Private pension plan sponsors with internally managed pension funds usually vote their proxies and have written voting policies. Plan sponsors with externally managed plans commonly give their investment managers a large amount of discretion on voting matters.

Voting Private Pension Proxies: Some New Evidence and Some Old Questions

The highly publicized antitakeover debate has kindled interest in the proxy voting practices of private pension funds. Corporate sponsors, investment managers, and policymakers have all expressed concern about whether private pension funds vote their proxies; whether they support management in antitakeover votes; and whether they are subject to pressures to vote for management. The Employee Benefit Research Institute (EBRI) surveyed private pension plan sponsors, investment managers, and master trustees on their voting practices and policies.

The findings indicate plan sponsors with internally managed funds usually vote proxies and usually have written voting policies. Many have guidelines for voting on particular takeover issues. These plan sponsors report experiencing relatively little financial pressure regarding their votes.

Most plan sponsors have their funds managed externally, however. They are unlikely to communicate with their external managers on voting issues, but instead, plan sponsors commonly give their external managers a large amount of discretion on voting matters. The voting behavior of external managers is thus very important in the proxy voting process. Most external investment managers vote their proxies and have internal written guidelines for voting. Many have guidelines for voting on particular takeover issues. But, some also report having experienced direct or indirect pressure to influence their proxy votes and have established written policies to deal with such pressure.

The EBRI survey findings expand our knowledge of the proxy voting practices and policies of private pension plans but provide no clear policy guidelines as to whether plan sponsors under current practices meet their fiduciary responsibilities under the Employee Retirement Income Security Act or whether external pressure on plan sponsors or investment managers affect their proxy votes.
Introduction

Over the past two decades, employer-sponsored pensions have developed into a major economic force. Pension plans cover more than 50 million Americans (Andrews, 1985), and assets in these plans exceed $2 trillion (EBRI, 1987). More than $750 billion—37 percent of pension fund assets—are invested in the stock market, making pension funds the largest group of institutional investors in the U.S. (Morin Center, 1987) and a major shareholder in corporate America. Pension funds hold close to 22 percent of the total equity market, and, by some accounts, comprise almost 40 percent of the trading on the New York Stock Exchange (Wall Street Week, 1987).

With such large stock holdings, pension funds can wield substantial voting power and influence. If corporate takeover battles become more common and management responds with antitakeover measures, pension funds may play an increasingly important role. Some feel that with this leverage, pensions funds can prevent management from taking actions that are contrary to the interests of plan participants and beneficiaries. Pension-fund holdings in many companies are now large enough to represent a pivotal vote on management proposals. Thus, pension fund sponsors, investment managers, and policymakers all are trying to understand how pension funds exercise their rights as shareholders. How are their funds managed? How do they make proxy-vote decisions?

There are no simple answers to these questions, in part, because it is not entirely clear who votes private pension fund proxies and who decides how the proxies are to be voted. Private pension plan sponsors may vote the proxies themselves, or they may delegate voting to master trustees, who hold the securities and maintain records for pooled assets from a number of pension plans of a single sponsor. Plan sponsors may have external investment managers vote the proxies, who have the authority under the Employee Retirement Income and Security Act (ERISA) to “manage, acquire, and dispose” of all or a portion of the assets in a plan. Some companies may have a combination of plan sponsors, investment managers, and master trustees involved in proxy voting. In recent years, many industry observers have perceived that larger funds can no longer responsibly sell a company's stock when they disagree with management because their investment in the particular stock is too large. If they attempted to sell their shares, the price of the stock would drop, and the plan would lose money on the transaction. As the so-called “wall-street rule” is no longer considered viable for many large investors, pension-fund interest in proxy voting may have also increased.

Until the recent spate of mergers and acquisitions, pension fiduciaries paid little attention to voting procedures because they were not considered very important.

The Department of Labor (DOL) and the Congress have been interested in determining whether private pension fund voting activities are conducted within the constraints set by ERISA's fiduciary requirements. The exclusive benefit rule in ERISA clearly states that pension fiduciaries must act solely in the best interest of the participants. Until the recent spate of mergers and acquisitions, pension fiduciaries paid little attention to voting procedures because they were not considered very important. Now, there is concern that if a conflict of interest arises, some fiduciaries may be able to ignore their legal responsibility because voting procedures are not standardized, and votes are rarely monitored. Whether internal or external managers actually succumb to such pressure, however, is not known. Cases have been reported in which the top management of a target firm urges the top management of other firms to direct their pension managers to vote in favor of antitakeover measures (Parker, March 9 and 23, 1987).
If pension managers voted solely on the basis of such persuasion, rather than trying to maximize plan assets, they would be in direct violation of ERISA fiduciary standards.

Bank trust operations provide a classic example how financial institutions try to avoid potential conflicts of interest. Many banks set up a “Chinese Wall,” isolating trust operations from other banking activities. It is not known how well a bank trust department would withstand pressure from a corporate client of the bank whose interests are at stake in a given vote. Some investment managers might vote with management rather than risk losing a large and important client. Others would fulfill their fiduciary obligations.

Although these issues affect both public and private pension plans, the lack of broadly based data on private-sector pension plan voting practices has been a particular concern. This Issue Brief presents new 1987 survey data from the Employee Benefit Research Institute (EBRI). Separate surveys of private pension plan sponsors, master trustees, and investment managers were conducted to provide information on proxy voting practices and policies. The data describe how often sponsors, master trustees, and investment managers vote their proxies. They document the prevalence of written policies for proxy voting. In addition, the data show the frequency of direct or indirect proxy voting pressure and the extent to which written policies have been developed to deal with such pressure.

While the surveys were designed to advance our understanding of private-sector plan sponsor voting behavior, they do not, and cannot, give a complete picture of the entire proxy voting process. As such, there are no clear policy prescriptions, as many questions are left unanswered. For instance, we cannot determine the economic consequences of particular voting practices or the motivation behind those practices. The survey does not indicate whether proxy voting is conducted in the best interests of plan participants. That analysis would require financial information on fund investments and on particular votes. Nevertheless, the EBRI survey provides a stronger factual foundation than previously available for the ongoing public policy debate.

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Pension Funds, Voting Power, and the Stock Market

Greater concern about private-sector pension fund proxy-voting practices among policymakers and institutional investors alike is not surprising given the extraordinary growth of private pension fund assets since the passage of ERISA. By year end 1986, financial assets of private pension plans increased 6 times over their year-end 1974 level (Employee Benefit Research Institute, 1987). Equity holdings also marked a six-fold increase.

Before the increased interest in institutional shareholder activity can be attributed to the increase in equity holdings, however, pension fund asset growth must be examined more closely. Between 1974 and 1980, the share of the equity market held by private-sector employer-sponsored plans grew from 12.5 percent to 15.7 percent, but since 1980 it has fluctuated around 15 percent. Thus, the recent interest in proxy voting among private pension fund managers may have less to do with a marked increase in financial power, than, perhaps, with the realization that fund managers are responsible for a major share of equity assets.1

Hostile Takeovers and Antitakeover Measures

Much of this increased awareness has occurred, in large part, by the highly publicized antitakeover debate. From 1980 to 1986, the number of merger and acquisition announcements increased by 77 percent, reaching 3337 last year, the highest reported since 1973 (W.T. Grimm and Co., 1985 Mergerstat Review, and Grimm’s 1986 Press Release, as cited in Heard, 1987). Industry experts contend that deflated stock prices after the inflationary seventies and the Reagan administration’s laissez-faire antitrust policy have created a climate in

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1 In contrast, state and local government pension funds present a somewhat different picture. Equity as a percent of their portfolio increased, on average, from 22 percent in 1980 to 36 percent in 1986 and their share of the equity market, more than doubled. In total, state and local funds held 6 percent of the total equity market (Employee Benefit Research Institute, 1987).
which huge profits can be realized from corporate takeovers. Not surprisingly, the number of antitakeover measures that have been proposed have also increased dramatically. According to recent reports, 403 of 424 publicly traded companies in the Fortune 500 adopted at least one measure to discourage hostile takeover attempts. These measures are commonly referred to as “shark repellents.” More than one-half of the companies in the Fortune 500 sample voted to create a classified board of directors (staggered election), in which only a certain percentage of board members are elected each year; and more than 75 percent of the companies authorized the issuance of blank check preferred stock, giving management the ability to issue an unlimited number of such shares. Nearly half enacted some type of “golden parachute,” which provides top executives with lucrative benefits should the company be taken over by another firm resulting in the loss of the job (Rosenbaum, 1987).

