european corporate governance institute

The Proxy Voting Choice Revolution

Law Working Paper N° 875/2025
Revised May 2026

Alon Brav
Duke University, NBER and ECGI
Tao Li
University of Florida and ECGI
Dorothy S. Lund
Columbia University and ECGI
Zikui Pan
University of Florida

© Alon Brav, Tao Li, Dorothy S. Lund and Zikui Pan 2026. All rights reserved. Short sections of text, not to exceed two paragraphs, may be quoted without explicit permission provided that full credit, including © notice, is given to the source.

This paper can be downloaded without charge from:
https://doi.org/10.67929/ecgi-law-875-2025

european corporate governance institute

ECGI Working Paper Series in Law

The Proxy Voting Choice Revolution

Working Paper N° 875/2025

May 2026

Alon Brav
Tao Li
Dorothy S. Lund
Zikui Pan

Many thanks to Glenn Booraem for his guidance throughout the project. We are also grateful to Jordan Barry, Nichol Garzon, Jeff Gordon, Nadya Malenko, Jim McRitchie, Elizabeth Pollman, the Vanguard Stewardship team, and participants at Hebrew University, the BYU Winter Deals Conference, the ALEA Annual Meeting, the Millstein Center Advisory Board meeting, Notre Dame Law and Economics, Vanderbilt Law and Economics, The Law and Economics of Mirror Voting Conference, and Penn/NYU Law and Finance for insightful comments. Hazel Martello, Joseph Taied, and William Zelnick provided excellent research assistance. We are also grateful for support from the Grace P. Tomei Endowment Fund.

© Alon Brav, Tao Li, Dorothy S. Lund and Zikui Pan 2026. All rights reserved. Short sections of text, not to exceed two paragraphs, may be quoted without explicit permission provided that full credit, including © notice, is given to the source.

Abstract

A corporate governance revolution is underway. The conventional depiction of U.S. capital markets has focused on the presence of large institutional shareholders and their substantial influence over the economy. But in the past three years, in response to political and public pressure, the largest institutional asset managers have begun to diffuse their power by expanding "proxy voting choice" programs. Our article explores how these programs could shape institutional shareholder voting and the corresponding governance and performance of public companies for years to come. More specifically, we provide the first empirical analysis of a large asset manager's voting choice program, providing a detailed account of the differences between policy offerings as well as their relative uptake by investors. Our empirical investigation also generates insights about the impact of proxy voting choice on the marketplace. It reveals that voting choice has promise, but also significant peril, for investors and the corporate governance ecosystem, particularly in light of a host of incentive issues facing its three key players—asset managers, investors, and proxy advisors. We highlight the thorny choice architecture problems that program designers must confront, ranging from setting the default rule to designing policy menus for rationally apathetic investors. In so doing, we offer concrete policy suggestions for asset managers and regulators, showing how careful calibration of these programs will help ensure that the advent of voting choice benefits investors and the economy, rather than harms them.

Alon Brav*
Bratton Family Distinguished Professor of Finance
Duke University
100 Fuqua Drive
Durham, NC 27708, United States
e-mail: brav@duke.edu

Tao Li
Bank of America Associate Professor of Finance
University of Florida
Bryan Hall 100
Gainesville, FL 32611-7150, United States
e-mail: tao.li@warrington.ufl.edu

Dorothy S. Lund
Columbia 1982 Alumna Professor of Law
Columbia University
435 W 116th St
New York, NY 10027 , United States
e-mail: dorothy.lund@columbia.edu

Zikui Pan
Researcher
University of Florida
Gainesville, FL 32611, USA
e-mail: zikui.pan@warrington.ufl.edu

*Corresponding Author

The Proxy Voting Choice Revolution

Alon Brav,[1] Tao Li,[2] Dorothy Lund,[3] and Zikui Pan[4]

Abstract

A corporate governance revolution is underway. The conventional depiction of U.S. capital markets has focused on the presence of large institutional shareholders and their substantial influence over the economy. But in the past three years, in response to political and public pressure, the largest institutional asset managers have begun to diffuse their power by expanding "proxy voting choice" programs. Our article explores how these programs could shape institutional shareholder voting and the corresponding governance and performance of public companies for years to come.

More specifically, we provide the first empirical analysis of a large asset manager's voting choice program, providing a detailed account of the differences between policy offerings as well as their relative uptake by investors. Our empirical investigation also generates insights about the impact of proxy voting choice on the marketplace. It reveals that voting choice has promise, but also significant peril, for investors and the corporate governance ecosystem, particularly in light of a host of incentive issues facing its three key players—asset managers, investors, and proxy advisors. We highlight the thorny choice architecture problems that program designers must confront, ranging from setting the default rule to designing policy menus for rationally apathetic investors. In so doing, we offer concrete policy suggestions for asset managers and regulators, showing how careful calibration of these programs will help ensure that the advent of voting choice benefits investors and the economy, rather than harms them.

[1] Bratton Family Distinguished Professor, Duke Fuqua School of Business, NBER, and ECGI.
[2] Bank of America Associate Professor, University of Florida Warrington College of Business and ECGI.
[3] Columbia 1982 Alumna Professor of Law at Columbia Law School, Co-Director, Millstein Center for Global Ownership and Capital Markets, and ECGI.
[4] University of Florida Warrington College of Business. Many thanks to Glenn Booraem for his guidance throughout the project. We are also grateful to Jordan Barry, Nichol Garzon, Jeff Gordon, Nadya Malenko, Jim McRitchie, Elizabeth Pollman, the Vanguard Stewardship team, and participants at Hebrew University, the BYU Winter Deals Conference, the ALEA Annual Meeting, the Millstein Center Advisory Board meeting, Notre Dame Law and Economics, Vanderbilt Law and Economics, The Law and Economics of Mirror Voting Conference, and Penn/NYU Law and Finance for insightful comments. Hazel Martello, Joseph Taied, and William Zelnick provided excellent research assistance. We are also grateful for support from the Grace P. Tomei Endowment Fund.

Table of Contents

I. Introduction....1
II. Background....6
A. The Controversy Surrounding Asset Manager Voting....6
B. Voting Choice Programs Across the Big Three....10
C. Vanguard's Voting Choice Program....11
III. Proxy Voting Choice at Vanguard....13
A. Data Collection....14
B. Evidence....15
C. The Potential Impact of Proxy Voting Choice....24
IV. Analysis: Voting Choice Program Design....27
A. The Participants in Voting Choice Programs....28
B. Critical Design Features for Asset Managers....31
i. Menu Design....31
ii. Third-Party Provider Compensation....40
C. Critical Choices for Regulators....41
i. Proxy Advisor Disclosure....41
ii. Fiduciary Duty....43
D. Potential Outcomes....46
i. Beneficial Outcomes....46
ii. Harmful Outcomes....48
V. Conclusion....50
Appendix....51

The Proxy Voting Choice Revolution

Alon Brav, Tao Li, Dorothy Lund, and Zikui Pan

I. Introduction

For several decades, the conventional depiction of U.S. capital markets has featured institutional shareholders and their substantial influence over corporate governance.[5] Due to their large ownership stakes, institutional investors, and particularly those that specialize in indexed mutual funds, have significant raw power over the U.S. economy.[6] This reality has generated alarm among scholars[7] and policymakers, the latter of whom have targeted the largest asset managers with litigation and regulation,[8] marking another predictable cycle in American capitalism.[9]

Subject to mounting pressure, institutional asset managers have taken steps to diffuse their power. Specifically, beginning in 2022 and 2023, the so-called "Big Three" asset managers of Vanguard, BlackRock, and State Street allowed a larger subset of their institutional and retail clients to opt-out of the asset manager's stewardship program and cast their own proxy votes.[10]

---

[5] *See* Bernard S. Black, *Agents Watching Agents: The Promise of Institutional Investor Voice*, 39 UCLA L. REV. 811 (1992); Ronald J. Gilson & Jeffrey N. Gordon, *The Agency Costs of Agency Capitalism: Activist Investors and the Revaluation of Governance Rights*, 113 COLUM. L. REV. 863 (2013); John C. Coffee, *Liquidity Versus Control: The Institutional Investors as Corporate Monitor*, 91 COLUM. L. REV. 1277 (1991).

[6] Alon Brav, Dorothy S. Lund & Lin Zhao, *Flows, Financing Decisions, and Institutional Ownership of the U.S. Equity Market* 1-2 (Eur. Corp. Governance Inst., Law Working Paper No. 749/2020, 2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4693837 [hereinafter Brav et al., *Flows, Financing, and Institutional Ownership*].

[7] Dorothy S. Lund, *The Case Against Passive Shareholder Voting*, 43 J. CORP. L. 493, 494-96 (2018) [hereinafter Lund, *The Case Against Passive Shareholder Voting*]; John Coates, *The Problem of Twelve: When a Few Financial Institutions Control Everything* (Columbia Glob. Reps. 2023); Caleb N. Griffin, *We Three Kings: Disintermediating Voting at the Index Fund Giants*, 79 MD. L. REV. 954, 955-56 (2020) [hereinafter Griffin, *We Three Kings*].

[8] *See, e.g.,* Jason Halper & Sara Bussiere, *Republican AGs Target 53 Large Asset Managers' ESG Practices*, CADWALADER (May 9, 2023), https://www.cadwalader.com/cwt-climate/index.php?eid=237&nid=55; Simon Mundy, *US Asset Managers' Climate Policies Face Legal Test*, FIN. TIMES (May 26, 2025), https://www.ft.com/content/dafa3649-543c-4eda-84c3-94740dce8c49; Allison Wyderka & Wickham Egan, *The Evolving Anti-DEI and Anti-ESG Landscape: Implications for the Public Sector*, HARV. L. SCH. F. CORP. GOVERNANCE (Feb. 14, 2025), https://corpgov.law.harvard.edu/2025/02/14/the-evolving-anti-dei-and-anti-esg-landscape-implications-for-the-public-sector/.

[9] Mark J. Roe, STRONG MANAGERS, WEAK OWNERS: THE POLITICAL ROOTS OF AMERICAN CORPORATE FINANCE 22 (1994) ("Legislative history, popular ideology, the power of interest groups, and the views of opinion leaders reveal a consistent political story . . . . Politics never allowed financial institutions to become powerful enough to control operating firms; American politics preferred Berle-Means corporations to the alternative of concentrated institutional ownership, which it precluded.").

[10] BlackRock rolled out their voting choice program in January 2022 for institutional clients invested in certain institutional pooled funds, and launched a retail pilot in 2024; Vanguard and State Street launched their retail programs in 2023. *See BlackRock*, *BlackRock Voting Choice FAQs* (2023), https://www.blackrock.com/corporate/literature/publication/voting-choice-faqs.pdf; BLACKROCK, *U.S. Retail Program FAQs* (2025), https://www.blackrock.com/corporate/literature/publication/voting-choice-usretailprogramfaqs.pdf; VANGUARD, *Vanguard Launches Proxy Voting Choice Pilot* (Feb. 1, 2023), https://corporate.vanguard.com/content/corporatesite/us/en/corp/who-we-are/pressroom/press-release-vanguard-launches-proxy-voting-choice-pilot-020123.html; Ross Kerber, *State Street to Offer Proxy Voting Choices to Retail Investors*, REUTERS (May 22, 2023), https://www.reuters.com/business/finance/state-street-offer-proxy-voting-choices-retail-investors-2023-05-22/.

This separation of investing and voting decisions is poised to bring about a governance revolution, both for investors and the broader market. Before the advent of proxy voting choice, most retail investors were powerless to influence votes corresponding with their ownership interest in the fund. For example, an investor in an ESG fund might find that their shares were voted the same way as those investors in conventional funds.[11] Even if that investor was able to find a fund that promised to vote its shares in a specific way, the investor would be required to accept a specialized investment strategy as a condition of specialized voting. By delinking voting from the fund's investment strategy, proxy voting choice now gives investors the option to exercise their voice without choosing a fund that advances a matching investment thesis.[12]

More broadly, this diffusion of governance rights is likely to bring about a major shift in the corporate governance ecosystem. The current balance of power in governance depends on large asset managers serving as catalysts and gatekeepers for proposals brought by incumbent management and activist investors.[13] This system is imperfect,[14] but it offers advantages. For example, large asset managers have economies of scope when it comes to setting market-wide standards[15] and their large ownership stakes provide some incentive to invest in stewardship.[16] Moreover, shareholder activists can lobby a handful of blockholders which reduces their coordination costs; likewise, corporate management can more easily communicate with their shareholders about important corporate decisions.[17] A world of governance diffusion, by contrast, will upend this dynamic in unpredictable ways.

This Article elucidates the myriad ways in which proxy voting choice could change the corporate governance ecosystem, and potentially for the worse. Our analysis is motivated by the first empirical study of a large asset manager's voting choice program. We describe the specifics of voting choice at Vanguard, noting many commonalities with rival programs and particularly, the use of a "menu" of policy options designed by third-party proxy advisors. To better understand Vanguard's program across its first three years, we merge information from Vanguard's proxy disclosure site with Institutional Shareholder Services' (ISS) voting analytics and Form N-PX disclosures from 2023-2025. In so doing, we provide a detailed account of the policy options provided to investors, their differences, and their relative uptake.

---

[11] Leo E. Strine, Jr., Making It Easier for Directors to "Do the Right Thing"?, 4 HARV. BUS. L. REV. 235, 250 (2014) (noting that socially responsible investment funds sometimes vote their shares in line with other funds in their mutual fund family, and not in a socially responsible way).

[12] *Cf.* Oliver Hart & Luigi Zingales, *Companies Should Maximize Shareholder Welfare Not Market Value*, 2 J. L. FIN. & ACCT. 247, 265-66 (2017) (discussing the importance of investor voting to solicit preferences).

[13] *See, e.g.,* Gilson & Gordon, *supra* note 5, at 887-88.

[14] *See id.* at 889-95; Lund, *The Case Against Passive Shareholder Voting*, *supra* note 7, at 495-98; Lucian Bebchuk & Scott Hirst, *Index Funds and the Future of Corporate Governance: Theory, Evidence, and Policy*, 119 COLUM. L. REV. 2029, 2037 (2019) [hereinafter Bebchuk & Hirst, *Index Funds*]; COATES, *supra* note 7.

[15] Marcel Kahan & Edward B. Rock, *Index Funds and Corporate Governance: Let Shareholders Be Shareholders*, 100 B.U. L. REV. 1771, 1800-01 (2020).

[16] *Id.* at 1785-1787; Jonathan Lewellen & Katharina Lewellen, *Institutional Investors and Corporate Governance: The Incentive to Be Engaged*, 77 J. FIN. 213, 259-60 (2022).

[17] This reality depends on a threshold level of blockholder engagement. *See* Lund, *The Case Against Passive Shareholder Voting*, *supra* note 7, at 519-20.

Although our evidence suggests that the current impact of voting choice is minimal, each of the Big Three has committed to expanding their programs and prioritizing investor uptake.[18] Such an expansion has the potential to be transformative in ways that scholars have not yet fully appreciated. To better understand the impact, we conduct a counterfactual analysis of close shareholder proposals, assuming that Vanguard's voting choice program applied to all of its indexed assets in 2024 and 2025. Under that assumption, we found that sixteen close votes would have flipped outcomes. Specifically, in 2024, two dissident proposals that Vanguard supported would have failed instead of passing, due to the popularity of pro-management voting policies in the pilot program. In 2025, however, proxy voting choice empowered activists who sought to bring shareholder proposals challenging management (that Vanguard opposed); it also bolstered challenges against management proposals (that Vanguard supported).

These results are both intuitive and surprising. By chipping away at Vanguard's voting block, proxy voting choice made it more likely that Vanguard's voting would no longer be pivotal. But the deeper takeaway from these results is that the expansion of voting choice will empower activists when Vanguard opposes them, and it will hamper activists when Vanguard supports them. And this result signals a potential unraveling of the current status quo in corporate governance, where activists and companies alike can count on asset managers to be bellwethers for voting outcomes.

