firms targeted as part of this initiative did not exhibit significant under-performance relative to the control group. This is consistent with the NYC Comptroller's explanation that these firms were selected based on well-defined criteria that focused on carbon intensity, lack of board diversity, or

unfavorable Say-on-Pay voting results.

Finally, Table 2 presents the industry distribution of the targeted firms based on the 30-industry Fama-French classification. To determine the degree of concentration in our sample of targets, we compare this distribution to the distribution of industries that would be expected if targets were randomly selected from the universe of firms. We document that the non-BAP subsample overweights, to a statistically significant degree, the retail, hospitality, and chemical industries. This concentration suggests that the proponents of non-BAP proposals may be more likely to target firms with which they are familiar (e.g., consumer-facing retail and hospitality firms) or those associated with environmental or social concerns (e.g., chemical firms). In contrast, the BAP sample is concentrated in the petroleum and natural gas, utilities, and coal industries. This is consistent with one of the targeting criteria used by the NYC Comptroller: carbon intensity. Beyond these factors, the targeted sample represents a diverse set of firms from over 26 different industries.

3. The Expected Benefits from Universal Proxy Access

In our tests, we want to have a measure of the expected benefits from universal proxy access. Our primary measure of which firms were expected to benefit the most from proxy access is based on returns on October 4, 2010, when the SEC unexpectedly announced that it would stay the 2010 proxy access rules, a date also studied by Becker et al. (2013). The 2010 rules, which had been adopted but had not yet become effective, would have made proxy access under a set of standardized terms mandatory for all domestic public companies.[5]

We believe the stay announcement is best suited for our purposes because (1) it applied uniformly to most firms, providing a consistent benchmark for the purpose of identifying where proxy access was expected to be most valuable, (2) the terms of access that would have applied are comparable to those used in the 2012-2016 proposals we study, and (3) it was an important and unexpected event. Evidence that the announcement of the stay

[5]While the 2010 rules would have applied to all domestic public companies, we exclude those with a public float of less than $75 million when considering the stay announcement because the effectiveness of universal proxy access was to be delayed for such "smaller reporting companies."

was both important and a surprise include contemporaneous news accounts, law firm alerts, a spike in Google search volume, the fact that it is very rare for the SEC to stay an adopted rule, and the results of Becker et al. (2013). Further detail on this evidence is provided in Appendix A.

For robustness, we also consider the intraday returns upon the stay announcement. We use the returns within a window from 20 minutes before to 20 minutes after the time of the SEC announcement. This intraday measure is less likely to be affected by any potential confounding events. However, as reported by Becker et al. (2013), while the market appeared to react to the SEC announcement, the announcement hit other newswires later in the day and may have taken some time to be fully incorporated in prices.

We also consider an alternative benchmark based on an event examined by Cohn et al. (2014). They study the announcement, late in the day on June 16, 2010, of Senator Christopher Dodd's proposal to amend the bill that would later become known as the Dodd-Frank Act. As discussed by Cohn et al. (2014), the proposed changes would have made it considerably more difficult to avail of proxy access at larger firms and somewhat more difficult at medium-sized firms, while leaving the terms of access at small firms unchanged. Because this announcement affected firms of different sizes in different ways, and changed the proxy access terms rather than granting or removing proxy access altogether, it does not provide a uniform benchmark for the value of proxy access. However, in robustness tests we use the market reaction to the Dodd announcement to benchmark variation in the expected benefits of proxy access among a subsample of large firms. We follow Cohn et al. (2014) in using the two-day return for June 16 and 17 as a measure of the expected benefits of proxy access.

4. The Value of Shareholder Proposals

We begin our analysis by considering the value of shareholder proposals for proxy access to proponents and to shareholders at large. The existing literature (e.g., Campbell et al.

(2012); Becker et al. (2013); and Cohn et al. (2014)) demonstrates that proxy access is expected to be value-enhancing at the average firm. If the pursuit of governance changes through shareholder initiatives were efficient, we would therefore expect the rule allowing shareholder proposals for proxy access to be followed by a large number of value-enhancing proposals. However, collective action and agency problems may limit the use of shareholder proposals.

In particular, an individual shareholder or a small group of shareholders would incur the full cost of submitting and presenting a proposal, responding to any challenges to the submission, and communicating with other shareholders (directly or by engaging proxy solicitors) to coordinate the dispersed shareholder base to support the proposal. For example, letters (reported on Form PX14A6G) were mailed to shareholders of numerous firms in order to convince shareholders to vote for the NYC Comptroller's 2015 proxy access proposals. Also, submitting a proposal may damage the shareholder proponent's relationship with management at the target or at other firms, further increasing the total cost of submitting a proxy access proposal. A proponent would bear all of these costs while only expecting to receive a fraction of the benefits of a proposal. Further, shareholders may be reluctant to submit proposals if success is unlikely or distant. For example, entrenched management may impede a proposal through actions such as seeking no-action relief to exclude the proposal, engaging in outreach to reduce the support for a proposal, or, even if a proposal passes, choosing not to implement it.

Despite these potential constraints, we document an active shareholder proposal process. Over five proxy seasons, 27 unique proponents submitted at least 338 proxy access proposals. Subfigure (b) of Figure 1 illustrates that these proposals represent one of the largest waves of shareholder proposals in recent years. Clearly, the ability to propose changes in governance is valued sufficiently by proponents to overcome the costs and uncertainty that accompany shareholder proposals. However, while the frequency of proposals suggests that they are valued by proponents, this evidence does not indicate how the proposals are viewed by shareholders at large. We next look to measure the market's reaction to shareholder proposals for proxy access.

4.1. Event Study around Announcement of Proposals

The main challenge in quantifying the value of shareholder proposals is that the date on which it becomes known to the market that a company is being targeted with a proposal is difficult to determine. Previous research examining the value effects of shareholder proposals has generally focused on the mailing or filing date of the proxy statement as an approximation of when this information becomes public (e.g., Karpoff et al. (1996); Gillan and Starks (2000); Cai and Walkling (2011)), and has generally found an insignificant market reaction to being targeted. However, the proxy statement may contain other information besides shareholder proposals, and the market may be aware of shareholder proposals before they are included in proxy statements.

The effect of shareholder proposals on shareholder value would ideally be tested using unanticipated public announcements of identical proposals across a large randomized group of firms. While such circumstances are hard to come by, something close to these conditions occurred in the 2015 proxy season with the announcement of the Boardroom Accountability Project by the NYC Comptroller. The NYC Comptroller's office issued an unexpected press release on November 6, 2014, indicating that it was targeting 75 firms with a shareholder proposal for proxy access. We use this major announcement to measure the market reaction to a firm being targeted with a proxy access proposal. The targeted firms represent a large sample relative to the number of shareholder proposals on any single topic in any given year.

The NYC Comptroller's announcement was accompanied by a copy of the proposal, the targeting criteria applied, and a list of targeted firms indicating the criteria which led to each being targeted. The New York Times released a digital article describing the initiative late in the evening of November 5, 2014, which was subsequently followed by an article in the print edition on November 6th. The contemporaneous coverage by the press increases the market awareness of the event.

When interpreting the returns to being targeted with a proxy access proposal, it is important to note that three main factors may affect these returns: (1) the value effect of proxy access, if implemented at the firm; (2) the likelihood that the shareholder

proposal results in proxy access being implemented; and (3) the ex-ante probability of being targeted already incorporated in market prices.

For the BAP announcement returns, a first order approximation of the value of proxy access reflected in the price reaction for firm i is:

$$\begin{aligned}\text{Price Reaction}_i^{\text{BAP}} = \text{Value of Proxy Access}_i \cdot \\ [1 - \mathsf{P}(\text{Targeted}_i)] \cdot \mathsf{P}(\text{Implemented}_i | \text{Targeted}_i)\end{aligned} \tag{1}$$

While we cannot rule out the possibility that the market already incorporated some expectation of firms being targeted with such proposals (i.e., $\mathsf{P}(\text{Targeted}_i) > 0$), Figure 1 demonstrates that a small number of firms were targeted in previous seasons, which may limit the market's expectation of the probability of being targeted in the 2015 proxy season. Indeed, in the year preceding the BAP announcement, less than one percent of firms were targeted. Moreover, only five of the 75 BAP targets are repeat targets. Hence, at the time of the BAP announcement, the market likely assigned a low probability to a particular firm in our sample receiving a proxy access proposal. Assuming that the probability for any particular firm to be targeted is low ($\mathsf{P}(\text{Targeted}_i) \approx 0$), the event return will still underestimate the full value of proxy access at firm i due to the uncertainty regarding implementation ($\mathsf{P}(\text{Implemented}_i | \text{Targeted}_i) \neq 1$).

We perform an event study on November 6, because, as discussed above, all of the news about the BAP proposals was released on this day or after markets closed the previous day. We use three different approaches, reported in Table 3. First, we calculate the abnormal return firm by firm for the targeted firms and compute standard errors assuming no cross-correlation in the company returns. However, given our common event date, this assumption may be too strong. Thus, we next use the standard portfolio approach, which addresses potential cross-correlation but sacrifices power. Finally, we use generalized least squares (GLS) estimation in a seemingly unrelated regression (SUR) framework, which improves the power of our test while still allowing us to account for cross-correlation.[6]

[6]The use of GLS estimation of SUR models for event studies was proposed by Gibbons (1980) and is a commonly used approach to address potential cross-correlation in residual returns due to event clustering. This approach has the advantage of allowing firm-specific risk loadings while controlling for

In each case, we use a 180-day estimation window and control for the three Fama-French factors, the Carhart momentum factor, and an industry factor based on the average return for all firms in the same Fama-French 30 industry that were not targeted with a proxy access proposal in the BAP initiative.[7] We include an industry factor because, given the size and industry distribution of our sample, we want to further control for potential industry shocks and report industry-adjusted abnormal returns. If we omit the industry factors, we estimate a slightly higher average abnormal return of 55 basis points but our estimates are less precise.

As shown in Table 3, on average the targeted firms experienced a statistically significant abnormal return of about 53 basis point abnormal return on the event date.[8] Our results are similar across the three models. The event study returns are economically meaningful. The 53 basis point return implies a $141 million increase in the value of each targeted firm (average market cap of $26.7 billion $\times$ 0.0053 average event return), and a total increase of $10.6 billion in the value for the 75 targeted firms (75 $\times$ $26.7 billion $\times$ 0.0053).

As part of its BAP initiative, the NYC Comptroller's office disclosed the criteria that resulted in each firm being targeted. We break down the full BAP sample by disclosed targeting reason. In all four subsamples and across the three different methods we estimate a positive effect, though the effect is not statistically significant in every subsample of each model. We find that the abnormal returns are largest for the set of firms for which the NYC Comptroller's office indicated that one of the reasons for targeting a firm was because of "other governance" reasons, though this was not defined or highlighted as a primary targeting criteria.

Overall, our results suggest that proxy access proposals are deemed to be value-

cross-correlation of the error terms. Others who have used use this methodology to study the effects of regulatory changes on asset prices include, e.g., Schipper and Thompson (1983, 1985); Binder (1985); Mamun, Hassan, and Lai (2004); Fernandes, Lel, and Miller (2010); Betzer, Doumet, and Rinne (2013).

[7] In the case of energy firms, the BAP project targeted those energy firms with the largest carbon reserves still in the ground. For this reason, the targeted firms may be more sensitive to energy commodity prices than their peers, even within the same industry. In unreported robustness tests, we include a factor for commodity prices and our results are similar.

