

Can Shareholder Proposals Hurt Shareholders? Evidence from SEC No-Action Letter Decisions*

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Abstract

This paper studies the market reaction to SEC no-action letter decisions that determine whether a shareholder proposal can be excluded from the proxy statement. We find that over the period 2007-2016, the market reacted positively when the SEC permitted exclusion. Investors appear to have been most skeptical about proposals related to corporate governance and proposals at high-profit firms, suggesting that investors believe some proposals can hurt shareholders by disrupting companies that are already performing well.

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1. Introduction

The fundamental goal of corporate governance is to prevent managers from misusing corporate resources, ensuring that financiers earn a return on their investment (Shleifer and Vishny, 1997). One solution championed by scholars and reformers is to allow shareholders to propose and vote on corporate policies through the shareholder proposal process. Shareholder proposals are increasingly important in practice: more than 17,000 proposals have been submitted at large corporations since 1997, votes have recently been held to break up large commercial banks and drive down executive pay,¹ and proposals have pressured many companies to eliminate staggered boards, replace supermajority with majority voting standards, enhance proxy access, and disclose their political contributions, among other issues.² Recent regulatory changes have expanded voting rights and made it easier for shareholders to bring proposals to a vote.

Despite the momentum toward expanded shareholder rights, convincing evidence of their benefits has proven elusive. Some advocates suggest that shareholder proposals must be beneficial almost by definition since shareholders would never vote to hurt themselves; but skeptics have countered that shareholders might make wrong decisions when voting, managers might be “distracted or disrupted” by having to respond to proposals, and managers might feel the need to make harmful side deals with proposal sponsors.³ Our paper contributes to this debate by

¹ In 2015, shareholders voted on proposals sponsored by labor-affiliated groups to break up Bank of America, Citigroup, JPMorgan Chase, and Wells Fargo. An example on executive pay: “Janus cuts CEO pay 40 percent after shareholder vote,” *Reuters* (Kerber, 2012).

² Examples: In 2005, only nine of the S&P 100 companies used majority voting for director elections; by January 2014, almost 90 percent of the S&P 500 had adopted majority voting (Choi et al., 2016). The number of S&P 500 companies with staggered boards declined from 300 in the year 2000 to 60 in 2013 (Harvard Shareholder Rights Project: <http://srp.law.harvard.edu/index.shtml>).

³ Examples: Bebchuk (2005, p. 894): “Given that it is their money that is on the line, shareholders naturally would have incentives to make the decision that would best serve their interests.” Larcker and Tayan (2011) and Larcker et al. (2015) argue that shareholders might make wrong decisions because proxy advisory firms are so ill-informed that they advise shareholders to support proposals that are not in their interest. The chief justice of the Delaware Supreme Court noted (Strine, 2014, pp. 455-456) that “institutional investors have emerged who seem to be motivated by a desire for engagement for reasons unrelated to investment value” and “additional rights will compromise the ability of corporations to pursue the most profitable courses of action ... because managers will be distracted and disrupted by constant mini-referendums and continual election seasons initiated by activist investors.” In its 2011 *Business Roundtable* decision vacating a new SEC proxy access rule, the D.C. Circuit Court of Appeals expressed concern that “union and state pension funds

introducing a new method to evaluate shareholder proposals, and applying the method to the largest sample of proposals studied to date.

If a company wishes to exclude a proposal from the proxy statement, it can submit a letter to the Securities and Exchange Commission (SEC) asking the staff to confirm that the agency will not take action against the company if it omits the proposal, called a “no-action letter.” The company’s request alleges that the proposal violates one or more conditions of SEC rule 14a-8 such as: the proponent fails to demonstrate minimum stock ownership, or the proposal relates to redress of a personal grievance, is “vague or indefinite,” or deals with “ordinary business operations.” The SEC’s decision is not completely predictable, and thus constitutes new information for the market about whether the proposal will go to a vote or be shut down. Our research strategy is to calculate event returns associated with the arrival of new information from SEC decisions: a positive stock price reaction following a decision to exclude a proposal is evidence that the proposal was perceived to be harmful to shareholders; a negative stock price reaction indicates that the proposal was seen as beneficial.

We study hand-collected data on all 2,827 proposals for which a no-action letter was requested from October 2007 through the end of 2016. Our main finding is that the market responded positively to the issuance of a no-action letter, meaning that the market viewed this set of proposals as being harmful on average to shareholders: the mean cumulative abnormal return ranges from 0.20 percent to 0.55 percent depending on the event window, and is statistically distinguishable from zero.⁴ As a back-of-the-envelope calculation, if we assume that the probability of being granted a no-action letter is the sample average of 0.72, then the implied expected value from allowing these proposals to proceed to a vote ranges from -0.71 percent to -1.96 percent of firm value.⁵ There are at least three explanations for why the market viewed these proposals as harmful, which we consider in turn:

might use [proxy access] as leverage to gain concessions, such as additional benefits for unionized employees, unrelated to shareholder value.” Matsusaka and Ozbas (2017) show theoretically how managers have an incentive to make value-reducing “side payments” to special interest activists in exchange for having a proposal withdrawn, even if the proposal is unlikely to have been approved.

⁴ We do not find a robust nonzero event return associated with denial of a no-action letter, perhaps due to the smaller number of such observations in the sample.

⁵ In these calculations, for the sake of brevity, we ignore the possibility of withdrawal. We provide a more extensive estimate of the implied value of proposal below.

1. *The proposals would have distracted or disrupted managers.* To examine this, we use information from the SEC's response on the reason for granting a no-action letter. Proposals that are omitted because they have already been substantially implemented, duplicate another proposal already on the proxy, or would cause the company to violate state or federal law, are mainly nuisances because they are redundant or not implementable. We do not detect a difference in the market's reaction to exclusion of "nuisance" versus other proposals, suggesting that distraction and disruption are not the main drivers.
2. *The proposals were intended to provide private benefits to the sponsors.* Recent court opinions and some scholarly evidence suggest that certain types of shareholders are more likely to bring proposals in order to advance their narrow interests rather than overall firm value. Labor unions and public pensions have been singled out (Romano, 1993, 2001; Schwab and Thomas, 1998; Matsusaka et al., 2017). We find some evidence that the market's reaction was more positive for exclusion of proposals sponsored by unions and public pensions than proposals from other organizations or individuals, but the differences are not statistically significant.
3. *The substance of the proposals would have reduced firm value.* Although the SEC does not explicitly condition its decisions on the value consequences of a proposal, it is possible that the rules themselves have the effect of screening out bad proposals. To examine this, we compare the return across three broad types of proposal: compensation, corporate governance, and social issues. Several studies argue that corporate governance proposals can increase value by mitigating managerial agency problems, and reformers generally support such proposals; while many observers are skeptical about the value of social issue proposals. The evidence is somewhat noisy, but we find – surprisingly – that the market most dislikes corporate governance proposals: the mean return is significantly positive when corporate governance proposals are omitted but not statistically different from zero when compensation and social issue proposals are omitted.

A subtle issue in interpreting the positive event returns when the SEC permits a proposal to be omitted relates to the market's expectation of what would have happened if the SEC had declined to issue a no-action letter: how did investors expect value to be reduced if the proposal had been allowed to go forward? The market may have expected that shareholders would mistakenly approve a harmful proposal, but another possibility is that the market feared that managers would make a costly accommodation to the sponsor in exchange for having the proposal

withdrawn before the vote. This is the danger emphasized by game theoretical modeling of the proposal process (Matsusaka and Ozbas, 2017) and more intuitive discussions of the process.⁶ The importance of pre-vote negotiations is illustrated by the fact that about 30 percent of all proposals are withdrawn by the sponsor before a vote, and 14 percent of proposals under review are withdrawn before an SEC decision.

To make further inferences, we develop a theoretical model of the no-action letter process with three possible outcomes: no-action letter issued, no-action letter declined, and proposal withdrawn. The model illustrates that while the sign of the return associated with an SEC decision permitting exclusion can be used to infer the market's assessment of whether shareholders would be hurt by allowing the proposal to go forward (to either a vote or a negotiated outcome), the sign of the return does not necessarily indicate the market's assessment of the value of voting on the proposal itself. Using the model, we prove a result that allows us to infer the mean implied value of voting on proposals from a regression model using *all* SEC decisions. Based on this method, we estimate a mean implied value associated with voting on a proposal ranging from -0.10 to -0.30 percent for the entire sample, although none of these estimates is statistically significant. We then investigate for which firms proposals were most likely to be helpful or harmful, and find that proposals targeted at high-profit firms were expected to reduce firm value by 0.88 percent to 1.87 percent, depending on the event window, and controlling for topic and proponent type. Investors may dislike proposals targeted at high-profit firms because they threaten to disrupt operations that are performing well. This squares with existing evidence that low-performing firms are most likely to be targeted by shareholder proposals (Denes et al., 2017).

