



D.F. KING

Proxy Solicitation

Why is it important?

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Having a proxy solicitor on board is like a solid insurance policy; they are a valuable member of an issuer's team.”

Ben Backberg, Associate General Counsel,
General Mills Corporation

What is proxy solicitation?

Without vote projection information, your annual meeting has inherent risk.

This is where a proxy solicitor comes in. Companies hire a proxy solicitor to be informed of how votes will come in and to identify potential areas of unrest or activism in their shareholder base.

The solicitor works to identify who is actually voting the proxy, whether it is an individual, an institution or, in many cases, a third-party proxy advisory service, such as ISS or Glass Lewis the solicitor provides the shareholder meeting and helps to formulate strategy in order to maximize success.

A proxy solicitor supplies names, contact information and potential voting positions. Proxy solicitors are specialists in shareholder communications, offering focused, year-round consulting on topics such as proxy solicitation and corporate governance. Armed with the information a solicitor provides, issuers can ensure they have the support necessary for the approval of various initiatives, make better strategic decisions, address potential issues and protect themselves from risk.



What does a proxy solicitor do?

A proxy solicitor provides specialist solutions, including guidance on shareholder engagement and corporate governance analysis. The goal?



Rally shareholder support and maximize favorable proxy voting to achieve client goals



Understand and engage all shareholder bases, including institutions, retail, registered and nominees



Steer strategy with sound advice on all proxy matters



Formulate a plan to ensure the best outcome on all ballot items

There are two main types of services that a proxy solicitor provides. Not all services are offered by all firms, and some may specialize in certain types of projects.

01 Proxy Solicitation & Advisory Services

In preparation for an annual or special meeting, and under the authorization of an issuer or activist investor, a proxy solicitor prepares a detailed analysis.

This analysis looks at a company's shareholder base and identifies the potential vote from each shareholder segment. They provide updated information on the largest institutional shareholders, including the number of shares eligible to be voted, policy guidelines followed and proxy voting contact data for these holders. As the meeting gets closer, the proxy solicitor monitors the vote in real time and reaches out to key shareholders and investor groups that haven't yet voted, to drive high participation and support levels.

Even before a shareholder proposal gets on the ballot, a proxy solicitor can advise a company as to whether a shareholder proposal may be omitted by the SEC or have the potential to be negotiated out. During proxy fights or high-profile transactions such as mergers and acquisitions, a proxy solicitor plays a vital role in tracking what's happening, getting a quorum, communicating to management and making sure the entire process goes smoothly.



02 Market & Shareholder Intelligence

Since activists no longer confine their activities to annual meetings, many issuers want to keep a finger on the pulse of their shareholders year-round. They may hire a proxy solicitor to provide information, such as:

- A quarterly snapshot of a company's ownership base that highlights how ownership has changed over the last quarter
- A week-to-week analysis of who's moving in and out of ownership, along with identification of the buyers and sellers, if they can be identified
- A detailed analysis that compares a company's shareholder base to that of its peers, looking for similarities, differences or changes in position that may or may not be significant or help with targeting
- Identification, if possible, and monitoring of activists within a company's shareholder base
- A detailed ownership report on all the holders of a company's debt



The issue: Rise of activism

Shareholder activism has been around as long as there have been shareholders; however, things have changed dramatically in the past 10 years.

Through the immediacy of social media and 24/7 news, socially conscious shareholders now have the power to raise instant, widespread awareness of environmental, social and governance (ESG) issues.

Shareholders are exerting influence in areas that were once considered unrelated to the fundamental running of the business. Increasingly, the marketplace is shifting in their favor. Heightened awareness of hot-button issues can affect a company's stock performance, and ultimately, its growth.

As a result, investors and advisory firms are demanding that companies exercise leadership on these issues, on the grounds that they actually do relate to the fundamental running of the business. In this environment, there is a growing need for effective shareholder engagement and advisory solutions. Companies that engage with their shareholders and key stakeholders are more able to address these issues head on.

The remedy:

Know your shareholders

There are several key groups of shareholders that a company must rely on during a vote.

Registered shareholders

These shareholders are the easiest to identify because the stock is held in their names on the register of the company. The company's registrar, usually a transfer agent, is responsible for keeping the names and contact information for all registered shareholders. Only the issuer and anyone working under its authorization, such as a proxy solicitor, has access to these names. The largest shareholders among this group are likely to be the company's executives, directors and employees. In general, this is a loyal base of shareholders who are more likely to support management. Proxy solicitors can make outbound phone calls to a number of these holders to obtain maximum support on difficult proposals and proxy fights.

Non-Objecting Beneficial Owners (NOBOs)

Beneficial owners, otherwise known as "street" shareholders, are owners who bought stock through a broker or bank, and the stock is held "in street name." These may include significant retail (individual) investors, institutional investors such as banks, advisors, pensions or hedge funds, and mutual funds, such as Fidelity or Vanguard. Not all street shareholders can be identified. When stock is purchased, owners can opt in or out of sharing their name and contact information. Most opt in and make up the majority of street shareholders. Those who opt out cannot legally be contacted by the issuer and rely on their bank or broker for communications and proxy materials.

Proxy advisory firms

These third-party firms, including ISS, Glass Lewis and Egan-Jones, are hired by institutional investors to wade through the thousands of proposals and proxies they get each year and make recommendations on how that institutional investor should vote. They are not shareholders, but in some cases, the institutional investor has given them the power to vote the proxies on their behalf, usually in large blocks.

Advice for issuers

Be proactive.

The best time to hire a proxy solicitor is before you have a controversial proposal on the ballot. If you are doing outreach, formulating strategies for dealing with potential problems, and talking to key shareholders about these long-term strategies, there is less of a chance for unwanted surprises at the shareholder meeting.

Don't assume your officers and directors are a lock.

Oftentimes, the inside votes are the hardest to get – not because their position is in question, but because they assume all the paperwork is in order, they assume the proposal will pass without their vote or they don't understand how to vote their street shares via legal proxy.

Remind shareholders to vote.

They may get the materials and they may be on management's side, but if your shareholders don't vote, it doesn't matter. A gentle reminder from a proxy solicitor may be all they need.

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When a company waits until a proxy proposal to engage or fails to express its long-term strategy in a compelling manner, we believe the opportunity for meaningful dialogue has often already been missed.”

Larry Fink, Chair and CEO, BlackRock

ABOUT EQ

EQ are specialists in helping you better understand and manage the ownership of your company through critical events across the corporate lifecycle. As trusted advisors, we provide strategic insight and operations expertise through our core business units in Private Company Services, Transfer Agent Services, Employee Plan Solutions, Proxy Services, and Bankruptcy. Globally we serve 6,700 clients (49% of the FTSE 100 UK and 35% of the S&P 500), with over 30 million shareholders, through 6,500 employees in 5 markets around the world.

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