[8] Five firms made earnings announcements on the event day, which may confound the estimation of the effect of proxy access. As such we remove them from the sample for these tests. Our results are similar when we include these firms and use regression techniques robust to outliers.

enhancing by the market, consistent with shareholders expecting that these proposals will on average lead to positive changes at firms. Our results suggest that even after considering the uncertainty in implementation following a proposal, the average return from initiating a proxy access proposal is positive and economically meaningful. However, we also expect that the value of being targeted with a proxy access proposal should vary across firms based on the expected value of proxy access at each firm. Accordingly, we next explore the cross-sectional variation in the event returns.

4.2. Variation in the Value of Proposals

Proxy access may be value-enhancing if it provides an effective governance mechanism either through its actual use or the threat of use at a firm where other available disciplinary devices are insufficient. However, proxy access might be value-neutral or value-destroying if it impedes the efficient working of the board of directors or if it primarily serves the special interests of minority shareholders. We expect the value of being targeted with a proxy access proposal to be a direct function of the value of implementing the proposed terms of proxy access at that particular firm (i.e., Value of Proxy Access$_i$ in Equation 1).

As discussed above, we use returns on the date the SEC announced it would stay the 2010 proxy access rules as our primary benchmark for the value of implementing proxy access at a particular firm. The stay announcement returns are a valid proxy for Value of Proxy Access$_i$ because they are based on the same terms of access as the BAP proposals. In both cases, proxy access would be available to a shareholder or group of shareholders that had owned at least three percent of the firm's equity for at least three years. This consistency in terms allows us to make meaningful comparisons of the returns to the two events.

In our tests, we partition the BAP targets into quintiles based on their return on the date of the stay announcement. The first quintile includes those firms that reacted most negatively to mandatory proxy access being stayed. We consider these firms to be the ones that the market expected to benefit most from proxy access. At the other side of the distribution, the fifth quintile includes those firms that had a small positive reaction

to mandatory proxy access being stayed, so we consider these firms to be the ones that the market expected to benefit least from proxy access. Subfigure (a) of Figure 2 presents the distribution of the stay date returns across the 70 firms we study.

In Subfigure (b) of Figure 2, we plot the abnormal return to being targeted in the BAP initiative for each of these stay-date return quintiles. Consistent with Equation 1, we find that the BAP announcement return varies strikingly with returns to the stay announcement. Among the targeted firms, the firms that the market expected to benefit more from universal proxy access have substantially higher returns to being targeted with a proxy access proposal. Those in the first quintile have a 137 basis point return to being targeted, compared to the 53 basis point average return for the full sample. The firms in the fourth and fifth quintile have average returns of just two basis points and minus seven basis points.

We test this relationship formally in Table 4. To test the statistical significance of the BAP returns in each quintile, we perform a placebo test that selects 70 random firms that were not targeted in the BAP initiative and compute their abnormal returns on the BAP announcement date based on the same event study method used for the targeted firms. The placebo firms are sorted into quintiles based on their returns upon the stay announcement, and the average abnormal return for each quintile is calculated. We repeat this exercise 1,000 times to develop an empirical distribution of the average abnormal returns on the BAP announcement day for each quintile of stay-date returns, and use this distribution to measure the significance of the returns for the BAP targets. This approach to testing significance is robust to any common risk factor that could affect the sorting of firms by their returns on both the BAP announcement day and the stay announcement day.

The first row of Table 4 reports the average abnormal return for each quintile of BAP targets and the statistical significance of these returns based on the results of the placebo test, as well as the difference in returns for the first and last quintiles and its significance. These results confirm that for the lower three quintiles (i.e., the firms that were expected to benefit more from proxy access) the average abnormal returns are significantly larger

than we would expect under a null hypothesis of random returns, while the abnormal returns for the last two quintiles are not distinguishable from zero.

We repeat this analysis for two alternative benchmarks for the expected value of proxy access at different firms: the intraday return of a 40 minute window around the stay announcement, and the return to Senator Dodd's proxy access proposal earlier that year. While these returns have certain limitations discussed above, we find similar results regardless of the benchmark used to sort the BAP targets.

Our results indicate that shareholders generally expect shareholder proposals for proxy access to be effective at those targeted companies where proxy access was expected to be value-enhancing. The relation between the returns to being targeted and the benchmarks for where proxy access was expected to be valuable also suggests that the BAP announcement returns capture important information about the value of proxy access at the targeted firms.

While these results demonstrate that shareholder proposals may be an effective governance tool, they also hint at potential inefficiencies in the targeting process, because firms at which the market did not seem to value proxy access were targeted nonetheless. We therefore turn next to a more general analysis of the proposal process, beginning with the choices made by the proponents of proxy access proposals.

5. Proponent Actions and Implications

The decisions made by proponents are likely to play a key role in whether the shareholder proposal process is able to institute customized governance changes. In particular, a potential benefit of a shareholder-driven process for pursuing governance changes is that proponents can tailor proposals to the individual needs of firms and target proposals at the firms where they would be most valuable. However, these decisions may be constrained by collective action and agency problems.

5.1. Tailoring of Shareholder Proposals for Proxy Access

Proposals have to specify a number of nontrivial proxy access criteria that can be adjusted to suit the circumstances of a particular firm, such as the ownership threshold or number of years of ownership required for a shareholder to qualify to nominate directors on the company's ballot, whether a group of shareholders can collectively meet such thresholds in order to make nominations, and the limit on how many directors can be nominated through such proxy access in a given year. We focus on the ownership requirements of the proxy access proposals because the level and duration of the ownership requirements will have very different implications at firms of different sizes and ownership structures. Therefore, we expect that tailoring of the ownership requirement can address variation across firms in the appropriate terms of proxy access.

We find that proposals in 2012 and 2013 included ownership thresholds of one, two, or three percent, and holding period requirements of one, two, or three years. Some proposals included maximum ownership thresholds, such that shareholders holding greater than, say, five percent of the company would not be able to nominate directors through proxy access, or different ownership requirements for individual shareholders versus groups of shareholders.

Interestingly, we find that proposal terms are converging rather than becoming increasingly tailored over time. The terms that are emerging as a standard are similar to those that would have been required as a minimum by the vacated 2010 proxy access rule. Subfigure (a) of Figure 3 demonstrates this convergence. The fraction of shareholder proposals presenting an ownership threshold of three percent for three years has grown steadily from less than 10 percent in 2012 to nearly 100 percent in 2015 and 2016. The uniformity in proposal terms in 2015 and 2016 is not just a function of the BAP initiative, as the proposals with these standard ownership requirements were put forth by at least 21 distinct shareholder proponents.

Such convergence may be explained if the optimal terms for proxy access do not differ across firms. This explanation is implausible given the initial variation in proposed terms and the variation across targets in their size and ownership structures. More likely,

the lack of tailoring may result from the collective action problem. That is, pursuing variation in the terms of access would require significant analysis and coordination on the part of voting shareholders with respect to the ideal terms of access at different companies. Standardization may reduce the costs of developing and submitting proposals as well as the costs of individual shareholders analyzing proposals. In essence, the costs of coordination may be shared across many firms, helping to address the collective action problem at the expense of more tailored solutions.

Anecdotal evidence provides support for the coordination costs hypothesis. One influential institutional shareholder, Vanguard Group, committed to generally support proxy access proposals with a five percent ownership threshold until 2016, when it shifted to supporting the more popular three percent threshold based on the "critical mass" at this threshold.[9]

Ultimately, the empirical evidence does not support the idea that the shareholder proposal process is suited for tailoring governance provisions. We next explore whether shareholder proposals can nonetheless deliver customized governance by targeting proposed changes at the companies that need them most.

5.2. Targeting of Proposals versus the Value of Proxy Access

If shareholder proponents prioritize their target selection based on where proxy access would be most value-enhancing, we expect that target firms would have a more negative response to the announcement that the 2010 proxy access rules would be stayed. However, if shareholder proponents instead target firms because of idiosyncratic concerns, private benefits, or special interests, their targeting choices will not align with the interests of the majority of the shareholders. At the other extreme, if managerial opposition is expected to be much stronger exactly where proxy access is most needed, proponents may have an incremental disincentive to target the firms where the market values proxy access most highly. To distinguish between these hypotheses we compare the proponents' targeting decision with the value of proxy access implied by the stay announcement.

[9]See "Exclusive: Vanguard offers fresh backing for proxy access reforms," by Ross Kerber, Reuters, February 19, 2016.

Figure 4 illustrates the relationship between the choice of targets for the 338 proxy access proposals and the distribution of stay announcement returns graphically. Subfigure (a) presents the distribution of the stay date returns across all public firms (excluding smaller reporting companies, as discussed above), separated into quintiles. The first two quintiles are firms that had the most negative returns on that day, suggesting that they would have benefited most from the mandatory proxy access rule that was stayed. The fourth and fifth quintiles of firms had a limited reaction or even a positive return on the day of the stay announcement, suggesting that those firms are less likely to have benefited from mandatory proxy access.

Subfigure (b) of Figure 4 plots the proportion of firms targeted with proxy access proposals in each of these quintiles. We do not find that the firms with the lowest stay date returns are targeted disproportionately, suggesting that shareholder proponents have not primarily targeted firms at which proxy access is expected to be most beneficial. We find similar results in Subfigure (c), when restricting the sample to targets in 2012 or 2013. Therefore, it is unlikely that this lack of a relationship derives from returns at the stay announcement becoming a weaker proxy of the expected benefits of proxy access in later years.

Proponents might have targeted the firms where they expected the greatest dollar value enhancement from proxy access and not the highest returns. In Subfigure (d) of Figure 4 we restrict the sample to the largest 20 percent of the firms in case. There is little variation in targeting across stay date return quintiles for this subsample, suggesting that even if proponents targeted relatively larger firms, they did not disproportionately target the big firms that were expected to have the largest dollar value benefit from proxy access. In fact, they targeted an equally large number of big firms that the market did not seem to expect to benefit from proxy access.

We present formal tests of this relation in Table 5, where we regress an indicator for being targeted with a proxy access proposal against quintile categories that represent the extent to which a firm was expected to benefit from proxy access. We use different measures of the value of proxy access to sort firms in different specifications of the test.

We find that firms that were expected to benefit the most from proxy access (the lower quintiles) were not more likely to be targeted with shareholder proposals for proxy access. This result holds whether we measure the value of proxy access based on the return on the day the stay of the 2010 proxy rules was announced, the intraday return around the stay announcement, or the date of the proxy access proposal by Senator Dodd. In the case of the intraday returns, we find some evidence that the firms that were expected to benefit relatively more from proxy access may have been more likely to targeted, however any higher likelihood of being targeted is not concentrated in the the lowest quintiles where we would expect it to be, but rather is evenly distributed among the four lower quintiles. In unreported tests, we find similar results when separately considering either the BAP targets or non-BAP targets. We also find similar results when using a matched sample of non-targeted firms based on their market capitalization rather than using the subsample of large firms.

The firms that would have benefited most from proxy access at the time of the stay announcement may have been targeted with other types of proposals in the interim. These firms might not be disproportionately targeted by proxy access if they made corresponding changes that reduced the marginal benefit of proxy access. We test this possibility in the last three columns of Table 5. We examine subsamples of firms with governance data that did not make changes in response to other popular shareholder initiatives (regarding majority voting, the ability to call a special meeting, or the ability to act by written consent) since the time of the stay announcement. When we consider only these subsamples of firms that did not make such changes, we continue to find that those that would have benefited most from proxy access are not more likely to be targeted.

