

2015 Proxy Season Wrap-Up

July 15, 2015

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Today's Presenters



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Today's Agenda

- Shareholder activism developments in 2015
- 2015 proxy season voting results and trends
- Proxy access developments
- Update on SEC rulemaking

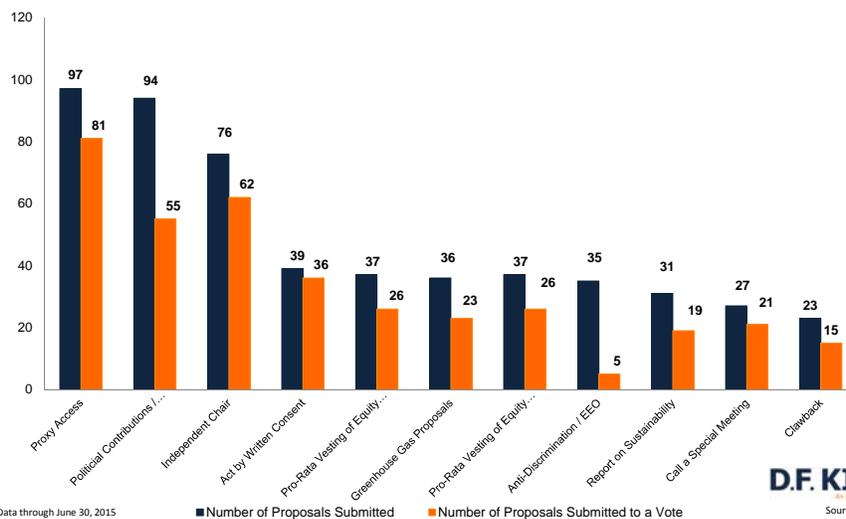
Shareholder Activism Developments

- Continued high levels of activity
 - » Settlements (including board seats) were up, but support for activist candidates in proxy fights was down
 - » Larger companies increasingly subject to hedge fund activism
 - » Partnerships among hedge funds and institutional investors
- Effect of DuPont/Trian

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2015 Top 10 Shareholder Proposals



*Data through June 30, 2015

■ Number of Proposals Submitted ■ Number of Proposals Submitted to a Vote

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Shareholder Proposal #1 Proxy Access

- Proxy access refers to the ability of shareholders to nominate their own director candidates and have the Company include them in the Company's proxy statement and proxy card
- SEC adopted a universal proxy access rule in 2010 – 3%/3 years for up to 25% of Board
- This rule was invalidated by the DC Circuit Court in 2011, but the door remained open for private ordering through company-specific proposals

Proxy Access (cont'd)

- In 2015, there were 100+ shareholder proposals seeking proxy access, most from the NYC Comptroller
 - Up from 17 proxy access proposals in 2014
- Some companies sought to exclude by including conflicting management proposal and seeking a no-action letter from the SEC Staff under Rule 14a-8(i)(9)
- SEC stopped issuing no-action letters under this rule in January 2015

Proxy Access (cont'd)

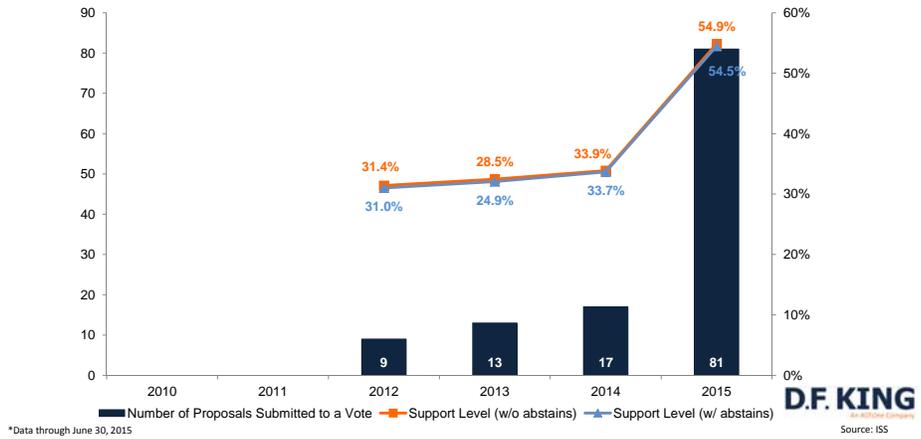
- Alternative approaches to proxy access:
 - Wait for a shareholder proposal and include it in the proxy statement
 - Preemptively adopt proxy access bylaw
 - May not foreclose shareholder proposal with different form
 - Management proposal on proxy access
 - Question on status of SEC no-action relief concerning exclusion of shareholder proposal due to competing management proposal
 - Promise to adopt in the future

