Trends and takeaways from the 2025 proxy season

KPMG Board Insights Podcast transcript

Announcer: Hello, everyone. Thanks for joining us. This is the KPMG Board Insights podcast, brought to you by the KPMG Board Leadership Center. The KPMG Board Insights podcast features conversations with directors, luminaries, and business leaders exploring the emerging issues and pressing challenges facing boards today.

In this episode, BLC Senior Advisor Stephen Brown is joined by Freshfields Partner Pamela Marcogliese for a discussion on trends and takeaways for boards based on the 2025 proxy season.

Stephen Brown: Welcome to the podcast. I'm Stephen Brown, a senior advisor at the KPMG Board Leadership Center, and I'm joined here today again with Pamela Marcogliese, a partner with the law firm of Freshfields in New York City. Pam, it is always exciting to have you here to have this discussion about proxy season.

Pamela Marcogliese: Thank you, Stephen, for having me. I always love having this conversation with you.

SB: And I appreciate having this conversation because, you and I, as practitioners, we're able to look at all the data that has happened in the last few months in proxy season, and sort of figure out, what are the takeaways? And that's what we're going to do here.

So, I have five of them, and if you don't mind, I will one by one, give you my topic sentence, and then we'll get to hear your expertise. And I'll start with generally looking at the numbers. What type of proposals did we see? And how many did we see? And how does that compare to last year?

PM: Okay, that's a really good place to start. So, just before I dive into that, I want to just put this in a little bit of context, because I think it's really relevant for this proxy season.

For most calendar-year companies, folks have to remember that proxy proposals are submitted towards the end of the calendar year. So end of November, sometime in December, around that timeframe. That being said, they are only voted on in the spring. So if you think about what happened between, call it December and the spring, we obviously had a new administration that came into play, and we had a whole bunch of new policies and executive orders, and all sorts of things that happened. And so when you think about the numbers, and you think about the proposals, just remember that sort of what was happening before December doesn't take into account some of the more recent developments that then get reflected in the voting on those proposals.

But, from a numbers perspective, one of the things I will say is that the numbers of proposals that are being submitted to companies has generally trended down. That is both true on the E [environmental] proposals as well as the S [social] proposals. G [governance] continues to hold very steady and continue to receive robust support.

Another thing that was extremely relevant this proxy season is that the SEC [Securities and Exchange Commission] issued new guidance that made it easier for companies to exclude proposals from the proxy statement, which, therefore, means that not only was there a decreasing number of proposals that came about, but then there was a decreasing number of proposals that were actually voted on, because the SEC allowed more and more companies to exclude them from the proxy season. And then finally, from a voting perspective, on the E, I can report that there were zero E proposals that received majority support.

On the S, there were five that received majority support. All of them were in the category of lobbying and political expenses reporting. But on the G—this is where the story continues to be different. Although consistent to the trends we had been seeing in prior years, which is to say that there were a very large number of G proposals that got approved this year that received majority support. The two most common were board declassification as well as the removal of supermajority voting. And the reason for that is that those proposals are tried and tested. They have been common proposals for many, many years, and I think some of the themes that you have running through E and S proposals just don't apply in the same way through on G proposals. And they didn't reflect the same kinds of societal and political pressures, obviously, as the E and S proposals.

SB: Indeed, I've always said G is always king, and it's always going to be king.

My second takeaway is thinking about the investor. And in any election season, be it here in proxy season or in the political space of electing a mayor or president, your city council person, you always think about voter sentiment. What's the voter sentiment, as we think about the institutional shareholder in 2025?

PM: I think there are two main takeaways here. The first one is voter sentiment changed. We are continuing to see decreasing support for E and S proposals. And while it's not possible to say all the reasons why that is occurring, one of the reasons, of course, that you can't ignore is just a change in political and social landscape. There are different pressures that have come to bear on this proxy season compared to what existed before.

It is also true that these proposals were getting less and less support year on year, in any event. But I think the decrease that we've seen has been just exacerbated as a result of the historical environment in which we find ourselves.

The other thing that I will say about investor sentiment, which I think is dramatic and will continue to impact companies very significantly, is that the SEC has put out some different interpretations that apply to the rules of the road when it comes to shareholder engagement. And it has caused—without going into the technical details of that—the guidance basically makes it more difficult for shareholders to engage with companies without having to take certain disclosure positions that they would rather avoid. So, as a result of that, what we started seeing—and which I think will really become very pronounced in the fall, which historically has always been sort of off season, proxy engagement season—is a decrease in the number of shareholders willing to engage with companies. And even when they do engage with companies, there is a decrease in the amount and types of things that they are willing to discuss with companies, lest they should trigger the new guidance and have to take certain disclosure positions that they would rather avoid.

So, if we go forward, and this continues, which is our expectation, it will make it much more difficult for companies to know where their investors stand on some of the key issues that they otherwise used to get a lot of visibility into.

SB: And that is indeed a significant blow to the so-called shareholder–corporation diplomatic relationship, where there was a great deal of dialogue and understanding of where both sides are. And we saw—for the first time in the last 15 years—in this proxy season, that become a lot more muted.

My third point would be the significant influence that we saw in the last five months of the new administration over proxy season.