In fact, the last three columns of Table 5 demonstrate that the firms that would have benefited most from proxy access and that did not make other governance changes are significantly less likely to be targeted with proxy access proposals. This result may indicate that proponents are less likely to submit proposals where they anticipate particular challenges in having changes implemented, such as a high expected level of managerial opposition.

Overall, we do not find evidence that shareholder proponents target the firms expected to benefit most from proxy access. Instead, they seem to target firms without much regard to the variation in expected benefits, targeting firms where proxy access may be quite valuable as well as firms that the market does not expect to benefit from proxy access. Further, we find some evidence suggesting that proponents may be less likely to target some firms at which proxy access would be particularly valuable because of expected challenges in achieving implementation in the face of managerial resistance or other frictions.

5.3. The Determinants of the Proponent's Decision to Target a Firm

Because target selection does not seem to be prioritized based on where proxy access would most enhance shareholder value, we next test what other observable factors are related to the proponent's decision to target a particular firm. Table 6 examines these determinants in a multivariate setting.

Specifically, Table 6 presents the results of estimating a linear probability model where the dependent variable is an indicator for whether or not a firm was targeted for proxy access in a given year. We separately estimate the model for our full sample of all firms with performance and accounting information and a smaller sample of firms for which we have governance data. We find that proponents are significantly more likely to submit proposals at large firms. Large firms may be more attractive targets because of the enhanced visibility of a proposal at such a firm, or because there is a higher likelihood that the shareholders that are willing to be proponents have enough of a stake in such firms to be incentivized to take action in spite of the collective action problem that limits the rewards to spearheading a proposal.[10]

We do not find a consistent relationship between the entrenchment index and being targeted for proxy access. This is not surprising because while weak governance may increase the benefits of proxy access, it may also make the implementation of proxy

[10]A proponent must also have a large enough stake to be eligible to submit a proposal. To qualify, a shareholder must have continuously held at least the lesser of $2,000 in market value or 1 percent of the company's voting securities for at least one year as of the date of submission, and intend to continue to hold the securities through the date of the shareholder meeting.

access more challenging if entrenched managers more aggressively oppose the proposals. We test this hypothesis empirically in our next section. Finally, we document that market participants are very likely to repeat their attempts to propose proxy access. Building support for a proxy access proposal may be a multi-year effort and being previously targeted is a robust predictor of being targeted in the future.

Overall, we document that shareholder proponents target relatively larger firms and repeat the process where necessary. However, we do not find that shareholders tailor proposals or disproportionately target firms at which proxy access is expected to be most value-enhancing, even amongst larger firms. Proponents also do not disproportionately target the firms that have characteristics that are associated with relatively more entrenched managers. We next explore why this may be the case by directly examining the actions of management.

6. Managerial Actions

Management can choose from a number of actions in response to a shareholder proposal. If management favors a proposal because it improves the functioning of the company and ultimately delivers value to its shareholders, they can recommend that shareholders vote in support of a proposal or, in some cases, boards can change the bylaws and implement the proposed change without a vote. More commonly, management opposes shareholder proposals. This might be because they expect that the proposal will be harmful to shareholder value. If conflicts of interests are present, management may actively oppose shareholder proposals even if they would enhance shareholder value. In such cases, management may include a rebuttal of any length and tone in their proxy materials and may engage in outreach to shareholders either directly or via proxy solicitors. Management may also take action to prevent the proposal from coming to a vote, such as by requesting no-action relief from the SEC staff or negotiating with the proponent.

The degree of managerial resistance is typically unobservable or difficult to measure. For example, success in requests for no-action relief to exclude proposals generally hinges

on a failure to comply with certain procedural requirements or on particular drafting choices in the proposals. Therefore, whether or not management makes a no-action request would generally reflect the experience of a proponent or the quality of drafting rather than cleanly measuring the degree of managerial resistance. However, a new development in our setting provides an opportunity to use no-action requests to empirically examine managerial resistance without being subject to this bias.

In the 2015 proxy season, one targeted company requested no-action relief to exclude a proxy access proposal on the grounds that management planned to present its own proxy access proposal. The company argued that the shareholder proposal would pose a conflict with management's proposal and would therefore be excludable under a particular section of the proxy rules. The planned management proposal in this case was much more restrictive than the shareholder proposal the company was seeking to exclude, allowing only a single shareholder that had owned nine percent or more of the company's stock for five years to nominate a candidate on its proxy statement. Effectively, these terms would make proxy access unusable by any of its existing shareholders or future shareholders for many years thence. The proponent responded with a letter stating that "If the SEC grants a no-action request in this instance, staff will be signaling that boards can exclude proposals by shareowners simply by substituting any proposal on the same general subject, even a proposal that would ... have no impact if passed."

This no-action request was initially granted by the SEC staff, and 25 additional firms used this approach to challenge proxy access proposals submitted by shareholders in 2015. The no-action relief in question was later reconsidered and revoked, and new guidance put forth by the SEC staff ruled out the future use of this defense tactic. Regardless of this development, we can use the no-action requests of this style that were submitted before the SEC staff reconsidered its decision as a clean measure of management taking extreme actions to oppose proxy access proposals. That is, because the decision to challenge shareholder proposals in these cases was not affected by considerations of how the technical details of the proposals would affect the likelihood of success, these requests provide rare insight into the discretionary decision of managers to challenge proposals.

In total, 26 firms requested no-action relief to exclude proxy access proposals under the conflicting proposal exclusion, of which 18 were firms targeted by the NYC Comptroller's office. Table 7 compares the BAP announcement return, the stay date return, and the return upon Senator Dodd's proposed amendment for firms that challenged the proposals in this way and firms that did not challenge the proposals thusly. All three events are alternative measures of the expected benefits of adopting proxy access. In the case of the BAP announcement, a more positive return indicates that the market anticipates more benefits from the shareholder proposal for proxy access, while in the case of the stay announcement and the announcement of Senator Dodd's proposal, a more negative return suggests that the firm would benefit more from proxy access. We include all targeted firms with sufficient data for each subtest.

Interestingly, we find that firms that chose to challenge the proposal in this relatively extreme way are exactly the firms that were expected to benefit more from mandatory proxy access or more from being targeted with a shareholder proposal for proxy access. That is, managers are more likely to resist allowing a proxy access proposal to come to a vote when their firm is expected to benefit relatively more from proxy access. The magnitude of these differences in all tests is statistically significant at conventional levels and is economically meaningful – ranging from a 59 basis point to 117 basis point greater expected return related to proxy access for the challenged proposals.[11]

In summary, our results on managerial actions support the notion that agency problems may limit the effectiveness of shareholder proposals for governance changes, in that these proposals are more likely to be challenged exactly where they can deliver the most shareholder value.

7. Shareholder Voting Behavior

The final step in the proposal process is the shareholder vote. We expect self-interested shareholders to support proposals that they expect will enhance shareholder value. How-

[11] When using the intraday returns, the results are insignificant. This might be driven by the additional dispersal of news about the stay announcement outside the very tight 40 minute window.

ever, the collective action problem can impede optimal voting outcomes. For example, it may be difficult to achieve strong support for any proposal among dispersed shareholders because it may be costly for each individual shareholder to analyze the costs and benefits of proposals at each firm. Also, there may be smaller benefits of proxy access for certain types of shareholders, such as large shareholders who already have a certain degree of influence with management. Given that shareholders generally cannot make side payments to influence the votes of others, such variations in the benefits of a proposal across shareholders may make it difficult to rally sufficient support for a proposal even if it would be optimal for the shareholders as a group. Agency problems may also affect voting outcomes, in that management and other insiders may be unlikely to vote their shares in support of a proposal.

Subfigure (b) of Figure 3 plots the evolution across time of shareholder support for the different types of proxy access proposals. The voting results provide evidence consistent with the coordination costs hypothesis. Across all years the proposals with a three percent for three years ownership threshold, as in the invalidated 2010 proxy access rule, generally received greater shareholder support than proposals with other thresholds. As discussed above, it is unclear why these terms would be uniformly optimal. The terms of the 2010 proxy access rule may have served as a focal point solution that shareholders supported in the absence of more detailed analysis about the optimal terms of access at different firms.

Focusing on the proposals with the standard three percent for three years ownership threshold, we next split the sample of proposals that came to a shareholder vote depending on whether or not they received majority support (i.e., had more than 50 percent "for" votes out of all "for", "against", and "abstain" votes cast). While these votes are advisory, whether or not a proposal passes is still a relevant metric because failure to respond to a proposal that passes may result in, for example, increased shareholder activism or proxy advisor recommendations to vote against directors. In Table 8 we document that firms that receive a majority vote on proxy access proposals have slightly higher returns upon announcement of the BAP initiative and slightly lower returns at the stay announcement

and Senator Dodd's proposal announcement. The direction of the results is consistent with higher voting support at firms where proxy access is expected to be more value-enhancing.

The differences in our return measures across these voting outcomes are, however, economically small and not statistically significant at conventional levels. The lack of a strong relationship between our market value measures and the voting outcomes is not surprising given Listokin (2009), who provides evidence that voting and market pricing aggregate information in different ways. In our setting, this result may be driven by voting by groups of shareholders with interests and views that may diverge from that of the average investor, such as insiders, retail investors, and large institutional blockholders. We explore this possibility in our next set of tests.

Table 9 regresses the overall support for shareholder proxy access proposals on measures of inside ownership and institutional ownership. We find substantial heterogeneity in voting behavior among shareholder types. Across a variety of specifications, we document that higher levels of inside ownership is negatively correlated with support for proxy access proposals. This result is consistent with management opposition to shareholder proposals for proxy access.

Consistent with the benefits of proxy access varying across shareholders, we find that having more institutional owners that individually hold up to one percent of a firm is associated with significantly higher support for proxy access proposals, while having large institutional blockholders that hold more than than 3% is associated with significantly lower support for proxy access proposals. The result with respect to large institutional blockholders is consistent with the notion that such blockholders may already have influence with management, and therefore may not have an incentive to support proxy access. Retail shareholders, who likely make up the bulk of the omitted category, are less associated with support for proxy access proposals than small institutional investors. This result is consistent with an industry report documenting that 85 percent of voted shares held by retail investors were voted against proxy access[12], which may be the result

[12]See "2015 Proxy Season Wrap-Up" by Broadridge and PWC, available at http://proxypulse.broadridge.com/.

of such investors having differing views or interests from other investors, or might reflect a lack of sophistication.

While these tests present evidence based on correlations between the overall votes and the institutional base, they do not provide direct evidence of how different shareholders voted. Therefore, we next look at actual voting decisions by funds required to report their votes on Form N-PX. Consistent with the overall results in Table 9, in Table 10 we find that institutional owners that hold a large stake in the firm are less likely to support proxy access. This result is unchanged when we include vote-level fixed effects which subsume all firm-level controls. The large owners in this group of investors appear to be particularly likely to avoid confrontation with management, perhaps because all of investors in this test have to publicly report their votes on Form N-PX.

We also find that a given shareholder is more likely to support proxy access when measures of entrenchment, such as insider ownership or the entrenchment index proposed in Bebchuk, Cohen, and Ferrell (2009), are high. This result provides further evidence that shareholder voting is affected by the expected value of the proposed change. Consistent with finding in Iliev and Lowry (2015), ISS support is an important factor in the investors' decisions. This might be because ISS aggregates the information optimally and helps investors to coordinate efficiently or because investors know that ISS support increases the chances of a successful vote.

