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THE LONG AND SHORT OF IT

Activist short-sellers have profited as ESG darlings fall to earth

IS YOUR COMPANY VULNERABLE?

Boards must remain vigilant should they wish to avoid shareholder activism

GOVERNANCE

ENGAGEMENT

STEWARDSHIP

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THE ESG JUGGERNAUT

AN INTERVIEW WITH JOSH ZINNER, CEO OF THE INTERFAITH CENTER FOR CORPORATE RESPONSIBILITY (ICCR).

FOUNDED IN 1971, ICCR IS A COALITION OF MORE THAN 300 GLOBAL INSTITUTIONAL INVESTORS REPRESENTING $4 TRILLION IN ASSETS. ITS MEMBERS REGULARLY FILE PROPOSALS PUSHING FOR ENHANCED ESG DISCLOSURE AND TRANSPARENCY AMONG U.S. PUBLIC COMPANIES.

ESG SHAREHOLDER PROPOSAL MAJORITY WINS ALMOST DOUBLED THIS SEASON, ACCORDING TO ICCR'S PROXY SEASON RECAP. WHY WAS 2022 SUCH A SUCCESSFUL YEAR FOR CORPORATE GOVERNANCE?

Josh Zinner (JZ): Of the 37 ICCR-sponsored resolutions that won majority support in 2022, proposals citing diversity, equity, and inclusion (DEI) metrics and, specifically, racial equity audits accounted for the largest percentage, followed by proposals focused on the climate crisis. These are perennial issues that our members have been raising with companies for literally decades. However, there is a growing understanding among investors that companies need to be addressing their impact on systemic risks such as climate change and inequality, as these systemic risks threaten financial markets and investors' portfolios, not to mention the health of the planet and its people.

We are concerned that support from the three biggest asset managers for our members' proposals slipped this year from last, but overall broader investor support for the types of ESG proposals that ICCR members bring has grown significantly over the last few years.

SHAREHOLDER PROPOSALS FACED CRITICISM THIS YEAR FOR BEING OVERLY PRESCRIPTIVE AND POORLY TARGETED. WHAT ARE YOUR THOUGHTS ON THIS?

JZ: If the proposals aren't prescriptive enough, companies and opponents will say that they are overly broad and if the proposals provide the guidance needed for clarity on an issue, opponents will say they are too prescriptive. Sometimes these excuses can be a dodge to avoid substantive discussion of the salient issues.

ARE COMPANIES MORE OPEN TO ENGAGING WITH SHAREHOLDERS NOW THAN THEY HAVE BEEN IN PREVIOUS YEARS?

JZ: We are pleased that our members are able to secure a greater number of withdrawals of proposals in exchange for commitments from companies. In many ways, this is the ideal outcome for a proposal. A big reason companies are more willing to come to the table and move forward with commitments is the growing investor support for ESG proposals. Companies understand that it can be counterproductive to fight proposals or to oppose them and then face a significant vote in favor, as opposed to coming to the table earlier and reaching a sensible agreement.

ESG risks are increasingly being recognized for the systemic threats they represent – not only by investors but also by companies. I believe the current surge in red state legislation and other efforts seeking to curb and discredit ESG investing is a response to this growing recognition. Companies are coming to the table on the ESG issues investors are raising because they know it is in their best interest to do so and this is incredibly threatening to the special interests behind the anti-ESG rhetoric.

ICCR MEMBERS FILED 504 PROPOSALS IN 2022, 42% OF WHICH WERE SUBJECT TO A VOTE WHILE 34% WERE WITHDRAWN FOR AGREEMENT. ICCR MEMBER PROPOSALS YIELDED 37 MAJORITY WINS THIS SEASON, ALMOST DOUBLE THE 20 WON THE PREVIOUS SEASON, ACCORDING TO ITS PROXY SEASON RECAP.