Given that proxy voting choice is poised to make an impact, it is crucial to calibrate these programs appropriately. Accordingly, we provide the first detailed analysis of the thorny choice architecture issues that lie ahead, as well as the pitfalls that accompany certain design choices. At a high level, we argue that a beneficial voting choice equilibrium will achieve two goals. First, at least initially, asset manager power would not fall below a minimal level, thereby preserving the asset manager's incentive to invest in stewardship and the formulation of beneficial voting choice programs. Second, proxy voting choice would efficiently transfer asset manager power into gains in shareholder power. An important component of this second observation is that the programs must achieve a close fit between a voter's policy election and their actual preferences.

Embedded in this argument is the normative conclusion that voting choice programs ought to improve the alignment between how votes are cast and investor preferences, rather than better aggregate information from informed investors.[19] While proxy voting choice could empower better informed investors in some settings,[20] it is implausible in scenarios involving retail shareholders invested in mutual funds. Therefore, it is best to think of voting choice as a means to empower

[18] *See infra* notes 88-89 and accompanying text.

[19] See Malenko & Malenko (proposing a theory for voting choice that maps the potential welfare effects based on whether investors have heterogeneous preferences or diverse sources of private information. They show how the delegation to the asset manager may be valuable since the asset manager has information while investors do not. Voting choice gives investors the ability to reflect their preferences but it necessarily takes away from that asset manager's informational edge. As a result, the success of voting choice depends on the degree to which investors decide to retain voting rights, thus not utilizing the asset manager's information, and the exact form of heterogeneity of investor preferences).

[20] For example, asset managers count institutions among their clients, and those institutions may have better access to information than the asset manager. See, e.g., Lund, *Asset Managers as Regulators*.

investors with heterogeneous preferences, without decimating the informational advantage of asset managers.

With these goals in mind, we can better understand the tradeoffs presented by certain design choices. For example, a poorly designed voting choice program could diffuse voting power to poorly incentivized proxy advisors, increasing costs for asset managers, shareholders, and companies, and harming the broader economy in the process. By contrast, well-designed programs could improve the corporate governance ecosystem by empowering investors with idiosyncratic preferences, without decimating blockholder influence completely.

We make this analysis concrete by describing the various design elements that asset managers must confront—a problem made more complex by the imperfect incentives facing each of voting choice's participants: investors, asset managers, and third-party policy providers. These incentives intersect to create stark challenges for voting choice designers. For example, it is well understood that diversified mutual fund holders are rationally apathetic when it comes to investing effort in corporate governance.[21] This rational apathy undergirds the asset manager's decision to offer voting choice via a menu of policy options for investors to choose from.[22] But it also limits what these programs can accomplish. Given that few investors will invest the time and effort to read policy options, only a small number can be offered, limiting the extent to which menus can capture heterogeneous investor preferences, which is exactly what we see in Vanguard's program.[23]

While investors suffer from rational apathy, asset managers are constrained by their financial incentives. In particular, asset managers have little financial incentive to invest in costly voting choice programs that might better reflect investor preferences but could overwhelm or push fee-sensitive investors to other institutions.[24] More broadly, their decision to diffuse their voting power could reflect agency costs if undertaken to avoid government targeting, rather than promote investor welfare.[25]

Likewise, third-party proxy advisors have their own incentive issues, including conflicts of interest and a minimal financial incentive to provide high-quality guidelines.[26] Proxy advisors are also unlikely to be closely monitored by rationally apathetic asset managers and investors. Without confronting these incentive issues head on, voting choice may lead to a worsened governance ecosystem—one that disempowers shareholders and leads to noise and investor fragmentation across the market.

As this discussion suggests, choice architects face difficult decisions when designing voting choice programs. We focus particular attention on menu design and its many challenges, ranging from setting the default to populating the menu. Given the importance of third-party proxy advisors to the voting choice ecosystem, we also discuss ways to improve their alignment with investors. One possibility

---

[21] *See also* Jill Fisch & Jeff Schwartz, *Corporate Democracy and the Intermediary Voting Dilemma*, 102 TEX. L. REV. 1 (2023).
[22] *See infra* Section IV.B.i.
[23] *See infra* Section IV.B.i.
[24] *Cf.* Lund, *The Case Against Passive Shareholder Voting*, *supra* note 7, at 510-13 (discussing reasons passive funds may lack incentives to engage in corporate governance).
[25] Gilson & Gordon.
[26] See *infra* notes 123-126 and accompanying text.

would be to reform proxy advisor compensation, which typically entails a fixed fee that is paid regardless of performance.[27] To incentivize third-party providers to invest in curating high quality menus and voting appropriately, asset managers could pay on the basis of investor uptake or other measures of quality. But stronger financial incentives would also entail higher fees paid by asset managers, which could weaken their incentives to develop quality stewardship programs in-house.

Another avenue for reform could come from the Securities and Exchange Commission (SEC). For example, a straightforward way to facilitate alignment between investors and proxy advisors would be to demand ongoing disclosure of votes cast pursuant to voting choice policies, as well as critical information about proxy advisors themselves. Such information would better arm investors, asset managers, and scholars to serve as monitors of these programs over time. We discuss this proposal in detail in Part IV, alongside other regulatory possibilities for the SEC to consider.

This is a crucial moment for proxy voting choice. The largest asset managers have committed to expanding their programs to the entirety of their portfolios, representing over $25 trillion in assets under management and nearly 20% of the U.S. equity market.[28] Their programs remain in "pilot" mode, meaning that they are actively studying and soliciting views on how best to tackle the weighty task of diffusing their power.[29] And their choices will shape the corporate governance ecosystem for years to come.

This Article proceeds as follows. Part II provides background on the rise of large asset managers and their influence over the marketplace, as well as the advent of proxy voting choice across the largest asset managers. Part III describes our data collection effort and results describing the first three years of proxy voting choice at Vanguard. Specifically, it details differences in voting policy options and describes investor participation rates across eight eligible funds. It concludes by showing how an expanded Vanguard program would have flipped the outcome of sixteen close votes during the 2024 and 2025 proxy seasons. Part IV discusses the implications of our analysis. It begins by charting the different participants in proxy voting choice—investors, asset managers, and proxy advisors—and their interacting incentive limitations. We then discuss the critical design choices that will determine the impact of proxy voting choice on the corporate governance ecosystem. In so doing, we disagree with an alternative account that urges an expanded open proxy voting choice system. We conclude by

---

[27] *See, e.g.*, ISS Brochure, INSTITUTIONAL S'HOLDER SERVS., https://urldefense.proofpoint.com/v2/url?u=https-3A__files.adviserinfo.sec.gov_IAPD_Content_Common_crd-5Fiapd-5FBrochure.aspx-3FBRCHR-5FVRSN-5FID-3D964886&d=DwMGaQ&c=009klHSCxuh5AI1vNQzSO0KGjl4nbi2Q0M1QLJX9BeE&r=Aym5u7uMLuU2I7KCyLFS3HOmHC0jNQFto4Uv3CUaEIE&m=RWYtMLU1d-LkJYt6JlkMRQA6kRJinx6GmhaHe1IMXMkkk5l_Opr0hrY2jPaU5FVl&s=mqOBC4_3MIfQYbmo3HFxzEOztmQ_d7PoaqVqSXZfaTM&e (last updated Mar. 28, 2025) (discussing fees and compensation).

[28] Ruth V. Aguilera, Kurt A. Desender & Mónica López Puertas-Lamy, *Are the Big Three Asset Managers Beneficial Stewards or Corporate Overlords?*, CLS BLUE SKY BLOG (Aug. 6, 2024), https://clsbluesky.law.columbia.edu/2024/08/06/are-the-big-three-asset-managers-beneficial-stewards-or-corporate-overlords/; *see also* Brav et al., *Flows, Financing, and Institutional Ownership*, *supra* note 6, at 8.

[29] Jeff Sommer, *Millions of Fund Investors Are Getting a Voice*, N.Y. TIMES (Feb. 23, 2024), https://www.nytimes.com/2024/02/23/business/vanguard-blackrock-state-street-investing-voting.html.

showing how the careful calibration of key design parameters could benefit the corporate ecosystem, whereas poor choices could lead to harm.

II. Background

This Part discusses the controversy that has surrounded the growth in ownership of institutional investors and how it has precipitated voluntary proxy voting choice efforts. It then describes the different voting choice programs at each of the Big Three and concludes by describing the future of voting choice.

A. The Controversy Surrounding Asset Manager Voting

Over the past few decades, the U.S. capital market has become increasingly concentrated in the hands of institutional asset managers. As of 2023, the top 10 largest managers held approximately 30% of the market.[30] Topping that list are the so-called "Big Three" of Vanguard, State Street, and BlackRock,[31] which together hold 20% of the U.S. equity market, a number that has been predicted to grow.[32] Already, their aggregate ownership exceeds 5% of many S&P 500 companies,[33] and by some accounts, represents voting control at some.[34]

Financial power often attracts scrutiny, which is exactly what occurred as these asset managers expanded. In particular, scholars and regulators began to worry the individuals at the helm of these large asset managers would have outsized influence over the market.[35] Asset managers are governance intermediaries, meaning that the asset manager dictates the fund's votes without input from investors.[36] And given the highly diversified portfolios under management, the governance obligations present an enormous task. To take one example, Vanguard faces approximately 170,000 votes at 13,000 portfolio companies each year.[37] To manage its governance responsibilities, each asset manager constitutes a stewardship group to vote and engage with portfolio companies.[38] As a result, a handful

---

[30] Brav et al., *Flows, Financing, and Institutional Ownership*, *supra* note 6, at 26.

[31] One of us has critiqued the overuse of the term the "Big Three" in another work: Dorothy S. Lund & Adriana Robertson, *Giant Asset Managers, the Big Three, and Index Investing* (U. S. CAL. GOULD SCH. L., Research Paper Series No. 23-13, 2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4406204. We nonetheless use it here when doing so best represents a scholarly argument or as shorthand for these asset managers.

[32] Brav et al., *Flows, Financing, and Institutional Ownership*, *supra* note 6, at 8-9; Lucian Bebchuk & Scott Hirst, *The Specter of the Giant Three*, 99 B.U. L. REV. 721, 737-41 (2019) [hereinafter Bebchuk & Hirst, *The Specter of the Giant Three*].

[33] Bebchuk & Hirst, *The Specter of the Giant Three*, *supra* note 32, at 724.

[34] *Id.* at 737-38; Griffin, *We Three Kings*, *supra* note 7, at 959.

[35] *See* Lund, *The Case Against Passive Shareholder Voting*, *supra* note 7, at 496; Bebchuk and Hirst, *Index Funds*, *supra* note 14, at 2033; COATES, supra note 7.

[36] Lund, *The Case Against Passive Shareholder Voting, supra* note 7; Dorothy S. Lund, *Asset Managers as Regulators*, 171 U. PA. L. REV. 77, 83 (2023) [hereinafter Lund, *Asset Managers as Regulators*].

[37] Lund, *The Case Against Passive Shareholder Voting, supra* note 7, at 515-17.

[38] Lund, *The Case Against Passive Shareholder Voting, supra* note 7, at 515-17. Note that certain asset managers have divided their stewardship operations into two groups. For example, in 2024, BlackRock announced that it would have a stewardship group devoted to funds utilizing index strategies, and a separate group for active funds. *See* BLACKROCK. *Investment Stewardship Annual Report* (2025), https://www.blackrock.com/corporate/literature/publication/annual-stewardship-report-2024-summary.pdf. State Street, by contrast, has split its stewardship group in order to create the State Street Sustainability Stewardship Service, which utilizes the Sustainability Stewardship Service Proxy Voting and Engagement Policy. And in 2026, Vanguard's stewardship team will be split into Vanguard Capital Management and Vanguard Portfolio Management. *See* WACHTELL, LIPTON, ROSEN & KATZ, *The Big Three Shift Approach to Stewardship*

of individuals at the helm of those groups have significant influence over the voting outcomes at their portfolio companies. As John Coates memorably put it, "[t]he prospect of twelve people even potentially controlling most of the economy poses a legitimacy and accountability issue of the first order—one might even call it a small 'c' constitutional challenge."[39]

But ownership concentration also has important advantages. Indeed, scholars have pointed out the benefits that come from an ecosystem that features a small number of large blockholders. A large investment stake should improve incentives to engage in stewardship.[40] It also makes any exit threat a potent one, lending power to voice.[41] Not only that, the presence of blockholders in the marketplace can facilitate shareholder activism by reducing coordination costs for activists.[42] The presence of blockholders also reduces the costs of the corporation's communications with investors.[43] Moreover, to the extent that large diversified shareholders are repeat players in corporate governance, they will face economies of scope in issue-specific governance questions.[44] Even regarding firm-specific issues, blockholders may have the requisite knowledge to engage in informed voting so long as their stewardship group communicates with actively managed fund portfolio managers who generate information about companies as a byproduct of trading.[45]

And yet, the influence of large asset managers in the marketplace has also generated criticism, continuing a pattern of public skepticism toward financial institution control that has recurred throughout American history.[46] And the modern form of these critiques have generally cut in two directions: the asset managers are doing too little (representing a power vacuum) or too much (representing inappropriate meddling in the market).

Regarding the former critique, scholars and regulators have voiced concerns about the Big Three's incentives to engage in an adequate level of stewardship.[47] For one, the Big Three specialize in index funds, which are low-cost investment vehicles that promise to track a broadly diversified market index.[48] Index funds are chosen on the basis of relative performance (net of fees), which leads to a

(Aug. 25, 2025), https://www.lawdragon.com/press-releases/2025-08-25-wachtell-lipton-the-big-three-shift-approach-to-stewardship.

[39] John C. Coates, *The Future of Corporate Governance Part I: The Problem of Twelve* (Sept. 20, 2018) (unpublished manuscript at 2), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3247337.

[40] *See* Kahan & Rock, *supra* note 15; Lewellen & Lewellen, *supra* note 16, at 1815.

[41] Alex Edmans, *Blockholders and Corporate Governance* 2-3 (Eur. Corp. Governance Inst., Law Working Paper No. 385/2013, 2014), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2285781. Note that exit isn't often available for index funds. *See, e.g.,* Jan Fichtner & Eelke M. Heemskerk, *The New Permanent Universal Owners: Index funds, patient capital, and the distinction between feeble and forceful stewardship,* 49 ECON. & SOC'Y 493 (2020), https://www.tandfonline.com/doi/full/10.1080/03085147.2020.1781417.

[42] This assumes engagement – if the blockholders are not engaged it can worsen the dynamic, or lead to unpredictability. *See* Lund, *The Case Against Passive Shareholder Voting*, *supra* note 7.

[43] Suren Gomtsian & Tom Gosling, *The Emergence of Pass-Through Voting and Its Implications for Shareholder Stewardship* (July 10, 2025) (unpublished manuscript at 36), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5346524 (discussing the effects of pass-through voting on corporate boards).

[44] Kahan & Rock, *supra* note 15, at 1800-01.

[45] Lund, *The Case Against Passive Shareholder Voting, supra* note 7, at 514-15.

[46] ROE, *supra* note 9.

[47] *See supra* note 24 and accompanying text.

[48] Lund, *The Case Against Passive Shareholder Voting, supra* note 7.

pronounced collective action problem because investments in monitoring and engaging portfolio companies will benefit rivals that track the same index.[49] Scholars have also pointed out that fund portfolio managers may have inadequate incentives to invest in beneficial stewardship because they capture only a small fraction of the gains, although that view is contested.[50] Moreover, large asset managers have reason to be deferential to management, who are often their clients.[51] At one point, one of us went as far to argue that given these incentive problems, largely passive asset managers who lacked input from active managers should be required to not vote or pass through votes to underlying investors.[52]

Interestingly, a related proposal was made by a group of conservative senators, who were motivated by the opposite concern—that the Big Three and other large asset managers were doing too much.[53] Specifically, the INDEX Act would have required investment advisers of passively managed funds to pass-through their votes by following voting instructions from beneficial investors.[54] This proposal came about in the wake of the Big Three's efforts in support of ESG. Notably, BlackRock CEO Larry Fink authored a series of letters calling on corporations to serve a social purpose and commit to mitigating climate risk.[55] State Street and Vanguard followed suit with public statements and voting policies that increased support for environmental and social shareholder

[49] Gilson & Gordon, *supra* note 5, at 886; Lund, *The Case Against Passive Shareholder Voting*, *supra* note 7, at 500; Jill E. Fisch, Assaf Hamdani & Steven Davidoff Solomon &, *The New Titans of Wall Street: A Theoretical Framework for Passive Investors*, 168 U. PA. L. REV. 17, 35 (2020). *But see* Kahan & Rock, *supra* note 15. In a recent review of the literature, Brav, Malenko and Malenko provide an economic framework to think about the incentives of institutional investors to engage in governance, including the likelihood of a collective action problem, and then review the existing empirical evidence in the context of this framework. *See* Alon Brav, Nadya Malenko & Audrey Malenko, *Corporate Governance Implications of the Growth in Indexing* 3–6 (Nat'l Bureau of Econ. Rsch., Working Paper No. 30718, 2022), http://www.nber.org/papers/w30718.