Some large institutional investors (primarily public plans) are vehemently opposed to antitakeover proposals, primarily because several studies have suggested that such measures, particularly poison pills, tend to reduce stock prices. Much of the recent debate has centered around an antitakeover measure advocated by its proponents as a “shareholders rights plan” and criticized by its opponents as a “poison pill.” The measure gives shareholders the right to buy additional securities at very attractive prices in the event their company is the target of a hostile bid and gives management the ability to redeem these shares at a token price if management wants a friendly acquisition to take place. This effectively increases the purchase price for a hostile bidder. Poison pills are also one of the few antitakeover measures that need not be approved by shareholders. In the 1985 Delaware case of Moran v. Household International, Delaware’s Supreme Court ruled that adopting a poison pill is a “legitimate exercise of normal business judgment.” About half of the nation’s Fortune 500 companies and 40 percent of the companies listed on the New York Stock Exchange are incorporated in Delaware.

Some large institutional investors (primarily public plans) are vehemently opposed to antitakeover proposals, primarily because several studies have suggested that such measures, particularly poison pills, tend to reduce stock prices. Alarmed by this potential loss, a number of institutional investors have attempted to rescind poison pill measures. But, according to data compiled by the Investor Responsibility Research Center (IRRC), out of sixty companies that were faced with votes on such resolutions last year, none were forced to remove their poison pill measures. The resolutions received more support than many corporate executives anticipated, however, with approximately 20 of them receiving from 30 percent to 46 percent of the shareholders’ votes (Franklin, 1987).

To justify the adoption of antitakeover measures, management emphasizes that they have responsibilities beyond maximizing shareholder wealth. Many Fortune 500 companies have tens of thousands of employees, suppliers, customers, and in some cases entire communities that have a longstanding relationship and understanding with management. In this era of private-sector social initiatives, many companies are not only concerned with the bottom line, but have created socially responsible employee and community programs. Raiders, they argue, have no interests other than short-term profits (Nussbaum, 1987). Assuming antitakeover measures discourage takeover attempts, such measures protect the management team from abrupt dismissal, allowing them to engage in longer-term investment projects that may not have an immediate payoff. Management insists that the stock market and institutional shareholders are overly concerned with short-term earnings. This in turn, they argue, may lead to undervaluation of a company’s stock, despite management’s attempt to pursue a sound long-term policy. Thus, they contend, it is often not poor management that causes undervalued share prices, but rather chronic distortions in the way the stock market evaluates the economic worth of a company (Pound, 1986).

Another argument made in favor of antitakeover measures is the potential advantages they hold for
shareholders. For example, a supermajority provision\(^2\) can force shareholders to act in a more cohesive manner by putting less pressure on an individual to tender to an initial offer. If a shareholder knows that a large majority, in some cases 90 percent, of all shareholders must accept the offer, there is a much lower chance that shareholder will be "squeezed out" by not tendering to an offer that appears too low. Thus, the shareholders may be able to extract a final higher premium.

Opponents of antitakeover measures cite evidence to the contrary. Studies conducted by the Securities and Exchange Commission (SEC) have shown that antitakeover provisions tend to lower the value of a company's stock. A 1984 SEC report showed that for the 87 New York Stock Exchange or American Stock Exchange firms in the study where a supermajority provision and a fair-price proposal were introduced simultaneously, share value declined an average of 3.09 percent, during the period 40 days before to 2 days after the proxy mailing date. This represented a $1.13 billion loss to shareholders (Jarrell, 1984).

Another SEC study showed that for 245 companies where poison pills were adopted between January 1983 and July 1986, share prices declined when the adoption of such an amendment was announced. For 30 of those companies where actual control battles occurred after the pill was adopted, almost 45 percent were able to defeat the takeover attempt, but the value of their stock dropped 17 percent six months after the defeat (Securities and Exchange Commission, 1986).

Other studies have attempted to dispute management's claim that tender offers exploit companies that focus on long-term planning (Pound, 1986). By looking at research and development (R&D) and capital expenditures, one study found that out of 217 takeover targets, 160 (74 percent) had no material R&D outlays and that takeover targets on average had a lower ratio of capital expenditures to earnings than a non-target control group. R&D and capital expenditures, however, are not the only elements of long-term planning. Other, less quantifiable factors, such as employee training and management development have not been evaluated.

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Role of Shareholders in Corporate Governance

The role of shareholders in corporate governance is at the center of discussions on shareholder wealth. A majority of antitakeover measures require shareholder approval, and poison pills can be rescinded by a shareholder vote. Thus, the crucial questions are: how do shareholders decide how to vote their proxies, and, in the case of private pension funds, in particular, who is actually making that decision?

The voting process itself has been the subject of much discussion. For example, many claim that the mechanics of sending out and receiving proxy ballots are so complex that adequate communication between shareholders and management may be impaired. First, the proxies are sent to the trustee or to brokerage houses, which must determine who owns the shares—often a difficult task. Many investors, particularly institutional investors, do not register their shares under their own name, but under the name of their broker or bank (known as the "street name"). Rather than holding the shares themselves, however, the banks and brokers then register them with a large regional depository, which acts as a custodian of the physical securities. Sometimes, smaller banks hold their shares with larger banks, which in turn register them with a depository. Thus, owners must be traced from a depository listing back through layers of bank nominees before their "true identity" is revealed.

Once the owners have been identified, the broker or bank sends the ballots. But, many owners, particularly individuals or small plans, may not have the necessary information about the company in question to make an informed decision, nor the desire or means to obtain outside expert advice. Nevertheless, the owner is supposed to vote and send the proxy ballot back to either the brokerage firm or the issuing company. Often, this process is supposed to take place in less than 30 days. Originally designed to protect the confidentiality of stockholders, reduce paperwork, and expedite trading among member firms, the practice of using "street names" has made proxy voting a lengthy and cumbersome process. The effect this process has on the percentage of shareholders actually voting their proxies is not known.

The issue of ballot secrecy is another aspect of the voting process that has engendered criticism. Propo-

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\(^2\) See glossary for definition of these and other terms used in this Issue Brief.
ponents of confidentiality emphasize that voting is a valuable right and its exercise is subject to coercive activity, particularly for companies with employee-owned stock programs. In addition, they contend, confidentiality counters management’s advantage in the resolicitation process, in which companies ask stockholders whether they would like to change their initial vote. Many claim that by knowing how each shareholder voted and having the resources to engage in a targeted resolicitation management can clearly manipulate voting outcomes.

In recent statements, DOL has emphasized that voting rights have an economic value, and therefore, proxy voting decisions, which can affect investment value, fall under ERISA fiduciary requirements.

Opponents of confidentiality argue differently. First, they question whether any shareholder vote can be fully confidential. Especially in a proxy contest, when the stakes and the potential for pressure are highest, both sides will need to see the voting record for certification purposes and to challenge any questionable ballots. Second, they claim that by subjecting the decisions of pension fund managers to public scrutiny, the interests of plan beneficiaries will be better served. Unless pension plan managers have a specific voting disclosure requirement in their management agreement, they are under no obligation to disclose their vote. However, as a fiduciary under ERISA, they are obligated to stay informed on the affairs of those corporations in which they have invested plan assets, to evaluate those affairs, and vote accordingly. Without mandatory disclosure, the Department of Labor has no way of monitoring or enforcing such fiduciary obligations. At the same time, there is little incentive for managers to be diligent active voters. As long as the overall rate of return on the assets remains acceptable, it is unlikely that one particular vote will be questioned.

In many instances, particularly with internally managed funds, those who make the decision to vote for or against management proposals are management themselves. Some have claimed that pension fund managers, given their “niche” in the corporate bureaucracy, are risk averse. Inasmuch as management labels activist shareholders as “troublemakers,” corporate pension fund managers may not wish to be included among that group. Valid or not, it has been argued by some that those who have climbed the ranks of corporate management are more likely to be receptive to management’s point of view.

Legislative Interest in Proxy Voting

Pension plan sponsors and government regulators would like to understand the proxy voting process better. In April 1986, the Senate Subcommittee on Oversight of the Committee on Governmental Affairs released a report titled, The Department of Labor’s Enforcement of ERISA, based on hearings conducted the previous year. This report has become the foundation for much of the current exchange on the proxy voting issue. It recommended (1) that ERISA be amended to ensure that investment and voting decisions affecting plan assets are placed in the hands of independent fiduciaries; (2) that antitakeover charter amendments, which are often contrary to shareholder interests, be viewed skeptically by pension plan fiduciaries; and (3) that the Department of Labor issue a policy statement on the obligations of pension plan fiduciaries.

In response to this Congressional request, DOL officials have started to provide more information on what they consider to be proper proxy voting behavior for fund managers. In recent statements, DOL has emphasized that voting rights have an economic value, and therefore, proxy voting decisions, which can affect investment value, fall under ERISA fiduciary requirements. DOL suggests that pension plan sponsors (through corporate executives of the plan company) who attempt to direct their external managers on selected votes of pension-fund proxies may not only be responsible for those votes, but may become liable for the investment managers’ day-to-day investment activities if the votes in question materially affect the value of the assets. Conversely, investment managers and trustees are not relieved of their fiduciary responsibilities if they permit a pension plan sponsor to vote fund shares, unless the sponsor has specifically reserved such rights in the plan.
agreement. The DOL further emphasized that in cases in which votes are "directed," plan agreements should expressly provide for such direction and indicate who is to give the direction. In addition, corporate executives who actually vote the proxies should be duly appointed pension plan trustees because only trustees and investment managers can dispose of pension plan assets, and proxy voting has an economic impact on pension plan holdings.