Overall, we find that the outcomes of votes may not align with the expected value of proxy access because of coordination problems and varying interests across shareholders.

8. Conclusion

We document a wave of several hundred shareholder proposals for proxy access and provide new evidence on the effectiveness of the shareholder proposal process. By exploiting key recent developments in the proxy access space, we are able to identify the value of shareholder proposals for proxy access and the degree to which collective action and agency problems impede the proposal process.

We find that the market reacted positively to the announcement of shareholder proposals for proxy access being submitted to 75 U.S. public companies, resulting in a total increase of $10.6 billion in shareholder value across the targeted firms and demonstrating that the shareholder proposal process can be valuable. However, we find that the reaction was not uniform. Using the market reaction to an announcement that rules that would have made proxy access mandatory at all public companies was being stayed, we are able to sort companies by the degree to which the market expected them to benefit from proxy access. We find the strongest positive returns at the firms for which proxy access was expected to be valuable, and we find much lower returns at the firms for which proxy access was not expected to be valuable.

Collective action problems appear to limit the efficient tailoring and targeting of proposals by proponents. We find that the proposals quickly converge to standard terms, and the firms that were expected to benefit most from proxy access are not disproportionately targeted. We also find evidence of significant frictions created by managerial actions and the voting process. Management is more likely to resist proposals at firms that stand to benefit more from proxy access, implying that agency problems may make it difficult for shareholder proposals to deliver changes where they are needed. Finally, because of the voting influence of groups such as insiders and large blockholders, the aggregation of shareholder views via voting may differ from the view of the average investor.

Overall, we document that the shareholder proposal process provides a functioning, albeit imperfect, channel for the implementation of a governance mechanism. It remains to be seen if increased engagement by key institutional shareholders will usher in a new era of market-driven adoption of governance tools.

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Appendices

A. Setting.

Federal regulations do not require public companies in the U.S. to provide a mechanism whereby shareholders can nominate directors on the company's proxy materials.[13] In this study, we rely on key changes from the status quo that allow us to explore the effectiveness of different approaches to providing proxy access, and study the value placed by the market on proxy access at different companies.[14] In particular, the 2010 proxy access rules removed the ability for companies to exclude shareholder proposals regarding proxy access,[15] allowing us to study the private ordering of proxy access. In addition, events surrounding the legal challenge to the part of the 2010 rulemaking that mandated proxy access at all affected firms allow us to benchmark the public provision of universal proxy access as an alternative to private ordering. In the next three sub-sections we present the institutional details behind these developments.

A.1. Private provision of proxy access

A shareholder proposal can be excluded from a company's proxy materials, and thus not receive a vote, if the shareholder proponent does not meet certain eligibility and procedural requirements or the proposal is excludable under certain criteria set forth by the SEC.[16] Since 1998, the SEC staff interpreted one of these criteria — contained in Rule 14a-8(i)(8) — to allow the exclusion of any proxy access proposal. Following a legal challenge to this interpretation, which prevented the exclusion of a handful of proxy access proposals, the SEC amended the rule to more clearly make such proposals excludable.[17] Thus, shareholders generally did not have access to a formal channel through which to propose proxy access from the late 1990s until 2012.

In 2010, the SEC adopted an amendment to the rules governing shareholder proposals which removed the blanket ability to exclude proxy access proposals from proxy materials. While this amendment was adopted together with the universal proxy access rule that was later invalidated, it was not a subject of the judicial challenge. The amendment became effective in September 2011, clearing the way for shareholders to propose proxy access at individual companies be-

[13]The absence of a requirement does not prevent a board from adopting (or management from proposing, for shareholder approval) a bylaw amendment that allows proxy access at an individual firm. For example, Comverse Technology unilaterally adopted a proxy access bylaw in 2007. However, our understanding is that this has been a very rare occurrence in the absence of shareholder proposals requesting proxy access.

[14]While shareholders have access to other channels through which to nominate directors — including proxy fights, private negotiation, candidates proposed for the consideration of the board's nominating committee, and nominations from the floor at shareholder meetings — we do not believe that any of these alternatives are perfect substitutes for proxy access or that access to these alternatives has meaningfully changed in the time period we focus on.

[15]See amended Exchange Act Rule 14a-8(i)(8). The rule was effective as of September 2011, as specified in Facilitating Shareholder Director Nominations, Securities Act Release No. 9259, Exchange Act Release No. 65343 (Sept. 15, 2011).

[16]Exchange Act Rule 14a-8 dictates the eligibility and procedural requirements for a shareholder proposal. Also, a proposal is excludable if it falls under one of the rule's substantive bases for exclusion (Rule 14a-8(i)(1) through 14a-8(i)(13)).

[17]The Second Circuit court held in 2006 that a proxy access proposal by AFSCME could not be excluded by AIG despite the SEC's then-customary position, based on an older interpretation of the language of the rule by the SEC. See AFSCME v. AIG, 462 F.3d 121 (2d Cir. 2006). Following this decision, in the 2007 proxy season, proxy access proposals were voted on at Hewlett-Packard, the UnitedHealth Group and Cryo-Cell International. The SEC amendment to Rule 14a-8(i)(8) that clarified the excludability of proxy access proposals became effective on January 10, 2008.

ginning in the 2012 proxy season. We study the 348 proxy access proposals submitted since then.

It is important to acknowledge that even if a shareholder proposal for proxy access reaches a vote and is approved by shareholders, the ability of shareholders to make nominations on the company's proxy materials may still not be guaranteed. Moreover, even if this ability is achieved, it may come with a significant delay. Specifically, the passage of a binding resolution to amend a company's bylaws in one year would generally mean that qualifying shareholders could begin to have the directors they nominate included in the company proxy materials in the next year's proxy season. However, binding proxy access proposals have thus far been rare relative to non-binding or "precatory" proposals. Potential reasons for this include the fact that binding proposals directly amend a company's bylaws and may thus require more careful and tailored drafting (which could be further complicated by the 500 word limit for shareholder proposals), and that binding proposals may be subject to stricter requirements.[18]

A precatory proposal, on the other hand, is advisory and does not require board action. Thus, such a proposal could pass for multiple years in a row before resulting in implementation, or not be implemented at all. For example, proxy access proposals received a majority vote at Nabors Industries Ltd. in 2012 and 2013. In 2014, Nabors adopted a policy to permit limited proxy access under terms substantially more restrictive than what had been proposed, followed by another majority vote in favor of the same, less restrictive shareholder proposal in the 2014 proxy season.[19] Ertimur et al. (2010) found that 40 percent of precatory proposals that received a majority vote between 1997 and 2004 resulted in actual implementation by boards, and that the likelihood of implementation generally increases with the number of consecutive years that the same proposal received a majority vote.

If the implementation of precatory proposals is pursued, shareholders may be required to approve a resulting bylaw amendment, delaying actual proxy access for at least one more year. For example, shareholder resolutions for proxy access at CenturyLink, Inc., and Verizon Communications, Inc., were submitted in 2012, passed in 2013, and were followed by management proposals in 2014 to amend the bylaws accordingly. These also passed, meaning that qualifying shareholders of these companies can seek to include their director nominees in the company proxy materials as of the 2015 proxy season. See Table A1 for an example of the potential timing of key events related to the process of proposing and implementing proxy access.

In addition to the management discretion and delays in the implementation of shareholder proposals, proposals (whether binding or precatory) may be excluded from proxy materials in certain cases. One reason for such exclusion would be a withdrawal by the proponent based on private negotiations. For example, a 2012 proxy access proposal at Pioneer Natural Resources Co. and a 2014 proxy access proposal at Walt Disney Corp. were both withdrawn in exchange for unrelated governance changes. Often, though, proposals are excluded because they do not meet the requirements, or the proposal falls under one of the listed exclusion criteria, of Rule 14a-8. Companies must alert the SEC of their intentions to exclude proposals for such reasons, and, if asked for its view, the SEC staff provides no-action letters in cases in which there appears to be a basis for the company's claim of excludability. As discussed above, early proxy access proposals were often excluded because of their wording or content. For example, some of these early proposals were excludable because they defined eligibility for proxy access by referring to the eligibility requirements of the rules for shareholder proposals rather than explicitly defining these requirements, which was deemed to make these proposals vague and indefinite.[20] If a

[18]For example, some companies may require a supermajority vote by shareholders in order for such a binding proposal to pass.

[19]Nabors did not classify the 2012, 2013, or 2014 votes, in which more shares voted for the proposals than against them, as passing because it included broker non-votes and abstentions as "against" votes in the final voting tally.

[20]See, e.g., SEC No-Action Letter to Dell, Inc., March 30, 2012, available at

proposal meets all of the basic requirements and is not voluntarily withdrawn, it will generally proceed to a vote, though management nearly always recommends against the proposal and provides a rebuttal to the proposal in the proxy materials.

A.2. Public provision of proxy access

In contrast to the private, market-based solution, regulations mandating uniform proxy access would result in a standardized level of proxy access whether or not the market believes such access to be value-increasing at a given firm and regardless of whether the shareholders or managers desire proxy access at that firm. Requirements for proxy access have not been implemented in the U.S., though they exist in other jurisdictions such as the U.K., Canada and Australia.

The SEC considered proxy access requirements at least six times in the past 60 years, beginning as early as 1942.[21] A 2003 proposal was met with over 13,000 comments and was not pursued further by the SEC. A 2007 proposal related to proxy access was also not adopted in that form. Section 971 of the Dodd-Frank Act explicitly authorized, but did not require, the SEC to adopt rules requiring proxy access. In 2009, the SEC proposed and in August 2010 adopted, a rule requiring a specified minimum level of proxy access and amendments to an existing rule which would allow the private ordering of expanded proxy access at individual companies.[22]

In particular, Rule 14a-11 mandated that proxy access would be available to shareholders or groups of shareholders holding at least three percent of the voting power of a company's securities, and who have held their shares for at least three years. The rule specified that nominees advanced through proxy access could represent up to 25 percent of the board. Separately, existing Rule 14a-8(i)(8) was amended to eliminate the excludability of shareholder proposals for proxy access under this section of the rule (except in certain limited cases primarily related to potential impacts on the election of directors in the same proxy year).[23] These amendments were intended to complement the universal proxy access rule by allowing shareholders to seek expanded access at individual companies, beyond what was mandated by the rule.

Rule 14a-11, the universal proxy access rule, was the subject of a lawsuit by the Business Roundtable and the U.S. Chamber of Commerce filed on August 29, 2010. The SEC stayed the effectiveness of universal proxy access as well as the amendments with respect to shareholder proposals on October 4, 2010. In July 2011, the DC Circuit Court of Appeals held in favor of the plaintiffs and vacated the universal proxy access rule. The amendments that allowed for the private provision of proxy access were not a subject of the litigation, and went into effect in September 2011.[24]

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http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2012/jamesmcritchie033012-14a8.pdf.

[21] For a discussion of four occasions on which SEC considered proxy access through 2003, see SEC Staff Report, Review of the Proxy Process Regarding the Nomination and Election of Directors, Division of Corporation Finance, U.S. Securities and Exchange Commission (July 15, 2003).

[22] For the release corresponding to adoption of the rules, see Facilitating Shareholder Director Nominations, Securities Act Release No. 9136, Exchange Act Release No. 62764 (Nov. 15, 2010).