[50] Bebchuk & Hirst, *Index Funds*, *supra* note 14. *But see* Kahan & Rock, *supra* note 15, at 741; Lewellen & Lewellen, *supra* note 16, at 229-33; Davidson Heath, Daniele Macciocchi & Matthew C. Ringgenberg, *The Economics of Investor Engagement* (Eur. Corp. Governance Inst., Finance Working Paper no. 1075/2025, 2025), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5030999.

[51] *See* Sean J. Griffith & Dorothy S. Lund, *Conflicted Mutual Fund Voting in Corporate Law*, 99 B.U. L. REV. 1151 (2019). *But see* Natalya Shnitser, *The 401(k) Condundrum in Corporate Law*, 13 HARV. BUS. L. REV. 301 (2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4569693.

[52] Lund, *The Case Against Passive Shareholder Voting*, *supra* note 7.

[53] *Toomey: The INDEX Act Will Return Voting Power to a Company's True Investors*, U.S. SENATE COMM. ON BANKING, HOUSE, & URB. AFFS. (June 14, 2022), https://www.banking.senate.gov/newsroom/minority/toomey-the-index-act-will-return-voting-power-to-a-companys-true-investors ("First, some asset managers are using their voting power to advance their own political agendas. They're voting on shareholder proposals and board nominees. By virtue of this power, they can apply pressure over companies outside of formal votes.").

[54] INDEX Act, S. 4241, 117th Cong. (2022).

[55] Larry Fink, *Larry Fink's 2020 Letter to CEOs: A Fundamental Reshaping of Finance*, BLACKROCK (2020), https://www.blackrock.com/corporate/investor-relations/2020-larry-fink-ceo-letter; Larry Fink, *Larry Fink's 2021 Letter to CEOs*, BLACKROCK (2021), https://www.blackrock.com/corporate/investor-relations/2021-larry-fink-ceo-letter [https://perma.cc/UH7K-4CGA]; Larry Fink, *Larry Fink's 2018 Letter to CEOs: A Sense of Purpose*, BLACKROCK (2018), https://www.blackrock.com/corporate/investor-relations/2018-larry-fink-ceo-letter.

proposals.[56] When this support catalyzed victories for ESG shareholder proponents and resulted in divestment from oil and gas companies, the backlash began.[57]

The first shots were fired in 2021, when the Texas legislature passed Senate Bill 13, which prohibited government entities in the state from doing business with asset managers that boycotted oil and gas companies.[58] Other red states followed suit by passing bills boycotting ESG investing, while blue states enacted pro-ESG laws.[59] Anti-ESG and anti-DEI asset management firms cropped up that promised to invest and vote against "woke" ideology;[60] shareholders began submitting anti-ESG shareholder proposals across corporate America.[61] Asset managers and their clients were also targeted by litigation challenging ESG investing practices,[62] with surprising victories. For example, in *Spence v. American Airlines*, a Texas district court held that American Airlines' retirement plan fiduciaries breached their duty of loyalty by allowing BlackRock's ESG activities to continue unchallenged.[63]

As this history reveals, the Big Three and other large asset managers face an impossible choice, no matter which direction they choose: sit out governance entirely and be criticized for their passivity or participate in governance and be derided for their influence. Despite a popular conservative narrative, the Big Three's move toward ESG was not unprincipled (or worse)—it was the result of pressure from their clients.[64] In other words, the translation of client governance preferences into voting policies subjected these asset managers to government regulation, lawsuits, and other forms of backlash. By no coincidence, by 2022, each of the Big Three announced that they would expand

---

[56] Lund, *Asset Managers as Regulators*, *supra* note 36.
[57] *See, e.g.,* Matt Phillips, *Exxon's Board Defeat Signals the Rise of Social-Good Activists*, N.Y. TIMES (June 9, 2021), https://www.nytimes.com/2021/06/09/business/exxon-mobil-engine-no1-activist.html; Cydney Posner, *Blackrock Flexes Its Muscles During the 2020-21 Proxy Period*, HARV. L. SCH. F. CORP. GOVERNANCE (Aug. 16, 2021), https://corpgov.law.harvard.edu/2021/08/16/blackrock-flexes-its-muscles-during-the-2020-21-proxy-period/.
[58] Amy Scott, Caitlin Esch & Sophia Paliza-Carre, *Tracing the Roots of the ESG Backlash*, MARKETPLACE (Apr. 23, 2025), https://www.marketplace.org/story/2025/04/23/tracing-the-roots-of-the-esg-backlash.
[59] James McAllister, *Republican States Pass 17 Anti-ESG Laws, Democratic States Pass 8 Pro-ESG in 2024*, BALLOTOPEDIA NEWS (Oct. 21, 2024), https://news.ballotpedia.org/2024/10/21/republican-states-pass-17-anti-esg-laws-democratic-states-pass-8-pro-esg-in-2024/.
[60] Lamar Johnson, *Anti-ESG Firm Strive Launches Direct Indexing Product*, ESGDIVE (Dec. 3, 2024), https://www.esgdive.com/news/strive-asset-magement-offers-anti-esg-dei-direct-indexing-vivek-ramaswamy/734486/.
[61] Robert Freedman, *Anti-ESG Proxy Votes Surge But They're Not Passing*, ESGDIVE (Oct. 4, 2024), https://www.esgdive.com/news/anti-esg-proxy-votes-surge-but-do-not-pass-conference-board-welsh-SI2-harvard/728967/.
[62] In one high-profile example, in 2024, 11 states sued the Big Three on the grounds that they "violated antitrust law through climate activism that reduced coal production and boosted energy prices." Jonathan Stempel & Carolina Mandl, *BlackRock, Vanguard, State Street Sued by Republican States Over Climate Push*, REUTERS (Nov. 29, 2024), https://www.reuters.com/legal/blackrock-state-street-vanguard-sued-by-republican-states-over-climate-accords-2024-11-27/. The FTC and DOJ have since supported this position. *See* U.S. DEP'T OF JUST., *Justice Department and Federal Trade Commission File Statement of Interest on Anticompetitive Uses of Common Shareholdings to Discourage Coal Production* (May 22, 2025), https://www.justice.gov/opa/pr/justice-department-and-federal-trade-commission-file-statement-interest-anticompetitive-uses.
[63] 718 F. Supp. 3d 612 (N.D. Tex. 2024).
[64] Lund, *Asset Managers as Regulators*, *supra* note 36.

"voting choice" programs that would give their beneficial owner investors the power to direct their proxy votes.[65] The next Sections describe these programs in detail.

B. Voting Choice Programs Across the Big Three

In some respects, voting choice is not new—asset managers have typically allowed a subset of institutional clients participating in separately managed accounts to cast their own votes.[66] The proxy voting choice programs piloted in 2023 represented an expansion—not just to certain institutional investors in "pooled funds,"[67] but also to certain retail investors.[68]

Table 1 provides a summary of the voting choice policy options currently offered by the Big Three asset managers.[69] Comparing these programs reveals certain differences. BlackRock has the most extensive number of offerings of the Big Three, with sixteen policies from three different proxy advisors: Egan-Jones, Glass Lewis, and ISS.[70] BlackRock also has significant uptake, with $812 billion in AUM (out of $3.65 trillion eligible index equity) participating in voting choice.[71] State Street's program covers 81% of the equity index equity (or $1.9 trillion in AUM) and offers eleven different policy options to investors, with policy options from Egan-Jones, Glass Lewis, ISS, and Bowyer Research.[72] Vanguard's investor choice program includes the smallest number of policy options, for a total of five.

Table 1: Big Three Voting Choice Policy Options

Asset Manager	Investor Type	Description
BlackRock	Institutional[73]	Depending on the type of account, BlackRock's Voting Choice for institutional clients offers an array of options ranging from using their preferred voting policy, following BlackRock Investment Stewardship's benchmark voting policy, selecting a third-party voting policy offered through Voting Choice, and by structuring a voting policy based on their investment goals with the support of BlackRock Investment Stewardship team. Voting choice policies include 16 options offered by three third-party providers: (1) Seven ISS Policies: ISS Benchmark Policy, Sustainability Policy, Socially Responsible Investment (SRI) Policy, Catholic Faith-Based Policy, Public Pension Fund Policy, Taft-Hartley Policy, Global Board-Aligned Policy; (2) Seven Glass Lewis Policies: Glass Lewis Benchmark Policy, Climate Policy, ESG Policy,

[65] Dorothy Lund, *The Past, Present, and Future of Proxy Voting Choice*, 50 J. CORP. L. 1075 (2025) [hereinafter Lund, *The Past, Present, and Future of Proxy Voting Choice*]; Caleb N. Griffin, *Open Proxy*, 99 TUL. L. REV. 247 (2024) [hereinafter Griffin, *Open Proxy*]. For a description of the rise of pass-through voting in the UK, see Gomtsian & Gosling, *supra* note 43 (unpublished manuscript).

[66] Griffin, *Open Proxy*, *supra* note 65, at 269; Lund, *The Past, Present, and Future of Proxy Voting Choice*, *supra* note 65; Gomtsian & Gosling, *supra* note 43, at 12 (unpublished manuscript) ("Clients holding separately managed accounts had the, at least theoretical, ability to make their own voting decisions for years.").

[67] Gomtsian & Gosling, *supra* note 43, at 2 (unpublished manuscript).

[68] Gomtsian & Gosling, *supra* note 43 (unpublished manuscript); Griffin*, Open Proxy*, *supra* note 65.

[69] For a detailed discussion of other programs, see Griffin, *Open Proxy*, *supra* note 65, and Lund, *The Past, Present, and Future of Proxy Voting Choice*, *supra* note 65.

[70] BLACKROCK, *Empowering Investors Through BlackRock Voting Choice*, https://www.blackrock.com/corporate/about-us/investment-stewardship/blackrock-voting-choice#blackrock-voting-choice-policies (last visited Jan. 26, 2026).

[71] *Id.* This is not surprising given that most of its client base is composed of other institutions. Lund, *Asset Managers as Regulators*, *supra* note 36.

[72] STATE STREET, *Proxy Voting Choice Empowers Investors*, https://www.ssga.com/us/en/about-us/what-we-do/asset-stewardship/proxy-voting-choice (last visited Jan. 26, 2026)

[73] *Empowering Investors Through BlackRock Voting Choice*, *supra* note 70.

		Catholic Policy, Public Pension Policy, Taft-Hartley Policy, Corporate Governance-Focused Policy; (3) Two Egan-Jones Policies: Egan-Jones Wealth-Focused Policy and Egan-Jones Standard Policy.
	Retail (Pilot)[74]	Eligible retail investors can select to follow BlackRock's Investment Stewardship's benchmark U.S. voting guidelines or one of seven third-party proxy voting policies. Voting choice policies include 7 options offered by three third-party providers: (1) Three ISS Policies: Catholic Faith-Based Policy, Global Board-Aligned Policy, Socially Responsible Investment (SRI) Policy; (2) Three Glass Lewis Policies: Benchmark Policy, Climate Policy, Corporate Governance-Focused Policy; (3) One Egan-Jones Policy: Wealth-Focused Policy.
State Street	Institutional & Retail (Pilot)[75]	Clients can adopt the State Street Global Advisors guideline or continue to directly vote proxies. Alternatively, clients can choose to vote with Company Board recommendation or ten third-party voting policies. These policies include a policy from Bowyer Research Policy for U.S. governmental entities; a Wealth-Focused policy from Egan-Jones; a Glass Lewis Corporate Governance Focused Policy; and seven ISS policies including the ISS Benchmark Policy, ISS Catholic Faith-Based Policy, ISS Global Board Aligned Policy, ISS Public Fund Policy, ISS Socially Responsible Investment Policy, ISS Sustainability Policy, and ISS Taft-Hartley Policy.
Vanguard	Institutional & Retail (Pilot)[76]	Investor choice includes five options: The Vanguard-Advised Funds Policy administered by Vanguard's Investment Stewardship team, a Company Board-Aligned Policy, an Egan-Jones Wealth-Focused Policy, a Glass Lewis ESG Policy, and a Mirror Voting Policy.

It is also evident, however, that the three asset managers have arrived at certain common elements. First, all asset managers adhere to a menu-based approach which allows institutions and retail shareholders to select a pre-specified voting policy to guide their votes. Second, voting choice programs are available on an opt-in basis.[77] This means that investors that decline to participate will continue to have their votes cast by the asset manager's stewardship team or, in the case of certain institutional clients, based on a voting policy structured to fit their investment goals. Second, while there is some variation across each asset manager's program offerings, the same large providers appear again and again. For example, Glass Lewis and Egan-Jones guidelines are offered by all three asset managers, while ISS-based guidelines are available in both BlackRock and State Street's voting choice programs. We analyze the implications of these commonalities in Part IV.

C. Vanguard's Voting Choice Program

Given that our empirical study focuses on voting choice at Vanguard, we now turn to describing the specifics of its pilot program.

---

[74] *Id.*

[75] *Proxy Voting Choice Empowers Investors*, *supra* note 72.

[76] Any investor – retail or institutional – in the pilot funds who Vanguard is able to reach through Broadridge's beneficial ownership network can participate in the pilot program. However, invitations to participate would not have flowed through bulk delivery platforms such as Broadridge's ProxyEdge or ISS's ProxyExchange. Therefore, investors who used those platforms would not have participated. Starting March 2025, retirement plan sponsors and financial advisors acting on behalf of clients are able to participate. VANGUARD, *Vanguard Investor Choice: Empowering More Index Fund Investors* (Mar. 3, 2025), https://corporate.vanguard.com/content/corporatesite/us/en/corp/articles/vanguard-investor-choice-empowering-more-index-fund-investors.html.

[77] STATE STREET, *Voting Policy Options*, https://www.ssga.com/us/en/about-us/what-we-do/asset-stewardship/proxy-voting-choice (last visited July 31, 2025); VANGUARD, *Empowering Everyday Investors Through Voting Choice*, https://corporate.vanguard.com/content/corporatesite/us/en/corp/how-we-advocate/investment-stewardship/investor-choice.html#tabs-98ec1ab3e3-item-ccfba23d3f-tab (last visited July 29, 2025); *Empowering Investors Through BlackRock Voting Choice*, *supra* note 70.

In one important respect, Vanguard's proxy voting choice program presents the greatest challenges relative to its asset manager rivals. Unlike BlackRock and State Street, the bulk of Vanguard's clients are retail investors, rather than institutional shareholders.[78] Therefore, Vanguard squarely faces the core incentive problem plaguing shareholder voting: rational shareholder apathy.

Vanguard tackled this problem by reworking a framework that had given institutional clients in separately managed accounts the option to cast their own votes via policy guidelines.[79] By 2024, retail and institutional investors[80] in five Vanguard index funds were eligible to participate in voting choice on an opt-in basis: the Vanguard S&P 500 Growth Index Fund, the Vanguard Russell 1000 Index Fund, the Vanguard ESG U.S. Stock ETF, the Vanguard Mega Cap Index Fund, and the Vanguard Dividend Appreciation Index Fund (for a total value of $116 billion in AUM, accounting for 2% of Vanguard's equity index AUM).[81] Investors that did not select the voting choice program would continue to have their shares voted along with the Vanguard stewardship recommendation.[82] By contrast, investors that opted in could choose from four different proxy voting policies that would govern the votes associated with their ownership interest in the fund: the "Company Board-Aligned Policy," which votes pursuant to the recommendation of the company's board; the "Glass Lewis ESG Policy," which votes according to the principle that "investment returns can be enhanced through a focus on disclosing and mitigating risks related to environmental, social, and governance issues"; Vanguard's own voting policy; and the "Nonvoting Policy," in which proportionate positions will be left unvoted on all proposals.[83]

By the end of 2024, out of more than 1 million invited investors, over 40,000 investors had elected to participate in voting choice.[84] And by 2025, Vanguard had further expanded its program both in

---

[78] Lund, *Asset Managers as Regulators*, *supra* note 36, at 98 n. 110 ("Vanguard has made a point of differentiating itself from BlackRock and State Street by targeting individual investors, rather than institutions."). Even Vanguard's institutional shareholders are retirement plans, or retail investors via a different channel, rather than the insurance funds or corporate clients that constitute much of their rivals' institutional clients.