More recently, proposed legislation in Congress has focused on general corporate governance and voting rights issues that affect all shareholders, not just pension funds. In April 1987, Rep. John Dingell (D-MI) introduced the Tender Offer Reform Act of 1987 (H.R. 2172) which, among other provisions, would restrict greenmail, golden parachutes, and poison pills, and extend the tender offer period from 20 to 60 days. Early in June, Sen. William Proxmire (D-WI) introduced a similar, but somewhat more comprehensive bill, the Tender Offer Disclosure and Fairness Act of 1987 (S. 1323). With the introduction of these two bills as well as a host of other proposed legislation on insider trading and corporate takeovers, a number of congressional hearings have been held on these issues by several committees since the beginning of the 100th Congress. The most active has been the Senate Committee on Banking, Housing and Urban Affairs, which held hearings on these issues in January, April, and June. The Employment and Housing Subcommittee of the House Committee on Government Operations held hearings in March and June on the impact of takeovers and greenmail on workers. The House Energy and Commerce Committee, Subcommittee on Telecommunications and Finance, held a series of hearings in April. No legislation has been enacted, however.

The U.S. Supreme Court has been involved in this issue as well. In the recent case of CTS Corporation v. Dynamics Corporation of America (No. 86-71, U.S. Sup Ct., April 21, 1987), the Court, in a 6-3 decision, upheld an Indiana antitakeover law. The statute says that a hostile bidder owning more than 20 percent of a target company and opposed by management cannot vote without the “approval” of a majority of shareholders. The statute also effectively increases the minimum time allowed to complete tender offers from 20 to 50 days, giving management more time to fend off a hostile offer. Most importantly, the Supreme Court emphasized that state antitakeover statutes do not violate the supremacy clause by creating more “stringent” guidelines than the federal law on mergers and acquisitions known as the Williams Act, nor do they inhibit interstate commerce. In fact, the Court formally stated that the “shareholders...need to be protected from the coercive aspects of some tender offers.”

The Securities and Exchange Commission (SEC) has also been active on this issue. In December 1986, SEC expanded and made final regulations under the Shareholder Communications Act of 1985 to facilitate and simplify the proxy ballot process. Also in December, the SEC held hearings to explore the impact of multiple classes of common stock with unequal shareholder voting rights on shareholder wealth and corporate takeover activity and to seek comments on a one share/one vote policy for all exchanges. In June 1987, SEC voted to issue a tentative regulation that would bar public trading of U.S. corporations that disenfranchise their shareholders or substantially reduce stockholder authority in management affairs.

The Proxy Voting Survey

Before the EBRI proxy voting survey, only limited statistical information was available on private-sector pension plan voting practices. Most noteworthy, the IRRC has collected information on proxy voting of a relatively small number of major investors in each of four groups: corporate plan sponsors (19); public pension plans (43); foundations and educational institutions (30); insurance companies, banks and investment firms (43) (Mathiasen, 1986). Therefore, EBRI, the Committee on Investment of Employee Benefit Assets (CIEBA) of the Financial Executives Institute (FEI), and the Association of Private Pension and Welfare Plans (APPWP) sponsored a survey in February and March 1987 to gather information on proxy voting from the perspective of the private-sector pension system. 3 EBRI's survey presents information on 334 corporate

3 The survey mailing list was developed primarily from listings in the Money Market Directory of Pension Funds and Their Investment Managers. All responses were strictly confidential and anonymous.
plan sponsors, 134 investment managers and 25 master trustees (using a slightly different survey for each). The private pension plan sponsors who responded account for about 38 percent of total equity held by private trustee pension funds and about 32 percent of total private trustee pension assets. The investment managers responding represent 50 percent of equity assets and 39 percent of total assets, and the master trustees responding represent 63 percent of equity assets and 45 percent of total assets. 4

The survey asked questions on two subjects: voting practices of pension funds and voting policies. In terms of voting practices, the data describe how often sponsors, master trustees, and investment managers vote their proxies. In terms of voting policy, they document the prevalence of written policies for proxy voting. In addition, the data show the frequency of direct or indirect proxy voting pressure and the extent to which written policies have been developed to deal with such pressure. No questions were asked about pension fund positions on specific voting issues. In the following sections, the findings from the survey are discussed.

- Results from the Sponsor Survey

This section reviews the results from the survey of plan sponsors conducted by EBRI. These findings constitute the first in-depth study of plan sponsor voting behavior with information on pension fund voting practices (whether the fund votes proxies and, if so, who votes) and pension fund voting policies (whether there are written guidelines on how to vote or how to respond to pressure). The majority of all sponsors surveyed reported voting the proxy. Large plans practically always vote. Some shares are directly voted by the plan sponsor either by the plan trustees, internal managers or plan participants (internally), while other plan shares are voted by investment managers or master trustees (externally). Most sponsors with internally managed plans knew whether or not their proxies were being voted; many sponsors of smaller plans managed outside the firm did not know whether their shares had been voted.

More than 40 percent of plan sponsors who vote internally have a written policy for voting. They do not appear to be subject to much financial pressure on how to vote. Sponsors seldom have written policies for

<table>
<thead>
<tr>
<th>Size of Equity Investment</th>
<th>Voted</th>
<th>Did Not Vote</th>
<th>Don't Know</th>
<th>No Response</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1-9 million</td>
<td>39.4%</td>
<td>3.0%</td>
<td>54.6%</td>
<td>3.0%</td>
<td>100.0%(66)</td>
</tr>
<tr>
<td>$10-24 million</td>
<td>39.6%</td>
<td>10.4%</td>
<td>45.8%</td>
<td>4.2%</td>
<td>100.0 (48)</td>
</tr>
<tr>
<td>$25-99 million</td>
<td>57.9%</td>
<td>3.5%</td>
<td>38.6%</td>
<td>0.0%</td>
<td>100.0 (57)</td>
</tr>
<tr>
<td>$100-499 million</td>
<td>76.3%</td>
<td>0.0%</td>
<td>20.4%</td>
<td>3.2%</td>
<td>100.0 (93)</td>
</tr>
<tr>
<td>$500+ million</td>
<td>96.4%</td>
<td>0.0%</td>
<td>3.6%</td>
<td>0.0%</td>
<td>100.0 (56)</td>
</tr>
<tr>
<td>No response</td>
<td>71.4%</td>
<td>0.0%</td>
<td>14.3%</td>
<td>14.3%</td>
<td>100.0 (14)</td>
</tr>
<tr>
<td>Total</td>
<td>63.8%</td>
<td>2.7%</td>
<td>30.8%</td>
<td>2.7%</td>
<td>100.0%(334)</td>
</tr>
</tbody>
</table>

Note: Figures in parentheses show the number of plan sponsors. Figures vary between tables according to the group included in the table and survey question response rates. Percentages may not add to 100 percent due to rounding.
shares voted externally, and many delegate voting to external managers. External managers appear to have a great deal of discretion in voting. Sponsors do not communicate much with their investment managers on voting issues.

Voting Behavior of Pension Funds

One of the most often asked questions is how common proxy voting is among pension funds. Sixty-four percent of the plan sponsors responding to the EBRI survey indicated that at least some of their proxies were voted. In comparison, only 2.7 percent of plan sponsors did not vote any of their proxies (table 1). Plans with equity investments of $500 million or more almost always voted their proxies (96 percent voted at least some shares). Smaller plans were much less likely to vote: less than 40 percent of sponsors with equity assets of less than $25 million reporting any voting. Many plans, 31 percent, did not know whether or not their proxies had been voted. These plans tended to be concentrated among those with lower assets. In fact, 55 percent of plans with assets of less than $10 million did not know whether their proxies had been voted.

The type of fund management, internal or external, also seems to be a significant factor in plan-sponsor awareness of proxy voting. About 90 percent of those who did not know whether they had voted had all of their assets managed externally. Because so many small, externally managed firms do not know whether their proxies had been voted, the percentage of shares that actually are voted cannot be ascertained. Nonetheless, the total percent of plans that had at least some proxies voted is certainly higher than the reported 64 percent.

Plan sponsors with assets in defined benefit and defined contribution plans seem equally likely not to know whether their proxies were voted. The percentages of “don’t knows” for defined benefit and defined contribution plans with all funds managed internally are only 10 percent and 6 percent respectively, as compared to 36 percent for each plan type when all funds are managed externally (table 2).

