



Successful Engagement with Shareholders on Corporate Governance Issues



Panelists Stephen D. Cooke of Paul Hastings LLC, Efi Protopappas of Edwards Lifesciences and Derek Zaba of CamberView Partners agree shareholder outreach can be key to favorable proxy outcomes.

Anchoring its October program on corporate governance and shareholder engagement, members of the Orange County Chapter of NIRI engaged with a panel covering the top ten corporate governance issues, a case study how to engage shareholders, and topline voting results from 2016 proxy season.

Stephen D. Cooke, partner at Paul Hastings LLC, noted there are underlying tensions and at issue is the separation between ownership and control, which leaves investors with inadequate remedies and frustration when it comes to governance matters. This has resulted in a contentious corporate governance climate. Cooke emphasized of the importance of “getting out in front of corporate governance matters” by employing a proactive strategy.

Offering a successful approach to shareholder engagement, Efi Protopappas, securities counsel at Edwards Lifesciences, shared a case study centered on a written consent shareholder proposal that gained majority support at their most recent annual meeting. They started with engagement of top shareholders (usually the shareholders’ governance team) in the second half of 2015, which included discussion attempting to understand shareholders’ views on written consent rights and why specific shareholders supported the shareholder proposal.

Edwards learned that its shareholders strongly favored the right to call a special meeting over the ability to act by written consent, but some expressed concern that Edwards’ threshold for calling a special meeting was too high. Based on this feedback, Edwards determined that a broad group of shareholders would most prefer lowering the threshold for the special meeting right rather than adopting a right to act by written consent. Edwards then initiated a second round of outreach to shareholders and also to the proxy advisory firms -- ISS and Glass Lewis -- in early 2016 to “lay out our position and approach to get their support,” said Protopappas. The engagement for the second round was led by the presiding board member, with the CFO, IRO, securities counsel and corporate secretary also participating.

Edwards also described their Board and outreach process in great detail in the proxy statement to demonstrate the seriousness with which Edwards took this matter. The results? The outreach and description in the proxy statement were highly valued by shareholders with all directors receiving close to 100% support.

Derek Zaba, Principal at CamberView Partners, said, “Edwards was successful due to the significant planning and thorough engagement process the team underwent to truly understand investor viewpoints and incorporate the feedback into the Board’s decision-making process.” Zaba continued, “A well-prepared and thoughtful director leading the second round of engagement was a key component of this process.”

To close out the chapter meeting, Matt McKay, corporate governance executive from IPREO, shared their preliminary analysis of 2016 proxy voting results. McKay said, “As a whole, S&P 500 companies received greater support from investors across most categories so far in 2016, with the notable exceptions of say-on-pay and voting-related proposals.”