[79] Griffin, *Open Proxy*, *supra* note 65, at 269-70.

[80] Beyond individual investors, retirement plans and financial advisors also participate in voting choice. Regarding the former, plan fiduciaries can elect to make the voting choice, or they can pass the election through to their plan participants. Regarding financial advisors, Broadridge facilitates the initiation process and policy selection, and the financial advisor is permitted to keep the authority within their home office, within individual advisors, or with end-investors. VANGUARD, THE EVOLVING PROXY VOTING LANDSCAPE: INVESTOR CHOICE (2025) [hereinafter VANGUARD, Offsite Report] (on file with authors).

[81] *Id.*

[82] At Vanguard, the fund's board approves of the governance policy associated with the fund. Although in theory, funds could have different policies, at Vanguard, each fund board chooses to adopt the stewardship group's policy.

[83] *See* PR NEWSWIRE, *Vanguard Unveils Data From Investor Choice Proxy Voting Pilot* (Sept. 17, 2024), https://www.prnewswire.com/news-releases/vanguard-unveils-data-from-investor-choice-proxy-voting-pilot-302250358.html (discussing proportion of investors choosing each of the four policies available under the initial pilot). This voting policy has since been changed to the mirror voting policy. VANGUARD, *Vanguard Expands Investor Choice, Nearly Tripling Eligible Investors and Quadrupling Eligible Assets* (May 29, 2025), https://corporate.vanguard.com/content/corporatesite/us/en/corp/who-we-are/pressroom/press-release-vanguard-expands-investor-choice-nearly-tripling-eligible-investors-and-quadrupling-eligible-assets-052925.html; *Empowering Everyday Investors Through Voting Choice*, *supra* note 77.

[84] VANGUARD, Offsite Report, *supra* note 81. Note that participation mechanics differ based on whether the underlying investor is on Vanguard's brokerage platform, or whether they are instead "off-platform." For on-platform retail shareholders, proxy voting choice is integrated in the investor's Vanguard profile. By contrast, if the retail shareholder

terms of the number of funds that were eligible and the voting menu that was offered. As of early March 2025, Vanguard's voting choice program consisted of eight funds for a total of $264 billion in AUM, with three new additions: the Tax-Managed Capital Appreciation, the Tax-Managed Small Cap, and the High Dividend Yield Index funds. In August 2025, the program added another four funds—the Vanguard Growth Index, the Value Index, the Mid-Cap Index, and the Large-Cap Index funds—bringing total AUM to $1 trillion.[85]

The menu options also underwent some change, as can be seen from Table 1. For one, the non-voting policy was replaced with a mirror-voting policy, where the investor votes would be cast to mirror the composition of the votes cast.[86] In addition, Vanguard added the Egan-Jones Wealth-Focused Policy, which is founded on the belief "that maximizing shareholder value should be the primary focus of corporate governance and management decisions, without being influenced by political or social agendas. This policy by rule rejects proposals based on environmental, social, or political considerations unless they directly contribute to value creation at the company receiving the proposal."[87]

Additional changes are on the way. Most important, Vanguard seeks to offer voting choice for all Vanguard U.S. equity index products within the next few years, regardless of the custodian, recordkeeper, or broker-dealer who administers their assets.[88] BlackRock and State Street have similarly committed to making voting choice available to all equity index fund holders; not only that, other asset managers across the globe are considering adopting voting choice programs.[89] And surveys of investor interest suggest that participation could be robust. For example, Vanguard has published research indicating that 66% of investor survey respondents would participate in a proxy voting choice program offered through their retirement plan.[90]

III. Proxy Voting Choice at Vanguard

This Part provides the first data-driven analysis of an asset manager's voting choice program. It focuses on three years of proxy voting choice at Vanguard, beginning with a detailed depiction of the menu options offered to Vanguard investors and how they drive differences in voting.[91] It then reveals how the eight eligible funds participated in the program of the 2025 proxy season. The Part concludes

---

invests via another broker (and is thus "off-platform"), the investor will receive an email or postcard invitation directing them to a Broadridge-hosted site. In light of these extra hurdles, it is not surprising that participation was far lower for off-platform investors: 1.7% of invited investors, instead of nearly 5% for on-platform investors. *Id.*

[85] VANGUARD, *Vanguard Expands Investor Choice, Nearly Tripling Eligible Investors and Quadrupling Eligible Assets*, *supra* note 83. These latest additions fall outside the scope of our study.

[86] *Id.*

[87] *Empowering Everyday Investors Through Voting Choice*, *supra* note 77.

[88] *See* VANGUARD, Offsite Report, *supra* note 81.

[89] Jessica Tasman-Jones, *Investors Demand Greater ESG Voting Rights*, FIN. TIMES. PRO., https://professional.ft.com/en-gb/blog/investors-demand-greater-esg-voting-rights/ (last visited July 29, 2025) ("BlackRock plans to extend the right to all clients.").

[90] VANGUARD, *Investors Report Strong Interest in Proxy Voting Choice* (Apr. 24, 2025), https://corporate.vanguard.com/content/corporatesite/us/en/corp/articles/investors-report-strong-interest-proxy-voting-choice.html.

[91] The appendix contains results for the first two years.

by describing how this program, if expanded as Vanguard intends, may affect the outcomes of close voting contests.

A. Data Collection

For each of the eight Vanguard funds that participated in the Investor Choice pilot program, we downloaded the five voting policy options available as of March 2025 from Vanguard's proxy voting disclosure website[92]: the Vanguard-Advised Funds Policy, the Company Board-Aligned Policy, the Glass Lewis ESG Policy, the Egan-Jones Wealth Focused Policy, and the Mirror-Voting Policy, which replaced the Non-Voting Policy in place before 2025. Specifically, for each portfolio stock covered by the program, we obtained the number of shares directed to vote on each proposal under each policy menu.[93]

This dataset provides the firm identity (name and CUSIP), meeting and record dates, meeting type (annual or special), proposal number and text, proponent, and vote cast. In 2023, the program covered 36 unique stocks, with an average of 26 stocks per fund. In 2024, 68 unique stocks were covered, with an average of 36 stocks per fund. In 2025, a total of 1,241 stocks were covered, with an average of 413 stocks per fund.

We also classified the proposals as falling within one of the following nine categories: director election, compensation-say on pay, compensation-other, auditor ratification, other management proposal, shareholder-environmental, shareholder-social, shareholder-governance, and shareholder-director election (proxy contest). To do this, we merged the proposal-level dataset with ISS Voting Analytics using the CUSIP, meeting date, proponent, and proposal text. We also retrieved ISS and Glass Lewis benchmark recommendations using the same identifiers.

For votes cast from July 1, 2023 through June 30, 2025, mutual funds were required to disclose on Form N-PX the number of shares voted, how they were voted, and the number of shares loaned but not recalled and therefore not voted by the fund.[94] If votes were cast in multiple ways (e.g., "For" under company board-aligned policy and "Against" under Glass Lewis ESG policy), the number of shares voted was disclosed separately for each policy. We obtained this information for the eight funds from the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system and matched it to the proposal-level data described above. We then calculated the percentage uptake of each voting policy, including shares not participating in the program, based on the number of shares voted under each policy.[95]

---

[92] VANGUARD, *Proxy Voting Records*, https://vds.issgovernance.com/vds/#/MjAxMA==/ (last visited July 29, 2025).

[93] By definition, the vote under the "not voting" policy is always recorded as "Take No Action."

[94] In 2025, only six pilot stocks had shares on loan during the quarter immediately preceding the record dates, and four of these stocks saw fewer shares on loan after the record dates. During the 2023-2024 proxy season, none of the pilot funds had shares on loan during the quarter immediately before the record dates for the pilot stocks.

[95] Since clients' policy choices were applied as they were made over the course of the pilot, firms with earlier record dates (e.g., Sherwin-Williams and Broadcom) tend to have a greater concentration in the Vanguard-advised funds policy. This is because policy selections made later in the pilot are not reflected in those votes. Therefore, for each fund, we use the stock with the latest record date to calculate menu uptake rate.

In addition, we obtained the percentage uptake of each voting policy conditional on participation, using information disclosed from Vanguard.[96] These percentages were then used to infer participation rates for each fund.

Finally, we downloaded CEO compensation data from ExecuComp for S&P 1500 firms in fiscal year 2024 and matched these data with information from Compustat (accounting metrics, industry classifications based on NAICS codes, and total stock returns).

B. Evidence

We first examined the different menu options offered to Vanguard investors to discern differences in voting. In this Section, we focus on shareholder meetings held between July 1, 2024, and June 30, 2025; results for meetings in the 2023–2024 proxy season are contained in Appendix Tables A1-A4. Table 2 shows the percentages of voting disagreement—i.e., how often the Vanguard stewardship group's vote differed from the other policies—for the major proposals voted on in the 2025 proxy season. Panel A begins by demonstrating the differences between Vanguard's voting and those cast under the management-aligned policy. It reveals that there is not much disagreement between Vanguard and management's recommendations, particularly for the dividend appreciation fund. For example, of the 1,582 director elections voted on by the Dividend Appreciation fund, the two policies agreed 100% of the time. The other funds featured slightly higher (but still quite low) disagreement levels, with overall disagreement ranging from .5% to 1.2%.

Panel B provides the differences between Vanguard's voting and the votes cast under the Glass Lewis ESG policy, and here the differences are much larger, even for the dividend appreciation fund. Differing votes on director elections range from 18.5% to 24.8%, but the most surprising difference in votes cast involves auditor ratification proposals—the ESG policy menu disagreed with Vanguard's voting choice between 34.0% and 74.4% of the time.[97] Overall disagreement is high across all funds, ranging from 23.5% to 31%.

Panel C shows the differences between Vanguard's policy votes and the votes cast under the Glass Lewis Benchmark policy. The Benchmark policy is *not* a Vanguard policy option; we included it to clarify how the Glass Lewis ESG policy differs from Glass Lewis' typical recommendations. Unlike the ESG guidelines, the Benchmark policy shows a moderate level of disagreement with Vanguard's policy votes across all categories, including auditor ratification. The overall disagreement between the Benchmark policy and Vanguard's own voting ranges from 6.1% to 8.9%.

Importantly, however, Panel C reveals just how much the Glass Lewis ESG policy differs from Glass Lewis' benchmark recommendations: the Glass Lewis ESG policy opposes management most often and therefore offers the highest level of disagreement with both Vanguard and Glass Lewis's benchmark policy across all voting dimensions, including director elections and executive

[96] *Empowering Everyday Investors Through Voting Choice*, *supra* note 87.
[97] *See* Griffin, *Open Proxy*, *supra* note 65 (reporting a similar finding related to BlackRock's voting choice program).

compensation. In other words, many pay packages, auditors, and director elections that Glass Lewis would support under its flagship policy are deemed problematic under the Glass Lewis ESG policy.

Panel D reveals the differences between Vanguard's policy and Egan-Jones' "wealth focused" policy, the most recent addition to the lineup of policy options. Overall levels of disagreement are low, ranging from 3.3% to 4.7%. However, the sources of disagreement cluster in three areas: say-on-pay votes (ranging from 17.2% to 33.3%), governance proposals (ranging from 21.4% to 53.1%), and proxy contests (ranging from 0% disagreement for the ESG U.S. stock ETF to 100% disagreement for the dividend appreciation fund). By contrast, there was no disagreement between Vanguard and Egan Jones' voting on environmental proposals, and only negligible levels of disagreement for social proposals (ranging from 0% to 2.2%).

To better understand the rationale for divergent votes between the Glass Lewis ESG and Benchmark policies, as well as the extent of discretion awarded to proxy advisors under various policies, we compared the policies that dictated the votes. Table A5 (in the Appendix) includes the policy language that governed each divergent vote to the extent that we could find a rationale. And for many votes, we could not find a policy justification for the divergence. For example, of the 1,014 conflicting director election votes, only 664 of the ESG policy votes could be matched with the guidelines. Those guidelines specified that under the ESG policy, Glass Lewis will negatively weight lengthy director tenure, non-diverse boards (defined as less than 33% female), and the lack of a net zero emissions target or ambition for certain companies. But for 350 votes, there was no reason to think that the vote against the director was due to any of these explicitly stated reasons. In other words, the ESG policy produced 350 votes against directors for reasons that were not clearly identified in the policy guidelines.

Table 2. Distribution of Voting Disagreements Across Proposals (July 2024 through June 2025)

Panel A: Vanguard vs. Management policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		High Dividend Yield		Tax-Managed Capital Appreciation		Tax-Managed Small Cap		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	0.0%	1582	0.6%	6596	0.2%	1234	0.6%	5489	0.2%	1322	0.3%	2968	0.4%	4625	0.4%	2751	0.6%	9134
Compensation - Say on Pay	0.0%	180	1.7%	863	0.9%	111	1.9%	625	1.4%	138	0.3%	319	1.7%	524	0.5%	401	1.6%	1181
Compensation - Other	2.0%	51	2.5%	326	0.0%	27	2.3%	217	0.0%	40	1.9%	104	2.2%	183	3.3%	180	3.0%	471
Auditor Ratification	0.0%	187	0.0%	915	0.0%	121	0.0%	666	0.0%	145	0.0%	332	0.0%	554	0.0%	412	0.0%	1245
Other Management Proposal	5.6%	54	4.1%	318	2.4%	41	3.1%	258	1.5%	67	1.7%	121	4.0%	198	2.9%	69	3.9%	406
Shareholder - E	0.0%	12	0.0%	35	0.0%	31	0.0%	47	0.0%	17	0.0%	29	0.0%	44	0.0%	2	0.0%	49
Shareholder - S	0.0%	29	1.4%	74	0.0%	61	1.0%	97	0.0%	46	0.0%	41	1.1%	94	0.0%	4	1.0%	100
Shareholder - G	10.0%	40	22.6%	124	9.4%	53	17.7%	147	8.5%	47	13.1%	61	17.4%	138	28.6%	14	19.1%	157
Shareholder - Director Election (Proxy Contest)	0.0%	4	0.0%	8	0.0%	4	0.0%	10	—	—	0.0%	10	0.0%	10	0.0%	4	0.0%	26
Total	**0.4%**	**2139**	**1.2%**	**9259**	**0.6%**	**1683**	**1.2%**	**7556**	**0.5%**	**1822**	**0.6%**	**3985**	**1.0%**	**6370**	**0.7%**	**3837**	**1.1%**	**12769**

Panel B: Vanguard vs. Glass Lewis ESG policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		High Dividend Yield		Tax-Managed Capital Appreciation		Tax-Managed Small Cap		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	19.6%	1582	22.7%	6596	18.5%	1234	23.7%	5489	22.8%	1322	22.4%	2968	23.3%	4625	24.8%	2751	23.9%	9134
Compensation - Say on Pay	33.3%	180	52.6%	863	23.4%	111	44.0%	625	29.7%	138	38.9%	319	42.2%	524	56.4%	401	49.4%	1181
Compensation - Other	0.0%	51	6.1%	326	3.7%	27	3.7%	217	5.0%	40	3.8%	104	3.3%	183	2.8%	180	4.7%	471
Auditor Ratification	67.4%	187	44.6%	915	74.4%	121	55.0%	666	67.6%	145	60.2%	332	57.9%	554	34.0%	412	43.9%	1245
Other Management Proposal	22.2%	54	22.3%	318	17.1%	41	26.0%	258	25.4%	67	9.9%	121	29.8%	198	21.7%	69	23.4%	406
Shareholder - E	75.0%	12	62.9%	35	58.1%	31	63.8%	47	58.8%	17	69.0%	29	63.6%	44	100.0%	2	65.3%	49
Shareholder - S	41.4%	29	47.3%	74	31.1%	61	47.4%	97	43.5%	46	36.6%	41	45.7%	94	75.0%	4	48.0%	100
Shareholder - G	77.5%	40	55.6%	124	60.4%	53	59.9%	147	70.2%	47	62.3%	61	58.7%	138	50.0%	14	58.6%	157
Shareholder - Director Election (Proxy Contest)	75.0%	4	12.5%	8	75.0%	4	30.0%	10	—	—	30.0%	10	30.0%	10	50.0%	4	34.6%	26
Total	**26.3%**	**2139**	**27.8%**	**9259**	**25.2%**	**1683**	**28.9%**	**7556**	**28.6%**	**1822**	**27.2%**	**3985**	**28.9%**	**6370**	**28.2%**	**3837**	**28.3%**	**12769**