A virtue of studying no-action letter decisions by the SEC is that the resulting inferences are based on clean event dates at which new information reaches the market and the information narrowly pertains to the outcome of a legal challenge involving a specific shareholder proposal. The tradeoff is that the sample is a non-representative subset of all shareholder proposals, namely the 31 percent that were reviewed by the SEC. To help put the tradeoff in perspective, we provide a

⁶ For example, in an article advocating increased scope of shareholder proposals, Bebchuk (2005, p. 878) argues that the benefits of proposals primarily result from proactive behavior by managers, without proposals actually going to a vote: “[I]t should be emphasized that the benefits of shareholder intervention power should not be measured solely, or even primarily, by the rate of actual shareholder intervention. Indeed, a large fraction of the benefits would be indirect. Introducing the power to intervene would induce management to act differently in order to avoid shareholder intervention.” The same argument implies that the costs of proposals will largely be indirect as well, arising from managerial actions to preempt proposals.

summary of the literature measuring returns to shareholder proposals. We show that all existing studies examine restricted and non-representative subsamples.

At a broad level, our evidence also provides perspective on the role of managers in the proposal process. Shareholder proposals, almost by their nature, presuppose a failure by management: if the company's managers had already adopted an idea, there would be no need for a proposal to advance it. Thus, a core premise underlying the proposal process is that managers suffer conflicts of interest or a failure to recognize valuable opportunities. This view has a long pedigree, going back at least to Berle and Means (1932). Yet it has been contested for just as long; corporate law is based on a presumption that managers are acting in the interest of shareholders (business judgment rule); and a body of economic research argues that competition in product, capital, and labor markets will put pressure on management to advance shareholder interests (Manne, 1965; Fama, 1980). We contribute to this long-running debate related to the motives of managers in fighting shareholder proposals. Many of our findings are compatible with the view that managerial resistance can be based on a genuine concern that shareholder proposals harm firm value, particularly when it comes to high-performing firms, and is not merely a convenient rationalization in order to preserve managerial private benefits.

2. No-Action Letters and the Proposal Process

Shareholder voting rights are rooted in state corporation law and corporate charter documents, but the proposal process itself is governed by SEC Rule 14a-8. The SEC began regulating the process in 1935 based on Section 14 of the Securities Exchange Act of 1934 that charged the agency to develop proxy regulations "in the public interest and for the protection of investors." Over time, the SEC gradually developed a body of regulations that came to be collected in Rule 14a-8.⁷ This rule has been amended many times over the years, most recently in 2011.⁸ Under state law, shareholders have a right to make proposals in person at a company's annual meetings. Because most shareholders do not attend the annual meeting, they cast their votes by proxy. The company is required to distribute a proxy statement prior to the annual meeting to all shareholders that in

⁷ For histories of the development of the shareholder proposal rules, see Liebeler (1984) and Fisch (1993). For developments over the last two decades, see Bainbridge (2012).

⁸ In September 2011, 14a-8(i) was amended so that a company could no longer exclude proposals that would facilitate director nominations by shareholders (proxy access).

effect allows them to vote in absentia. The federal proxy access rules govern the conditions under which shareholders can require their proposals to be listed in the company's proxy statement.

The proposal process begins with a shareholder "proponent" drafting a proposal and sending it to the company. The proposal offers a resolution to be voted on, as well as an argument in its favor. The resolution can take the form of a specific change in the company's bylaws or it can be a request for the company to consider taking some action. The proposal must arrive at the company no later than 120 days before the proxy statement is to be mailed. The company then has the option to include the proposal in the proxy statement or the company can attempt to omit the proposal from the proxy statement by appealing to the SEC. If the company wishes to omit the proposal, it must submit a letter to the SEC no later than 80 days before the proxy statement is mailed; the letter notes that the company intends to omit the proposal, indicates the grounds for doing so, and requests a response that the SEC staff will not recommend the Commission take an enforcement action against the company if it omits the proposal, called an SEC "no-action letter." If the company requests a no-action letter, the proponent is given an opportunity to respond, which may be followed by a series of responses from both parties. In most cases, if a no-action letter is issued, then the proposal is omitted from the proxy, while if the SEC declines to issue a no-action letter, the proposal appears in the proxy. Both the company and the proponent have the option of taking their case to a federal court if they disagree with the SEC's decision, which happens occasionally. Sometimes the proponent agrees to withdraw the proposal before or after an SEC decision, based on negotiations with the company. The proxy statement containing the proposal (if included) must be mailed to shareholders within a window before the annual meeting that is stipulated by state law (e.g., not more than 60 or fewer than 10 days in California and Delaware).

There are many possible grounds for excluding a proposal under Rule 14a-8. Table 1 provides a summary of the procedural requirements for submitting a proposal (14a-8(b) to 14a-8(e) and 14a-8(h)) and substantive bases for exclusion (14a-8(i)). Procedural requirements include that a proponent must own stock worth at least \$2,000 or 1 percent of firm value for at least one year before the meeting; may submit no more than one proposal per meeting; and the proposal and supporting statement may not exceed 500 words. The substantive bases for exclusion are wide ranging. At the most basic level, the proposal must be a proper subject for action under state law. A proposal can be excluded, among other reasons, if it would cause the company to violate a law, is false or misleading, relates to redress of a personal grievance, deals with ordinary business operations, conflicts with a management proposal, duplicates another proposal in the proxy statement, or relates to a specific amount of dividends. The SEC does not judge the merits of a

proposal when making a no-action letter decision. The Commission's information for companies and shareholders states: "Do we [SEC] judge the merits of proposals? No. We have no interest in the merits of a particular proposal. Our concern is that shareholders receive full and accurate information about all proposals that are, or should be, submitted to them under rule 14a-8."⁹ This means that there is no reason investors should make inferences about the merits of proposal from the SEC's decision (except, insofar as a proposal's value consequence is related to the conditions enumerated in 14a-8).

Table 1 reports the number of times that a given reason was the basis for a no-action letter in our sample.¹⁰ The most common grounds for granting a no-action letter were, in order, that the proposal dealt with ordinary business operations, the proponent failed to demonstrate minimum ownership, and the company had already substantially implemented the proposal. Other common grounds for exclusion were that the proposal contained language that was false or misleading, the proposal conflicted with a company proposal to be offered at the same meeting, and the proposal was not submitted more than 120 days before the proxy statement is to be mailed.

The ability to exclude proposals that are improper under state law is particularly important. Most state laws give the board the authority to run the company, so a proposal that mandates a particular action is often improper under state law (notable exceptions are bylaw amendments concerning decision and governance procedures). Therefore, most proposals are advisory or "precatory" in nature; they "request" or "urge" (or use similar language, asking) the company to take an action. In our sample, less than 2 percent of proposals are binding, meaning that proposals are overwhelmingly precatory in nature.

3. Research Strategy and Related Literature

Our research strategy is to estimate the stock price reaction in the days surrounding the issuance of an SEC no-action letter decision. Because the SEC makes a decision only if a company requests a decision, our sample is not representative of all proposals. This raises the natural question of how to situate our findings in the context of the existing literature. Table 2 summarizes

⁹ See Question 7 in Division of Corporation Finance, Securities and Exchange Commission, Staff Legal Bulletin No. 14 (CF), dated July 13, 2001.

¹⁰ Companies often claim several grounds for exclusion in their letter to the SEC. If the SEC finds one reason to allow exclusion, it does not offer an opinion on the validity of the other grounds. So this count does not include all grounds for exclusion but rather those grounds that were flagged by the SEC staff.

the existing literature that estimates the value consequences of shareholder proposals. According to Denes et al. (2017), this is the complete list of such papers.

One fact that is not always recognized about the literature is that *every* paper has a sample that is restricted in some potentially important way. Of the 12 published papers, seven consider only proposals related to corporate governance and one considers only proposals related to compensation. Six of the papers consider only proposals from certain types of sponsors (four study only proposals from public pension funds, one studies only labor unions, and one studies only proposals from the United Shareholders Association). Eight studies consider only proposals that went to a vote; this might not seem like a material omission, but it excludes 20 percent of proposals that were omitted following a no-action letter, and 30 percent that were withdrawn after negotiations. An important policy concern is that proposals may be used as bargaining chips that are withdrawn in exchange for “side payments”; studies that focus only on proposals that go to a vote by construction cannot speak to the potential benefits and costs of these withdrawn proposals, which are common.¹¹ Our sample is limited in that all proposals were challenged by managers, but it is not restricted to any particular topic, type of sponsor, or to proposals that went to a vote. As a fraction of all proposals that were made during the sample period, our coverage rate is 31 percent, lower than the 49 percent of Thomas and Cotter (2007), but higher than the other studies for which coverage data are available.