PM: Yep, it obviously had an impact. And in many ways, that's not surprising. I think for years now we've been saying that the E and S proposals were a reflection of the times. So you may remember, back in the early days a lot of the E proposals came as a result of the US pulling out of the Paris Accords. It sort of got substituted by shareholder proposals taking the place of the US's involvement in the Paris Accords. Then we saw the George Floyd protests, which led to a proliferation of S proposals. And so all of these E and S proposals have always really been a reflection of the times in which we find ourselves in that particular proxy season. That continued to hold, perhaps in spades, this year with the administration putting out very significant executive orders and other pronouncements that impact both E and S. And I think, as a result of that, all of the stakeholders in the proxy ecosystem really took a minute to think about where do they stand on these issues? And what are the potential risks that apply to the business? So, companies obviously took a look at their disclosures and their policies to figure out whether or not they had any exposure to risk.

The proxy advisory firms changed many of their historical recommendations on some of these topics. And obviously, the shareholders did as well. Many of them sort of changed their views, or maybe tempered their views is a better way, and took a much more bespoke case-by-case approach on how to vote for all of these proposals. That being said, the bottom line was, as I stated at the outset, there was decreasing support for all E and S proposals this proxy season.

SB: Thank you for that, Pam. You know my fourth takeaway here is corporate governance divided. And that is actually taking me back to law school, where we learned that substantive corporate governance was always the domain of the states; procedural corporate governance was the domain of the federal government. But in practice, states really got into the conversation on corporate governance. That has changed. What we've seen is that states, depending on where you are, and what color you are, are involved in corporate governance, and having the same debates in the sociopolitical space that we see out in the public dealing with corporate governance. So, it would be great for you to sort of talk about what we've seen thus far this year with state involvement in corporate governance and the different battles that we've seen.

PM: Yeah, that's a really important dynamic that I think companies really need to pay attention to. And what it underscores is this idea that there isn't an easy path forward. What we've seen is that red states have taken much more traditionally conservative positions on these issues and blue states have taken much more sort of liberal positions on these issues.

And so, if a company does one thing or another, you could see somebody from a red state, an attorney general from a red state bringing an action. Or, if they do the opposite, you might have an attorney general from a blue state bringing an action. And so, whether companies decided to remove disclosure relating to DEI, or whether companies decided to modify it, you always expose yourself to somebody on one side of the aisle or another potentially bringing an action here.

I think what the bottom line is for companies on this is that that's not going to go away. I think that's going to be a constant. It has historically been a constant. But I think in this proxy season, or in this year more generally, I think you've seen it be supersized. And so it will be increasingly important for companies to be extremely attentive to A, just the developments that are happening in the landscape, but B, be very focused on understanding where their stakeholders sit holistically. And they might not be monolithic, and I think that's important to keep in mind as well.

And then, once you sort of have the best lay of the land that you could possibly have, every company will need to decide for itself where it sits on these issues, and sort of which risks or how much risk it is willing to take. And perhaps more importantly, how to mitigate any risks it may be taking. But there's definitely not going to be a solution that makes everybody happy, so companies will just need to figure out—through disclosure, through policies, and just through good risk mitigation practices that companies have been developing for years—they are going to need to figure out how to manage through this period and get to the other side in a way that is protective of the company, but still allows the company to fulfill all of its corporate objectives.

SB: Sound advice, Pam. My last and final take away from this proxy season is dealing with hedge fund activism. It's still constant. It doesn't seem that that's going to go away any time soon.

PM: I think that is a fair prediction. Activism continues to be alive and well. We've seen a very meaningful amount of it in this proxy season. I think that is expected to continue. In a world in which we have volatility, in a world in which companies have struggled to sort of put out guidance as a result of a variety of things that are happening in the world, any kind of volatility like that can lend itself to increasing activism.

And so that is part of what is driving the trend, I think. Which again, I think, just underscores that, in order to protect itself, it is important for a company to be extremely clear on its disclosures in terms of what is its strategy? What does it stand for? And making sure that there isn't a vacuum of information, because whenever there is a vacuum of information, it just allows people to exploit the vacuum and sort of come up with their own theories about what may be going on. So, this is, maybe more than any other season, the time to really ensure that companies, together with their boards, are very carefully considering all of these issues, and making sure they are clear, both in their disclosure and their engagements, and in their practices on what exactly they are looking to accomplish.

SB: I appreciate that, Pam. You started off saying that it is not unusual when you have a change in administration that you will see changes in how the administrative agencies act, and changes in how those laws are interpreted. And everyone says on both sides, whether you're a corporate or investor, figuring out what more rights are you going to get, or what rights are going to be more limited and the key that you've said throughout this podcast is that there's still going to be a premium on disclosure and a premium on that diplomacy of trying to talk to investors, to figure out what they think about you and your board.

PM: Completely agree with that. I think that is exactly the right takeaway.

SB: Pam, it is always good to have a conversation with you and the folks at Freshfields law firm, and I thank you so much for joining us. And I thank our audience for listening to us. Thank you, Pam.

PM: Thank you, Stephen.

Announcer: Thank you for listening to this episode of the KPMG Board Insights podcast. Be sure to visit the Board Leadership Center website at kpmg.com/blc for more resources and information for board members and business leaders, and subscribe to the series to be notified of new episodes.

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