Overall, 77 percent of all sponsors had their funds managed completely externally, and another 14 percent had their plans managed externally to some degree. Completely external investment management was far more frequent among small plans than among large plans. While fewer than 60 percent of plan sponsors with equity of $500 million or more were managed completely externally, 86 percent of sponsors with

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Table 2

Pension Plan Sponsors and Proxy Voting by Type of Plan and Fund Management

<table>
<thead>
<tr>
<th>Type of Plan and Fund Management</th>
<th>Voted</th>
<th>Did Not Vote</th>
<th>Don't Know</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defined benefit plan</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>all internally managed</td>
<td>85.0%</td>
<td>5.0%</td>
<td>10.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>1-49% externally managed</td>
<td>33.3</td>
<td>0.0</td>
<td>66.7</td>
<td>100.0%</td>
</tr>
<tr>
<td>50-99% externally managed</td>
<td>88.0</td>
<td>0.0</td>
<td>12.0</td>
<td>100.0%</td>
</tr>
<tr>
<td>all externally managed</td>
<td>61.6</td>
<td>2.6</td>
<td>35.8</td>
<td>100.0%</td>
</tr>
<tr>
<td>All defined benefit plans</td>
<td>65.3</td>
<td>2.5</td>
<td>32.1</td>
<td>100.0%</td>
</tr>
<tr>
<td>Defined contribution plan</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>all internally managed</td>
<td>88.2%</td>
<td>5.9%</td>
<td>5.9%</td>
<td>100.0%</td>
</tr>
<tr>
<td>1-49% externally managed</td>
<td>86.7</td>
<td>0.0</td>
<td>13.3</td>
<td>100.0%</td>
</tr>
<tr>
<td>50-99% externally managed</td>
<td>75.0</td>
<td>0.0</td>
<td>25.0</td>
<td>100.0%</td>
</tr>
<tr>
<td>all externally managed</td>
<td>62.1</td>
<td>2.4</td>
<td>35.5</td>
<td>100.0%</td>
</tr>
<tr>
<td>All defined contribution plans</td>
<td>67.5</td>
<td>2.5</td>
<td>30.0</td>
<td>100.0%</td>
</tr>
</tbody>
</table>


Note: Figures in parentheses show the number of plan sponsors. Figures vary between tables according to the group included in the table and survey question response rates. Percentages may not add to 100 percent due to rounding.
assets less than $25 million only used outside investment management (table 3).

Among sponsors that knew they voted their proxies, 14 percent of those with equity of over $500 million only voted internally, 54 percent only voted externally, and 32 percent voted both ways. Among firms with fewer than $25 million in equity assets, 41 percent voted completely internally and 59 percent voted completely externally. But many externally managed small plans did not know whether their proxies had been voted and hence could not say whether they voted internally or externally. They probably did not vote internally. Among sponsors that knew they voted, almost all of those that had internally managed plans voted internally. Among plans that were externally managed, 24 percent voted completely or partly internally. Among externally managed defined contribution plans, 32 percent voted completely or partly internally, compared to 19 percent of defined benefit plans. This difference may reflect participant interest in individual accounts.

EBRI findings are not directly comparable to the earlier surveys conducted by IRRRC because of EBRI's larger sample size and because many smaller pension plan sponsors in the EBRI survey did not know whether their proxies had been voted. Nevertheless, the EBRI figures appear to be roughly consistent with the IRRRC findings with regard to external management. The 1986 IRRRC survey found that 15 of the 19 pension funds surveyed (79 percent) let their investment managers vote (Mathiasen, 1986), compared to EBRI findings in which 77 percent of funds were managed externally.

IRRC also found that those corporate funds that voted their own proxies also managed their funds internally. EBRI figures show that sponsors that manage their plans internally tend to vote internally, but that some shares are managed externally and voted internally. EBRI figures do not support the 1986 Greenwich Associates finding that larger corporate pensions funds are more likely than smaller funds to delegate voting to investment managers (quoted in Heard and Sherman, 1987). We cannot tell whether investment managers or master trustees for small, externally managed funds returned their proxies to the plan sponsor for voting or to investment managers or other representatives.

The EBRI survey shows that plan sponsors in the finance and the transportation industries are most likely to vote their proxies, while plan sponsors in the service sector are least likely. Eighty percent of the plan sponsors in the finance industry reported that they voted their proxies compared to less than 45 percent of the firms in the service industry. Furthermore, in the finance industry, the lowest percentage of plan sponsors reported they were not aware whether their proxies had been voted (12 percent), while almost half of all service-industry sponsors reported that they did not know if their proxies were voted—the highest
percentage of all industries. The service industry also had the highest percentage of sponsors who reported that they did not vote their proxies at all (7 percent). Finance industry plan sponsors may be more aware of proxy voting issues. Service-sector firms are characteristically smaller and would be more likely to have plans that are managed externally.

Voting Procedures and Policies of Plan Sponsors

IRRC argues that external managers are likely to be subject to voting pressure and vote with management and against the interests of the shareholders and plan participants (Flax, 1985). Corporate pension managers could face such pressures as well. The EBRI data point to the importance of external managers in voting and provide information on the fund procedures and policies pension plan sponsors have instituted for proxy voting.

The Senate Subcommittee on Oversight of Government Management’s 1986 report on proxy voting expressed concern that formal written policies for pension plan managers were not widespread. More recently, DOL officials have noted that “it makes sense for [those who vote the proxies] to have documented guidelines concerning the voting of shares” (Walker, 1987). This interest suggests that policymakers feel that firms with written policies provide better guidance for responsible voting.

**Written Policies for Proxy Voting**—The EBRI survey found that plan sponsors are more likely to have written policies for proxies voted internally than for those voted externally. When proxies are voted internally, 43 percent of sponsors are guided by a written policy adopted either within the last 12 months or earlier. When proxies are voted externally, only 21 percent of plan sponsors provided written guidance within the last 12 months or earlier (table 4). Whether voting internally or externally, larger plans are more likely to have written policies. While only 43 percent of plan sponsors have a written policy for internal voting, sponsors with such policies control 60 percent of the equity voted internally. The percentage of plan sponsors with written policies for external voting jumps from 21 percent to 50 percent when weighted by the value of equity in the plan. This finding indicates that more shares are voted according to written policy guidelines than is first apparent.

Sponsors are more likely to know whether their plan has a written policy for internal voting than whether their plan has a policy for external voting. Only 8 percent of the sponsors with internally voted proxies

### Table 4

**Pension Plan Sponsors and Written Proxy Voting Policies by Type of Voting**

<table>
<thead>
<tr>
<th>Adoption of Written Policies</th>
<th>Plans Voted Internally</th>
<th>Plans Voted Externally</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% of sponsors</td>
<td>% of equity</td>
</tr>
<tr>
<td>Adopted 12 months ago or before</td>
<td>40.3%</td>
<td>59.9%</td>
</tr>
<tr>
<td>Adopted within last 12 months</td>
<td>2.8</td>
<td>0.4</td>
</tr>
<tr>
<td>Have not adopted:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>expect to adopt</td>
<td>4.2</td>
<td>1.3</td>
</tr>
<tr>
<td>do not expect to adopt</td>
<td>44.4</td>
<td>29.1</td>
</tr>
<tr>
<td>don’t know</td>
<td>8.3</td>
<td>9.3</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (72)</td>
<td>100.0% (64.2 billion)</td>
</tr>
</tbody>
</table>


Note: Figures in parentheses show the number of plan sponsors. Figures vary between tables according to the group in the table and survey question response rates. Percentages may not add to 100 percent due to rounding.
were not aware if a written voting policy existed, while 18 percent of sponsors with external voting did not know if a written policy existed.

The most common requirement in both internal and external written policies is that all proxies be voted. This was the case for 48 percent of sponsors with written policies for internal voting and 52 percent of the sponsors with written policies for external voting. Plan sponsors without a written policy are unlikely to inaugurate one. Most plan sponsors without a written policy (about 80 percent of those voting internally and 70 percent of those voting externally) did not expect to have one within the next 12 months.

Regardless of whether sponsors have equity invested in defined benefit or defined contribution plans, their likelihood of having a written policy for external voting is small. However, the likelihood of having a written policy for internal voting is greater when more equity is invested in a defined benefit plan. Half of all sponsors with only defined benefit plan assets had a written policy for internal voting. Only 31 percent of those with all their equity investments in defined contribution plans had such a written policy (table 5). While this finding provides support to the contention that sponsors take a more active interest in defined benefit plans in which they bear more of the risk, more research is needed to confirm that hypothesis.