We believe the best-identified study of value effects is Cuñat et al. (2012), which uses a regression discontinuity design to infer value consequences by comparing proposals that narrowly “pass” and those that narrowly “fail”. The Cuñat et al. (2012) sample, which includes about 4 percent of all proposals, only considers proposals on corporate governance topics for which (by construction of regression discontinuity methods) the approval rate was in the vicinity of 50 percent. Since most proposals receive far less than 50 percent support, the Cuñat et al. (2012) sample contains proposals that are much more popular than the typical proposal, meaning that the sample is likely to overrepresent the “good” proposals.¹² In comparison, our sample is restricted to

¹¹ See the references in footnote 3 as well as see Anabtawi (2006), Bainbridge (2006), Bebchuk (2005), Larcker and Tayan (2012), Romano (2001), and Schwab and Thomas (1998). We emphasize this point to avoid confusion that would arise if one assumed that the main concern with shareholder proposals was bad voting by shareholders.

¹² According to ISS, 80 percent of proposals receive less than 50 percent approval, and the mean approval is 26 percent.

proposals that were challenged by managers, which may overrepresent the population of “bad” proposals.

The message of Table 2 is that our existing knowledge is based on a collection of relatively small fragments of the overall picture, none of which is credibly representative of the full picture. We believe our study fills in a sizeable and particularly important missing piece of the picture by examining, among other issues, proposals that did not go to a vote. Our sample also has the advantage of not focusing on a particular topic or sponsor type, and as a result, includes many more non-corporate-governance proposals and non-public-pension-sponsored proposals than the existing literature. Having said that, it is worth restating that our sample is unlikely to be representative of all proposals; we see our contribution as providing a new empirical strategy with clean event dates that provides robust evidence that a large set of proposals are harmful to shareholders.

Our main innovation is to study the market reaction to a no-action letter decision. Most existing studies estimate event returns associated with the date that the *proxy statement is mailed* to shareholders. The problem is that in order to make a proposal, a shareholder must send a notice to the company at least 120 days before the proxy statement is mailed; companies must file their proxy with the SEC 10 days before mailing it; and SEC rule 14a-6(e)(1) requires the preliminary statement to be made immediately available for public inspection. Because the proposal is public information well before the proxy is mailed, the mailing date provides no new information to the market, and not surprisingly, every study fails to find abnormal returns different from zero associated with the mailing date.¹³

Our event date, in contrast, involves the arrival of new information about a specific proposal. The existence of the proposal itself is known in advance of the no-action letter decision because it has been seen by officers in the target company, the sponsors, attorneys at the SEC, in many cases an outside law firm employed by the company, sometimes legal counsel for the proponents, and it has been posted on the SEC’s web site. However, the SEC’s decision is not fully predictable. The SEC grants a no-action letter in two-thirds of its decisions, and examination of the

¹³ Another limitation of the proxy mailing date is that companies often have multiple proposals on the same ballot. With multiple proposals on one event date, it is not possible to isolate effects for individual proposals by type of proponent or proposal topic, and interpretation of the net effect is cloudy: if there are 4 proposals and an abnormal return of zero percent, it could mean that none of the proposals affects value, that half of them increase and half of them decrease value, and so on. Another concern is that proxy statements deliver a variety of information in addition to shareholder proposals.

decision criteria (Table 1) suggests an element of subjectivity in applying them. While some criteria appear to be black and white, such as the proposal not exceeding 500 words, whether a proposal violates other restrictions will not be obvious to an outsider.¹⁴ An outsider will not know if the proponent can demonstrate having met the ownership requirements, and the most common substantive problems – the proposal deals with “ordinary business operations” or has been “substantially implemented” or is “vague or indefinite” – are inherently subjective. While a body of precedential decisions helps to interpret these phrases and predict the outcome, there are still gray areas. Ultimately, if the SEC’s decision was perfectly predictable, then the event return would be zero, biasing against finding a meaningful effect.

4. Data

The empirical analysis draws on three data sources. The primary data are hand-collected from no-action letter files compiled by the SEC. Since October 2007, the files are published on the SEC’s web site in PDF format (the information is also available in LexisNexis). Each file contains a cover letter from the SEC that identifies the company, proponent(s), and decision date; a decision letter that explains the reason for the decision; and various letters from the company and its legal representatives and from the proponent and its legal representatives including the proposal itself. Using these files, we hand-collected the decision and decision date for each case, as well as the company, proponents, and content of the proposal. Proposals were grouped into topics, and proponents were grouped into types, as discussed below. Our data run from mid-2007 through the end of 2016. Details of the data collection are reported in the appendix.

Table 3 reports the number of proposals received by companies and the number that companies attempted to omit from October 2007 through the end of 2016. For the years in which the proposals and SEC data fully overlap (2008-2016), 35 percent of proposals are sent to the SEC with a request for a no-action letter. Of the proposals that reach the SEC during the entire period, 57 percent are granted no-action letters and permitted to be omitted from the ballot; 28 percent are not granted no-action letters; and 15 percent are withdrawn or not decided. Of the proposals for which the SEC issues a decision, 67 percent are granted no-action letters.

In our sample, proposals are “treated” with one of several outcomes: no-action letter granted, no-action letter declined, and proposal withdrawn. Our control, or counterfactual, is the

¹⁴ Even a request to omit a proposal because it exceeds 500 words may not be as obvious as it seems. One decision in our sample concerning the 500-word limit hinged on whether “CEO” was one or three words.

risk-adjusted return surrounding the event date. We use CRSP data to calculate event returns. We calculate the daily abnormal returns using the market-adjusted model and the Fama-French four-factor model of Carhart (1997). The length of the estimation period is 200 trading days, and we require at least 150 days with returns. The estimation period ends 10 days prior to the event date. We winsorize event window cumulative abnormal returns at 1 percent in each tail. We use multiple event windows; all of our event windows start one trading day before the no-action letter decision date and end on dates ranging from one to 10 trading days after the no-action letter decision date. Longer event windows allow for the possibility of some SEC decisions being posted with a delay. We drop an event if the window contains another event (i.e., no-action letter decision date) for the same firm in order to avoid the contamination of abnormal returns with the impact of different decisions. This process leads to a 20 percent decline in sample size because there are many cases in which the SEC makes multiple decisions for a given firm within a short window. There is seasonality in the no-action letter process; 81 percent of no-action letter decision dates are in January, February, or March. Finally, we use Compustat to obtain firm financial information.

5. Evidence on Value Consequences

5.1. Overall Returns

Table 4 reports the mean abnormal return associated with no-action letter decisions. The different panels report mean returns calculated in different ways, in order to assess robustness. In panel A, which contains our main estimates, abnormal returns are calculated using the Fama-French four-factor model, returns are winsorized at the 1 percent level in each tail, and decisions with another decision in the same window are omitted. Column (1) reports the mean abnormal return for decisions that granted a no-action letter, effectively killing the proposal. Returns are reported for various windows beginning one day before the decision and extending to 10 days afterwards. Glancing down column (1), the mean abnormal return ranges from 0.20 percent to 0.55 percent, and is always statistically different from zero. Investors were pleased when the SEC granted a no-action letter, consistent with the idea that the market expected the proposals to hurt firm value. The finding that returns grow as the window becomes longer suggests that information diffuses across the market over a week or two after the decision date.

If we assume that the ex-ante probability of being granted a no-action letter is the sample mean of 0.72, then the implied value of the excluded proposals ranges from -0.71 to -1.96 percent. By way of comparison to get a sense of these magnitudes, the average valuation effect of hedge fund

activism and proxy fights is 4.97 percent and 6.77 percent, respectively, according to the survey of Denes et al. (2017).

Panels B and C of Table 4 explore robustness. In panel B abnormal returns are adjusted simply by subtracting the market return, but are otherwise calculated as in panel A. The estimates are similar to those in panel A: the mean return ranges from 0.26 percent to 0.89 percent, is always statistically different from zero, and grows over time. In panel C, the statistics are calculated as in panel A except that returns are winsorized at the 5 percent level in each tail. The magnitude of the mean return declines – now ranging from 0.12 percent to 0.36 percent – but remains statistically significant and grows with the length of the window.¹⁵ In short, Table 4 indicates that in the eyes of the market, those proposals that were excluded through the no-action letter process were value-destroying.