[23] As amended, a proxy access proposal would no longer be excludable under Rule 14a-8(i)(8) unless the proposal would disqualify a nominee standing for election; would remove a director before his/her term expired; questions the competence, business judgment, or character of one or more nominees or directors; seeks to include a specific individual in the company's proxy materials for election to the board of directors; or otherwise could affect the outcome of the upcoming election of directors.

[24] These events are also documented extensively in Becker et al. (2013) and Jochem (2012).

A.3. The Stay of the 2010 Universal Proxy Access Rule

In our tests, we use the market reaction on date on which the SEC unexpectedly announced that it would voluntarily stay the 2010 universal proxy access rule and private ordering amendments as a benchmark for the expected value of proxy access at different firms. As documented by Becker et al. (2013), news accounts clearly indicated that the stay was a surprise.[25] Becker et al. (2013) also provides intra-day trading evidence demonstrating that the market reacted just after the announcement, providing further support for the assertions that the stay was unexpected and that the measured returns could be attributed to the stay.

Although a motion to stay the universal proxy access rule was filed with the SEC and publicly announced on the date that the lawsuit was filed, there is evidence that the announcement of the stay was the first event to generate a significant market response based on the expectation of an extensive delay for both mandated proxy access as well as private ordering. For example, the market does not seem to have associated the motion to stay with a significant likelihood that the universal proxy access rule would be stayed. In particular, one news source reported that it was rare for the SEC to grant such a motion.[26] Finally, the announcement that the stay would be granted law firm alerts[27] and Google search volume[28] demonstrated a spike of interest in proxy access. We did not find similar spikes around the motion to stay.

One concern related to using the stay date returns is that the reaction of the market would have reflected a significant delay in proxy access availability rather than the full value of eliminating proxy access. For this reason, we use returns on the stay date only as a proxy for the sign and relative magnitude of the value effect of proxy access across firms. An alternative approach would be to instead rely on the date on which the rule was invalidated. However, it is not clear that returns upon the invalidation of the rule would have represented a longer-term impact, as it was not a ban on future proxy access regulation and it was widely accepted that an eventual re-proposal of a proxy access rule could follow.

More importantly, the stay of the effectiveness of the rules was applied to all parts of the adopted rules and thus represented a delay of at least one proxy season for both universal proxy access and the availability of the private ordering process. In contrast, the vacating of the universal proxy access rule represented at least one more proxy season in which universal proxy access would not be mandated, but it was also accompanied by anticipation that private ordering might be available in the following proxy season.[29] As such, when considering the

[25] For example, as noted by Becker et al. (2013), Wachtell, Lipton, Rosen & Katz published a memorandum on October 4, 2010, referring to the stay as an "unexpected development."

[26] Reporting on the stay, Jessica Holzer stated that "It is rare for the SEC to agree to a delay when its rules have been challenged in court." See "SEC To Delay Proxy Access Rule While Court Considers It" published in the Dow Jones Corporate Governance Newsletter on October 6, 2010. We note that several other recent motions to stay SEC rules, including rules related to mutual fund governance, conflict minerals, resource extraction, and securities issuance under Regulation A, were denied. Also, news accounts did not highlight the stay of the private ordering amendments (which were not a subject of the motion to stay) as more of a surprise relative to the stay of the universal proxy access rule.

[27] On October 5, 2010, a day after the SEC stayed the rule, Broc Romanek of TheCorporateCounsel.net discussed the stay and wrote: "Interestingly, dozens of law firms already have sent out emails regarding this development but these firms had remained silent when the lawsuit was filed last week." See "Proxy Access: SEC Stays Ahead of Court Review Dead for 2011," by Broc Romanek, posted on October 5, 2010. As per this assertion, we were not able to find, for example, a Wachtell, Lipton, Rosen & Katz memorandum regarding proxy access on September 29, 2010, though they did publish a memorandum on October 4th as mentioned above.

[28] A Google Trends analysis demonstrates that there were 45 percent more searches for "proxy access" in the week of the stay announcement than the week of the lawsuit and motion to stay the rule, when such searches were slightly below average for the second half of 2010.

[29] On July 22, 2011, the day that the rule was vacated, the SEC released a brief statement expressing its disappointment and stating further that, "We note that our rule allowing shareholders to submit proposals for proxy access at their companies, which we adopted at the same time, is unaffected by the

returns on the date on which the rule was vacated, the value of proxy access and the likelihood of private ordering may confound each other and complicate interpretation of the event returns.

Table A1: Sample Timeline

This timeline presents an example of the potential timing of key events related to the process of proposing and implementing proxy access for a hypothetical firm whose fiscal year end is in December.

Date	Event	Board Discretionary Actions	Shareholder Actions
Nov. 2014	Deadline to submit shareholder proposal		Proponent submits precatory proxy access proposal
Dec. 2014	Fiscal year-end		
Jan. 2015	Deadline to request no-action relief	Management seeks to exclude proposal, requests no-action relief from SEC staff	
Feb. 2015	SEC staff response: no-action relief not granted		
Feb. 2015	Annual financial disclosures on Form 10-K		
Mar. 2015	Definitive proxy statement distributed	Management includes proposal in proxy statement, provides rebuttal and recommends vote "against"	Shareholders can begin returning (or change) votes
May 2015	Annual meeting		End of vote submission
May 2015	Voting results disclosed on Form 8-K: **shareholder resolution on proxy access passes (but not binding)**		
Dec. 2015	Fiscal year-end		
Feb. 2016	Annual financial disclosures on Form 10-K		
Mar. 2016	Definitive proxy statement distributed	Management proposes bylaw amendment for proxy access	Shareholders can begin returning (or change) votes
May 2016	Annual meeting		End of vote submission
May 2016	Voting results disclosed on form 8-K: bylaw amendment on proxy access is ratified		

court's decision." Six weeks later, on September 6th, an SEC press release stated affirmatively that the stay on private ordering would expire later that month, absent further Commission action.

B. Variable Definitions and Timing.

B.1. Variable Definitions

Source	Variable	Description
CRSP	Return at Stay Date	Raw return on Oct 4th, 2011 when the SEC unexpectedly stayed 14a-11.
	Return upon Senator Dodd's Announcement	Combined raw returns on June 16th and 17th, 2010 when Senator Dodd proposed an amendment to raise the ownership threshold for proxy access to 5%.
Compustat	Size	log(PRCC_F * CSHO)
	Market-to-Book	(PRCC_F * CSHO)/ (CEQ + TXDB)
	Cash	CHE / AT
	Leverage	LT / AT
	Dividend Payer	Equals 1 if DVPSX_F > 0
	Sales Growth	$SALE_t$ / $SALE_{t-1}$
	ROA	NI / AT
Execucomp	Insider Ownership	The aggregate percent holdings of all insiders in a given year. (SHROWN_EXCL_OPTS_PCT)
ISS	Classified Board	An indicator if the board has a classified or staggered structure.
	E-Index	Entrenchement Index proposed by Bebchuk et al. (2009).
	Board Age	Average age of all directors that serve on the board.
	Board Tenure	Average time on the board of all directors that serve on the board.
	Outside Boards	Average number of outside public boards of all directors that serve on the board.
	New Directors	Number of new directors added to the board in the preceeding year.
	Investor Vote	The average number of votes "For" the proposal divided by the sum of votes "For," "Against," and "Abstained" multipled by 100 for all funds in a family.
DEF 14A	Previously Targeted	An indicator if the firm was previously targeted for proxy access.
	Binding Proposal	An indicator if the shareholder proposal is binding.
	Standard Proposal	An indicator if the shareholder proposal requires a nominator to hold three percent of the firm for three years.
	Conflicting Mgmt Proposal	An indicator if both a shareholder and a management proxy access proposal was presented on the firm's annual proxy statement.
No Action Letters	No Action Targeted	An indicator if the shareholder proposal was challenged through the No Action Process.
8-K	Percent Voted For	The number of votes "For" the proposal divided by the sum of votes "For," "Against," and "Abstained" multipled by 100.
Thompson Reuters 13-F	Institutional Ownership	The percentage of shares held by institutional owners which file 13-Fs, measured in quarter preceding the targeting or voting outcome.
NYC Comptroller	BAP Targeted	An indicator if the firm was targeted as part of the Boardroom Accountability Project (BAP)
	Targeted Reason	The stated reason the firm was targeted.

B.2. Variable Timing Details

The control variables in each of our tests are based on different time frames depending on the event to which the test relates. In particular, the proponent's targeting decision occurs before the fiscal year leading up to a shareholder meeting is complete, while the voting decision happens after the end of the fiscal year. For example, for a December fiscal year-end firm with a May 2013 annual meeting, the definitive proxy statement would usually be filed in March 2013. Proponents would generally need to submit any shareholder proposals for the 2013 meeting of such a firm by November 2012 in order to meet the procedural requirements.[30] Thus, when considering the proponent's decision to target the firm for proxy access, we use the trailing twelve month return as of seven months prior to the annual shareholder meeting. In contrast, when considering shareholders' voting decisions, we use the trailing return ending three months prior to the annual shareholder meeting. We require this three month buffer in order to collect a measure of stock performance leading up to the voting decision that is less likely to be skewed by any potential stock price impact of the news that a proxy access proposal is included in the proxy statement. For example, for a typical December fiscal year firm with May 2013 annual meeting we use the cumulative return for the period from November 2011 to October 2012 for analysis of the proponent's targeting decision and from March 2012 to February 2013 for the analysis of the shareholders' voting decisions.

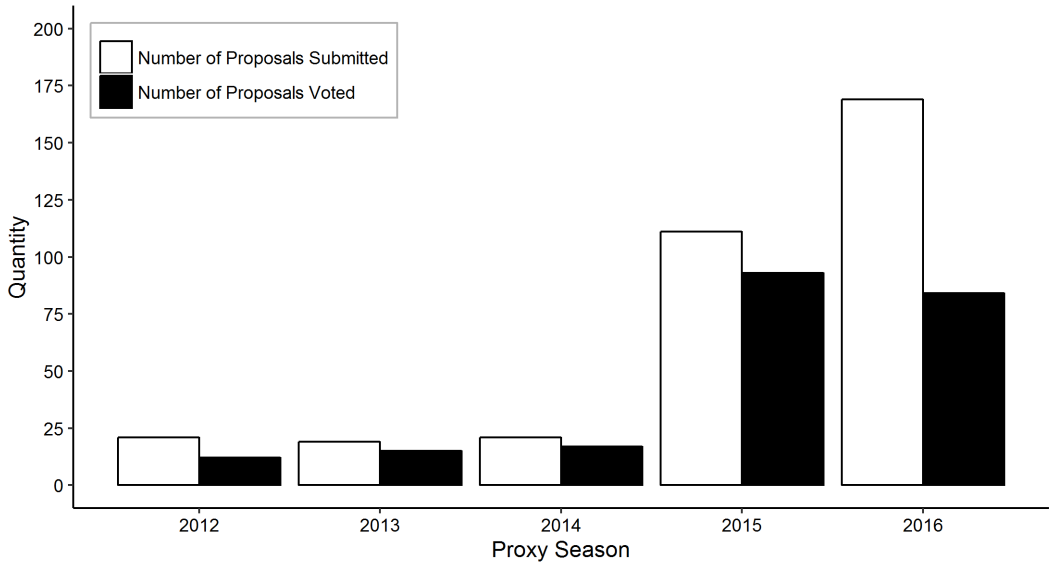
Because of these timing considerations, we also measure the relevant firm accounting characteristics prior to each decision. When considering targeting decisions, we use the accounting variables as of the fiscal year-end prior to the fiscal year discussed in the annual meeting. For example, for a December fiscal year-end firm with a May 2013 annual meeting, the 2012 fiscal year financial statements would not have been available at the time a shareholder would have targeted a firm. We therefore use accounting information from the previous fiscal year, in this case fiscal year 2011, when considering the determinants of the proponent's targeting decision. For the analysis of shareholders' voting decisions we use the current year's accounting information, in this case for fiscal year 2012, because it would have been publicly available to the shareholders at the time they made their voting decisions. For the same reasons, when considering governance characteristics such as board independence, we use the prior year's governance characteristics for analysis of the proponent's targeting decision and the current year's governance characteristics with respect to shareholders' voting decisions.