Panel C: Vanguard vs. Glass Lewis benchmark policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		High Dividend Yield		Tax-Managed Capital Appreciation		Tax-Managed Small Cap		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	4.2%	1209	6.3%	4461	4.7%	1214	6.4%	5405	6.2%	1300	4.6%	2193	6.2%	4565	5.5%	491	6.6%	5860
Compensation - Say on Pay	6.2%	128	13.4%	539	10.9%	110	12.0%	616	8.1%	136	8.6%	220	11.2%	517	18.8%	69	12.5%	694
Compensation - Other	0.0%	33	4.6%	195	3.8%	26	3.7%	214	5.1%	39	4.2%	71	3.3%	181	5.1%	39	4.0%	251
Auditor Ratification	0.0%	133	0.0%	573	0.0%	117	0.0%	653	0.0%	141	0.0%	228	0.0%	544	0.0%	74	0.0%	736
Other Management Proposal	22.2%	45	24.9%	213	17.9%	39	25.9%	247	28.8%	59	12.1%	91	29.3%	191	36.4%	11	26.5%	260
Shareholder - E	0.0%	12	12.5%	32	0.0%	31	8.9%	45	11.8%	17	0.0%	27	6.8%	44	—	—	8.9%	45
Shareholder - S	17.2%	29	37.0%	73	29.5%	61	36.5%	96	39.1%	46	17.5%	40	35.1%	94	100.0%	2	37.1%	97
Shareholder - G	65.8%	38	52.6%	116	49.1%	53	53.1%	145	59.6%	47	58.3%	60	51.5%	136	66.7%	6	53.7%	147
Shareholder - Director Election (Proxy Contest)	75.0%	4	0.0%	6	75.0%	4	30.0%	10	—	—	30.0%	10	30.0%	10	—	—	30.0%	20
Total	**6.3%**	**1631**	**8.2%**	**6208**	**7.5%**	**1655**	**8.2%**	**7431**	**8.9%**	**1785**	**6.1%**	**2940**	**8.2%**	**6282**	**7.5%**	**692**	**8.4%**	**8110**

Panel D: Vanguard vs. Egan-Jones policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		High Dividend Yield		Tax-Managed Capital Appreciation		Tax-Managed Small Cap		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	0.4%	1582	1.2%	6596	0.6%	1234	1.3%	5489	0.4%	1322	1.3%	2968	0.8%	4625	1.3%	2751	1.4%	9134
Compensation - Say on Pay	20.6%	180	27.3%	863	33.3%	111	29.9%	625	17.4%	138	24.8%	319	28.1%	524	17.2%	401	25.7%	1181
Compensation - Other	0.0%	51	7.7%	326	7.4%	27	4.6%	217	7.5%	40	5.8%	104	4.4%	183	3.9%	180	5.9%	471
Auditor Ratification	0.5%	187	0.3%	915	0.8%	121	0.3%	666	0.7%	145	0.3%	332	0.4%	554	0.5%	412	0.3%	1245
Other Management Proposal	11.1%	54	11.3%	318	4.9%	41	11.2%	258	7.5%	67	9.9%	121	12.1%	198	10.1%	69	11.3%	406
Shareholder - E	0.0%	12	0.0%	35	0.0%	31	0.0%	47	5.9%	17	0.0%	29	0.0%	44	0.0%	2	0.0%	49
Shareholder - S	0.0%	29	0.0%	74	0.0%	61	0.0%	97	2.2%	46	0.0%	41	1.1%	94	25.0%	4	1.0%	100
Shareholder - G	45.0%	40	48.4%	124	45.3%	53	53.1%	147	48.9%	47	49.2%	61	52.9%	138	21.4%	14	50.3%	157
Shareholder - Director Election (Proxy Contest)	100.0%	4	0.0%	8	100.0%	4	40.0%	10	—	—	40.0%	10	40.0%	10	0.0%	4	30.8%	26
Total	**3.4%**	**2139**	**4.7%**	**9259**	**4.6%**	**1683**	**5.0%**	**7556**	**3.5%**	**1822**	**4.3%**	**3985**	**4.7%**	**6370**	**3.3%**	**3837**	**4.7%**	**12769**

This comparison of policies generated additional insights. Specifically, it revealed that the Glass Lewis ESG guidelines typically offer more stringent and fixed voting rules than the Benchmark policy. Compare, for example, the policies for auditor ratification. The Benchmark policy offers a general and context-specific test for the vote; by contrast, the ESG policy states that it "will vote against auditor ratification proposals in instances where it is clear that a company's auditor has not been changed for 20 or more years."[98] In other words, the ESG policy appears to bind the proxy advisor with fixed rules more often than the Benchmark policy.

Similarly, Table A6 sheds light on the rationale for divergent votes between the Egan-Jones wealth focused policy and Vanguard's own voting. Regarding say-on-pay votes, the policy refrains from setting forth the parameters of its voting policy; instead, it specifies a "case-by-case" vote as determined by a proprietary model. Compare this guidance to that of Glass Lewis, which instead specifies several elements that it favors and disfavors in compensation policies, such as performance periods greater than three years. Regarding governance proposals, the Egan-Jones policy describes a commitment to supporting a set of pre-specified proposals that empower shareholders, such as proposals to de-stagger the board or enable shareholder action by written consent. And the Egan-Jones policy commits to supporting these proposals regardless of the company's justification (in contrast to the Glass Lewis and Vanguard policies), which provides a basis for understanding the higher level of disagreement for these votes.

To better understand the rationale for say-on-pay votes cast pursuant to the Egan-Jones policy, we examined whether excessive CEO compensation predicts Egan-Jones recommendations against say-on-pay votes. We isolated our key independent variable of interest, "Excess Compensation," by identifying the residual from a regression of CEO compensation on firm size (the logarithm of total assets), book-to-market ratio, return on assets, total stock return during the previous fiscal year,[99] and industry fixed effects for S&P 1500 firms holding meetings between July 1, 2024, and June 30, 2025.[100] We also constructed an indicator (equal to one) to identify when the residual exceeds the sample median.[101] Among the pilot firms, the average excess compensation is $168,167, with substantial variation, as reflected in a high standard deviation of $6.866 million. The median excess compensation is zero, indicating that the distribution is skewed toward higher values.

---

[98] GLASS LEWIS, ESG THEMATIC VOTING POLICY (2024), https://resources.glasslewis.com/hubfs/2024%20Guidelines/2024%20ESG%20Thematic%20Voting%20Policy.pdf. This stance may reflect a commonly held view outside of the U.S. (and particularly in Europe) that long audit tenures should be discouraged or prohibited. *See, e.g.,* KPMG, *EU Audit Reform* (Dec. 2015), https://assets.kpmg.com/content/dam/kpmg/pdf/2016/01/eu-audit-reform-december-2015.pdf; EUROPEAN COMMISSION, *Reform of the EU Statutory Audit Market - Frequently Asked Questions* (June 16, 2016), https://ec.europa.eu/commission/presscorner/detail/fr/memo_16_2244. In this way, the Glass Lewis ESG policy appears to be designed to appeal to European clients.

[99] All of these control variables are measured in fiscal year 2024.

[100] These variables are commonly used in studies of executive pay. *See* John E. Core, Wayne R. Guay & David F. Larcker, *The Power of the Pen and Executive Compensation*, 88 J. FIN. ECON. 1 (2008); Jill E. Fisch, Darius Palia & Steven Davidoff Solomon, *Is Say on Pay All About Pay? The Impact of Firm Performance*, 8 HARV. BUS. L. REV. 101 (2018).

[101] *See* Wei Jiang, Tao Li & Danqing Mei, *Influencing Control: Jawboning in Risk Arbitrage*, 73 J. FIN. 2635 (2018).

As reported in Table 3, Egan-Jones' Wealth Focused policy is significantly more likely to recommend voting against say-on-pay proposals at firms with high excess compensation. Specifically, a one–standard-deviation increase in excess compensation is associated with a 6.2 percentage point increase in the likelihood of a negative vote. Similarly, for firms with above-median excess compensation, Egan-Jones is 11 percentage points more likely to oppose the say-on-pay package than firms with below-median excess compensation. The economic magnitude is substantial, given that the unconditional probability of Egan-Jones voting against say-on-pay proposals is approximately 25%. All in all, these results suggest that the Egan-Jones model designates supporting and challenging votes consistent with academic research on excessive compensation.

Table 3. Determinants of Egan-Jones recommendations against say-on-pay votes

	Dependent variable: Egan-Jones recommendation against a say-on-pay proposal	
	(1)	(2)
Excess compensation ($ million)	0.0090***	
	[3.73]	
Above median excess compensation		0.1096**
		[2.06]
Industry fixed effects	Yes	Yes
Observations	863	863
Adj. R-squared	0.192	0.180
% (Dependent variable = 1)	25.5%	25.5%

Note: We adopt a linear probability model, in which the dependent variable equals one if the Egan-Jones Wealth Focused policy recommends against a say-on-pay proposal and zero otherwise. In each column, we report estimated coefficients and their associated *t*-statistics. Standard errors are clustered at the industry level. *, ** and *** indicate statistical significance at the 10%, 5% and 1% levels, respectively.

We next turn to studying a subset of contentious proposals, which we define as proposals in which ISS recommends against management's recommendation. Our goal is to document whether disagreement across policies varies differentially for proposals whose outcome is predictable versus those that are not. We again study the percentages of voting disagreement between Vanguard's stewardship group and the three menu options.

The results (contained in Table 4) are similar to those in Table 2. The management policy disagreed with Vanguard's choices the least often with divergence averaging 9.9% for the eight funds. The Glass Lewis ESG policy disagreed most often, with differences ranging from 46.7% to 57.1% (putting aside the Tax-Managed Small Cap Fund for which data availability is limited).[102] The Glass Lewis Benchmark policy was right in the middle with differences ranging from 40.9% to 45% for the first seven funds, while the average difference for the Egan-Jones Wealth Focused policy was 27.8%. However, and perhaps unsurprisingly, the level of overall disagreement between the voting choice selection and Vanguard's selection was higher for these contentious proposals, for all funds and across all policy options, than for the non-contentious proposals.

[102] Our sample of ISS benchmark recommendations covers mostly large firms.

Table 4. Distribution of Voting Disagreements Across Contentious Proposals (July 2024 through June 2025)

Panel A: Vanguard vs. Management policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		High Dividend Yield		Tax-Managed Capital Appreciation		Tax-Managed Small Cap		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	0.0%	19	2.8%	107	3.0%	67	3.4%	116	3.0%	66	0.0%	32	2.8%	109	0.0%	10	2.8%	145
Compensation - Say on Pay	0.0%	6	11.4%	35	5.9%	17	11.1%	36	14.3%	14	0.0%	11	12.1%	33	25.0%	4	11.9%	42
Compensation - Other	50.0%	2	0.0%	15	0.0%	5	0.0%	15	0.0%	7	0.0%	3	0.0%	15	40.0%	5	9.5%	21
Auditor Ratification	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0
Other Management Proposal	66.7%	3	30.0%	10	33.3%	3	40.0%	10	33.3%	3	66.7%	3	40.0%	10	—	0	41.7%	12
Shareholder - E	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0
Shareholder - S	0.0%	1	0.0%	11	0.0%	7	0.0%	11	0.0%	6	0.0%	1	0.0%	11	—	0	0.0%	11
Shareholder - G	7.1%	14	26.5%	49	20.8%	24	21.3%	61	16.7%	24	16.0%	25	21.3%	61	100.0%	1	22.2%	63
Shareholder - Director Election (Proxy Contest)	0.0%	4	—	0	0.0%	4	0.0%	4	—	0	0.0%	4	0.0%	4	—	0	0.0%	8
Total	**8.2%**	**49**	**10.1%**	**227**	**7.1%**	**127**	**9.9%**	**253**	**7.5%**	**120**	**7.6%**	**79**	**9.9%**	**243**	**20.0%**	**20**	**9.9%**	**302**

Panel B: Vanguard vs. Glass Lewis ESG policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		High Dividend Yield		Tax-Managed Capital Appreciation		Tax-Managed Small Cap		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	68.4%	19	41.1%	107	53.7%	67	53.4%	116	54.5%	66	53.1%	32	53.2%	109	30.0%	10	48.3%	145
Compensation - Say on Pay	0.0%	6	45.7%	35	47.1%	17	41.7%	36	42.9%	14	36.4%	11	39.4%	33	50.0%	4	45.2%	42
Compensation - Other	0.0%	2	13.3%	15	20.0%	5	13.3%	15	28.6%	7	33.3%	3	13.3%	15	0.0%	5	9.5%	21
Auditor Ratification	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0
Other Management Proposal	0.0%	3	50.0%	10	0.0%	3	40.0%	10	66.7%	3	0.0%	3	40.0%	10	—	0	41.7%	12
Shareholder - E	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0
Shareholder - S	100.0%	1	81.8%	11	71.4%	7	81.8%	11	66.7%	6	100.0%	1	81.8%	11	—	0	81.8%	11
Shareholder - G	78.6%	14	61.2%	49	50.0%	24	62.3%	61	75.0%	24	56.0%	25	62.3%	61	0.0%	1	61.9%	63
Shareholder - Director Election (Proxy Contest)	75.0%	4	—	0	75.0%	4	75.0%	4	—	0	75.0%	4	75.0%	4	—	0	75.0%	8
Total	**57.1%**	**49**	**46.7%**	**227**	**51.2%**	**127**	**52.6%**	**253**	**56.7%**	**120**	**50.6%**	**79**	**52.3%**	**243**	**25.0%**	**20**	**49.7%**	**302**

Panel C: Vanguard vs. Glass Lewis benchmark policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		High Dividend Yield		Tax-Managed Capital Appreciation		Tax-Managed Small Cap		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	21.1%	19	25.8%	89	31.3%	67	31.0%	116	31.8%	66	27.6%	29	31.2%	109	0.0%	1	29.0%	124
Compensation - Say on Pay	0.0%	5	41.4%	29	41.2%	17	40.0%	35	35.7%	14	30.0%	10	37.5%	32	0.0%	1	40.0%	35
Compensation - Other	0.0%	1	14.3%	14	20.0%	5	13.3%	15	28.6%	7	33.3%	3	13.3%	15	0.0%	2	11.8%	17
Auditor Ratification	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0
Other Management Proposal	0.0%	3	50.0%	8	0.0%	3	40.0%	10	66.7%	3	0.0%	3	40.0%	10	—	0	40.0%	10
Shareholder - E	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0
Shareholder - S	100.0%	1	100.0%	11	100.0%	7	100.0%	11	100.0%	6	100.0%	1	100.0%	11	—	0	100.0%	11
Shareholder - G	84.6%	13	63.8%	47	54.2%	24	63.3%	60	75.0%	24	60.0%	25	63.3%	60	—	0	63.9%	61
Shareholder - Director Election (Proxy Contest)	75.0%	4	—	0	75.0%	4	75.0%	4	—	0	75.0%	4	75.0%	4	—	0	75.0%	8
Total	**41.3%**	**46**	**41.4%**	**198**	**40.9%**	**127**	**43.0%**	**251**	**45.0%**	**120**	**41.3%**	**75**	**43.2%**	**241**	**0.0%**	**4**	**42.1%**	**266**

Panel D: Vanguard vs. Egan-Jones policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		High Dividend Yield		Tax-Managed Capital Appreciation		Tax-Managed Small Cap		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	0.0%	19	3.7%	107	1.5%	67	9.5%	116	4.5%	66	0.0%	32	7.3%	109	0.0%	10	7.6%	145
Compensation - Say on Pay	50.0%	6	48.6%	35	52.9%	17	58.3%	36	35.7%	14	54.5%	11	57.6%	33	0.0%	4	54.8%	42
Compensation - Other	0.0%	2	6.7%	15	20.0%	5	6.7%	15	14.3%	7	0.0%	3	6.7%	15	0.0%	5	4.8%	21
Auditor Ratification	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0
Other Management Proposal	0.0%	3	30.0%	10	0.0%	3	30.0%	10	0.0%	3	0.0%	3	30.0%	10	—	0	33.3%	12
Shareholder - E	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0	—	0
Shareholder - S	0.0%	1	0.0%	11	0.0%	7	0.0%	11	16.7%	6	0.0%	1	0.0%	11	—	0	0.0%	11
Shareholder - G	57.1%	14	53.1%	49	58.3%	24	60.7%	61	58.3%	24	56.0%	25	60.7%	61	0.0%	1	58.7%	63
Shareholder - Director Election (Proxy Contest)	100.0%	4	—	0	100.0%	4	100.0%	4	—	0	100.0%	4	100.0%	4	—	0	100.0%	8
Total	**30.6%**	**49**	**22.5%**	**227**	**22.8%**	**127**	**30.4%**	**253**	**20.0%**	**120**	**30.4%**	**79**	**29.6%**	**243**	**0.0%**	**20**	**27.8%**	**302**

Table 5 provides an analysis of investor participation across the eight funds. In Panel A, we report the percent of investors' AUM allocated to one of the five policies. The panel shows that a vast number of Vanguard investors did not opt into voting choice and were thus defaulted into the Vanguard-Advised Policy. For the largest fund—the dividend appreciation index fund, which is 44% larger than the next largest fund—the second most popular choice is the company board-aligned policy, which votes similarly to Vanguard's policy (as per Tables 2 and 4).[103] Unsurprisingly, for the ESG U.S. Stock ETF, a higher percentage of investor capital is allocated to the Glass Lewis ESG policy than in any other fund.