Proxy Access (cont'd)

- Form of proxy access bylaw
 - No accepted uniform template, but shareholder proposals are routinely 3%/3 years/25%
 - ISS generally supports 3%/3 years/25%
 - Some alternative forms include
 - 5%/3 years/25%
 - 5%/3 years/20%
 - 3%/3 years/20%
 - 10/20 shareholder aggregation limit

Proxy Access Voting Results

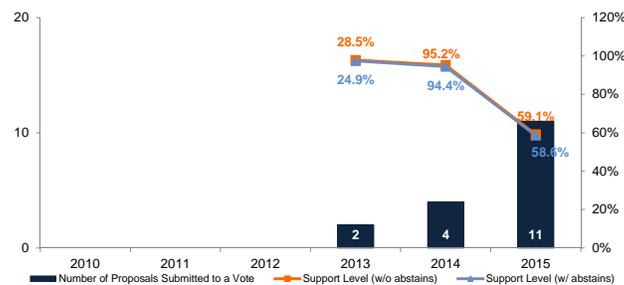
- 84% of proxy access shareholder proposals that were submitted went to a vote, and received significantly more support than in past years
- Of the proposals that went to a vote, 59% received majority support/passed
- ISS recommended a vote FOR 100% of shareholder proposals for proxy access



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Board-Sponsored Proposals for Proxy Access

- Of the 11 companies which submitted board-sponsored proposals for proxy access:
 - 10 of these companies had a dueling shareholder proposal submitted (3 of these 10, however, were withdrawn prior to the meeting)
 - (The remaining company had had a shareholder proposal for proxy access in 2014)
 - ISS recommended FOR these board sponsored proposals for proxy access ONLY when there was no competing shareholder proposal on the ballot (4 companies)
- The terms of these board-sponsored proposals varied
 - Almost equal mix of either 5% or 3% ownership requirements, however included a 3 years ownership requirement
 - (6 of the proposals were at 5% / 5 were at 3%)
 - Almost all had limits on the number of stockholders which could be part of the group, and/or a lowered cap on the number of directors elected (generally 20% rather than 25% requested by most shareholders)



*Data through June 30, 2015

(Also of note, a handful of companies implemented proxy access, without putting it up for a vote or receiving a shareholder proposal)

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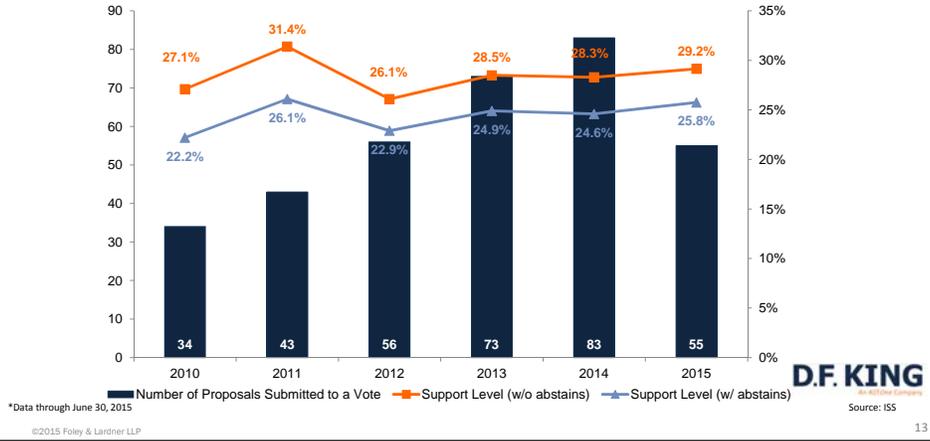
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Source: ISS