[30] More precisely, Rule 14a-8(e)(2) requires that proposals for a regularly scheduled annual meeting be received at the company's principal executive offices by a date not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting.

Figure 1: Number of proposals submitted and number of proposals voted.

In this figure we present the frequency of proxy access proposals submitted and voted. We also compare proxy access shareholder proposals to other waves of shareholder governance proposals.

Subfigure (a): The frequency of proxy access proposals submitted and voted.



Subfigure (b): Comparing frequency of different shareholder proposals.

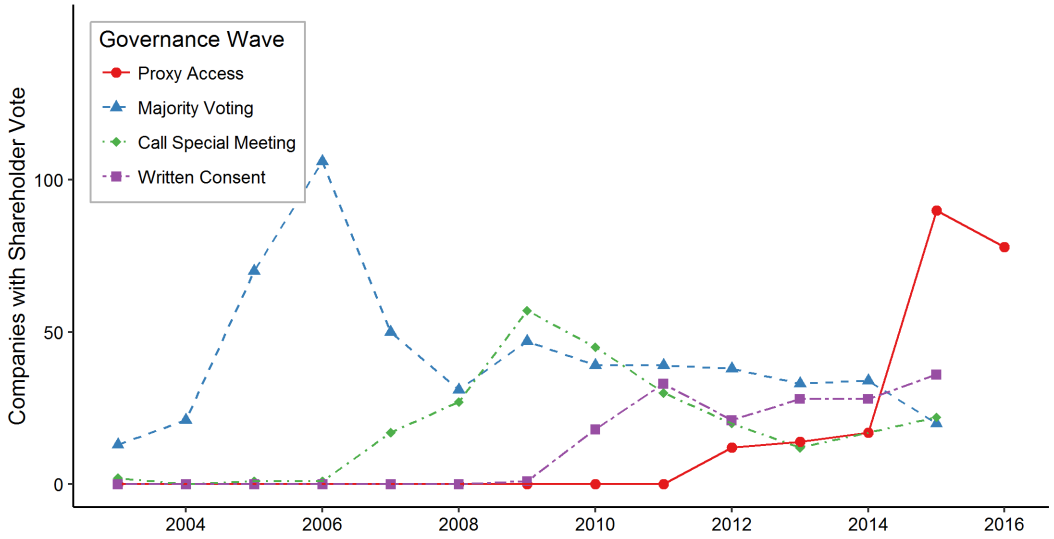
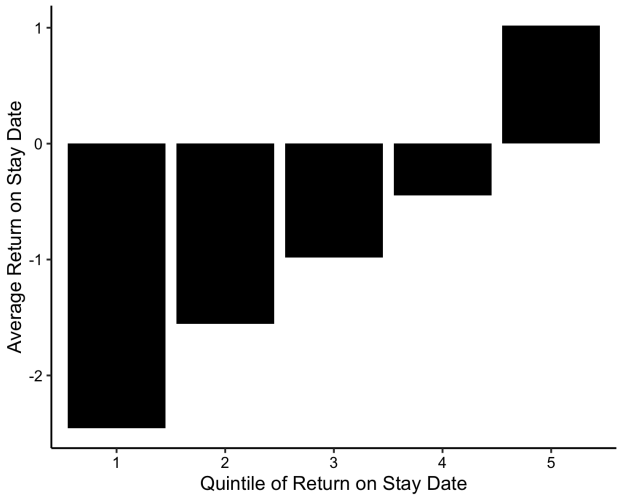


Figure 2: Return to Proxy Access Proposal vs. Return to Universal Proxy Access

In this figure we present the distribution of returns at the SEC announcement of the stay on the universal proxy access rule and private ordering amendments as well as their relation to the returns upon the announcement of the BAP initiative for the firms targeted by the NYC Comptroller. In subfigure (a) we present the average return on the stay date for each quintile of the stay date distribution. In subfigure (b) we present the average abnormal return to the targeted firms upon the announcement of the BAP initiative for each quintile of the stay date distribution. Abnormal returns upon the announcement of BAP are estimated in the GLS/SUR framework discussed in Table 3. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$.

Subfigure (a): Average Return on Stay Date.



Subfigure (b): Return to Proxy Access Proposal vs. Return to Universal Proxy Access.

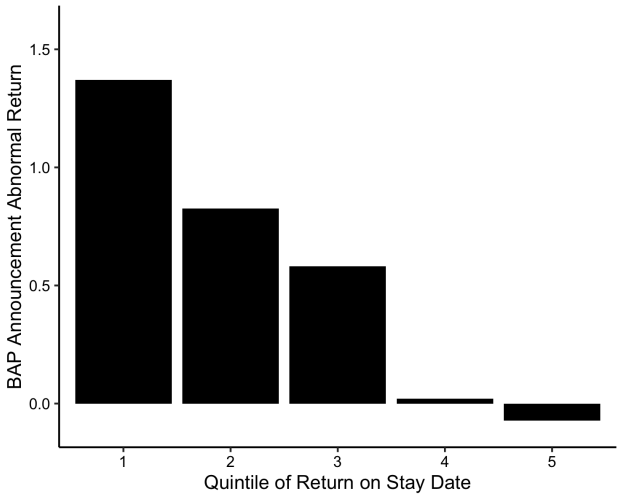
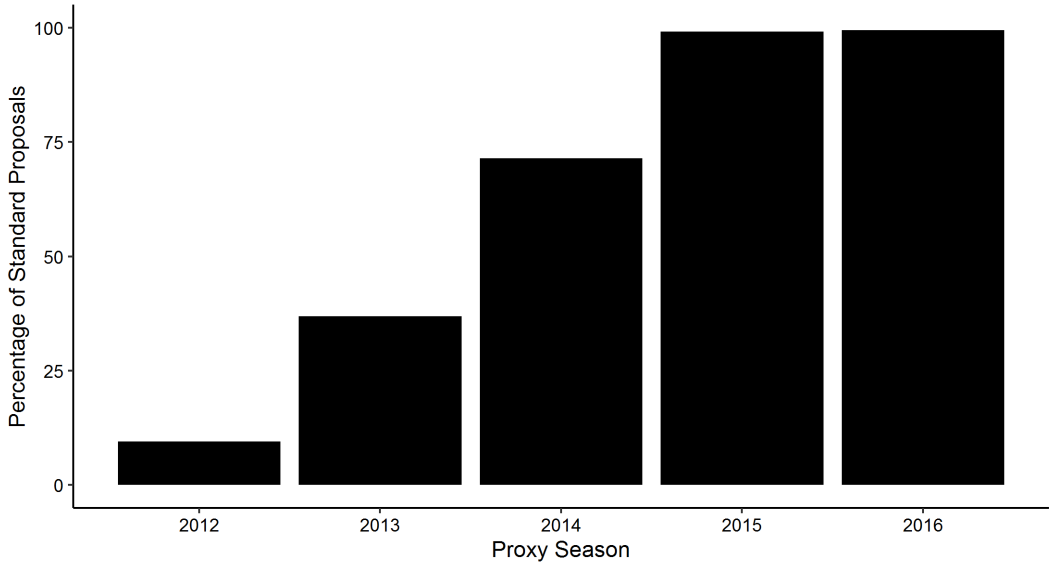


Figure 3: Standard and Non-Standard Proposals

In this figure we present the the percentage of proposals that apply an ownership threshold of three percent held for three years, as in the vacated SEC rule (subfigure (a)), and the shareholder support for proposals that apply an ownership threshold of three percent held for three years as well as the shareholder support for proposals with other ownership thresholds (subfigure (b)).

Subfigure (a): Percentage of proposals with three percent for three years ownership thresholds.



Subfigure (b): Shareholder votes in support of proposals.

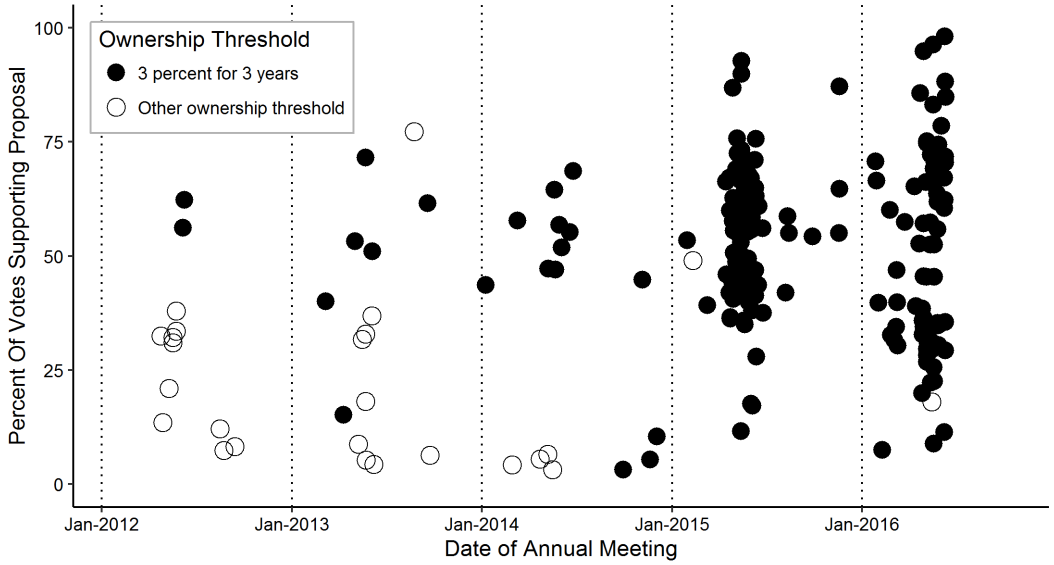
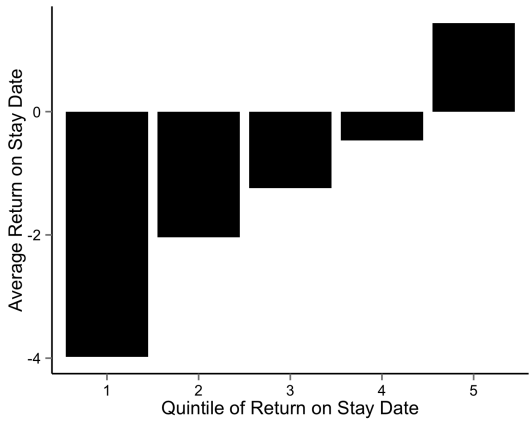


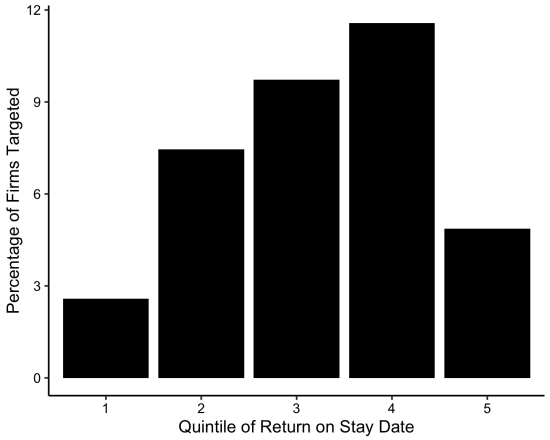
Figure 4: Targeting versus Return to Universal Proxy Access

In this figure we present the distribution of returns at the SEC announcement of the stay on the universal proxy access rule and private ordering amendments as well as the distribution of firms subsequently targeted for proxy access. In subfigure (a) we present the average return on the stay date for each quintile of the stay date distribution. In subfigure (b) we present the percentage of firms targeted in each quintile of the stay date return distribution. In subfigure (c) we present the percentage of firms targeted in 2012 or 2013 in each quintile of the stay date return distribution. In subfigure (d) we restrict our analysis to the largest twenty percent of firms and repeat the analysis presented in subfigure (b).