IN JULY, ICCR APPEALED TO THE U.S. CHAMBER OF COMMERCE TO ADVOCATE FOR PUBLIC POLICIES THAT WOULD WORK TO BRING EMISSIONS IN LINE WITH PARIS AGREEMENT GOALS. WHAT DROVE YOU TO TAKE THIS STEP?

JZ: The Chamber has been incredibly unproductive in its lobbying around the climate crisis. For over two decades, public reporting and internal documents made public show that the Chamber has played a central role in both state and national lobbying campaigns to thwart legislative efforts to address greenhouse gas (GHG) emissions. The Chamber has also sought to downplay the massive impact of fossil fuel use on the changing climate.

The Chamber has, more recently, publicly acknowledged the risk to business and the economy that climate change represents. In addition, many of the companies represented by the U.S. Chamber's board have made commendable climate commitments, yet those commitments are being undercut by the U.S. Chamber's anti-climate lobbying activities. To reconcile this conflict, investors are also calling for the Chamber to disclose how its positions on climate policy are determined and to what extent its board and members are consulted on its policy views before the Chamber takes a public position. The Chamber has an enormous megaphone with the business community and it is imperative that they use it to advocate for climate forward policies.

IF YOU COULD INTRODUCE ONE CORPORATE GOVERNANCE REFORM, EITHER IN THE U.S. OR INTERNATIONALLY, WHAT WOULD IT BE?

JZ: That's a hard one because all our work is all about improving corporate governance. But to pick one critical issue, ICCR members view corporate influence over the U.S. legislative and regulatory processes via lobbying and political spending as especially problematic. This issue has long been a critical one for our members' investor engagements and, in 2022, there were nearly 60 shareholder proposals filed by our members either requesting greater transparency around these activities or pressing companies to align their political engagement with the company's stated core values.

You would be surprised how often we see misalignment, which, beyond raising reputational risks for companies, can have deleterious and systemic impacts on society, the environment, and the global economy. For example, in 2020, we launched a campaign to press companies to ensure that their lobbying is in alignment with the goals of the Paris Agreement. Of course, this applies not only to a company's direct lobbying but to the trade associations and policy-focused organizations that they support.

An example of the quandaries posed by corporate political spending emerged after the attack on the U.S. Capitol when several companies were discovered to be funding legislators involved in the attempt to overturn the results of the Presidential election. No company wants to be associated with threats to our democracy. We encourage companies to put safeguards in place to ensure that their political engagement is aligned with their core values, including urging them to adopt the CPA-Zicklin Model Code of Conduct for Political Spending which provides a framework for aligning election spending with corporate values.

WHAT KEY ISSUES WILL ICCR MEMBERS BE FOCUSING ON IN THE COMING PROXY SEASON?

JZ: Without a doubt, our work to move companies to align their business with the 1.5°C Paris Agreement goals in order to stem the ever-increasing threats presented by the climate crisis will remain a priority. But our members are very focused on ensuring these goals are met within a "Just Transition" framework that links their support for necessary climate action with commitments to labor standards, human rights, and inclusive growth — with a focus on the workers and communities who contribute to and are affected by the transition.

The treatment of workers, both here in the U.S. and throughout global supply chains, has always been central to ICCR member engagements but events like the global pandemic, rising inflation, and racial, gender, and income inequality have thrown workers' rights into high relief. Our Advancing Worker Rights program aims to engage strategic sectors in the U.S. on the urgent need to elevate workers as key stakeholders and secure their rights to a living wage, the right to organize, paid sick leave, and worker health and safety, among others. And our program on Equitable Supply Chains will have a more global focus with engagements centering on high-risk sectors like apparel and footwear which source in low-income countries with a weak rule of law and where forced labor is rife and workplace health and safety standards are lacking.

Our members' work to promote access to affordable medicines and broader health equity will remain an ongoing priority, as will our work, highlighted above, to press companies on responsible political engagement. Lastly, ICCR members will continue to press companies to commission racial equity audits to better understand their impacts on civil rights, DEI, and the impacts of those issues on their businesses.

THANK YOU, JOSH.