Voting Policy and Takeover Amendments—When plan sponsors had written policies for internal voting, many specified voting policies for particular takeover-related issues. The EBRI survey asked about a number of these policies, including ones related to voting rights issues (supermajority vote, cumulative votes, and unequal voting rights) and recapitalization strategies (blank check preferred stock authorization and stock buy-back proposals in antigreenmail amendments). The survey also asked about fair price proposals, staggered election of the board of directors, reincorporation in states such as Delaware, golden parachutes, and other proposals that might come up on the proxy ballot.

| Table 5 |
| Pension Plan Sponsors and Written Proxy Voting Policies by Type of Voting and Type of Plan |

<table>
<thead>
<tr>
<th>Type of Plan</th>
<th>Policy Exists</th>
<th>Yes</th>
<th>No</th>
<th>Don't Know</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>All equity in defined contrib</td>
<td>31.3%</td>
<td>6.3%</td>
<td>62.5%</td>
<td>0.0%</td>
<td>100.0% (16)</td>
</tr>
<tr>
<td>1-49% equity in defined benefit</td>
<td>25.0</td>
<td>0.0%</td>
<td>50.0%</td>
<td>25.0</td>
<td>100.0% (4)</td>
</tr>
<tr>
<td>50-99% equity in defined benefit</td>
<td>47.8</td>
<td>4.4%</td>
<td>34.8%</td>
<td>13.0</td>
<td>100.0% (23)</td>
</tr>
<tr>
<td>All equity in defined benefit</td>
<td>50.0</td>
<td>4.2%</td>
<td>37.5%</td>
<td>8.3</td>
<td>100.0% (24)</td>
</tr>
<tr>
<td>All internally voting sponsors</td>
<td>43.3</td>
<td>4.5%</td>
<td>43.3%</td>
<td>9.0</td>
<td>100.0% (67)</td>
</tr>
</tbody>
</table>

**Written Policy for External Managers**

<table>
<thead>
<tr>
<th>Type of Plan</th>
<th>Yes</th>
<th>No</th>
<th>Don't Know</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>All equity in defined contrib</td>
<td>0.0%</td>
<td>63.6%</td>
<td>18.2%</td>
<td>100.0% (11)</td>
</tr>
<tr>
<td>1-49% equity in defined benefit</td>
<td>11.1</td>
<td>44.4%</td>
<td>33.3</td>
<td>100.0% (9)</td>
</tr>
<tr>
<td>50-99% equity in defined benefit</td>
<td>23.3</td>
<td>46.7%</td>
<td>20.0</td>
<td>100.0% (60)</td>
</tr>
<tr>
<td>All equity in defined benefit</td>
<td>20.8</td>
<td>57.1%</td>
<td>15.6</td>
<td>100.0% (77)</td>
</tr>
<tr>
<td>All externally voting sponsors</td>
<td>21.0</td>
<td>52.9%</td>
<td>18.5</td>
<td>100.0% (157)</td>
</tr>
</tbody>
</table>

Source: Employee Benefit Research Institute tabulations of the 1987 EBRI Proxy Voting Survey. Note: Figures in parenthesis show the number of plan sponsors. Figures vary between tables according to the group included in the table and survey question response rate. Percentages may not add to 100 percent due to rounding.

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Table 6
Positons Taken on Antitakeover-Related Issues in Written Proxy Voting Policies

<table>
<thead>
<tr>
<th>Policy Issue</th>
<th>Plan Sponsors with Internal Written Policies</th>
<th>Plan Sponsors with External Written Policies</th>
<th>Investment Managers with Written Policies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voting rights issues(^a)</td>
<td>51.6%</td>
<td>15.2%</td>
<td>61.5%</td>
</tr>
<tr>
<td>Recapitalization strategies(^b)</td>
<td>41.9</td>
<td>15.2</td>
<td>60.4</td>
</tr>
<tr>
<td>Fair price proposals</td>
<td>38.7</td>
<td>18.2</td>
<td>61.5</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (31)</td>
<td>100.0% (33)</td>
<td>100.0% (91)</td>
</tr>
</tbody>
</table>

Note: Figures in parentheses show the number of plan sponsors. Figures vary between tables according to the group included in the table and survey question response rates.
\(^a\)Supermajority votes, cumulative votes, and unequal voting rights.
\(^b\)Blank-check preferred stock authorization, stock buy-back in antigreenmail.
\(^c\)Column percentages may be greater than 100 percent as policies may involve more than one issue.

Many plan sponsors who reported they had a written policy for internal voting said that the policy statement included specific proxy issues. In particular, 52 percent reported guidelines on voting rights issues, 42 percent specifically noted recapitalization strategies, and 39 percent included fair price proposals (table 6). Another 48 percent listed other proxy issues including staggered election, Delaware reincorporation and others. In other words, a substantial minority of sponsors with written internal guidelines were concerned about many takeover issues. The survey did not ask plan sponsors whether they were for or against such proposals.

The IRRC survey asked four private pension funds that voted their own proxies how they would vote specific antitakeover proposals (Mathiasen, 1986). All four opposed fair-price proposals. Two plans opposed classified board proposals, one supported them, and another considered them on a case-by-case basis. Two of the four funds said they opposed all proposals to authorize or increase the limit on blank-check preferred stock, while another supported such proposals and the fourth voted on a case-by-case basis. Three plans voted against unequal voting rights plans, and one voted for them if it was not considered to be an antitakeover measure. All four funds supported antigreenmail proposals. In terms of reincorporation proposals, one plan supported reincorporation but voted against proposals that contained antitakeover measures, two considered such proposals on a case-by-case basis, and one voted against all proposals. The IRRC survey suggests that even if a firm provides written voting directions on particular antitakeover issues, the nature of that guidance cannot be predicted accurately as different plan sponsors appear to have different ways of analyzing these issues.

The EBRI survey found that, unlike plan sponsors who voted internally, plan sponsors who had others vote their proxies externally according to the sponsor's own written policies seldom mentioned particular antitakeover issues in their documents. Only 15 percent of these sponsors included mention of voting-rights issues or recapitalization strategies, and only 18 percent mentioned stock buy-back proposals (table 6). Essentially, sponsors delegating their voting authority to external managers expect their shares to be voted, but provide broad latitude to the managers in determining how to vote.

**Internal Voting Procedures and Pressure**—When proxies are voted internally, a number of parties may have the authority to vote: internal investment managers, plan participants, and plan trustees may all participate in the voting process. Of those plans that had some proxies voted internally, 32 percent had internal investment...
managers vote their proxies, 34 percent had plan trustees, and, interestingly, 34 percent had plan participants vote the proxies. The high percentage of plan participant voters may be related to employee-owned companies or profit sharing plans. A number of companies have created defined contribution plans in which fund assets are invested in company stock, and the shares are then allocated to employees who have full voting rights.

EBRI survey results also indicate that about 40 percent of the sponsors with internally voted proxies sought guidance or advice on voting matters from outside the firm. In most instances, however, this happened infrequently. Over half of those who consulted with outside experts reported that they did so rarely, although large sponsors with equity assets over $100 million were more likely to have ever consulted outside the firm.

IRRC, various trade journals, and witnesses at congressional hearings have all expressed concern about the effect of outside pressure on voting participants. In the EBRI survey, however, a minority of plan sponsors voting internally—24 percent—reported any type of financial pressure to influence their votes. Of those, 4 percent reported experiencing financial pressure sometimes and 20 percent had rarely experienced financial pressure. Three quarters said they never experienced any financial pressure (table 7). Financial pressure to capture votes was more likely to be exerted on large sponsors with assets over $100 million. External managers are more likely to have experienced direct or indirect pressure on their voting than plan sponsors. But the pressure experienced by investment managers may not be the same as the financial pressure experienced by plan sponsors. Investment managers may be reporting lobbying pressure as well as financial pressures, for they were not asked about financial pressure only.

When sponsors with at least some internally managed assets were asked whether they had policies in place for dealing with financial pressure on their vote, more than two thirds said they did not. However, of those that indicated they had been pressured at least once, almost half had a formal policy for dealing with such pressure. Of those that reported they had never experienced pressure, 9 percent had policies in place (table 8). Thus, those who experienced pressure may be more likely to have a written policy than those who have not. Whether the policies were created in response to financial pressure at some point or to prevent anticipated pressure cannot be determined from the survey results.

External Voting Procedures—Sponsors appear to give external managers a large amount of discretion on

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**Table 7**

Financial Pressure on Pension Plan Sponsors Voting Internally by Size of Equity Investment

<table>
<thead>
<tr>
<th>Size of Equity Investment</th>
<th>Sometimes (%)</th>
<th>Rarely (%)</th>
<th>Never (%)</th>
<th>Don't Know (%)</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1–9 million</td>
<td>0.0</td>
<td>15.4</td>
<td>84.6</td>
<td>0.0</td>
<td>100.0</td>
</tr>
<tr>
<td>$10–24 million</td>
<td>0.0</td>
<td>0.0</td>
<td>100.0</td>
<td>0.0</td>
<td>100.0</td>
</tr>
<tr>
<td>$25–99 million</td>
<td>0.0</td>
<td>9.1</td>
<td>90.9</td>
<td>0.0</td>
<td>100.0</td>
</tr>
<tr>
<td>$100–499 million</td>
<td>0.0</td>
<td>31.8</td>
<td>63.6</td>
<td>4.6</td>
<td>100.0</td>
</tr>
<tr>
<td>$500+ million</td>
<td>13.0</td>
<td>21.7</td>
<td>65.2</td>
<td>0.0</td>
<td>100.0</td>
</tr>
<tr>
<td>No response</td>
<td>0.0</td>
<td>0.0</td>
<td>100.0</td>
<td>0.0</td>
<td>100.0</td>
</tr>
<tr>
<td>Total</td>
<td>4.0%</td>
<td>19.7%</td>
<td>75.0%</td>
<td>1.3%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>


Note: Figures in parentheses show the number of plan sponsors. Figures vary between tables according to the group included in the table and survey question response rates. Percentages may not add to 100 percent due to rounding.
voting matters without tracking their proxy voting record. Among plan sponsors without a formal written policy, 88 percent always gave their external managers full voting discretion, and an additional 8 percent frequently gave full voting discretion. Greenwich Associates found that 65 percent of corporate pension funds left voting decisions entirely to their investment advisors. They reported that 8 percent provided general guidelines. According to the IRRC survey, only 1 out of 15 pension funds reviewed the voting policies of its managers (Heard, 1987). All three surveys depict a situation in which investment managers act independently in terms of proxy voting.