Column (2) of Table 4 reports the mean return when the SEC declined to issue a no-action letter, that is, when a proposal was allowed to go to a vote. Given the finding in column (1) that the market approves when proposals are omitted, we might expect to find negative mean returns in column (2), but for the most part that is not what we find. In panel A, the mean return associated with a declined no-action letter request ranges from 0.10 percent to 0.25 percent, depending on the window. None of these estimates can be distinguished from zero statistically at conventional levels of significance. We suspect that the inability to statistically distinguish the mean from zero is due in part to the much smaller sample size for declined no-action letters compared to granted no-action letters. Examining panels B and C reveals similar findings in that the means are not consistently different from zero. A mean that is statistically insignificant admits the possibility that the true value is positive, negative, or zero, so we cannot say much here. Because the means associated with declined requests are too imprecise to sign, we do not pursue them in depth below, except in Section 6, choosing instead to focus on the no-action-letter-granted sample.¹⁶

¹⁵ The findings are very similar to panel A if returns are winsorized at the 0.5% level.

¹⁶ In Section 6, we develop a theoretical model and make additional assumptions to show how the granted and declined returns can be considered together to produce an estimate of the value of voting on a proposal. At first glance, it might seem that we should expect the mean returns for granted and declined requests to be equal and opposite, but this is not correct. Among other factors such as the possibility that the proponent withdraws the proposal, the return associated with an outcome depends on ex-ante probabilities. For example, if the probability of receiving a no-action letter is (say) high, the price will not move much (in magnitude) if a letter is granted, but will make a large move if a letter is declined.

If a company requests a no-action letter, there is a third potential outcome: the proposal may be withdrawn by the proponent.¹⁷ For completeness, column (3) of Table 4 reports the mean abnormal return associated with the SEC announcing that it is closing the case because the proposal was withdrawn. The SEC's announcement in the case of a withdrawn proposal may not be new information to the market because the SEC is merely conveying information it received from the company, and the company only notifies the SEC after it has received a written notification from the proponent. Therefore, our event date (SEC closing the file) may be several days after the information regarding the proponent's withdrawal reaches the market. Table 4 shows that the mean return associated with the SEC's announcement of a withdrawn proposal is usually negative over short windows, sizably so, and statistically different from zero, but statistically insignificant over longer windows. There is some hint that the market views a withdrawn proposal as bad news, however the finding is not robust to longer event windows.

5.2. *Evidence on the Reasons for the Positive Market Reaction to Exclusion*

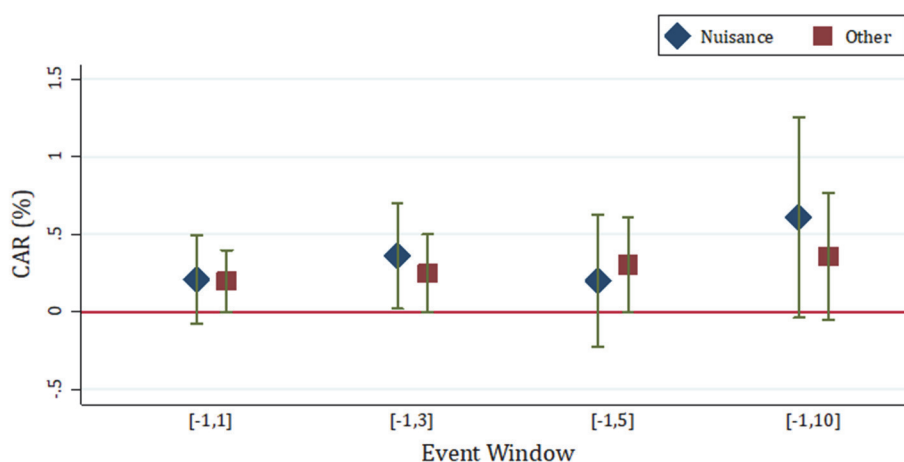
We consider three reasons why the market might have reacted positively to exclusion of proposals on average. The first is that some of the excluded proposals would have been little more than nuisances that would have distracted and disrupted managers from doing their jobs. To examine this, we collected the specific provision of Rule 14a-8 that the SEC cited in granting the no-action letter. A proposal can be considered a "nuisance" if the SEC determined: the company had already substantially implemented it (14a-8(i)(10)); the proposal duplicated another proposal already on the proxy (14a-8(i)(11)); or the proposal would have caused the company to violate state or federal law (14a-8(i)(1), 14a-8(i)(2)) – such a proposal was a nuisance because it was redundant or not implementable.¹⁸ If such nuisance proposals are the main problem in the eyes of investors, the market's reaction would be more pronounced to exclusion of those proposals than to exclusion of other proposals.

Figure 1 reports the mean abnormal returns separately for "nuisance" proposals and other excluded proposals, for various event windows, and also reports the 5 percent confidence intervals.

¹⁷ There are two other possibilities that occur very rarely: the company may withdraw its request, and the SEC staff may decline to comment. We omit these cases from our sample.

¹⁸ The SEC lists only one reason for granting a no-action letter, so if a proposal violated multiple provisions of 14a-8, we would only capture the one cited by the SEC.

Figure 1. CAR for Omitted Proposals, Nuisance and Other



Note. The figure plots the mean cumulative abnormal return (CAR), expressed as a percentage, for omitted proposals. Nuisance proposals are those that were omitted because the company had already substantially implemented them, a similar proposal was on the proxy, or the proposal would not be implementable under state or federal law. 5% confidence intervals are indicated. Abnormal returns are calculated using the Fama-French four-factor model, winsorized at the 1 percent level in each tail.

Overall, nuisance proposals comprise 26 percent of the proposals that were granted no-action letters. The mean return is not materially different for nuisance than other excluded proposals, and the means are not close to being different statistically. The market’s approval of excluding these proposals does not appear to be due primarily to avoidance of nuisance proposals.

A second reason that investors might have reacted positively to exclusion of proposals is because they feared some of the excluded proposals would be used as bargaining chips by the sponsors to extract “side payments” (Matsusaka and Ozbas, 2017). Labor unions and public pensions have been singled out by researchers and in court decisions for potentially using the proposal process to advance private goals that do not maximize value, such as benefits for union workers or preservation of jobs in communities served by pensions (Romano, 1993, 2001; Schwab and Thomas, 1998; Matsusaka et al., 2017; *Business Roundtable v. SEC*, 2011). Theoretically, the idea is that managers may choose to accommodate proponents with a side deal in exchange for withdrawing the proposal, in order to avoid a vote with a risky outcome. If the market’s distaste for the excluded proposals is due in large part to concerns about value-reducing side deals, the market’s reaction would be more pronounced to exclusion of proposals from unions and public pensions, compared to other proponents. Proposals from unions and public pensions comprise 14 percent of the sample. As shown in Matsusaka et al. (2017), these proposals are usually sponsored by union-controlled reserve funds and not by union pension funds (whose boards of trustees include both labor and management representatives). The most prolific union proposers in our

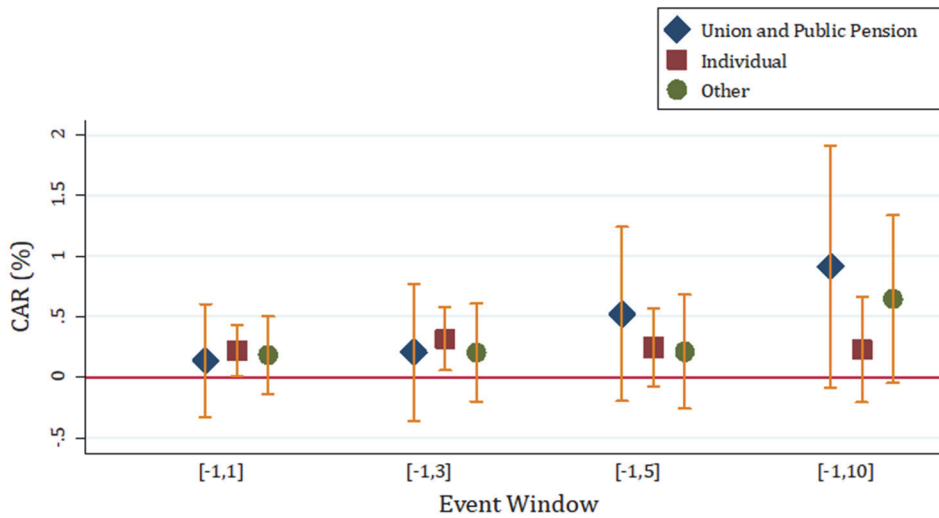
sample are the AFL-CIO Reserve Fund, International Brotherhood of Teamsters General Fund, and United Brotherhood of Carpenters Pension Fund. The most active public pension funds in our sample are CalPERS, the New York City funds, and the New York State Common Retirement Fund. The remaining proposals originate from individuals (63 percent) and other organizations (23 percent), mainly socially responsible investment (SRI) funds and religious groups. Hedge funds have been lauded for their focus on shareholder value, and substantial evidence exists that activist campaigns increase value (Brav et al., 2015). However, there are too few proposals from (non-SRI) hedge funds, only 2 percent of the sample because shareholder proposals are not an important element of hedge fund activism in general; hedge funds are more focused on other forms of engagement such as seeking board seats. Note that proposals from individuals or other groups might be suspect for other reasons – for example, some criticize the large volume of proposals from individual “gadflies” – but those proponents are not usually accused of using proposals as bargaining chips.