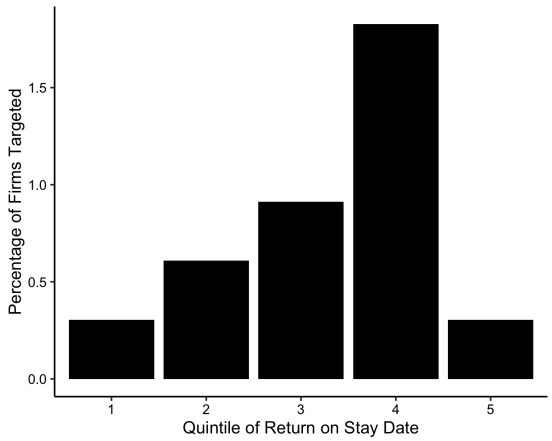
(a) Average Return on Stay Date



(b) Percentage of Firms Targeted (All Firms)



(c) Percentage of Firms Targeted (2012-2013)



(d) Percentage of Firms Targeted (Large Firms)

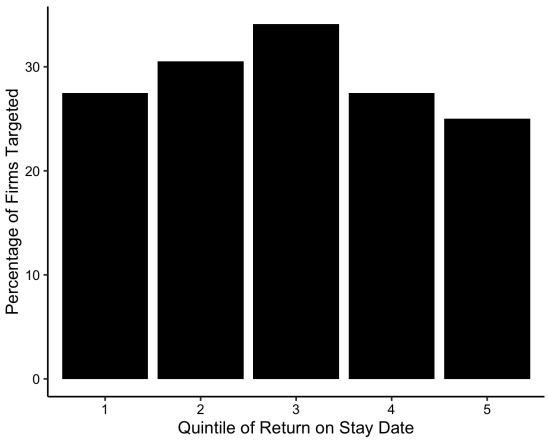


Table 1: Summary Statistics

This table presents univariate analysis of the sub-samples of firms targeted with proxy access proposals. Panel A presents a comparison of firms that were targeted and those that were not targeted. Panel B is restricted to the 2015 and 2016 proxy seasons and presents a comparison of firms that were targeted by the BAP initiative and those that were not targeted by the BAP initaitive. All variables are defined in Appendix B. p-values are in parentheses and are clustered at the firm level for tests of a difference in means. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Panel A: Targeted versus Not Targeted

	Targeted		Not Targeted		
	N	Mean	N	Mean	Difference
Market Cap	338	41,070	17,445	4,375	36,694***
Cash	338	14.23	17,445	18.96	-4.73***
Leverage	338	62.64	17,445	55.61	7.03***
ROA	338	5.20	17,439	-1.76	6.95***
Dividend Payer	338	70.71	17,445	44.62	26.09***
Market-to-Book	338	4.14	17,442	1.76	2.38***
Sales Growth	336	11.95	16,689	40.99	-29.04***
Returns	338	6.12	17,213	12.98	-6.86***
Institutional Ownership	328	65.01	16,651	54.56	10.45***
Insider Ownership	299	1.94	8,338	3.49	-1.55***
Classified Board	298	18.79	7,224	38.65	-19.86***
E-Index	298	3.09	7,224	3.38	-0.28***

Panel B: BAP Targeted versus Not Targeted

	Targeted		Not Targeted		
	N	Mean	N	Mean	Difference
Market Cap	146	37,968	6,671	5,725	32,243***
Cash	146	12.03	6,671	18.45	-6.42***
Leverage	146	60.04	6,671	56.78	3.61*
ROA	146	4.66	6,671	-2.42	7.08***
Dividend Payer	146	68.49	6,671	48.43	20.06***
Market-to-Book	146	4.72	6,669	1.45	2.89***
Sales Growth	146	17.60	6,563	48.54	-30.95
Returns	146	6.72	6,422	3.23	3.52
Institutional Ownership	141	67.17	6,491	52.47	14.70***
Insider Ownership	133	1.56	3,182	3.21	-1.65***
Classified Board	134	17.16	2,927	35.05	-17.89***
E-Index	134	3.16	2,927	3.27	-0.11

Table 2: Industry Distributions

This table presents the distribution of proxy access shareholder proposal events across the 30 Fama-French industries. Δ is the difference between the actual number of proposals received in a particular industry and the expected number based on a Monte Carlo simulation using a null hypothesis of random targeting. Columns four and five (six and seven) tabulate the industry distributions of the firms that were targeted outside of the BAP initiative (Non-BAP) and the firms targeted as part of the BAP initiative (BAP). Statistical significance is based on the simulated distribution of firms targeted within an industry as is based on a two-sided test. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

	All Proposals		Non-BAP		BAP	
	Actual	Δ	Actual	Δ	Actual	Δ
Food Products	8	+1.8	4	+0.5	4	+1.3
Tobacco Products	1	+0.5	1	+0.7	0	- 0.2
Recreation	9	+3.6	6	+2.9	3	+0.7
Printing and Publishing	0	- 3.2*	0	- 1.8	0	- 1.4
Consumer Goods	6	+1.9	3	+0.7	3	+1.3
Apparel	1	- 1.8	1	- 0.6	0	- 1.2
Healthcare	28	- 4.5	13	- 5.4	15	+1.0
Chemicals	9	+3.1	7	+3.7**	2	- 0.6
Textiles	0	- 0.9	0	- 0.5	0	- 0.4
Construction and Construction Materials	3	- 4.5*	1	- 3.3	2	- 1.3
Steel Works Etc	2	- 1.6	0	- 2.0	2	+0.5
Fabricated Products and Machinery	7	- 2.5	6	+0.6	1	- 3.1
Electrical Equipment	0	- 4.7**	0	- 2.7	0	- 2.0
Automobiles and Trucks	10	+5.3 **	4	+1.3	6	+3.9
Aircraft, Ships, and Railroad Equipment	4	+1.6	3	+1.7	1	- 0.0
Precious Metals and Mining	2	- 1.3	0	- 1.9	2	+0.6
Coal	8	+7.3***	0	- 0.4	8	+7.7***
Petroleum and Natural Gas	34	+20.4***	9	+1.3	25	+19.1***
Utilities	27	+18.0***	5	- 0.1	22	+18.1***
Communication	10	+2.4	7	+2.7	3	- 0.3
Personal and Business Services	30	- 7.9	20	- 1.5	10	- 6.3
Business Equipment	22	- 9.8**	18	+0.0	4	- 9.7***
Business Supplies and Shipping Containers	4	- 0.0	4	+1.7	0	- 1.7
Transportation	13	+4.5	10	+5.2	3	- 0.7
Wholesale	3	- 6.2**	3	- 2.2	0	- 4.0*
Retail	27	+13.1***	19	+11.1***	8	+2.0
Restaurants, Hotels, Motels	9	+3.5	7	+3.9**	2	- 0.4
Banking, Insurance, Real Estate, Trading	51	- 25.1***	34	- 9.2	17	- 15.8***
Beer and Liquor	0	- 0.9	0	- 0.5	0	- 0.4
Everything Else	9	- 13.3***	6	- 6.7*	3	- 6.6*

Table 3: BAP Announcement Returns

This table presents the estimated change in market value due to the announcement of being targeted as part of the Boardroom Accountability Project (BAP). Three approaches to estimating the change in market value are employed. The first approach estimates abnormal returns on a firm-by-firm basis and then estimates the mean abnormal return on the announcement date. A risk adjustment for each firm is performed using a Fama-French-Carhart four factor model with an additional firm specific industry factor. The firm specific industry factor is the equally weighted average return for all non-BAP firms within a BAP firm's Fama-French 30 industry classification. For the first approach the reported p-values are calculated to be robust to heteroskedasticity. The second approach forms an equally weighted portfolio of all targeted firms and estimates the abnormal return of the portfolio on the event day. A risk adjustment for the portfolio is done using a Fama-French-Carhart four factor model with an additional aggregated industry factor. The aggregated industry factor is the equally weighted average of all the firm specific industry factors described previously. For the second approach the reported p-values are calculated based on the standard error of the abnormal return and assumes a normally distributed test statistic. The third approach uses GLS estimation in a seemingly unrelated regression (SUR) framework based on a Fama-French-Carhart four factor model, a firm specific industry factor (constructed in the same method as the first approach), and an indicator for the event date. The estimated parameter on the event date indicator is the abnormal return for the firm from the announcement of being targeted as part of BAP. The average parameter estimate on the event date indicator is reported. Hypothesis testing is performed with a Wald test to test the mean firm specific abnormal return estimated in the SUR framework against zero. p values are reported in parentheses. Firms can be targeted for multiple reasons and therefore the sum of the subsamples is greater than the full sample. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Event Study Estimates of Change in Market Value

		Firm-by-Firm	Portfolio	GLS/SUR
	N	Mean Ab. Return	Ab. Return	Mean Ab. Return
Full Sample	70	0.53^{***}	0.48^{*}	0.53^{**}
		(0.003)	(0.10)	(0.04)
Targeted: Governance	6	1.25^{*}	1.44^{*}	1.38^{*}
		(0.08)	(0.08)	(0.08)
Targeted: Fossil Fuel	31	0.89^{***}	0.74	0.90^{*}
		(0.003)	(0.17)	(0.05)
Targeted: Diversity	21	0.47^{*}	0.50	0.51
		(0.09)	(0.15)	(0.12)
Targeted: Say on Pay	25	0.24	0.18	0.20
		(0.38)	(0.57)	(0.60)

Table 4: Abnormal Returns for Each Quintile of BAP Targets

This table presents the average abnormal return for each company in the event study presented in Table 3 when companies are sorted into quintiles based on either its full day return on the stay date, the intra-day return around the SEC's initial announcement it was staying the effectiveness of the proxy access rules, or returns upon Senator Dodd's announcement of an amendment that would make proxy access less likely to be used. The final column presents the difference between the top and bottom quintile. Variable definitions are provided in Appendix B. p-values in parentheses. For each quintile p-values are determined by a placebo test discussed in subsection 4.2. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