EBRI's survey also asked sponsors how often they gave managers specific case-by-case voting instructions in lieu of a written policy. Seventy-seven percent said they never gave voting instructions, and 21 percent said they rarely provided instructions. Discussions between sponsors and external managers were infrequent and not specifically directed to particular issues. More than 65 percent reported that they rarely or never talked to investment managers about voting, and about 30 percent reported that they sometimes talked to their managers.

Among those that reported such discussions, more than 80 percent rarely or never mentioned specific voting issues such as antitakeover proposals. Of those that ever discussed such issues with their external managers, 31 percent discussed voting rights issues, 46 percent discussed recapitalization strategies, and 36 percent mentioned stock buy-back proposals. Yet these percentages represent very few sponsors, and, of those, three quarters discussed such issues rarely, if at all.

With little overall communication with their external managers, sponsors tend not to monitor their manager's votes. Most sponsors did not know how their external managers voted. About 80 percent reported that their investment managers did not volunteer information about a proxy decision either before or after the vote, and the plan sponsors themselves did not ask for it. Only 13 percent of plan sponsors said they routinely monitor their managers' votes.

In addition, plan sponsors also reported that their external managers generally vote independently of one another. Although most sponsors have a number of external managers, less than a quarter of sponsors attempt to coordinate the voting of their managers (table 9). As a result, 16 percent of the plan sponsors believe that their external managers have cast contradictory votes on the same stock. Perhaps more telling, 68 percent of plan sponsors with external voting did not know whether their investment managers ever cast a contradictory vote.

Finally, plan sponsors rarely revoke an external manager's voting power. Only 7 percent indicated that they had ever withdrawn voting power from an external manager. In almost all instances, plan sponsors revoked voting power only for certain stocks or certain votes. Rarely was voting power withdrawn for all proxies. Sponsors cited two reasons for selectively withdrawing voting powers: (1) if they considered a

Table 8
Pension Plan Sponsors Voting Internally and Policies to Deal with Financial Pressure

<table>
<thead>
<tr>
<th>Frequency of Financial Pressure</th>
<th>Policy exists</th>
<th>No policy exists</th>
<th>Don't know</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pressured</td>
<td>47.1%</td>
<td>47.1%</td>
<td>5.9%</td>
<td>100.0% (17)</td>
</tr>
<tr>
<td>Not pressured</td>
<td>9.1</td>
<td>78.2</td>
<td>12.7</td>
<td>100.0% (55)</td>
</tr>
<tr>
<td>Don't know</td>
<td>0.0</td>
<td>0.0</td>
<td>100.0</td>
<td>100.0% (1)</td>
</tr>
<tr>
<td>Total</td>
<td>17.8%</td>
<td>69.9%</td>
<td>12.3%</td>
<td>100.0% (73)</td>
</tr>
</tbody>
</table>


Note: Figures in parentheses show the number of plan sponsors. Figures vary between tables according to the group included in the table and survey question response rates. Percentages may not add to 100 percent due to rounding.
manager's vote improper or (2) if they had special reasons for a particular vote in a certain situation, and the manager would not vote that way.

Nevertheless, most sponsors voting externally through investment managers or master trustees showed relatively little interest in the outcome of those votes. Presumably, plan sponsors may believe that if an investment manager meets other fund performance standards, their voting behavior need not be monitored any more than the individual stocks they pick should be evaluated. If voting behavior is reflected in the market, investment managers making poor decisions would also show poor performance. But, if the market is only affected by the collective voting behavior of all investment managers, then all managers, on the whole, must vote to ensure the profitability of the firms in which they invest. Hence, it is particularly important to investigate the voting behavior of investment managers and master trustees.

Results from the Investment Manager and Master Trustee Surveys

Unlike plan sponsors, the primary business of investment managers is to manage money, with institutional investors—particularly pension funds—comprising a substantial portion of their clients. Master trustees primarily maintain pension fund records, but in certain cases have direct investment responsibilities. ERISA outlines the responsibilities of external managers toward pension funds and requires some type of written management agreement between plan sponsors and their external managers. Prior to the EBRI survey, little statistical evidence has been available on the way in which external investment managers or master trustees approach the proxy voting process for private pension funds.

According to the EBRI survey, virtually all external investment managers and master trustees know whether they vote for their clients. Investment managers voted proxies for three quarters of their clients, while master trustees only voted for 40 percent of their clients. Most master trustees who did not vote forwarded their proxies to plan sponsors, their investment managers, or other representatives. Many investment managers were asked by their plan sponsors to vote, while many master trustees were not. Investment managers often were required to vote by their management agreement. Investment managers who did not have to vote often voted anyway. Investment managers and master trustees confirm the reports of plan sponsors that they rarely communicate on voting issues. Both investment managers and master trustees were more likely than plan sponsors to have formal written policies for voting proxies. Investment managers reported experiencing pressure with regard to voting more frequently than plan sponsors reported experiencing financial pressure. Those that did experience pressure often had policies to deal with that contingency.

<table>
<thead>
<tr>
<th>Sponsor Coordinates Voting of Multimanager Plan</th>
<th>Whether External Managers Cast Contradictory Votes</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No</td>
<td>Don't know</td>
</tr>
<tr>
<td>Yes</td>
<td>9.1%</td>
<td>45.5%</td>
</tr>
<tr>
<td>No</td>
<td>18.2%</td>
<td>7.6%</td>
</tr>
<tr>
<td>Don't know</td>
<td>14.3%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Total</td>
<td>15.8%</td>
<td>15.8%</td>
</tr>
</tbody>
</table>


Note: Figures in parentheses show the number of plan sponsors. Figures vary between tables according to the group included in the table and survey question response rates. Percentages may not add to 100 percent due to rounding.
Voting Behavior of Investment Managers and Master Trustees

In general, investment managers have nearly twice as many ERISA clients as master trustees. On average, investment management firms worked with 121 ERISA clients, while master trustees worked with an average of 63. Sixty percent of investment managers were from investment counseling firms, 33 percent were from banks or trust companies, and 5 percent were from insurance companies.

Although investment managers do not vote every proxy they receive, virtually all the investment managers and more than 95 percent of master trustees know whether or not they vote proxies for their clients. In contrast, some 30 percent of plan sponsors did not know whether their shares were voted. Almost all investment managers (96 percent) received at least some of their clients’ proxies and voted on a majority of those that they received. Only 2 percent of those declined to vote at all. For those who did vote proxies, an overwhelming majority voted nearly all they received—96 percent on average.

Master trustees voted fewer proxies than investment managers, although they were equally likely to receive proxies. Ninety-six percent of master trustees received proxies from publicly traded stocks held by ERISA funds. Sixty-three percent voted at least some of the proxies they received and, among those who voted, 27 percent voted all of the proxies they received. On average, voting master trustees voted 62 percent of all proxies they received. When nonvoting master trustees are included, the percentage dropped to 38 percent. Master trustees were far more likely than investment managers to forward unvoted proxies to their ERISA clients, investment managers, or other plan representatives. Almost 90 percent of the master trustees forwarded most of the proxies that they did not vote, with 78 percent forwarding all of them. In contrast, only about half of the investment managers forwarded proxies that they declined to vote, with less that 40 percent forwarding all of them.

Both investment managers and master trustees received proxies from a variety of sources. Stock custodians were mentioned by 83 percent of investment managers, and the issuing company or its solicitation agent, the next most common source, were mentioned by 59 percent of the investment managers. Master trustees showed the opposite pattern; only 50 percent mentioned stock custodians, while 83 percent received proxies directly from the issuing company or the solicitation agent.

Both the EBRI survey and the 1986 IRRC survey confirm that proxy voting by external managers is the rule rather than the exception. According to the 1986 IRRC survey, only 16 percent of the banks, trust companies, insurance companies, and investment firms interviewed did not vote proxies at all, either because they did not invest in common stocks or because their clients voted instead.