Figure 2 plots the mean abnormal return for excluded proposals by sponsor type, for various windows. The mean return associated with proposals from unions and public pensions are similar to the other returns over the [-1,1] and [-1,3] windows, and noticeably larger over the [-1,5] and [-1,10] windows, but the differences are not statistically significant. The market might be concerned with the use of proposals as bargaining chips, but the sample is too small to be conclusive.¹⁹

A third reason that the market might have reacted positively to exclusion of proposals is because investors thought some of the excluded proposals would have damaged firm value if implemented, that is, they had substantive concerns about the proposals. The topic of proposals – and hence their value consequences -- varies widely; the sample of excluded proposals might be comprised mainly of topics that the market considers harmful. To examine this possibility, we compare the returns for three broad topics of proposals: corporate governance, compensation, and social issues. Corporate governance proposals are those that would improve governance according

¹⁹ In a preliminary version of this study, we reported some evidence that investors are more skeptical of proposals from individuals than organizations. We do not believe that finding is sufficiently robust to support a general conclusion that investors particularly distrust proposals from individuals.

Figure 2. CAR for Omitted Proposals, by Sponsor Type



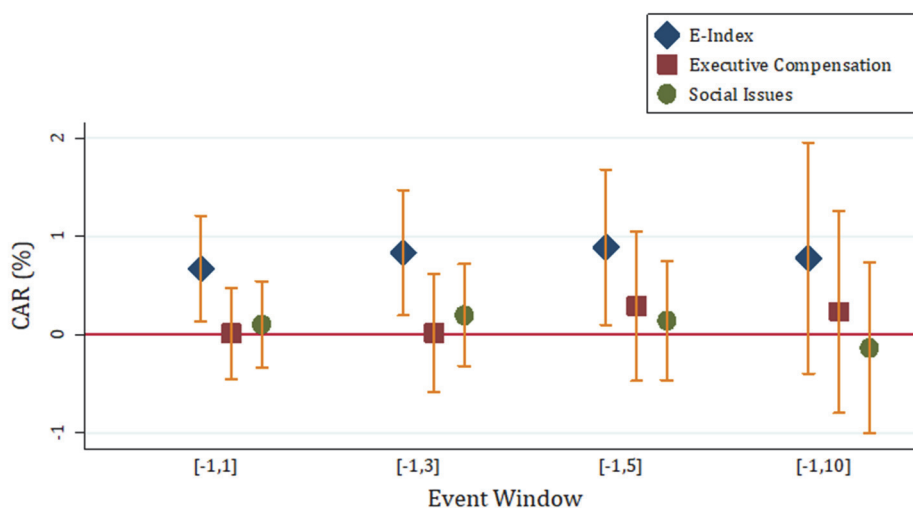
Note. The figure plots the mean cumulative abnormal return (CAR), expressed as a percentage, for omitted proposals. 5% confidence intervals are indicated. Abnormal returns are calculated using the Fama-French four-factor model, winsorized at the 1 percent level in each tail.

to the E-index: board declassification, majority voting on bylaw amendments, majority voting for mergers, majority voting for bylaw amendments, limits on golden parachutes, and removal of poison pills. The E-index is intended as a summary measure of the quality of a company's governance provisions, and its elements are correlated with a variety of performance metrics and enjoy some popularity among reformers (Bebchuk et al., 2009).²⁰ Compensation proposals affect the compensation of the company's top executives and directors, such as proposals to limit pay, tie pay to performance, limit golden parachutes, restrict vesting of stock, claw back pay, and hold shareholder votes on pay. Social issues are proposals related to the environment, sustainability, energy, animals, human rights, civil rights, health care, and smoking. These three categories comprise 39 percent of the proposals, approximately evenly divided. Proposals that do not fall into any of these three categories are omitted.

Figure 3 shows the mean abnormal return for each of these three topics, for varying event windows. Somewhat surprisingly, the returns are consistently positive for excluded proposals that would have improved governance according to the E-index. The means range from 0.67 to 0.89 percent, and are statistically different from zero except in the widest window. The mean return for governance proposals is roughly four times larger than the mean return for compensation and social issues. Management's decision to oppose proposals concerning their own compensation

²⁰ Figure 3 looks similar if the G-index is used instead of the E-index.

Figure 3. CAR for Omitted Proposals, by Topic



Note. The figure plots the mean cumulative abnormal return (CAR), expressed as a percentage, for omitted proposals. 5% confidence intervals are indicated. Abnormal returns are calculated using the Fama-French four-factor model, winsorized at the 1 percent level in each tail.

deserve particular scrutiny due to the inherent conflict of interest. However, the mean return is close to zero, ranging from 0.01 percent to 0.29 percent, and never statistically significant. Similarly, for social issues, the mean return is usually positive, but never statistically different from zero.²¹

Figure 3 suggests the market's positive reaction to exclusion of proposals is to a large degree driven by corporate governance proposals, but we are not able to reach a definitive conclusion as to why. In unreported estimates, we considered the specific elements of the E-index, but could not identify the particular issues that were important, perhaps due to small sample sizes. One hypothesis is that managers have superior information compared to outside investors about the consequences of corporate governance arrangements on firm value, so that investors are willing to trust them when they oppose such a proposal, but managers have less of an information advantage when it comes to compensation and social issues. A related possibility is that the effect of corporate governance proposals is more far-reaching than, say, social issue proposals, which

²¹ We also calculated but do not report mean returns for proposals that ask companies to reveal their political contributions. Such proposals have been popular recently. Min and You (2015) show that such proposals are targeted at companies with a history of donating to Republican candidates, suggesting they may have a political motivation rather than a value-enhancing goal. The mean returns suggest that investors are skeptical of such proposals, but the magnitudes are not large and the means are never statistically different from zero.

typically only ask the company to prepare a report on a particular issue. It could be that the market prefers to let managers run the company, but corporate governance proposals trigger the biggest reaction because they have the biggest consequences. The next section presents more evidence related to these hypotheses.

6. Evidence on the Value of Proposals

6.1. Estimating the Value of Proposals

The abnormal return associated with an SEC decision indicates whether the market considers a given shareholder proposal to be in the interest of shareholders at large. However, while the abnormal return is related to the market's assessment of the proposal's value, the abnormal return is not equal to the proposal's expected value, and there is not even a necessary relation between the sign of the abnormal return and the sign of the proposal's expected value. Here we develop a model of the no-action letter process to clarify these points, and motivate a regression approach by which abnormal return data can be used to estimate the implied mean value of proposals in sample.

Once a no-action letter is requested, there are three possible outcomes: the proposal can be withdrawn, a no-action letter can be granted, or the no-action letter request can be declined. Formally, denote the probability of withdrawal as q , and the probability that the SEC declines to issue a no-action letter (i.e., the proposal goes to a vote) conditional on the proposal not being withdrawn as p . The expected percentage change in firm value associated with the proposal going to a vote is Z , which is drawn from a distribution $F(Z)$, and the percentage change in firm value associated with a withdrawn proposal is W . For generality, suppose W is also uncertain and possibly conditional on Z .

We suppose that when a no-action letter indexed by i is requested, the market observes Z_i . Then the return associated with a no-action request is $R_i^{request} = qE[W|Z_i] + (1 - q)pZ_i + \varepsilon_i^r$, where ε_i^r is a white noise error term associated with other sources of stock return volatility. If a no-action letter is granted, then the gain or loss from the proposal is not realized and the return is

$$(1) \quad R_i^{no-action} = -qE[W|Z_i] - (1 - q)pZ_i + \varepsilon_i^n;$$

while if the no-action letter request is declined then the gain or loss is realized and the return is

$$(2) \quad R_i^{declined} = Z_i - qE[W|Z_i] - (1 - q)pZ_i + \varepsilon_i^d.$$

The values of $R_i^{no-action}$ and $R_i^{declined}$ are abnormal returns with respective white noise error terms ε_i^n and ε_i^d within an event window.²²

Note that it is possible for the return associated with a declined request ($R_i^{declined}$) to be positive even if the value of the proposal is negative. This can happen if $qE[W|Z_i]$ is sufficiently negative. In words, the market may respond positively to news that a bad proposal will go to a vote if the consequence of a withdrawn proposal is even worse. This possibility is more than hypothetical: Matsusaka and Ozbas (2017) show theoretically that a negotiated withdrawal is a prime candidate for a value-reducing side deal with the proponent, and give examples from practice. Moreover, withdrawn proposals are not rare, occurring in 14 percent of the cases (Table 3), and there is some evidence of a negative market reaction to withdrawn proposals (Table 4).

