

Majority Support for a Proposal on Political Contributions

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Being an election year, it's no surprise that the most prolific type of shareholder proposal this season asked for disclosure and oversight of political contributions and lobbying expenses. ISS reports that over 100 such proposals were filed. The proposal generally averages far less than overwhelming support, not even 30% as of the end of May. However, WellCare recently became the first company in 2012 to receive 53% in favor of the proposal (without counting abstentions), an increase from 43% in the prior year. Similar proposals also received more than 40% support at five other companies, including Coventry Health Care Inc. (49%) and Anadarko Petroleum Corp. (47%).

According to a [profile](#) on WellCare published by the Center for Political Accountability, 90 companies in the S&P 500, including more than half of the S&P 100, have committed to disclose their political spending and oversight of such activities. The disclosure sought by proponents of these proposals are complex. Many activists say it is insufficient to include only direct contributions to candidates, parties and committees. They also want companies to report the dues and other payments made to trade associations and other tax-exempt groups that are used for political purposes, which is broadly defined. The need to highlight those particular expenses is often difficult for companies, but as one example, AFSCME praises [Coca Cola](#) for its disclosure on the amounts and percentages of the portion of dues it pays to national trade associations that are used for lobbying expenditures.

ISS began to recognize companies' efforts and revised its policy for this season by making voting recommendations on a case-by-case basis, depending in part on a company's existing disclosure of policies and oversight mechanisms related to its direct political contributions and payments to trade associations or other groups that may be used for political purposes and any recent significant controversies, fines, or litigation pertaining to the company's political contributions or political activities. In practice, ISS did not automatically recommend in favor these proposals, and therefore may have contributed to the generally low level of votes in support.

Some are urging the SEC to get involved. In 2011, a group of law professors [petitioned](#) the SEC for rulemaking mandating political contributions disclosure data, indicating that public investors have become increasingly interested in receiving information about corporate political spending and citing companies' voluntary reports as evidence of responses to such interest. The petition states that the disclosure is "important for the operation of corporate accountability mechanisms." A few months later, SEC Commissioner Luis Aguilar, referring to the rulemaking petition, voiced his [support](#) for SEC rulemaking since "investors are not receiving adequate disclosure, and as the investor's advocate, the commission should act swiftly to rectify the situation."

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

Ning Chiu

+1 212 450 4908

ning.chiu@davispolk.com

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