	Average Abnormal Return For Each Quintile					
	(Q1)	(Q2)	(Q3)	(Q4)	(Q5)	(Q5 - Q1)
Stay Announcement Return	1.37***	0.83***	0.58***	0.02	-0.07	-1.44***
	(0.00)	(0.00)	(0.00)	(0.40)	(0.26)	(0.00)
Stay Announcement Return (Intra-Day)	1.09***	0.66***	0.76***	-0.02	0.24**	-0.84***
	(0.00)	(0.00)	(0.00)	(0.39)	(0.02)	(0.00)
Sen. Dodd's Announcement Return	1.65***	1.01***	0.12*	0.26***	-0.03	-1.69***
	(0.00)	(0.00)	(0.09)	(0.01)	(0.39)	(0.00)

Table 5: Targeting By Quintile Of Returns

This table presents the results regressing an indicator for if a firm was targeted with a proxy access proposal on an indicator for the quintile of either the full day return on the stay date (1), the returns upon Senator Dodd's announcement of an amendment that would make proxy access less likely to be used (2), or the intra-day return around the SEC's initial announcement it was staying the effectiveness of the proxy access rules (3). Columns 4, 5, and 6 restrict the sample to those that either had no change in limits to act by written consent (4), no change in limits to call a special meeting (5), or no change in majority or plurality voting standard (6). Coefficients are scaled to be interpreted as percentages. p-values in parentheses and are calculated with standard errors clustered at the Fama-French 30 industry level. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

	(1)	(2)	(3)	(4)	(5)	(6)
Stay Date Return Quintile 1	-2.830^{**}			-13.361^{*}	-9.717^{**}	-14.809^{***}
	(0.036)			(0.059)	(0.017)	(0.001)
Stay Date Return Quintile 2	2.205^{*}			-6.541	-6.309^{*}	-5.503
	(0.092)			(0.333)	(0.066)	(0.161)
Stay Date Return Quintile 3	4.583^{**}			1.827	0.786	1.255
	(0.045)			(0.796)	(0.855)	(0.752)
Stay Date Return Quintile 4	6.142^{**}			0.871	6.985	5.322
	(0.011)			(0.922)	(0.310)	(0.327)
Sen. Dodd's Announcement Return Quintile 1		-1.014				
		(0.770)				
Sen. Dodd's Announcement Return Quintile 2		4.115				
		(0.301)				
Sen. Dodd's Announcement Return Quintile 3		3.378				
		(0.417)				
Sen. Dodd's Announcement Return Quintile 4		-0.292				
		(0.932)				
Stay Date Intra-Day Return Quintile 1			4.418^{**}			
			(0.017)			
Stay Date Intra-Day Return Quintile 2			8.032^{***}			
			(0.002)			

Stay Date Intra-Day Return Quintile 3			8.233***			
			(0.000)			
Stay Date Intra-Day Return Quintile 4			6.225***			
			(0.000)			
Constant	5.512***	13.851***	4.016***	17.708***	15.464***	17.219***
	(0.000)	(0.000)	(0.000)	(0.009)	(0.000)	(0.000)
Observations	3,173	1,478	2,490	829	633	1,049
Adjusted R^2	0.013	0.001	0.009	0.020	0.020	0.031

Table 6: Determinants of Company Selection

This table presents the coefficient estimates of a linear probability model where an indicator for whether or not a company received a proxy access proposal is regressed on firm characteristics. Column (1) presents the coefficient estimates from using the full sample of proposals with available data; columns (2) through (5) use a constant sample that has financial characteristics, ownership, governance, and board structure data available. Coefficients are multiplied by 100 in order to be interpreted as percentages. ROA, Sales Growth, Cash, and Leverage are winsorized at the 0.5 and 99.5 percent level. Returns are the cumulative return over the previous 12 months. Variable definitions are provided in Appendix B. Omitted for expositions are dummy variables for industry and year. p-values are in parentheses and are clustered by firm. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

	Full Sample	Constant Sample	
	(1)	(2)	(3)
Return at Stay Quintile 1	-0.640*	-0.044	-0.047
	(0.080)	(0.960)	(0.957)
Return at Stay Quintile 2	-0.530	-0.265	-0.255
	(0.209)	(0.756)	(0.757)
Return at Stay Quintile 3	-0.075	0.109	0.070
	(0.859)	(0.899)	(0.934)
Return at Stay Quintile 4	0.051	-0.096	-0.138
	(0.894)	(0.918)	(0.876)
Returns (Previous 12 Months)	0.001	0.001	0.001
	(0.725)	(0.870)	(0.820)
ROA	-0.004	-0.047	-0.051*
	(0.569)	(0.107)	(0.089)
Sales Growth	-0.329***	-0.927	-0.927
	(0.008)	(0.193)	(0.202)
Size	1.309***	2.620***	2.766***
	(0.000)	(0.000)	(0.000)
Cash	0.011*	0.029	0.027
	(0.084)	(0.121)	(0.124)
Leverage	0.012*	0.012	0.015
	(0.085)	(0.534)	(0.427)
Dividend Payer	-0.199	-0.896	-0.949*
	(0.507)	(0.112)	(0.095)
Previously Targeted	30.458***	28.731***	28.647***
	(0.000)	(0.000)	(0.000)
Institutional Ownership			0.000
			(0.989)
Insider Ownership			0.055
			(0.190)
E-Index			-0.141
			(0.461)
Board Age			0.010
			(0.835)
Board Tenure			0.033
			(0.654)
Outside Boards			-0.974*
			(0.054)
New Directors			0.310
			(0.221)
Industry FE	Yes	Yes	Yes
Year FE	Yes	Yes	Yes
Adj. R-squared	0.125	0.152	0.152
Observations	13,733	6,860	6,860

Table 7: Management Opposition: No-Action Letter Requests

This table presents an analysis of the firms where management took some action to confound the shareholder proposal. We compare the mean abnormal return on the BAP announcement date, the mean return on the stay date, or the mean return on Senator Dodd's announcement, of firms that requested a no-action letter from the SEC on the basis of a conflicting proposal to the mean return of those firms which did not request a no-action letter. Variable definitions are provided in Appendix B. p-values in parentheses and are calculated with standard errors clustered at the Fama-French 30 industry level. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

	No-Action Requested		No-Action Not Requested		
	N	Mean Return	N	Mean Return	Difference
BAP Announcement Return	16	1.12	54	0.35	0.76**
					(0.04)
Stay Announcement Return	24	-1.27	74	-0.68	-0.59*
					(0.07)
Sen. Dodd's Announcement Return	22	-1.45	74	-0.28	-1.17***
					(0.01)

Table 8: Vote Outcome and Announcement Returns

This table presents the BAP announcement returns and the mean stay announcement returns for proxy access proposals that received the support of a majority of votes cast and those that failed to receive majority support. Votes cast includes abstentions but excludes broker non-votes. The sample is restricted to shareholder proposals that use three percent for three year ownership thresholds. Variable definitions are provided in Appendix B. p-values in parentheses. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

	Majority Support		Sub-Majority Support		
	N	Mean Return	N	Mean Return	Difference
BAP Announcement Return	43	0.82	23	0.53	0.29
					(0.53)
Stay Announcement Return	100	-0.92	77	-0.84	-0.07
					(0.66)
Sen. Dodd's Announcement Return	99	-0.71	78	-0.80	0.10*
					(0.08)

Table 9: Vote Outcome and Ownership Composition

This table presents the coefficients estimates of a linear regression where the percent voting support is regressed on firm ownership composition measures. *Institutional Ownership 0 to 1%* is the aggregate ownership for all institutions holding positions between 0 and 1% of the firm's equity (similarly defined for the 1 to 3%, and 3%to 100% variables). The sample is restricted to shareholder proposals that apply an ownership threshold of three percent for three year. Variable definitions are provided in Appendix B. Omitted for expositions are dummy variables for industry and year. p-values in parentheses and clustered at the Fama-French 30 industry level. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

	(1) All	(2) All	(3) Standard	(4) Standard
Insider Ownership	-0.275	-0.320	-0.359	-0.417
	(-0.88)	(-0.90)	(-0.78)	(-0.83)
Institutional Ownership	0.007		-0.014	
	(0.08)		(-0.16)	
Institutional Ownership 0% to 1%		0.440*		0.451*
		(1.82)		(1.83)
Institutional Ownership 1% to 3%		0.265		0.194
		(0.97)		(0.69)
Institutional Ownership 3% to 100%		-0.231**		-0.245**
		(-2.30)		(-2.14)
Standard 3/3 Proposal	38.470***	39.396***		
	(7.39)	(5.99)		
BAP	1.321	2.883	1.038	2.423
	(0.25)	(0.55)	(0.19)	(0.46)
Previously Targeted	2.652	3.321	2.961	4.042
	(0.62)	(0.85)	(0.60)	(0.91)
Size	-1.847	-3.021***	-2.224	-3.318**
	(-1.47)	(-2.82)	(-1.62)	(-2.80)
Industry FE	Yes	Yes	Yes	
Year FE	Yes	Yes	Yes	
Adj. R-squared	0.359	0.396	0.074	0.125
Observations	182	182	162	162

Table 10: Institutional Investor Voting

This table presents the coefficients estimates of a linear regression where the voting support is regressed on the fund ownership. Columns (1) and (2) include industry and year fixed effects, columns (3) and (4) include vote fixed effects. Investor votes are computed at the investor family level as reported in the ISS Voting Analytics database. We use the equal weighted average of all votes cast by funds in a family on a proxy access proposal. Investor holdings are based on the investor 13F holdings as reported in Thompson Reuters 13-F dataset. All other variable definitions are provided in Appendix B. p-values in parentheses and clustered at the Fama-French 30 industry level. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

	(1)	(2)	(3)	(4)
Holdings	-4.088***		-4.140***	
	(-7.36)		(-7.55)	
Holdings Median to 1%		-1.918		-2.193
		(-1.52)		(-1.71)
Holdings 1% to 3%		-18.838***		-18.790***
		(-9.43)		(-10.07)
Holdings >3%		-19.077***		-19.718***
		(-5.55)		(-5.76)
Standard 3/3 Proposal	13.836**	13.431**		
	(2.30)	(2.29)		
ISS Support	45.273***	45.274***		
	(11.25)	(11.16)		
Return at Stay Announcement	-1.063	-1.156		
	(-1.15)	(-1.18)		
Previously Targeted	-2.085	-1.987		
	(-0.61)	(-0.58)		
BAP	4.513	4.167		
	(1.26)	(1.14)		
Insider Ownership	0.503***	0.487***		
	(3.15)	(3.22)		
Institutional Ownership	0.074	0.057		
	(0.85)	(0.68)		
E Index	2.583**	2.764***		
	(2.74)	(3.04)		
Return	-0.094	-0.093		
	(-1.65)	(-1.60)		
ROA	-0.211	-0.226		
	(-1.04)	(-1.12)		
Sales Growth	-1.617	-1.864		
	(-0.69)	(-0.82)		
Board Age	-0.001	-0.002		
	(-0.00)	(-0.01)		
Board Tenure	-0.316	-0.297		
	(-1.50)	(-1.40)		
Outside Boards	0.940	0.971		

	(0.27)	(0.29)		
New Directors	0.011	-0.071		
	(0.02)	(-0.15)		
Size	-0.381	-0.478		
	(-0.54)	(-0.63)		
Cash	-0.135*	-0.135*		
	(-1.98)	(-2.03)		
Financial Leverage	-0.030	-0.038		
	(-1.05)	(-1.27)		
Dividend Payer	1.983	1.856		
	(0.81)	(0.77)		
Industry FE	Yes	Yes		
Year FE	Yes	Yes		
Vote FE			Yes	Yes
Adj. R-squared	0.311	0.311	0.322	0.322
Observations	5,315	5,315	5,315	5,315