The important property of this framework for our purposes is the following proposition:

Proposition. $E[R^{declined}|declined] - E[R^{no-action}|no-action] = E[Z]$.

Proof: Since q and p are constants, both conditional expectations, which can be estimated with observed data, are equal to their unconditional counterparts. Hence,

$$\begin{aligned} E[R^{declined}|declined] - E[R^{no-action}|no-action] &= E[R^{declined}] - E[R^{no-action}] \\ &= E[-qE[W|Z] - (1-q)pZ] - E[Z - qE[W|Z] - (1-q)pZ] = E[Z]. \blacksquare \end{aligned}$$

The proposition implies that we can recover the expected value across all SEC-reviewed proposals from the difference between the mean return from proposals with declined requests and the mean return from proposals that were granted a no-action letter. We can implement this with a regression of the form: $R_i = \alpha + \beta DEC_i + e_i$, where R_i is the abnormal return associated with a decision on proposal i ; DEC_i is a decision dummy variable with

$$DEC_i = \begin{cases} 1 & \text{if decision = decline request;} \\ 0 & \text{if decision = grant no-action letter;} \end{cases}$$

²² For simplicity, our return expressions scale a given change in firm value with pre-proposal firm value instead of pre-SEC decision firm value. The magnitude of our estimates in Tables 8 and 9 suggests that any approximation error is negligible.

and the coefficient $\beta = E[Z]$. The proposition requires the assumption that p and q are constant. This is less restrictive than it might seem because we can include dummy variables that allow for differing probabilities corresponding to different proposal topics and sponsor types.²³ Furthermore, we can estimate $E[Z]$ for groups G_1, \dots, G_N of proposals, with a specification:

$$(3) \quad R_i = \alpha_1 I_i^{i \in G_1} + \dots + \alpha_N I_i^{i \in G_N} + \beta_1 \text{DEC}_i I_i^{i \in G_1} + \dots + \beta_N \text{DEC}_i I_i^{i \in G_N} + e_i.$$

An important point to recognize is that regression (3) recovers the expected value across all proposals, both those that are removed by a no-action letter and those that are allowed to go to a vote. It should also be kept in mind that Z is an estimate of the expected value of a proposal going to a vote, not the expected value of a proposal being implemented. Formally, the expected value of a proposal going to a vote Z can be decomposed into $Z = \pi X$, where π is the probability that the proposal will be implemented, and X is the value consequence of implementing the proposal. The probability π incorporates the chance of implementation through various channels: management may choose to implement after seeing the vote; management may choose to implement before the vote, after negotiation with the proponent; or in the case of a binding proposal, 51 percent of shareholders might vote in favor. Because $\pi < 1$, our estimates of Z are lower bounds (in magnitude) for the value consequence of actually implementing a proposal.

6.2. Regressions

Table 5 reports a series of regressions. Each column in each panel reports estimates from a single regression. Abnormal returns correspond to the windows indicated at the top of each column, and are calculated as elsewhere in the paper. The estimated value of $E[Z]$ is the coefficient on the decision outcome dummy DEC. The regressions in Panel A of Table 5 include only one explanatory variable, the decision dummy, so the coefficient indicates the unconditional estimate of $E[Z]$ for the full sample. The value ranges from -0.10 percent to -0.30 percent, depending on the window. None of the values are statistically different from zero.

These estimates implicitly assume one-size-fits-all-firms when it comes to shareholder proposals. However, it is more realistic to believe that the effect of a given proposal will vary across firms. Panel B of Table 5 explores this possibility by introducing separate intercepts and decision-

²³ We can also show, but do not report here, that if p is increasing in Z , as seems plausible, the estimate of Z is biased upward. So, our finding that $Z < 0$ is probably conservative.

dummies for high-profit and low-profit firms. Firms are classified based on whether their income/sales rate is above or below the median. The coefficients on the decision dummies indicate $E[Z|\text{high-profit}]$ and $E[Z|\text{low-profit}]$. The estimates show that the value of proposals is reliably negative at high-profit firms. The estimates range from -0.57 percent to -1.25 percent, and are distinguishable from zero at the 5 percent level. In contrast, the estimated value is positive for low-profit firms, and never statistically different from zero. Proposals appear to have been damaging at high-profit firms, perhaps because they were pressuring managers to move away from practices that were working well, while there are some hints that at least some proposals might have been beneficial at firms that were struggling.

The regressions in Panel C of Table 5 add topic-specific and proponent type-specific decision dummies (coefficients not reported). The coefficient on the high-profit firm decision dummy remains negative, ranging from -0.88 percent to -1.87 percent, and statistically significant.

Table 5 indicates that the market considered proposals targeted at high-profit firms to be value-destroying. Table 6 reports regressions that allow the value consequence to vary with the topic of the proposal. This is essentially a triple interaction (decision x profit x topic), but we present separate regressions by performance level for ease of interpretation. Issue-specific dummy variables and firm size are included, but their coefficients are not reported. In these regressions, corporate governance proposals include the topics listed in the appendix, not just those in the E-index.²⁴ For high-profit firms, the implied value is negative for all types of proposals, and statistically significant in the longer windows for corporate governance, compensation, and social issues. For low-profit firms, corporate governance proposals also have a negative implied value, but the magnitudes are smaller and never statistically significant. The implied value for the other three categories of proposals is positive, and statistically significant for compensation and social issues over some windows. The basic picture is that the market disliked proposals targeted at high-profit firms, but was ambivalent or perhaps positive about proposals targeted at low-profit firms.

7. Submission of No-Action Letter Requests

Another way to assess the market's view is by studying the return associated with announcement of a no-action letter request to the SEC. Unfortunately, going down this path empirically is challenging because it is not clear what new information is revealed to the market on

²⁴ E-index-related proposals comprise only about 2 percent of the full sample, too few to provide statistical precision.

the filing date. Existence of the proposal could well have been revealed to the market before then, especially since proponents try to publicize their proposals to build support. The fact that management has chosen to fight the proposal could signal management's private information about the proposal, or reveal something about managerial agency problems, but the intent to oppose also may have been revealed before the formal request. All of this suggests that we may not find a systematic market reaction on the day that the SEC receives the request.

Keeping the limitations in mind, it still seems useful to investigate the return associated with the submission date on an exploratory basis. To do this, we collected the date that each company submitted its request for a no-action letter to the SEC, as published on the SEC web site,²⁵ and calculated the abnormal return around that date for several event windows. Table 7 presents the estimates. For windows up to 10 days after the submission, the mean returns are quantitatively small (ranging from -0.11 percent to 0.10 percent) and not statistically different from zero. Table 7 also reports the mean return separately for corporate governance, compensation, and social proposals. By and large, the mean return is small and indistinguishable from zero statistically. The most plausible conclusion to draw from this collection of non-results is that the submission of a no-action request does not generate important new information to the market.

8. Conclusion

This paper provides evidence that, in the eyes of the market, a substantial set of shareholder proposals would reduce firm value if they were allowed to proceed to a vote. These proposals constitute an important counterexample to the claim made by some corporate governance reformers that shareholder proposals cannot be harmful because shareholders would never hurt themselves. The evidence lends support to two arguments that have been raised about how shareholder proposals might be harmful: uninformed shareholders, perhaps following faulty proxy advice, might vote to adopt damaging proposals, and activists might use proposals as bargaining chips to extract "side payments" from the company in exchange for withdrawing their proposals.

Using a hand-collected data set on SEC no-action letter decisions over the period 2007-2016, we study abnormal returns around SEC decision dates. Because SEC decisions are uncertain from the perspective of investors until they are made, our finding of an average positive return following decisions to shut down proposals indicates that the market viewed those proposals as value-reducing on average, suggesting that shareholder proposals can in fact harm shareholders.

²⁵ <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8-incoming.shtml>.

The mean market reaction to omission of proposals is reliably positive, ranging from 0.20 percent to 0.55 percent depending on the event window. This suggests that, on average, managers are acting as responsible agents of shareholders when they oppose these particular proposals (Manne, 1965; Fama, 1980).

Prior research on shareholder proposals has used event dates, mainly the date that the proxy statement is mailed, that are past the point at which investors become informed about shareholder proposals. We should therefore be careful not to read too much into the literature's finding of economically small and statistically insignificant abnormal returns on those dates. One contribution of our study is to offer a novel empirical strategy based on an event date at which investors learn whether a shareholder proposal will be allowed to go to a vote or not.