Firm size, as defined by the number of ERISA clients, seems to affect voting behavior differently for invest-

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Virtually all of the master trustees who answered our survey were also engaged in investment management activities. The investment manager survey specified that any investment managers with master trustee business should just respond in terms of their investment management functions.

---

### Table 10

<table>
<thead>
<tr>
<th>Number of ERISA Clients</th>
<th>Percent of Clients</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-19</td>
<td>77.0% (30)</td>
</tr>
<tr>
<td>20-49</td>
<td>68.0 (24)</td>
</tr>
<tr>
<td>50-99</td>
<td>61.0 (22)</td>
</tr>
<tr>
<td>100 or more</td>
<td>87.0 (42)</td>
</tr>
<tr>
<td>No response</td>
<td>50.0 (2)</td>
</tr>
<tr>
<td>Total</td>
<td>75.3% (120)</td>
</tr>
</tbody>
</table>


Note: Figures in parentheses show the number of external managers. Figures vary between tables according to the group included in the table and survey question response rates.
Table 11
Common Features of Voting Requirements in Management Agreements

<table>
<thead>
<tr>
<th>Voting Requirement</th>
<th>Most Common Feature</th>
<th>Second Most Common Feature</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Managers</td>
<td>Trustees</td>
</tr>
<tr>
<td>Give complete discretion</td>
<td>86.5%</td>
<td>90.0%</td>
</tr>
<tr>
<td>Give general policy</td>
<td>9.5</td>
<td>0.0</td>
</tr>
<tr>
<td>Tell exactly how to vote:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>on some proxies</td>
<td>2.7</td>
<td>0.0</td>
</tr>
<tr>
<td>on all proxies</td>
<td>0.0</td>
<td>10.0</td>
</tr>
<tr>
<td>No response</td>
<td>1.4</td>
<td>0.0</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (74)</td>
<td>100.0% (10)</td>
</tr>
</tbody>
</table>

Note: Figures in parentheses show the number of external managers. Figures vary between tables according to the group included in the table and survey question response rates. Percentages may not add to 100 percent due to rounding.

Delegation of Proxy Voting Authority

Plan sponsors are more likely to ask investment managers than master trustees to vote their proxies. Sixty percent of investment managers were required to vote by their management agreement, while only 43 percent of master trustees were required to vote. Both managers and trustees reported that the most common voting requirement was to give external managers complete voting discretion. The second most common requirement was to give external managers general policy guidelines (table 11).

Regardless of whether voting was specifically required in the management agreement, many investment managers voted proxies on their own initiative (table 12). Sixty-five percent of investment managers without voting requirements always voted on their own initiative, while 62 percent of those with voting requirements voted on their own initiative. Master trustees are far less inclined to vote on their own initiative than investment managers, especially when no voting require-

Table 12
Investment Managers and Proxy Voting When Voting Not Required

<table>
<thead>
<tr>
<th>Vote on Own Initiative</th>
<th>Some Required</th>
<th>None Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Always</td>
<td>62.2%</td>
<td>64.6%</td>
</tr>
<tr>
<td>Frequently</td>
<td>6.8</td>
<td>16.7</td>
</tr>
<tr>
<td>Sometimes</td>
<td>1.4</td>
<td>8.3</td>
</tr>
<tr>
<td>Rarely</td>
<td>2.7</td>
<td>2.1</td>
</tr>
<tr>
<td>Never</td>
<td>12.2</td>
<td>8.3</td>
</tr>
<tr>
<td>Don't know</td>
<td>2.7</td>
<td>0.0</td>
</tr>
<tr>
<td>No response</td>
<td>12.2</td>
<td>0.0</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (74)</td>
<td>100.0% (48)</td>
</tr>
</tbody>
</table>

Note: Figures in parentheses show the number of external managers. Figures vary between tables according to the group included in the table and survey question response rates. Percentages may not add to 100 percent due to rounding.
ments exist in their management agreement. Only 2 master trustees out of 10 with voting requirements always voted on their own initiative, and only 1 out of 14 without voting requirements always voted.

Twenty-eight percent of investment managers reported losing their voting powers for at least one vote, as did a third of the master trustees. Although these percentages are higher than the percentages of sponsors who reported revoking such powers, this difference is probably a result of the fact that one sponsor usually has a number of external managers.

Investment managers and master trustees report having had their voting powers withdrawn for different reasons. The most common reason cited by investment managers was that the client had special reasons to vote in a certain situation. However, the most common reason cited by master trustees was that the client decided to vote all proxies internally or through investment managers. Only two investment managers reported that they lost their voting powers because the client disagreed with their past voting practices.

Procedures and Policies of Investment Managers and Master Trustees

The process by which proxy votes are decided is different for investment managers and master trustees. Investment management firms tend to have a particular individual deciding how to vote, while master trustees tend to have a group or committee. Sixty percent of the investment managers reported that an individual most often decided the vote, with 29 percent citing the chief investment officer, 21 percent citing the portfolio manager, and 8 percent citing a firm analyst. However, 67 percent of the master trustees had groups or committees make the voting decision, with 40 percent reporting that a proxy committee made the decision and 27 percent reporting an investment committee.

When asked about the general voting requirements included in their written policies, half of the master trustees and three quarters of the investment managers with written policies reported having a requirement that all proxies be voted. Less than 20 percent of both groups reported having guidelines on how to vote stock issued by the plan sponsor (the client). These numbers are comparable to the percentages reported by sponsors with written policies for external managers. However, investment managers and master trustees seemed far more concerned than plan sponsors about voting consistently. Approximately half of both the investment managers and the master trustees had guidelines for voting the same way when proxy issues are the same, regardless of the specific company. In contrast, only 18 percent of the plan sponsors reported having such a guideline for their external managers.

Regardless of whether managers' written policies address the issue of voting shares for one client differently than shares of another, most external managers try
to vote the same proxy the same way for all clients, even when the firm has a large number of clients. No matter how many clients the firm has, more than 80 percent of investment managers (and master trustees) said they always try to vote the same proxy the same way for all clients (table 13). In fact, all of the master trustees with 50 or more clients reported they always vote a given proxy consistently.

When questioned whether their written policies mentioned specific takeover issues, more than 60 percent of investment managers indicated that their written policies included guidelines on voting rights issues, and 60 percent on recapitalization and fair price proposals (table 6). According to the IRRC survey, among banks, trust companies, and investment firms voting proxies, 72 percent said they have established voting policies on takeover-related proposals, although not every firm has a policy on every issue. These percentages are generally consistent with those of the EBRI survey.

The 1986 IRRC study also reports on specific policies for specific proxy voting issues. They found that their investment managers are almost evenly divided on fair price proposals that have a two-thirds voting requirement. Nine supported such proposals and 11 oppose. A majority of investment managers (out of 21) said they voted for classified board proposals when they contained no other antitakeover provisions. Five said they supported classified board proposals that contained other antitakeover provisions. About two-thirds of investment managers opposed blank-check preferred stock proposals. Seventeen of 21 investment managers opposed unequal voting rights plans but two firms and two banks supported them. Eighteen of 23 investment managers had a policy of voting in favor of antigreen-mail proposals, but only six supported such proposals when other antitakeover measures are included. Investment managers tended to support reincorporation measures but only if no other antitakeover measures were included. Once again, like plan sponsors, different investment managers evaluated particular issues with antitakeover implications differently even when they had policies on such issues. Consequently, proxies voted externally for plan sponsors are as likely to differ from one another as proxies voted internally.

According to the EBRI survey, a minority of investment managers had written voting policies provided by any clients. Yet, about one half of all investment managers with client-provided voting policies had one or more clients provide specific guidance on voting rights issues, recapitalization, and fair price proposals. These percentages contrast sharply with plan sponsor responses, which indicated that fewer than 20 percent of sponsors with written policies for external voting addressed specific takeover issues. This discrepancy may be explained by structure of the questionnaires. The
sponsors questionnaire asked if the sponsor had a policy on any specific issue. The investment manager questionnaire asked if any clients had a policy on such issues. All the investment managers had many clients.

Direct or Indirect Voting Pressure

Investment managers and master trustees reported more direct and indirect pressure to influence their votes of ERISA-fund shares than the financial pressure reported by pension plan sponsors. Approximately 65 percent of investment managers (and master trustees) reported having experienced either direct or indirect pressure regarding proxy voting at least once. Of those, 28 percent cited either occasional or frequent incidences while 37 percent had rarely experienced pressure (table 14). Thirty-four percent said they never faced direct or indirect pressure on proxy voting. By comparison, 24 percent of plan sponsors reported experiencing financial pressure at least once and 75 percent did not. But the type of pressure investment managers reported may encompass broader lobbying efforts, which would not be classified as financial pressure.

Investment managers who reported experiencing direct or indirect pressure were almost six times as likely to have a formal policy for addressing such issues as those who did not report being pressured. In addition, the more often investment managers experienced such pressure, the more likely they were to have a formal policy. Of those who reported experiencing pressure frequently, 75 percent had a formal policy at the time of the survey, compared to 59 percent of those who experienced it rarely (table 15).