In Panel B of Table 5, we report the percentage of investors choosing that policy conditional on participation.[104] The Vanguard-Advised Policy is the most popular policy for all funds except for the ESG U.S. Stock ETF, for which the Glass Lewis ESG Policy is the most popular policy choice. We use these conditional participation rates and the percentages of fund AUM allocated to each policy, reported in Panel A, to back out the participation rate for each fund. The leftmost column of Panel B provides participation rates that range from a low of 1.1% for the Russell 1000 Index Fund to a high of 5.1% for the Tax-Managed Capital Appreciation Fund. Interestingly, conditional on program participation, investors in the High Dividend Yield Index, the Tax-Managed Capital Appreciation, and the Tax-Managed Small-Cap funds were most likely to select the Egan-Jones Wealth Focused menu, potentially reflecting greater financial literacy and wealth. The Egan-Jones policy, despite being the latest addition, has already surpassed the Glass Lewis ESG policy in terms of overall popularity, and is only lagging the Company Board-Aligned policy by .1%.

Table 5. Participation Analysis (July 2024 through June 2025)

Panel A: Percent of fund AUM choosing a menu based on the firm with the latest record date

Fund Name	Fund Size (Billion dollars)	% fund AUM				
		Vanguard-Advised Policy	Company Board-Aligned Policy	Glass Lewis ESG Policy	Mirror Voting Policy	Egan-Jones Wealth Focused Policy
Dividend Appreciation Index Fund	109.6	98.27%	0.94%	0.39%	0.01%	0.38%
ESG U.S. Stock ETF	11.2	95.86%	0.15%	3.96%	0.00%	0.03%
Mega Cap Index Fund	8.5	98.55%	0.69%	0.36%	0.00%	0.40%
Russell 1000 Index Fund	9.4	99.34%	0.35%	0.19%	0.01%	0.12%
S&P 500 Growth Index Fund	19.4	98.85%	0.62%	0.23%	0.01%	0.29%
High Dividend Yield Index Fund	76.3	98.63%	0.47%	0.26%	0.02%	0.62%
Tax-Managed Capital Appreciation Fund	24.6	96.50%	0.77%	0.76%	0.02%	1.95%
Tax-Managed Small-Cap Fund	8.7	97.03%	0.61%	0.84%	0.02%	1.50%
Total	**267.6**	**98.16%**	**0.70%**	**0.53%**	**0.01%**	**0.60%**

[103] Cynically, this result could be the result of Vanguard's program design: for corporate 401(k) plans, Vanguard gives the company the ability to direct the menu choice.

[104] Vanguard disclosed the percentages of a fund's AUM choosing each voting policy conditional on participation for 2025. See John Galloway, Vanguard, *Vanguard Investor Choice participation and preferences* (Sept. 2025: Investor Participation and Preferences 7 (2025)).

Panel B: Percent of fund investors choosing a policy conditional on participation

Fund Name	Participation Rate	% fund AUM conditional on participation				
		Vanguard-Advised Policy	Company Board-Aligned Policy	Glass Lewis ESG Policy	Mirror Voting Policy	Egan-Jones Wealth Focused Policy
Dividend Appreciation Index Fund	2.9%	41%	31%	13%	1%	14%
ESG U.S. Stock ETF	4.9%	16%	4%	80%	0%	1%
Mega Cap Index Fund	2.2%	34%	33%	14%	0%	18%
Russell 1000 Index Fund	1.1%	41%	30%	16%	1%	12%
S&P 500 Growth Index Fund	2.0%	44%	29%	11%	1%	16%
High Dividend Yield Index Fund	2.0%	32%	23%	13%	1%	32%
Tax-Managed Capital Appreciation Fund	5.1%	31%	16%	14%	0%	38%
Tax-Managed Small-Cap Fund	4.3%	31%	19%	16%	0%	33%
Total	**2.8%**	**35%**	**24%**	**18%**	**0.5%**	**23%**

Note: Fund size is as of July 2025. We back out the participation rate using the following equality: Participation rate × Percent of a fund's AUM choosing the Vanguard-advised policy conditional on participation + (1 – Participation rate) = Percent of fund shares choosing the Vanguard-advised policy. We obtain a similar participation rate when using any of the other four voting policies, for which we use the following equality: Participation rate × Percent of a fund's AUM choosing the menu conditional on participation = Percent of fund shares choosing the policy. The leftmost column in Panel B provides the participation rate backed out based on the Vanguard-advised policy.

C. The Potential Impact of Proxy Voting Choice

The evidence in Table 5 suggests that the current low participation rate for Vanguard's voting choice program means that it will have little to no effect on the corporate governance ecosystem. Could a future in which all Vanguard investors are eligible for the program and decide to opt in to voting choice have an impact?

To assess the impact of voting choice in a counterfactual scenario of full participation, we examined all 132 close shareholder votes in the 2025 proxy season. We define a close shareholder vote as one where approval rates fell between 40 and 60 percent. We make three assumptions to help us extrapolate the expected impact of voting choice over time. The first assumption is a 100% participation rate across all Vanguard funds—an assumption that will be borne out in the next few years, according to Vanguard. The second assumption is that all Vanguard investors opt in and select a policy available under the pilot program. Third, we assume that the voting patterns in the pilot program will hold up even as the program expands. Specifically, we assume that, conditional on participation, investors would select the Company-Board Aligned, the Glass Lewis ESG, the Egan-Jones Wealth-Focused, and the Mirror Voting policies 24%, 18%, 23%, and 0.5% of the time, respectively (see Table 5).

Our counterfactual analysis employing these three assumptions generated the following observations: For 84 out of the 132 close votes, the expansion of proxy voting choice would have moved their outcome closer to the passing threshold without flipping the outcome. More significantly,

another 14 proposals would have flipped.[105] Specifically, two of 25 failed management proposals and six of 27 failed shareholder proposals would have passed; six of 70 management proposals that received majority support would have failed.

As shown in Table 6, in all these 14 cases, the Egan-Jones Wealth Focused policy and/or the Glass Lewis ESG policy went against Vanguard's vote, which would have flipped the outcome.[106] We illustrate this point using two examples below.

Table 6: Counterfactual Analysis

Company Name	Meeting Date	Sponsor	Proposal Text	Result	Support Rate	Vanguard Policy	Egan-Jones Policy	Glass Lewis ESG Policy	Counter-factual Support Rate
Tronox Holdings	5/7/2025	Mgmt	Elect Fawaz Al-Fawaz	Fail	49.0%	Against	For	Against	53.1%
The Chefs' Warehouse	5/9/2025	Mgmt	Elect Richard Peretz	Fail	49.2%	Against	For	For	54.5%
Akamai Technologies	5/14/2025	Mgmt	Shareholder ability to call special meetings	Pass	56.1%	For	Against	Against	49.3%
Kohl's Corporation	5/14/2025	Mgmt	Say-on-Pay	Pass	55.3%	For	Against	Against	45.3%
LCI Industries	5/15/2025	Mgmt	Say-on-Pay	Pass	50.2%	For	Against	Against	44.8%
Elanco Animal Health	5/16/2025	Mgmt	Say-on-Pay	Pass	53.5%	For	Against	Against	49.2%
Medical Properties Trust	5/29/2025	Mgmt	Say-on-Pay	Pass	58.3%	For	Against	Against	44.6%
CoStar Group	6/26/2025	Mgmt	Say-on-Pay	Pass	53.8%	For	Against	Against	46.5%
Eversource Energy	5/1/2025	SH	Independent chairman	Fail	47.4%	Against	Against	For	50.1%
AbbVie	5/9/2025	SH	Simple majority vote	Fail	49.0%	Against	For	Against	51.9%
Xylem	5/13/2025	SH	Reduce threshold to call special meetings	Fail	46.0%	Against	For	For	51.6%
Align Technology	5/21/2025	SH	Reduce threshold to call special meetings	Fail	45.1%	Against	For	For	50.6%
Booking Holdings	6/3/2025	SH	Reduce threshold to call special meetings	Fail	48.9%	Against	For	For	53.1%
eBay	6/25/2025	SH	Reduce threshold to call special meetings	Fail	49.0%	Against	For	For	55.2%

CoStar Group, a leading provider of commercial real estate information, analytics, and online marketplaces, saw its 2025 Say-on-Pay proposal pass by a slim margin: 53.8% of the votes cast voted in favor, despite management's recommendation to vote for it. Vanguard voted most of its 66,497,400 shares in favor of the proposal, going against the recommendation of Glass Lewis and ISS.[107] If we assume that 100% of Vanguard's shares had participated in voting choice, with 53% of those shares selecting to oppose the management option (as fund shareholders did in the pilot program, with 35% choosing the Egan-Jones Wealth Focused policy and 18% selecting the Glass Lewis ESG policy), 35,243,622 fewer shares would have voted for the proposal, for a total of 9.35% of the total votes in favor and against.[108] Investors choosing the mirror voting policy would have reduced for votes by

[105] The remaining 34 proposals would see their outcome moving further away from the passing threshold, 14 of which are due to the mirror voting policy alone (the Company Board-Aligned policy, Egan-Jones Wealth Focused policy, and Glass Lewis ESG policy are all in line with Vanguard vote).

[106] The mirror voting policy plays a minor role, which on average would have moved the support rate by only 0.03 percentage points for these 14 proposals. For the two failed management proposals, the company board-aligned policy also went against the Vanguard policy, boosting support for the two director nominees.

[107] Vanguard group held 68,426,711 shares of CoStar Group as of 3/31/2025, the quarter end immediately before the meeting record date, of which 66,497,400 shares were under their sole investment discretion. That is, 66,497,400 shares were held by Vanguard mutual funds and ETFs.

[108] To obtain this percentage, we divide 35,243,622 by the total votes in favor and against (or 202,754,871+174,302,322).

about 153,699 shares or 0.04% of the total votes in favor and against. Now, instead of narrowly passing, the vote would have failed, securing only 44.4% of the vote.

By contrast, the shareholder proposal at eBay that attempted to reduce the threshold to call special meetings of stockholders (a typical shareholder empowerment proposal) would have met the opposite fate. It narrowly failed to pass—receiving 49.0% of the vote—with Vanguard voting most of its 57,329,693 shares against the proposal. Now assume that 100% of Vanguard's shares had participated in proxy voting choice with the policy choices mirroring those of the pilot program. Under these assumptions, 23,645,536 more shares[109] would now vote for the proposal, for a total of 6.18% of the total votes in favor, against, and abstaining. As a result, the voting choice program would have diminished Vanguard's veto such that the proposal would have secured 55.2% of the vote.

Taken together, these examples reveal that proxy voting choice can have an impact. Although one could question our assumptions about investor uptake and policy choices, the point is that these programs are expanding—Vanguard has committed to encompassing all equity index assets in the next few years, and potential investor interest is high.[110] Beyond Vanguard, other asset managers are making similar commitments, and have evidenced much more substantial uptake.[111] And as this expansion occurs across the marketplace, the realities of a changed ecosystem become more and more likely.

Directionally speaking, these examples also reveal how voting choice is likely to make a difference. In these two examples, where Vanguard supported management's position, the advent of voting choice would have diminished that support and enabled the passage of a shareholder proposal that management opposed; it would have also resulted in the failure of a say-on-pay vote. Therefore, these examples suggest that voting choice may empower shareholder activists who may be able to chip away at Vanguard's pro-management voting.

We repeated this analysis for close votes held in 2024 and found that two contentious shareholder-sponsored proposals at Tesla's 2024 annual meeting would have flipped: first, a proposal to adopt a simple majority vote, and second, a proposal to declassify the board of directors.

The 2024 Tesla majority vote proposal passed by a slim margin: 53.07% of the votes cast voted in favor, despite management's recommendation to vote against. Vanguard voted most of its 221,451,972

---

[109] For simplicity, we ignored the actual shares voted "For" by investors in the eight pilot funds. Specifically, 4,027 shares were voted "For" in the ESG fund; 14,794 in the High Dividend Yield Index Fund; 1,008 in the S&P 500 Growth Index Fund; 206 in the Russell 1000 Index Fund; and 7,356 in the Tax-Managed Capital Appreciation Fund. The Dividend Appreciation Index Fund, the Mega Cap Index Fund, and the Tax-Managed Small Cap Fund did not hold eBay. In total, 27,391 shares were voted "For" by investors in these funds.

[110] *Investors Report Strong Interest in Proxy Voting Choice*, *supra* note 90.

[111] *See State Street Global Advisors Sees Strong and Growing Market Adoption of Proxy Voting Choice in Q1 2025*, STATE STREET (June 18, 2025) https://investors.statestreet.com/investor-news-events/press-releases/news-details/2025/State-Street-Global-Advisors-Sees-Strong-and-Growing-Market-Adoption-of-Proxy-Voting-Choice-in-Q1-2025/default.aspx; *supra* note 71 and accompanying text (describing BR's uptake).

shares in favor of the proposal, consistent with the recommendation of Glass Lewis and ISS.[112] If we assume that 100% of Vanguard's shares had participated in voting choice, with 36% of those shares either not voting or selecting to support the management option (as fund shareholders did in the pilot program), 79,722,710 fewer shares would have voted for the proposal, for a total of 3.45% of the total votes in favor, against, and abstaining.[113] Now, instead of narrowly passing, the vote would have failed, securing only 49.62% of the vote.

The declassification proposal would have met a similar fate. In 2024, a shareholder proposal to declassify Telsa's board narrowly passed—receiving 53.31% of the vote—with Vanguard voting most of its 221,451,972 shares in favor of the proposal in spite of management's recommendation against. Now assume that 100% of Vanguard's shares had participated in proxy voting choice with the policy choices mirroring those of the pilot program. Under these assumptions, 79,722,710 fewer shares[114] would now vote for the proposal, for a total of 3.45% of the total votes in favor, against, and abstaining. As a result, the voting choice program would have diminished Vanguard's support such that the proposal would have secured only 49.86% of the vote.

These examples reveal an additional implication of the advent of voting choice. To the extent that asset managers are challenging management, as was the case with these two shareholder proposals in 2024, voting choice will make such challenges more difficult. By contrast, if asset managers are supporting management, as they had done more often since 2022 (as evidenced by the 2025 results),[115] voting choice may diminish that support. And therefore, the advent of voting choice will lead to an increased frequency in passage for proposals that asset managers disfavor, and an increased failure for proposals that asset managers favor. We return to the implications of this observation in the next Part.