Our paper is not intended to provide an overall assessment of the value of the shareholder proposal process, but rather to provide relatively clean evidence on a large, underexplored subset of proposals – those that are reviewed by the SEC. As we show, every study in the literature to date examines restricted and non-representative subsets of the population of proposals, and ours is no exception. One of the most persuasive studies to date, Cuñat et al. (2012), uses a regression discontinuity design to infer value consequences by comparing proposals that narrowly “pass” and those that narrowly “fail”. The study finds that investors approve of the adoption of the particular subset of proposals that are examined – those that concern corporate governance, actually go to a vote, and enjoy significant support. Our study looks at a different set of proposals – those that are prevented from going to a vote by the SEC – and shows that investors disapprove of them on average. It seems clear that neither study (or any other existing study) can claim to provide a general characterization of the population of shareholder proposals. Given the fragmentary nature of the samples studied to date in the literature, we simply lack evidence at this point to draw confident conclusions about the overall mean effect, or the prevalence of helpful versus harmful proposals. However, it seems that there is an element of truth to the arguments of both reformers and critics: shareholder proposals can be helpful but they can also be harmful. The challenge, from a policy perspective, would seem to be to design rules and regulations that let in the good proposals and screen out the bad ones.

Appendix. Data

The no-action letter files pertaining to shareholder proposals are posted on the SEC's web site: <https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. The decision date was the date on the cover letter from the SEC to the company. If the decision was appealed, we did not consider the second decision.

Decisions were taken from the SEC decision letter. Occasionally, the SEC grants a no-action letter but indicates a specific problem that the proponent may rectify in order to make the proposal acceptable – such as formulating the proposal as precatory rather than mandatory – but gave the proponent the option to change it in a specific way to make it allowable. We classified these cases as the SEC having declined to issue a no-action letter since sponsors typically avail themselves of the opportunity to make the change. Proposals for which the company withdrew its request or for which the SEC declined to issue an opinion were omitted.

The topic of each proposal was identified by reading the actual text supplied by the proponent, and assigned to one of three broad categories. (i) Corporate governance included proposals related to audits, board classification, board committees, board meetings, board structure, compensation committee, cumulative voting, director elections, director evaluation, director independence, director qualifications, independent board chair, majority voting, proxy access, proxy voting, special meetings, shareholder meetings, succession policy, vote counting, and written consent. (ii) Compensation included proposals related to executive compensation including clawbacks, equity holding requirements, incentive pay, limits on pay, perks, say on pay, severance pay, and vesting. (iii) Social issues included proposals relating to animals, energy, environment, foreign investments, health, human rights, and smoking. All other proposals were assigned to a residual “other” category. If a proposal touched on multiple topics, it was assigned to the “other” category, unless all of the topics fit under one of the three broad categories.

The elements of the G-index are: antitakeover provisions, preferred stock controlled by board (blank check), moratorium on control transactions unless approved by board, limitations on bylaw and charter amendments, control-share cash-out law, classified board, accelerated bonuses upon change of control, golden and silver parachutes, director indemnification, supermajority vote on control transactions, cumulative voting, director duties allow consideration of stakeholders, fair-price provision, golden parachutes, limitation on director liability, pension parachutes, poison pill, confidential voting, executive severance agreements not contingent on control change, special meetings, unequal voting rights, written consent.

Proponents were identified by reading the SEC letter, the company letter, and the proponent(s) documents, and assigned to six broad categories: (i) fund (non-SRI), (ii) fund (SRI), (iii) individual, (iv) labor union, (v) public pension, (vi) religious. If the proponent was an individual usually associated with an organization, such as John Harrington, the president of Harrington Investments, we classified the sponsor as the organization. If a proposal was jointly sponsored by an organization and an individual, we designated the organization as the sponsor. If a proposal was sponsored by multiple organizations from more than one category, it was assigned to a residual category. Labor unions exclude public sector unions.

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Table 1. Rule 14a-8 Grounds for Exclusion of Shareholder Proposals

Rule number	Procedural requirements	# in sample
14a-8(b)	Proponent must have held stock worth \$2,000 or 1% of firm value continuously for at least one year before submitting proposal and must continue to hold them through meeting date	302
14a-8(c)	Proponent may only submit one proposal per meeting	15
14a-8(d)	Proposal and supporting statement may not exceed 500 words	6
14a-8(e)	Proposal must be submitted no less than 120 days before proxy statement is mailed	117
14a-8(h)	Proponent or representative must be present at meeting	23
Substantive bases for exclusion		
14a-8(i)(1)	Improper subject for action under state law	9
14a-8(i)(2)	Will cause the company to violate state, federal, or foreign law to which it is subject	56
14a-8(i)(3)	Proposal and supporting statement are materially false or misleading	116
14a-8(i)(4)	Relates to redress of a personal claim or grievance, or be designed to provide a benefit to proponent that is not shared by the other shareholders at large	7
14a-8(i)(5)	Relates to operations that account for less than 5 percent of company assets or sales	0
14a-8(i)(6)	Company lacks the power to implement	34
14a-8(i)(7)	Deals with ordinary business operations	428
14a-8(i)(8)	Would disqualify a director candidate, remove a director from office, question competence of director or nominee, seek to include specific nominee, or otherwise affect the outcome of director election	25
14a-8(i)(9)	Conflicts with company's own proposal	119
14a-8(i)(10)	Company has already substantially implemented proposal	230
14a-8(i)(11)	Substantially duplicates another proposal	69
14a-8(i)(12)	Deals with substantially the same subject as another proposal from previous years that received (specified) low support from shareholders	50
14a-8(i)(13)	Relates to specific amounts of dividends	18

Note. This table reports the grounds for excluding a proposal under SEC Rule 14a-8. The last column reports the number of times that a given reason was the basis for a no-action letter in our sample. If a no-action letter was granted for multiple reasons, each reason is counted separately. If the SEC allowed a proponent to modify the proposal to avoid a no-action letter, we count it as a no-action letter not having been granted.

Table 2. Summary of Literature Measuring Returns to Shareholder Proposals

Study	Period	Event Date (N)				Coverage	Sample Selection Restrictions			
		News story	No-action	Proxy mailing	Annual meeting		Topic	Sponsor	Voted only	Other
Karpoff et al. (1996)	1986-1990	27	...	290	258	NA	Gov.	...	...	...
Smith (1996)	1987-1993	39	...	...	...	NA	...	Public pension	...	...
Strickland et al. (1996)	1990-1993	...	...	100	...	NA	Gov.	U.S.A.	Yes	...
Wahal (1996)	1987-1993	96	...	211	...	NA	...	Public pension	...	...
Del Guercio and Hawkins (1999)	1987-1993	...	...	224	224	NA	...	Public pension	...	...
Gillan and Starks (2000)	1987-1994	...	...	1,239	...	NA	Gov.	...	Yes	...
Prevost and Rao (2000)	1988-1994	...	...	32	...	NA	Gov.	Public pension	Yes	...
Thomas and Cotter (2007)	2002-2004	...	...	1,454	1,454	49%	...	...	Yes	...
Cai and Walkling (2011)	2006-2008	...	...	113	...	3%	Comp.	...	Yes	...
Renneborg and Szilagyi (2011)	1996-2005	...	...	1,510	...	< 19%	Gov.	...	Yes	...
Prevost et al. (2012)	1988-2002	...	...	373	...	< 8%	Gov.	Union	Yes	...

Cuñat et al. (2012)	1997-2007	...	...	...	450	4%	Gov.	...	Yes	Approve ~50%
This paper	2007-2016	...	2,217	...	...	31%	...	...	...	No-action request

Note. This table summarizes the literature that estimates abnormal returns associated with shareholder proposal events. The list is drawn from Denes et al. (forthcoming). Studies have employed four event dates: the date that a story appears in news media, the date that the proxy statement is mailed, the date of the annual meeting, and (our study) the date of an SEC no action letter. The table indicates event date(s) studied in each paper, and the number of observations included in the sample. For example, Karpoff et al. (1996) had a sample of 27 observations when estimating news story event returns. Coverage is the number of proposals in the study as a percentage of proposals received by S&P 1500 firms in the study's sample years; NA indicates that the total number of proposals is unavailable. The study considers only proposals addressed to a specific topic as indicated: "Gov." is corporate governance, "Comp." is executive compensation; no entry means that all proposal topics are included. If the sponsor is listed as "public pension", the sample also included proposals sponsored by CREF; U.S.A. is United Shareholders Association. "Voted only" means that the study examined only proposals that went to a vote, excluding proposals that were withdrawn or omitted. [[Pralhal (1996) also considers the date at which the sponsor claims to have notified the company of its proposal. Karpoff et al is March 1986 to October 1990. Wahal also looks at date the sponsor notified the company. Del Guercio and Hawkins include some news story dates (" minority") in the proxy mailing date sample; their annual meeting dates include a small number of withdrawn proposal dates. Cai and Walkling say earlier of SEC filing and proxy mailing date.]]