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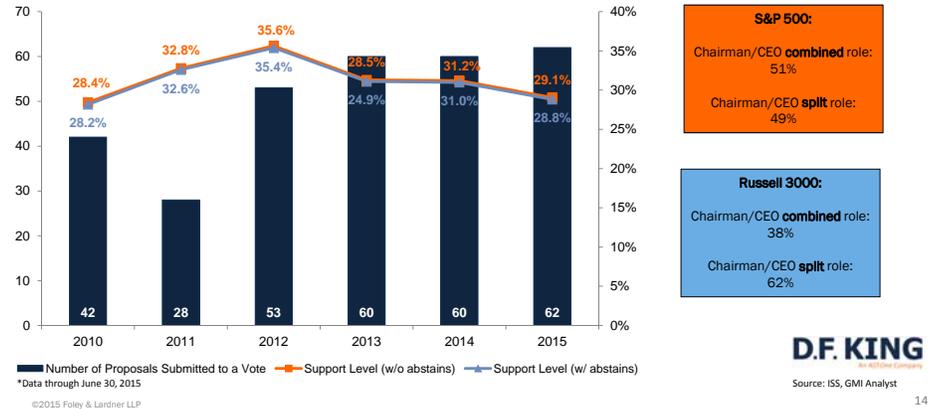
Shareholder Proposal #2: Report on Political Contributions/Lobbying Payments

- Although somewhat fewer proposals went to a vote this year, political contributions and lobbying payments remain at the center of shareholder attention
- However, these proposals still continue to receive relatively low support overall and no proposal garnered majority support in 2015



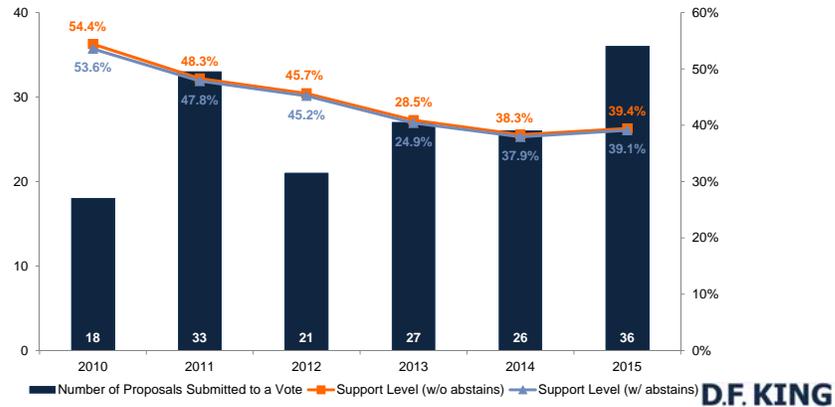
Shareholder Proposal #3: Independent Chairman

- The combined Chairman/CEO role continues to be a focus, especially with a new ISS policy approach this year
- 63% of companies received a FOR recommendation from ISS in 2015 and received average support of 35%
 - In contrast 48% of companies received a FOR recommendation from ISS in 2014 and received average support of 40%
- 37% of companies received an AGAINST recommendation from ISS in 2015 and received average support of 19%
 - In contrast 52% of companies received an AGAINST recommendation from ISS in 2014 and received average support of 23%
- Two proposals received majority support in 2015, with average support of 54.45%



Shareholder Proposal #4: Act by Written Consent

- Support for written consent proposals has generally declined due to certain large institutional investors viewing other positive governance provisions as sufficient channels by which to address concerns, such as the right to call special meetings; however, 94% of companies received a FOR recommendation from ISS on this proposal in 2015