IV. Analysis: Voting Choice Program Design

The previous Part shows that voting choice programs, if expanded, could impact the corporate governance ecosystem. But much remains to be seen. In this Part, we describe the promise and potential pitfalls of voting choice for corporate governance and the broader market. We begin by describing the three main players in proxy voting choice—investors, asset managers, and proxy advisors—and their incentives. We then show how their incentive issues complicate the key (and unresolved) design issues that are at the forefront of the minds of asset managers and regulators. Regarding asset managers, we offer suggestions for menu design and third-party compensation

[112] Vanguard group held 233,602,120 shares of Tesla as of 3/31/2024, the quarter end immediately before the meeting record date, of which 221,451,972 shares were under their sole investment discretion. That is, 221,451,972 shares were held by Vanguard mutual funds and ETFs.

[113] To obtain this percentage, we divided 79,722,710 by the total votes in favor, against, and abstaining (or 1,225,968,057+ 1,047,335,839+ 36,964,994).

[114] For simplicity, we ignored the actual shares voted Against or Abstained by investors in the five pilot funds. Specifically, 745 shares were voted Against or Abstained in the ESG fund; 2,765 in the Mega Cap Index Fund; 7,681 in the S&P 500 Growth Index Fund; and 1,448 in the Russell 1000 Index Fund. The Dividend Appreciation Index Fund did not hold Tesla. In total, 12,639 shares were voted Against or Abstained by investors in these funds.

[115] Jessica Tasman-Jones, *World's Biggest Asset Managers Reduce Support for ESG Proposals, Report Finds*, FIN. TIMES PRO., https://professional.ft.com/en-gb/blog/worlds-biggest-asset-managers-reduce-support-for-esg-proposals-report-finds/ (last visited July 31, 2025).

regimes; as for regulators, we propose refinements to proxy advisor disclosure requirements and asset manager fiduciary duty. We conclude by showing how careful attention to these design choices and regulatory issues can ensure that proxy voting choice does not harm (and may even benefit) the corporate governance ecosystem.

A. The Participants in Voting Choice Programs

This Section sets the stage by describing the three economic agents that participate in voting choice programs—investors, asset managers, and third-party policy providers—and the incentives they face. It also previews how the interaction of these incentive limitations matters for voting choice program design.

Investors. Proxy voting choice programs face a challenging problem: the fact that their beneficial owner investors are rationally apathetic.[116] Investor rational apathy is a known fact in corporate governance, where the typical investor has a small stake in the voting outcome and therefore no financial incentive to invest in research to gather information and vote.[117] Such apathy is compounded in the case of a mutual fund investor.[118] For one, mutual fund portfolios are broadly diversified, with investments in hundreds of companies.[119] This reality means that the costs associated with engaged voting are prohibitively high. Second, a mutual fund investor's stake in any given company will be small, with a miniscule chance of their vote affecting the outcome. This lack of pivotality provides very little incentive to invest effort in voting.[120] It also substantially hampers the execution and monitoring of pass-through voting programs, and even those that involve menus of policy guidelines, as we discuss in the next Section.

Asset Managers. We have already described the debate regarding asset managers' incentives to gather information and engage in stewardship of portfolio companies.[121] Whether asset managers are properly incentivized to invest in stewardship or not, the expected costs associated with the administration of voting choice programs will negatively impact their net-of-fee performance. And this cost dampens their incentive to take costly measures to learn the preferences of their investors and invest in developing high quality voting choice policies.

---

[116] *See* Fisch & Schwartz, *supra* note 21 (describing how rational apathy complicates pass-through voting programs).

[117] *See* Alon Brav, Matthew Cain & Jonathon Zytnick, *Retail Shareholder Participation in the Proxy Process: Monitoring, Engagement, and Voting* (Eur. Corp. Governance Inst., Fin. Working Paper No. 637/2019, 2021), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3387659.

[118] Note, however, that a subset of mutual fund investors are institutions with greater awareness of their preferences and the value implications of votes. *See* Lund, *Asset Managers as Regulators*. For institutional investors, proxy voting choice gives them a stronger voice and thus increases their incentives to participate in governance. It is not surprising, therefore, that institutional clients were already eligible for voting choice policies. And because expanded voting choice aims not just to include institutional investors, but also retail shareholders, we focus most of our attention on retail investor incentives.

[119] *ETFs vs. Mutual Funds: A Comparison*, VANGUARD, https://investor.vanguard.com/investor-resources-education/etfs/etf-vs-mutual-fund (last visited July 31, 2025).

[120] *Cf.* Lewellen & Lewellen, *supra* note 16. The problem of rational apathy is most severe in the case of a retail investor, and yet for certain asset managers, a large component of their clients are institutions, which somewhat mitigates apathy. This explains why the relative uptake for pass-through voting programs is higher at institutions like BlackRock that count institutions as a larger fraction of their shareholder base.

[121] See *supra* notes 21-30 and accompanying text.

In addition, to the extent that proxy voting choice programs diffuse governance rights, they can further weaken an asset manager's incentives to participate in governance. If a large number of clients were to allocate a significant part of an asset manager's AUM to a third-party provider's policy, that would lower that the fund's own voting power and therefore diminish the fund's expected benefit from direct engagement with portfolio companies.[122] All in all, the combination of a lower number of shares under the asset manager's policy, the higher costs associated with managing a voting choice program, and the extra compensation for third-party providers will weaken the incentive of any one asset manager to engage in stewardship.

In light of these constraints and combined with investor rational apathy (which limits investors' ability to understand and screen voting choice programs), there is a risk that asset manager proxy voting choice programs will be not only low cost but also low quality, subject to another constraint—what the asset manager's rivals are doing. More specifically, competition for investor capital ought to incentivize asset managers to offer a comprehensive set of policies; moreover, asset managers will want to choose the most popular third-party providers. However, it is also possible that given investor apathy, asset managers will converge on an equilibrium in which they all provide relatively low-cost menus with similar options. This is indeed what we observe in Table 1.

Third-Party Policy Providers. As the previous Part makes clear, the current form of proxy voting choice programs ultimately takes discretion away from asset managers and give it to third-party guidelines providers—for now, the leading proxy advisor firms. In some respects, this is troubling. Proxy advisors may have conflicts of interest to the extent that they provide voting advice to or rate the credit of their client corporations.[123] Most do not owe fiduciary duties to their clients or the underlying companies for which they provide advice.[124] They are lightly regulated and not required to disclose much about their business, ownership, clients, compensation, financial industry affiliations, including their voting.[125]

---

[122] *Cf.* Lewellen & Lewellen, *supra* note 16; Kahan & Rock, *supra* note 15; *see also* Gomtsian & Gosling, *supra* note 43 (unpublished manuscript at 36) ("Moreover, if the take-up of voting choice is strong and many clients make their own voting decisions or delegate votes to a proxy advisor, asset managers will be left with less voting power and are likely to face the same weak incentive of becoming informed about votes."); Andrey Malenko & Nadya Malenko, *Voting Choice* (Eur. Corp. Governance Inst., Fin. Working Paper No. 677/2250, 2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4390367 [hereinafter Malenko & Malenko, *Voting Choice*] (noting that the delegating of voting to individuals reduces the asset managers incentives to acquire company-specific information).

[123] *See, e.g.*, Daniel M. Gallagher, *Outsized Power & Influence: The Role of Proxy Advisers*, HARV. L. SCH. F. CORP. GOVERNANCE (Sept. 5, 2014), https://corpgov.law.harvard.edu/2014/09/05/outsized-power-influence-the-role-of-proxy-advisers/; Concept Release on the U.S. Proxy System, 75 Fed. Reg. 42982 (July 22, 2010).

[124] Leo E. Strine, Jr., *Toward a True Corporate Republic: A Traditionalist Response to Bebchuk's Solution for Improving Corporate America*, 119 HARV. L. REV. 1759, 1765 (2006) ("Unlike corporate managers, neither institutional investors as stockholders nor ISS as a voting advisor owe fiduciary duties to the corporations whose policies they seek to influence.").

[125] *See, e.g.*, Tao Li, Outsourcing Corporate Governance: Conflicts of Interest and Competition in the Proxy Advisory Industry (Eur. Corp. Governance Inst., Fin. Working Paper No. 389/2013, 2013), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2287196; U.S. GOV'T ACCOUNTABILITY OFF., GAO-17-47, CORPORATE SHAREHOLDER MEETINGS: PROXY ADVISORY FIRMS' ROLE IN VOTING AND CORPORATE GOVERNANCE PRACTICES 8–9 (2016) (observing that, as pension consultants, ISS and ProxyVote Plus are registered with the SEC as investment advisers while Glass Lewis and Egan-Jones are not registered as investment advisers); Stephen Choi, Jill Fisch & Marcel Kahan, *The Power of Proxy Advisors: Myth or Reality?*, 59 EMORY L.J. 869 (2010); Deb Lifshey, *Update on the Oversight*

Perhaps most important, proxy advisors' fees are typically fixed and do not vary with the quality of the voting guidelines they design.[126] In other words, often an asset manager will pay a flat annual fee for the use of several voting policies, regardless of their uptake and performance.[127] Therefore, under the current form of proxy voting choice, costly efforts to offer well-designed voting policies that efficiently represent the preferences of the underlying investors will not benefit the proxy advisor, nor will poorly designed policies necessarily cause financial harm.

There are two mitigating factors. The first is that a well-designed voting policy can make the proxy advisor's policies more attractive to other asset managers, leading to an increase in aggregate fee income. Likewise, a poorly designed policy could lead to reputational harm and even litigation risk[128] for the proxy advisor. Although these factors ought to incentivize proxy advisors to develop high quality guidelines, there is an upper limit given the small number of asset managers that are in the market for voting guidelines and asset manager incentive limitations discussed above. Moreover, the risk of reputational harm is mitigated by the fact that any vote can be justified ex post, and it is difficult (for now) to tie company performance to the voting record of any one proxy voting policy.

The second and related mitigating factor is that proxy advisors benefit from being repeat players in governance.[129] To the extent that the voting issue in question recurs across the marketplace, proxy advisors may be well-positioned to address it. Nonetheless, often the most important voting issues are firm-specific and thus do not benefit from scope economies in governance, which ultimately puts the incentive issue into focus once again.[130]

Overall, the current fixed fee structure presents the risk that proxy advisors will not develop programs that are tailored to investor preferences nor will they implement them in a way that necessarily benefits investors, beyond the baseline that is required to maintain their reputation and avoid litigation risk.[131] Indeed, because the policy choice is sticky, the proxy advisor need only work

---

and Regulation of Proxy Advisors, PEARL MEYER (July 2024), https://pearlmeyer.com/insights-and-research/client-alert/update-on-the-oversight-and-regulation-of-proxy-advisors (discussing litigation over the SEC's 2020 rules on proxy advisory firms oversight and where we are today). As we discuss in Part IV, only ISS files a form ADV with the SEC. *See infra* Section IV.C.i.

[126] See Choi et al., *supra* note 125.

[127] Note that asset managers like Glass Lewis sometimes offer custom policies with variable fees based on the number of ballots that are voted.

[128] *See, e.g.*, Colin J. Diamon et al., *Regulating Proxy Advisors: Court Rules Advice Is Not a 'Solicitation' and Texas Enacts Its Own Law*, PAUL HASTINGS (July 9, 2025), https://www.paulhastings.com/insights/client-alerts/regulating-proxy-advisors-court-rules-advice-is-not-a-solicitation-and-texas-enacts-its-own-law.

[129] Asaf Eckstein, *Skin in the Game for Credit Rating Agencies and Proxy Advisors: Reality Meets Theory*, 7 HARV. BUS. L. REV. 221, 230-33 (2017).

[130] Dorothy S. Lund, *Passive Investing and Corporate Governance*, *in* CORPORATE LAW AND ECONOMICS (Adam B. Badawi ed., 2023)

[131] Like asset managers, proxy advisors may be able to benefit from information gleaned about companies in their other activities, such as Egan-Jones' credit risk business. But that business also creates conflicts of interest. *See, e.g.*, Isaac Taylor, *Private-Credit Ratings Under Scrutiny: Conflicting Interests Fuel Investor Concerns*, WALL. ST. J. (May 18, 2025), https://www.wsj.com/articles/private-credit-ratings-under-scrutiny-conflicting-interests-fuel-investor-concerns-b103830b?gaa_at=eafs&gaa_n=ASWzDAhAxFsVAQ4qP4Jr-Q1XfNjx-1jnnV5c4YpXhrPyZ3ZkUuLCx63-rVls4eXgnXc%3D&gaa_ts=6884bda4&gaa_sig=YqMYpKl6dVWBgqsMudXoCq4g3-4kb33AXJBHm82CqC7x7Kvdfx-emH8I0lJbgHXGgD0syr_WO4FUTo5AutuX4g%3D%3D.

as hard as it takes to get a foot in the door. After that, they will have substantial discretion in the design and implementation of voting guidelines (as Tables A4-A6 in the Appendix indicate), without much of a financial incentive to use this discretion well.

These incentive issues are compounded by the realities of investor and asset manager apathy. In particular, investors will not have an incentive to closely scrutinize voting advice, and asset managers have limited time and attention to devote to screening proxy voting guidelines. Moreover, the proxy advice market is not particularly competitive—it is dominated by ISS and Glass Lewis, with a few smaller players like Egan-Jones.[132] As a result, proxy advisors are not subject to much competitive discipline either.

In many ways, therefore, the incentives of proxy advisors to engage in informed voting are markedly worse than that of asset managers, who are bound by fiduciary duty to act in their investors' interests, are required to disclose votes, and can utilize research generated by actively managed fund portfolio managers.[133] And yet, proxy voting choice programs in their current form take power away from asset managers and award it to proxy advisors, a point we return to in the next Section.

B. Critical Design Features for Asset Managers

With an understanding of the three economic agents that play a central role in the voting choice universe, we turn to the critical design features for asset managers. We focus on menu design and third-party compensation, showing how insights from our empirical study as well as our discussion of participant incentives shed light on these design choices. These incentive issues are compounded by an additional agency problem—the fact that the asset manager will have an incentive to mitigate regulatory risk when designing voting choice programs. In other words, the asset manager will be satisfied if the program averts regulatory scrutiny, even if it imperfectly captures the views of underlying investors. And as the paragraphs that follow reveal, this complex incentive environment not only explains different aspects of existing proxy voting choice programs, but also sheds light on outstanding design issues.

i. Menu Design

Given investor rational apathy, a world of genuine pass-through voting—where asset managers gave investors full control of their votes—would face insurmountable challenges, because few investors would be willing to bear the high costs associated with voting. Therefore, asset manager voting choice policies have typically relied on a menu approach, as Part II described in detail.[134] Under such programs, the asset manager's role becomes one of selecting options, setting a default, and then allowing investors to choose between sets of guidelines that influence how the third-party provider casts the votes.

---

[132] David F. Larcker & Brian Tayan, *Seven Questions About Proxy Advisors*, STAN. CLOSER LOOK SERIES, Apr. 29, 2024 at 1, https://www.gsb.stanford.edu/sites/default/files/publication/pdfs/cgri-closer-look-104-seven-questions-proxy-advisors.pdf.

[133] Lund, *The Case Against Passive Shareholder Voting*, *supra* note 7.

[134] *See supra* Part II.B.

It is unsurprising that asset managers have gravitated toward this approach. For one, many asset managers had already been providing proxy-advisor designed guidelines to institutional clients in separately managed accounts.[135] Expanding the program to other investors was therefore a natural expansion of past practice. In addition, offering a policy that is designed and implemented by an entity other than the asset manager is a risk averse approach. If asset managers were instead to create bespoke guidelines themselves, they could face liability from investors who were unhappy with the solicitation of their preferences and subsequent implementation of the policy.[136]

A policy menu approach has its limits, however. The first is that selecting between guidelines mitigates the investor rational apathy concern but it does not solve it. Although the choice between a small number of guidelines is more manageable than the choice to cast thousands of votes, it likely remains overwhelming for a rationally apathetic mutual fund investor. Those investors would still need to read through the descriptions of each policy and form an opinion on their merits. Recall that the Glass Lewis ESG menu voted against auditor certification 34-74.4% of the time, while the benchmark and management policy never once opposed it. Would an investor who selected the ESG policy have expected this difference? As Table A4 and A5 in the Appendix revealed, the rationale is available, but it is included deep in the guidelines, in the section on the appointment of auditors and the authority to oppose auditor ratification with tenure longer than twenty years.[137] Only a careful read of multiple policy guidelines would have revealed this difference—something that rationally apathetic investors are unlikely to do.