Master trustees appear to be less likely to have formal policies to deal with direct or indirect voting pressure than investment managers. Although the sample size is very small (15), like plan sponsors and investment managers, master trustees who reported being pressured more frequently seem to be much more likely to have a formal policy in existence. This is true of plan sponsors as well.
External Managers and Client Feedback

Investment managers rarely discuss voting policy with clients. However, those investment managers who are required to vote discuss their voting policy more frequently than those who do not have any voting requirements. Of those managers required to vote, 34 percent frequently or sometimes discussed voting in general with their clients, compared to 19 percent of those not required to vote. Master trustees exhibit a similar pattern.

Whether or not they were required to vote, most investment managers and master trustees rarely or never informed their clients about specific voting decisions. More than 85 percent of the investment managers and master trustees rarely or never informed clients of a voting decision before or after they voted (table 16). These findings are consistent with those reported by plan sponsors who indicated that they communicated infrequently with their investment managers and master trustees on proxy voting.

Conclusions

Several key issues have been raised about the proxy voting process. In particular the Department of Labor and Congress have been interested in determining whether proxy voting activities are conducted within the constraints set by ERISA's fiduciary requirements. Others question the complexity of the proxy voting procedure and hence the effectiveness of voting.

Whether or not they were required to vote, most investment managers and master trustees rarely or never informed their clients about specific voting decisions.

Although the EBRI proxy survey was not designed to address all voting issues that have been raised, it provides new information about proxy voting in private pension plans. We know that most pension funds vote at least some of their proxies. In other words, the majority of plan sponsors do not vote solely with their feet. But, the likelihood of voting differs according to who manages the fund. Large plans are most likely to be managed internally, in whole or in part, and the sponsors of internally managed plans usually vote their proxies.

Many more plan sponsors have their funds managed and proxies voted externally, and many of those sponsors do not know whether their proxies are voted at all. Not surprisingly, relatively few sponsors with externally managed funds have written policies. Consequently, the voting of externally managed shares is primarily determined by external investment managers and master trustees, although some externally managed funds are voted internally. Most investment managers vote all the proxies they receive, and most have written policies. However, most master trustees do not vote their proxies but are instructed to forward them to their ERISA clients, investment managers, or other representatives. We cannot tell the extent to which these proxies are voted.

The sponsors of plans that are managed internally, voted internally, and have written voting policies seem to have seriously studied the process of proxy voting.

<table>
<thead>
<tr>
<th>Table 16</th>
<th>Investment Managers Informing ERISA Clients about Voting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inform</td>
<td>Before Voting</td>
</tr>
<tr>
<td>ERISA Clients</td>
<td>0.0%</td>
</tr>
<tr>
<td>Always</td>
<td>2.5</td>
</tr>
<tr>
<td>Frequently</td>
<td>10.0</td>
</tr>
<tr>
<td>Rarely</td>
<td>44.2</td>
</tr>
<tr>
<td>Never</td>
<td>42.5</td>
</tr>
<tr>
<td>Don't know</td>
<td>0.8</td>
</tr>
<tr>
<td>Total</td>
<td>100.0% (120)</td>
</tr>
</tbody>
</table>


Note: Figures in parentheses show the number of investment managers. Figures vary between tables according to the group included in the table and survey question response rates. Percentages may not add to 100 percent due to rounding.
While plan sponsors with externally managed funds may not know about how their proxies are voted, their investment managers generally vote those proxies and have written policies.

Yet even if proxies are voted, many policymakers would like to know whether they are voted wisely and whether these votes are susceptible to financial pressure. Responses of plan sponsors suggest that only a minority have felt financial pressure. But, because the experience of financial pressure may be a sensitive topic for some plan sponsors, its occurrence may not be recorded as accurately as other survey information. Some sponsors may be anxious to reveal any unwanted pressure, while others may try to hide its occurrence. Nevertheless, those who admit to being pressured also tend to have written policies to deal with that contingency.

Investment managers report direct or indirect pressure more frequently than plan sponsors report financial pressure. And investment managers appear to vote the bulk of all pension proxies. While investment managers have written policies to deal with pressure, the survey gives no indication about the efficacy of such policies or about the susceptibility of plan sponsors and investment managers to pressure to influence their votes. Voting by investment managers tends to be by individuals rather than by a committee. Master trustees prefer the group approach. Are individuals more susceptible to pressure than a group?

Another public policy concern is the role of pension funds in antitakeover proposals. Some feel that pension funds can lower equity prices and adversely affect the economy if they vote with management when management’s interests are not those of the stockholder. This situation is considered particularly likely when management puts forth proposals that would limit unfriendly takeovers by increasing the purchase price of the firm beyond its market value. A substantial minority of sponsors’ written internal voting policies explicitly mention antitakeover provisions. But few sponsors have written policies for their external managers, and even fewer explicitly mention antitakeover issues.

Many investment managers have written voting policies, however, which may effectively take the place of sponsor guidelines. The majority of these policies (75 percent) mention some antitakeover-related issue such as voting rights issues, recapitalization, and fair price proposals. But 25 percent do not.

The IRRC survey for 1986 indicates that even when plan sponsors and investment managers have voting policies for specific antitakeover issues, these policies may not be the same. Appropriate voting on such measures will continue to be debated, with some suggesting that a vote for management is sometimes in the interest of plan participants as well. If clear antitakeover abuses were determined, however, there would be congressional pressure for across-the-board securities’ legislation.

Nevertheless, antitakeover activities are a serious concern to those institutional investors who specifically include written guidance on voting proxies for specific issues. Furthermore, a sizable minority of plan sponsors also mention that they have been pressured to vote. These flags suggest that continued public policy interest in these issues is not unwarranted.

The sponsors of plans that are managed internally, voted internally, and have written voting policies seem to have seriously studied the process of proxy voting. While plan sponsors with externally managed funds may not know about how their proxies are voted, their investment managers generally vote those proxies and have written policies.

In summary, several questions are being posed from a public policy perspective. Should sponsors be required to vote all their shares either directly or indirectly? Or are some sponsors small enough to vote with their feet? Does direct or indirect pressure affect the votes of internally or externally voted ERISA shares? And, if so, is new legislation needed to curb abuses? Finally, is legislation needed on antitakeover proposals, or will the market work effectively without legislation? While the EBRI proxy survey provides no answers, it helps frame these questions.
Antigreenmail stock buy-backs: Charter amendments that prohibit certain stock buy-backs at above market prices without shareholder approval to discourage the payment of greenmail.

Blank check preferred stock: Issuance of preferred stock for which management has a tremendous amount of flexibility to set voting, conversion, and other rights. Such stock may be given to individuals supportive of management or may have stringent regulations for the acceptance of tender offers.

Cumulative voting: A voting method that improves minority shareholders' chances of naming a representative to the board of directors. Under such a system, a stockholder is able to accumulate his votes and cast them for less than the total number of directors being elected. Assuming one vote per share, 100 shares owned, and six directors to be elected, under the regular method the shareholder can cast up to 100 votes for each candidate for a total of 600 votes. Under cumulative voting, a shareholder can cast up to 600 votes for any one candidate.

Fair price proposal: Refinement of a supermajority provision, which permits the amendment to be waived if the offerer agrees to pay all shareholders the same price, usually designated as the highest price the offerer paid for any shares it acquired before the tender offer. It is designed to discourage two-tier tender offers.

Golden parachute: A contract that provides top executives with lucrative benefits should the company be taken over by another firm resulting in the loss of the job.

Greenmail: Payment by the management of a target company from a hostile bidder at an above-market premium to repurchase shares. In exchange, the bidder agrees not to attempt to gain control of the company for some specified period of time.

Poison pill: A measure taken by a corporation that gives shareholders the right to buy additional securities at very attractive prices in the event their company is the target of a hostile takeover bid — raising the cost of the acquisition — and that gives management the ability to redeem these shares at a token price if it wants a friendly acquisition to take place.

Reincorporation: Corporations change the state in which they are incorporated to gain the advantage of more protective state incorporation laws available elsewhere.

Shark repellent: Measure taken by a corporation to discourage an unwanted takeover attempt.

Staggered election of the board: Also known as board classification. This provision requires that only one-third of the board of directors can be elected each year.

Supermajority provision: Amendment to the corporate charter to require a very high percentage of shares to approve a merger, often 80 percent or more.

Tender offer: Offer to buy back shares of a corporation, usually at a premium above the share's market price, for cash, securities, or both, often with the objective of taking over a target company.

Two-tier tender offer: A tender offer that allows those shareholders who are willing to sell their shares quickly to receive a higher premium than the remaining shareholders later receive.

Unequal voting rights: Also known as dual class capitalization plans. These provisions create more than one class of common stock with unequal voting rights. One class usually has superior voting rights and restrictions on how it may be transferred, thus allowing a small group of shareholders to maintain control of the corporation indefinitely.
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