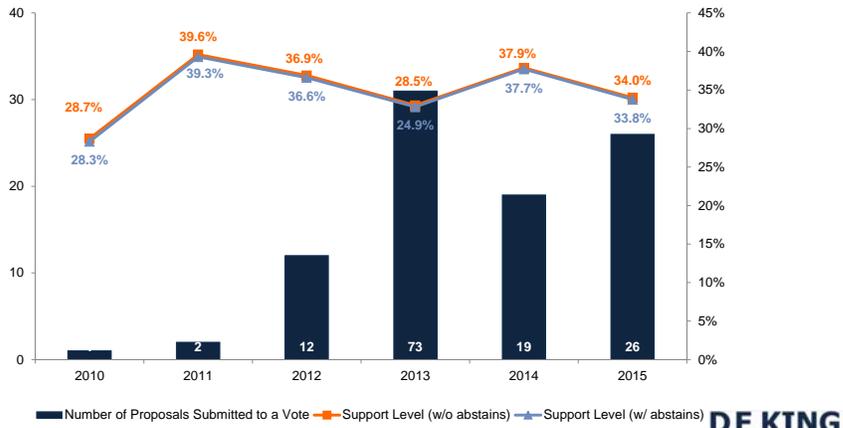
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Source: ISS

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Shareholder Proposal #5: Pro-rata Vesting of Equity Awards

- ISS supported all of these proposals, however they consistently receive fairly low support
- Two proposals received majority support in 2015



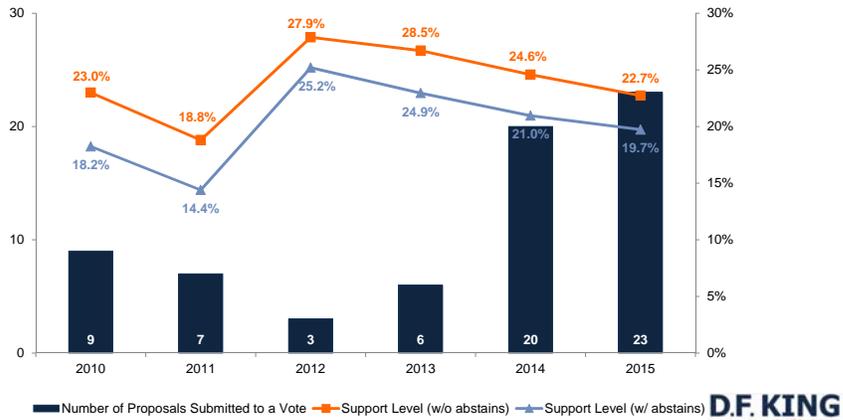
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Shareholder Proposal #6: Greenhouse Gas Proposals

- Many of these proposals were withdrawn, and average support remained low for those that went to a vote
- ISS supported 78% of these proposals; however, no proposal gained majority support



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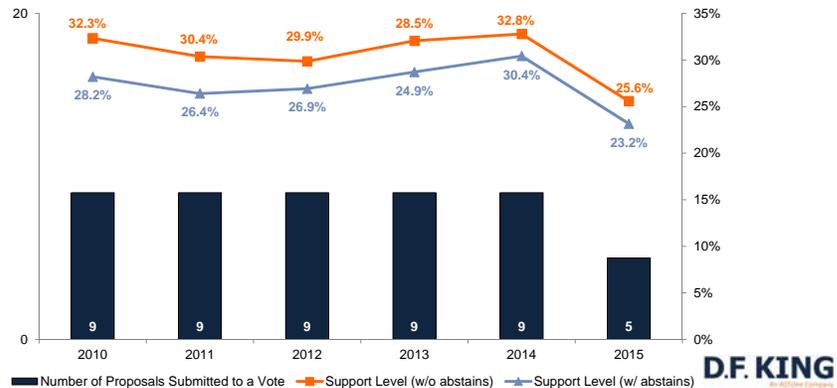
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Shareholder Proposal #7: Anti-discrimination & EEO Proposals

- Although a large number of proposals were submitted, the majority of shareholder proposals for equal employment opportunity policies and/or anti-discrimination policies were either withdrawn or omitted on the grounds that it was related to ordinary business operations of the company