Table 3. Shareholder Proposals and No-Action Letter Decisions, 2007-2016

Year	# Received	# Sent to SEC	Outcome				
			No-Action Letter Granted		No-Action Letter Declined		Withdrawn
			#	%	#	%	#
2007 (Oct. to Dec.)	1,160	48*	38*	80*	5*	10*	4*
2008	1,147	409	265	65	88	22	47
2009	1,117	407	189	46	160	39	57
2010	1,010	348	227	65	76	22	39
2011	755	305	180	59	80	26	37
2012	715	228	143	63	50	22	30
2013	782	178	88	49	49	28	38
2014	820	324	181	56	80	25	57
2015	850	296	115	39	122	41	54
2016	840	284	175	62	82	29	26
TOTAL	9,196	2,827	1,601	57	792	28	389

Notes. # Received calculated from ISS Shareholder Proposals database for S&P 1500 companies; approximated for 2014-2016; classified by date of the annual meeting. SEC numbers are classified by year of the SEC decision; collected from no-action letter files. Withdrawn proposals were withdrawn by the proponent. * indicates that the data cover only October, November, and December.

Table 4. Mean Cumulative Abnormal Return (CAR) Associated with No-Action Letter Decisions

	No-action letter granted (proposal omitted) (1)			No-action letter declined (proposal permitted) (2)			Proposal withdrawn (3)		
	CAR	SE	N	CAR	SE	N	CAR	SE	N
<i>Panel A. Fama-French four-factor model, winsorized 1%</i>									
[-1,1]	0.20**	0.08	1,269	0.10	0.13	574	-0.35**	0.17	331
[-1,3]	0.32***	0.11	1,217	0.20	0.17	537	-0.07	0.22	315
[-1,5]	0.38***	0.14	1,177	0.17	0.21	520	0.12	0.28	299
[-1,10]	0.55***	0.20	1,069	0.25	0.30	476	0.62	0.40	268
<i>Panel B. Market adjusted, winsorized 1%</i>									
[-1,1]	0.26**	0.09	1,269	0.27*	0.16	574	-0.32*	0.19	331
[-1,3]	0.38***	0.12	1,217	0.43**	0.20	537	0.11	0.24	315
[-1,5]	0.46***	0.15	1,177	0.31	0.24	520	0.17	0.31	299
[-1,10]	0.89***	0.22	1,069	0.75**	0.33	476	0.58	0.39	268
<i>Panel C. Fama-French four-factor model, winsorized 5%</i>									
[-1,1]	0.12*	0.06	1,269	0.02	0.10	574	-0.25**	0.12	331
[-1,3]	0.23***	0.08	1,217	0.10	0.13	537	-0.14	0.17	315
[-1,5]	0.28***	0.10	1,177	0.08	0.16	520	0.06	0.21	299
[-1,10]	0.36**	0.15	1,069	0.06	0.22	476	0.39	0.29	268

Note. The main entry is the mean cumulative abnormal return (CAR), expressed as a percentage. Standard errors (SE) and number of observations (N) follow the means. The sample includes all no-action letter decisions from October 2007 through 2016, except: an observation is omitted if there was another SEC decision or withdrawn proposal at the company in the event window. The event window is shown at the beginning of each row. Significance levels are indicated: * = 10 percent, ** = 5 percent, *** = 1 percent.

Table 5. Regressions of Abnormal Return on Decision Dummy (DEC)

	[-1,1]	[-1,5]	[-1,10]
<i>Panel A. Single Value</i>			
DEC	-0.10 (0.16)	-0.21 (0.24)	-0.30 (0.36)
Constant	Yes	Yes	Yes
R ²	.0002	.0004	.001
N	1,843	1,697	1,545
<i>Panel B. Separate Values by Firm Profit</i>			
DEC × high-profit firm	-0.57*** (0.22)	-0.79** (0.34)	-1.25** (0.51)
DEC × low-profit firm	0.31 (0.22)	0.29 (0.35)	0.58 (0.50)
Constants: high-profit & low-profit	Yes	Yes	Yes
R ²	.011	.018	.021
N	1,816	1,672	1,522
<i>Panel C. Separate Values by Firm Profit, Topic, and Proponent Type</i>			
DEC × high-profit firm	-0.88*** (0.31)	-1.10** (0.49)	-1.87*** (0.72)
DEC × topics	Yes	Yes	Yes
DEC × sponsor	Yes	Yes	Yes
Constants: high-profit & topics & proponent types	Yes	Yes	Yes
R ²	.015	.020	.028
N	1,816	1,672	1,522

Note. Each column of each panel reports estimates from a regression in which the dependent variable is the cumulative abnormal return over the window indicated at the top of the column. Standard errors are in parentheses beneath the coefficient estimates. Abnormal returns are calculated using the Fama-French four-factor model. Returns are winsorized at the 1 percent level in each tail. Observations with another decision or withdrawn proposal in the event window are omitted. DEC is a dummy variable equal to one if the decision was to decline the no-action letter request, and zero if a no-action letter was granted. Each regression includes the logarithm of the market value of the firm as a control variable, and one or more constant terms, whose coefficients are not reported. Significance levels are indicated: * = 10 percent, ** = 5 percent, *** = 1 percent.

Table 6. Regressions of Abnormal Return on Decision Dummy (DEC), by Issue Type, for High and Low Performing Firms

	[-1,1]	[-1,5]	[-1,10]
<i>Panel A. High-profit firms</i>			
DEC × Corporate Governance	-0.53* (0.30)	-0.58 (0.46)	-1.28* (0.66)
DEC × Compensation	-1.08** (0.49)	-1.94*** (0.74)	-2.32** (1.10)
DEC × Social	-0.54 (0.46)	-1.08 (0.72)	-2.12** (1.02)
DEC × Other	-0.39 (0.41)	-0.39 (0.64)	0.03 (0.93)
R ²	.019	.031	.034
N	922	843	750
<i>Panel B. Low-profit firms</i>			
DEC × Corporate Governance	-0.17 (0.38)	-0.32 (0.59)	-0.22 (0.86)
DEC × Compensation	1.22** (0.61)	0.54 (0.96)	1.10 (1.44)
DEC × Social	0.31 (0.59)	1.74* (0.94)	2.65* (1.37)
DEC × Other	0.95 (0.58)	0.25 (0.94)	0.83 (1.37)
R ²	.016	.019	.024
N	894	829	772

Note. Each column of each panel reports estimates from a regression in which the dependent variable is the cumulative abnormal return over the window indicated at the top of the column. Standard errors are in parentheses beneath the coefficient estimates. Abnormal returns are calculated using the Fama-French four-factor model. Returns are winsorized at the 1 percent level in each tail. Observations with another decision in the event window are omitted. DEC is a dummy variable equal to one if the decision was to decline the no-action letter request, and zero if a no-action letter was granted. Each regression includes the logarithm of the market value of the firm as a control variable, and topic-specific constant terms, whose coefficients are not reported. Firms are categorized into high or low performance by comparing their accounting profit to the median. Significance levels are indicated: * = 10 percent, ** = 5 percent, *** = 1 percent.

Table 7. Mean Return Associated with Submission of No-Action Letter Request

	CAR	SE	N
<i>All Requests</i>			
[-1,1]	-0.11	0.08	1,410
[-1,3]	-0.04	0.10	1,364
[-1,5]	-0.11	0.12	1,340
[-1,10]	0.10	0.17	1,281
<i>Corporate Governance</i>			
[-1,1]	-0.09	0.11	646
[-1,3]	-0.04	0.15	631
[-1,5]	-0.07	0.18	625
[-1,10]	-0.11	0.25	604
<i>Compensation</i>			
[-1,1]	0.28	0.22	193
[-1,3]	0.44	0.31	183
[-1,5]	0.31	0.39	180
[-1,10]	1.14**	0.54	169
<i>Social</i>			
[-1,1]	-0.20	0.18	208
[-1,3]	-0.03	0.27	198
[-1,5]	0.07	0.33	192
[-1,10]	0.72*	0.43	185

Note. The main entries are cumulative abnormal returns (CAR) over the indicated windows. CARs are winsorized at the 1 percent level in each tail. Observations for which the company made another submission in the same window are deleted. Significance levels are indicated: * = 10 percent, ** = 5 percent, *** = 1 percent.