*Data through June 30, 2015

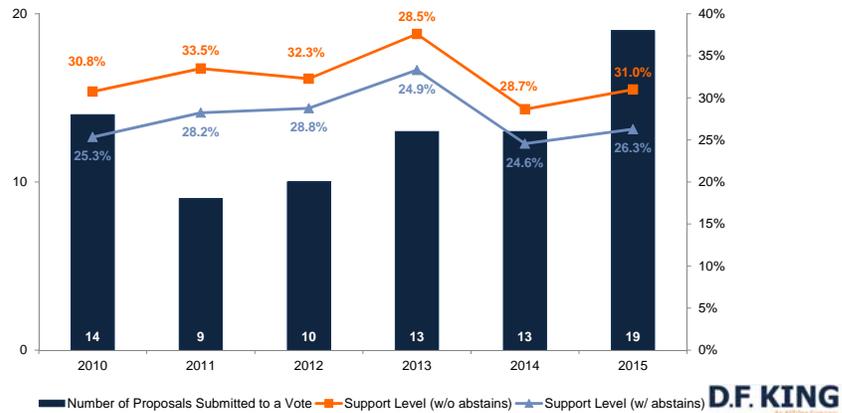
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Shareholder Proposal #8: Report on Sustainability

- Although a consistently common shareholder proposal, it continues to receive fairly low support and no proposals in 2015 garnered majority support



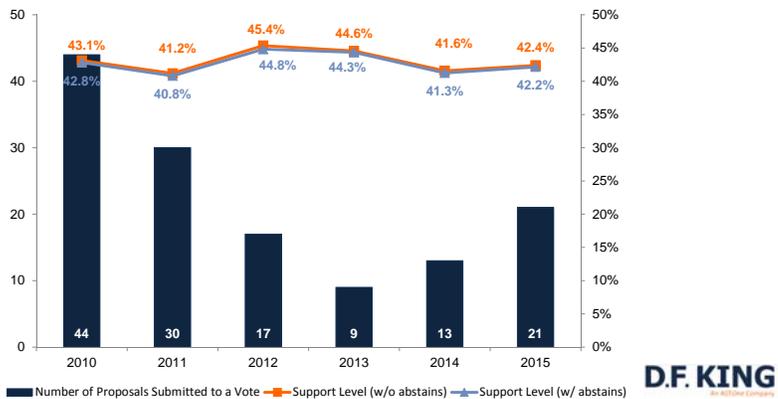
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Source: ISS

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Shareholder Proposal #9: Call a Special Meeting

- In the past few years, many shareholder proposals were omitted due to management submitting its own special meeting proposal
- This year reflected an increase in number of shareholder proposals that went to a vote, although still receiving relatively low support (received majority support at 4 companies in 2015)



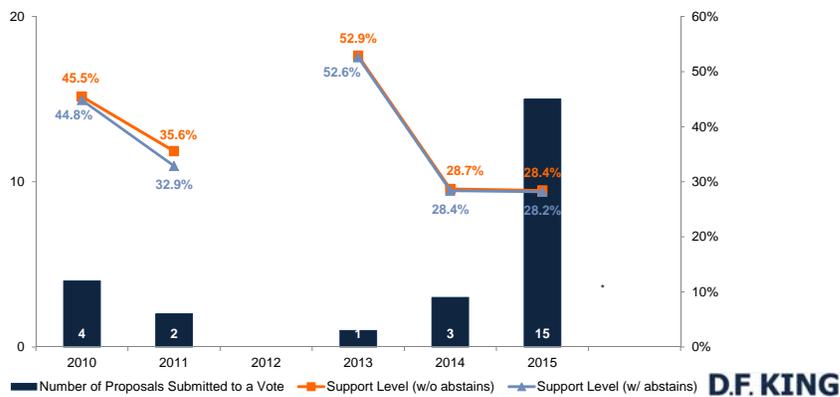
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Source: ISS, Harvard Law School

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Shareholder Proposal #10: Clawback of Incentive Payments

- New to the top 10 shareholder proposal list in 2015, the number of clawback proposals significantly increased this season; however, no proposals received majority support



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Source: ISS

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SEC Rulemaking on Compensation Recovery Policies (“Clawbacks”)

- SEC proposed rules for comment on July 1, 2015
- Rules would implement Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd Frank)
- Would direct national securities exchanges and associations, such as the NYSE and Nasdaq, to adopt listing standards that would require listed companies to develop and implement compensation clawback policies

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Clawback Rules (cont'd)

- Under the proposed rules:
 - Listed companies would be required to have written compensation clawback policies that require the recoupment of certain incentive-based compensation received by current or former executive officers
 - Clawback-related disclosures required in SEC filings
- The listing standards would generally apply to all issuers with a class of securities listed on a national securities exchange or association
- Includes foreign private issuers, controlled companies, smaller reporting companies and emerging growth companies

Clawback Rules (cont'd)

- Clawback would be triggered by an accounting restatement required to correct an error that is material to previously issued financial statements
- Would apply to incentive-based compensation received by current or former executive officers during the 3 fiscal years preceding the date on which the issuer is required to prepare the accounting restatement
- Incentive-based compensation subject to the clawback would include compensation received due to achievement of a goal based on accounting principles or on stock price or total stockholder return (TSR)
 - Stock options tied solely to continued employment would not be subject to the policy

Clawback Rules (cont'd)

- Amount of recovery: excess of the amount actually received over the amount that would have been received based on the restated numbers
 - Determined on a pre-tax basis
 - Where the incentive compensation is based on stock price or TSR, reasonable estimates could be used to calculate the excess amount
- Fault or involvement in financial statement preparation not relevant
- Enforcement mandatory except in narrow circumstances:
 - Where the cost of enforcement would exceed the amount of the recovery
 - Where recovery would be illegal under home country law

Clawback Rules (cont'd)

- Issuers not allowed to indemnify officers or pay for insurance to cover clawback amounts
- Disclosure
 - Clawback policy must be filed as an exhibit to annual report
 - Information about enforcement of clawback policies required in proxy statements, information statements and Forms 10-K in specified circumstances

Management Say on Pay: 2015

- Average support in 2015 at high of 91.8% (vs. 91.6% in 2014, 91.3% in 2013 and 90.8% in 2012)
- A total of 39 proposals failed to obtain majority shareholder support in 2015 thus far, remaining steady at approximately 2% of the total for the past few years



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Source: Institutional Shareholder Services ("ISS")

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SEC Rulemaking on Mandatory Pay for Performance Disclosure

- Mandatory pay for performance disclosure
 - SEC proposed rules for comment in April 2015
 - Comment period ended July 6, 2015
 - Rules as proposed would require disclosure of:
 - The relationship between executive compensation actually paid to the registrant's executive officers and the cumulative TSR of the registrant; and
 - The relationship between the registrant's TSR and the TSR of a peer group chosen by the registrant

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Pay for Performance Rules (cont'd)

- Under the proposed rules, the required disclosure consists of two components:
 - The following table covering the preceding 5 years (3 years for smaller reporting companies), using XBRL:

Year (a)	Summary Compensation Table Total For PEO (b)	Compensation Actually Paid to PEO (c)	Average Summary Compensation Table Total for non-PEO Named Executive Officers (d)	Average Compensation Actually Paid to non-PEO Named Executive Officers (e)	Total Shareholder Return (f)	Peer Group Total Shareholder Return (g)

- A graph or narrative (or both) providing a “clear description” of (1) the relationship between executive compensation actually paid and registrant TSR, and (2) the relationship between registrant TSR and peer group TSR

Pay for Performance Rules (cont'd)

- Under the proposed rules, compensation “actually paid” would be based on Summary Compensation Table, but with a few differences:
 - Value of equity awards included at time of vesting rather than grant
 - Pension plan value would be limited to changes attributable to the applicable year of service

Pay for Performance Rules (cont'd)

- Smaller reporting companies would be permitted to provide scaled disclosure:
 - Required to disclose only the three most recently completed fiscal years;
 - Not required to disclose amounts related to pensions; and
 - Not required to present a peer group TSR
- Emerging-growth companies and foreign private issuers would be exempt
- Transition period to phase-in full disclosure (3 years initially)

Other SEC Rulemaking

- CEO pay ratio disclosure
 - Dodd-Frank requires the SEC to issue rules requiring issuers to disclose in their proxy statements a “pay ratio,” described as the following:
 - The median of the annual total compensation of all employees of the issuer, except the CEO; the annual total compensation of the CEO; and the ratio of those two amounts, with total compensation determined in accordance with Item 402 of Regulation S-K.
 - The SEC proposed rules in September 2013
- Hedging policy disclosure rules proposed in February 2015
- There is currently no timetable for these final rules

QUESTIONS & ANSWERS

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Thank You!

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