Moreover, as a result of investor rational apathy, there is a risk that investors who opt into voting choice policies will not fully understand what they are getting. The recent popularity of the Egan-Jones voting guidelines further supports this insight. Egan-Jones has secured voting guidelines contracts with each of the Big Three on the basis of its "wealth-focused" policy.[138] This policy has become popular with investors that are presumably looking for a policy that maximizes their wealth (or more cynically, protects the institution making the selection from litigation risk). But how do we know that the policy is truly wealth maximizing? What makes it different from the rest? A closer look at the policy explanation suggests that a defining feature is its unwillingness to support ESG and DEI efforts, which was supported by our findings of low support for environmental and social proposals.[139]

---

[135] *See supra* Part II.B., tbl. 1.

[136] *Cf. Spence v. Am. Airlines, Inc.*, 718 F. Supp. 3d 612 (N.D. Tex. 2024).

[137] GLASS LEWIS, ESG THEMATIC VOTING POLICY (2024, 2025), https://resources.glasslewis.com/hubfs/2024%20Guidelines/2024%20ESG%20Thematic%20Voting%20Policy.pdf.

[138] *See BlackRock Expands Voting Choice Through New Egan-Jones Voting Guidelines and Customization*, BLACKROCK (June 11, 2024), https://www.blackrock.com/corporate/newsroom/press-releases/article/corporate-one/press-releases/blackrock-expands-voting-choice; *Proxy Voting Choice Empowers Investors*, *supra* note 72; *Vanguard Nearly Doubles Eligible Assets in Investor Choice Program with Three New Funds*, VANGUARD (Nov. 18, 2024), https://corporate.vanguard.com/content/corporatesite/us/en/corp/who-we-are/pressroom/press-release-vanguard-nearly-doubles-eligible-assets-in-investor-choice-program-with-three-new-funds-111824.html.

[139] *See* BLACKROCK, VOTING CHOICE: PROXY VOTING POLICY COMPARISON FOR INSTITUTIONAL CLIENTS (2025), https://www.blackrock.com/corporate/literature/publication/voting-choice-voting-policy-comparison.pdf. (describing the Egan-Jones benchmark policy as focused on "long-term financial value creation" while the wealth-focused policy "prioritizes . . . enhancing the wealth of investors, . . . and disregards DEI/ESG initiatives, except to the extent such proposals are directly tailored to revenue generation"); Ross Kerber, *Vanguard to Double Investor "Voting Choice" Program for 2025*, REUTERS (Nov. 18, 2024) ("[Vanguard's] 'wealth-focused' policy option from proxy advisory firm Egan-Jones [will]

Would an investor necessarily expect that difference without a close look at the policy guidelines? Would they have likewise expected very divergent votes on say-on-pay voting, relative to Vanguard's own voting?

In the paragraphs that follow, we further describe how the problem of investor rational apathy complicates four choices related to menu design: populating the menu, selecting the default, employing surveys, and serving as a gatekeeper. We also reveal how third-party policy provider and asset manager incentive limitations complicate the resolution of these issues.

Populating the Menu. Recall that rationally apathetic investors will suffer from choice overload if there are an extensive number of policy options on a voting choice menu. Therefore, customization has a downside, and may cause investors to sit out due to choice fatigue. This outcome may occur in spite of the fact that a larger set of menus makes it more likely that one of the menu options would better reflect investor preferences. Therefore, asset managers are likely to be constrained in the number of policies they can offer as a general principle.

With this constraint in mind, now consider an asset manager's optimal menu design choice in a world of investor apathy. If offering only a small number of policy options, those will ideally differ from each other across many dimensions in order to capture the broad spectrum of investor preferences. And this is exactly what we saw in Tables 2 and 3. Each of the voting policies ranged from very little to extreme disagreement with management *across every category*.[140] In other words, we might construe the Glass Lewis ESG policy as advocating support for proposals that tend to be opposed by management, in contrast with the benchmark policy, which essentially voted in alignment with management.[141] Moreover, Tables A4 and A5 in the Appendix indicates that the ESG voting policy brought about this result by offering less flexibility and discretion to the proxy advisor and a greater incidence of fixed rules.

In theory, a small number of policy guidelines might suffice to capture investor preferences if investors differ across a few dimensions, but investor preferences do not vary in this simple manner. Indeed, investor preferences on any given voting issue vary over a wide spectrum,[142] and they are also multidimensional, as evidenced by recent scholarship. Specifically, Jonathon Zytnick and Robert Jackson study individual investor voting behavior and find that it is "ideological," meaning that investors have fixed views that rarely change from proposal to proposal.[143] But despite consistency

'. . . focus[] on maximizing shareholder value without being influenced by political or social agendas.'"); Joseph N. DiStefano, *BlackRock and Vanguard Hire Egan-Jones to Guide Investors Uninterested in Social and Environment Woes*, PHILA. INQUIRER (Nov. 26, 2024), https://www.inquirer.com/business/egan-jones-anti-esg-vanguard-blackrock-20241126.html.

[140] A similar pattern occurred across BlackRock's voting choice policies. *See* BLACKROCK, VOTING CHOICE: VOTING POLICY COMPARISON (2023), https://www.blackrock.com/corporate/literature/brochure/voting-choice-voting-policy-comparison.pdf.

[141] Ryan Bubb & Emiliano M. Catan, The Party Structure of Mutual Funds, 35 REV. FIN. STUD. 2839 (2022); Patrick Bolton et al., *Investor Ideology*, 137 J. FIN. ECON. 320 (2020).

[142] *See, e.g.*, Alok Kumar, *Dynamic Style Preferences of Individual Investors and Stock Returns*, 44 J. FIN. & QUANTITATIVE ANALYSIS 607 (2009).

[143] Robert J. Jackson & Jonathon Zytnik, *Individual Investor Ideology* (Dec. 12, 2024) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5054952.

across proposals, investor preferences are not one-dimensional: a dimension reduction analysis shows that the largest common factor, sentiment toward management, captures 56% of the variation in investor voting, with the second capturing only 14.4%.[144] Their analysis therefore suggests that investor preferences are mostly idiosyncratic and not reflected by a small number of systematic components. Regarding Vanguard's program from 2023-2025, therefore, it is unlikely that a set of four or five guidelines—with only two or three substantive offerings—captured the nuanced preferences of a large number of investors. Nonetheless, given rational investor apathy and the transaction costs associated with designing a larger number of menus, the design choice of offering a small number of policies may be necessary.

Another possibility, however, is that policy guidelines providers could offer guidelines choices for a small subset of issues, rather than bundling voting advice for all votes. For example, in 2024, environmental and social votes represented less than 2% of the overall number of voting issues, and yet investors selecting the Glass Lewis ESG voting policy received customized votes on issues of all types. Offering voting guidelines for only a subset of votes would help mitigate rational apathy concerns for all parties in the proxy voting choice ecosystem: proxy advisors would have fewer votes to address, and investors and asset managers would have fewer votes to monitor. Moreover, the investor's ex ante policy selection process would likely be improved, given that the investor would have fewer guidelines to read and comprehend. Finally, because unbundling voting guidelines would leave a greater share of votes to the asset manager, the system would be less likely to affect asset manager incentives to engage in stewardship.

Grants of Discretion. There is a second fundamental problem facing a menu approach to voting: no menu can provide perfect guidance for a fund's voting choices. Suppose that an investor selects Glass Lewis' ESG policy, which states that it "was designed for clients with a strong focus on environmental and social issues or as a supplemental voting policy for ESG-focused funds."[145] And yet, most issues—and even those involving ESG matters—present complex tradeoffs between stakeholder and shareholder, or stakeholder and stakeholder, value. When these tradeoffs manifest, how will Glass Lewis resolve them? A close look at the policy guidelines provides no clear answer to this question.

As this hypothetical example reveals (along with our analysis of policies in Tables A4-A6 in the Appendix), a guidelines-approach grants ample discretion to the third-party to implement the policy. Difficult questions follow. Will rationally apathetic investors understand the degree to which the guidelines kick many issues back to the third-party provider? Will the third-party provider be allowed it to select its favored option rather than attempt to stand in the shoes of the investor that picked the policy? Are proxy advisors best positioned to exercise this judgment, relative to other third-party providers that could? Should the asset manager constrain the use of discretion accorded to proxy advisors in some way? We return to these questions throughout the remainder of the Article.

---

[144] *Id.*

[145] GLASS LEWIS, ESG THEMATIC VOTING POLICY GUIDELINES (2025), https://corporate.vanguard.com/content/dam/corp/advocate/investment-stewardship/pdf/investor-choice/esg_policy_by_glass_lewis.pdf.

Preference Aggregation Surveys vs. Menus. Although each asset manager has thus far implemented a menu approach, as discussed, investor rational apathy makes it difficult for a menu approach to capture the nuanced views of investors. One leading alternative to a menu-based approach would be to better ascertain investor preferences as a guide for the asset manager's own voting, as Jill Fisch and Jeff Schwartz have recommended.[146] Suppose that instead of asking investors to select a policy from a menu, Vanguard offered a short survey that elicited their preferences on a number of issues. Indeed, advances in artificial intelligence and sorting algorithms can facilitate such preference elicitation so that it can be used to obtain specific views in just a few questions.[147] Vanguard could then implement those preferences to guide their own voting in proportion to the investors' stake in the fund.[148]

A preference aggregation survey would add transparency and precision to an asset manager's exercise of authority. In broad brushstrokes, asset managers already implement a form of preference aggregation: As one of us has written, the policies and preferences of the stewardship group are shaped by the institution's vocal clients.[149] In other words, the intermediaries already consider and implement client feedback, but they do so without transparency (which clients directed which votes and why?) and precision (are the certain investor views dictating the votes of other investors who may not share those views?[150]). All in all, the act of gathering preferences and then using that data to modify votes could lead to a better fit between investor preferences and voting outcomes.[151] Moreover, a survey-based preference-aggregation approach would mitigate the risks associated with blockholder diffusion.

Nonetheless, a preference-aggregation approach has its limits. Most fundamentally, investor rational apathy puts a limit on the usefulness of any outreach. As in a menu approach, a survey approach is limited by investor rational apathy—the more questions, the greater the choice overload. Therefore, survey designers would be pushed toward offering a short survey with relatively broad questions.[152] The extent of the program's complexity will also be limited by asset manager collective action problems. The more detailed the survey and extensive the outreach, the more costly the program. If other asset managers offer a cheaper option, this will likely attract fee-sensitive investors

---

146 Fisch & Schwartz, *supra* note 21.

147 *See, e.g.*, Dominik Peters & Ariel D. Procaccia, *Preference Elicitation as Average-Case Sorting*, 35 ASS'N FOR ADVANCEMENT ARTIFICIAL INTEL. 5647 (2021), https://ojs.aaai.org/index.php/AAAI/article/view/16709/16516 (discussing preference elicitation algorithms that ask few questions by building on results for average-case sorting).

148 Fisch & Schwartz, *supra* note 21. Another related recommendation is to use "citizen assemblies" composed of randomly selected investors to weigh in on voting outcomes. See Hart, Landemore, and Zingales. However, this system poses the risk of rational apathy (who is to say that the chosen officials will work hard for the outcome?) and even corruption if the jurors could be bought off. Moreover, given that the underlying issues are based on investor values, which are heterogenous across the population, there is no guarantee that the jury's selection would match investor preferences in the aggregate.

149 Lund, *Asset Managers as Regulators*, *supra* note 36.

150 *Id.*; *see also* Michal Barzuza, Quinn Curtis & David H. Webber, *The Millennial Corporation: Strong Stakeholders, Weak Managers*, 28 STAN. J. L. BUS. & FIN. 255 (2023).

151 *See also* Hart & Zingales, *supra* note 12. Perhaps, for example, surveys could simply ask investors to quantify tradeoffs, aiding asset managers in discharging their duties.

152 Likewise, an investor may be unwilling to answer even a short survey, or perhaps in the course of taking the survey, realize they are ill-prepared to make a judgment and refuse to participate. As such, a survey-based approach could reduce investor uptake in the program. However, a survey could help educate investors in the process, helping them to understand the types of votes that could emerge.

and ultimately create an upper bound for program complexity. Therefore, the amount of guidance provided via a survey is likely to be limited, and unlikely to provide guidance to the difficult voting questions that crop up from year to year.

For this reason, asset managers would rightly worry that they would take on risk by promising to accommodate investors that have decided to respond to the survey and then deciphering that survey-based guidance into voting in real time. Suppose, for example, that an investor had responded to a survey question indicating that they wished to challenge excessive management compensation. Suppose that Vanguard interpreted this guidance to allow a vote in favor of a CEO pay package that approaches $100 million on the grounds that peer CEOs are paid similarly and the executive team is moving the company in the right direction. It is not far-fetched to think that Vanguard could face a lawsuit from an unhappy investor after the fact.

However, asset managers need not take on preference aggregation and voting themselves—instead, proxy advisors could employ surveys to sort investors, along the lines of what proxy advisory service Iconick offers its clients.[153] And yet, as we have described, proxy advisors suffer from their own incentive issues. A survey is only as good as the questions it asks, and proxy advisors, like asset managers, will not have a financial incentive to incur the costs with designing and analyzing comprehensive surveys. Likewise, rationally apathetic investors are unlikely to closely monitor the survey designers, whether they are proxy advisors or asset managers.

Given the host of incentive issues that we have described, we have serious concerns about survey design and the risk of hidden agendas sneaking in. In some respects, competition between survey designers can ameliorate these concerns,[154] but only to a degree. Moreover, compared to a menu-based approach, a survey could help with preference tailoring, but it does not address the fact that many voting decisions require a judgment call. Therefore, a survey may help a proxy advisor decipher aspects of the underlying investor's preferences, but it still leaves difficult judgment calls to the proxy advisor's discretion. For this reason, we do not expect preference-based aggregation systems to necessarily generate a closer fit between investor preferences and votes than a menu-based system.

Menu Gatekeepers. Rational apathy plagues not just corporate voting, but also voting in public law.[155] A party system, and particularly, one that is polarized,[156] helps drive turnout and mitigate rational

---

[153] *Proxy Voting for a New Era*, ICONIK, https://www.iconikapp.com/ (last visited July 30, 2025). Note that proxy advisors typically conduct an annual review process that includes input from issuers and other stakeholders; Glass Lewis additionally generates a policy survey that is distributed to all institutional and corporate clients. What Fisch and Schwartz envision, however, is something even more fine-grained: rather than using surveys to enhance a small set of general policies, the survey would generate a custom set of votes for that individual.

[154] Already, several third-party survey designers exist. *See, e.g.,* ICONIK, https://www.iconikapp.com/ (last visited Aug. 1, 2025); TUMELO, https://www.tumelo.com/ (last visited Aug. 1, 2025).

[155] ANTHONY DOWNS, AN ECONOMIC THEORY OF DEMOCRACY (1957); Russell Hardin, *Street-Level Epistemology and Democratic Participation*, 10 J. POL. PHIL. 212 (2002).

[156] See, e.g., Maria Murias Muñoz & Bonnie M. Meguid, *Does Party Polarization Mobilize or De-Mobilize Voters? The Answer Depends on Where Voters Stand*, ELECTORAL STUD., Apr. 2021, https://www.sciencedirect.com/science/article/abs/pii/S0261379421000019; Sigrid Rossteutscher & Lars-Christopher Stövsand, *Party-System Polarization and Individual Perceptions of Party Differences: Two Divergent Effects on Turnout*, 59 GOV'T & OPPOSITION (2024).

apathy because vote choice is simpler when groups like churches, unions, and professional associations are associated with certain parties.[157] Could a menu-based system be reenvisioned to create a party regime for proxy voting choice, thereby improving the fit between investor preferences and votes?

Caleb Griffin has proposed an "open proxy" system that would allow investors to delegate their votes to a proxy advisor or even a nonprofit of their own choosing, which could induce competition in providing menu guidelines among different parties.[158] In other words, in Griffin's ideal world, rather than select between several options developed by the asset manager and a proxy advisor, investors would choose options from an unlimited set of third parties, ranging, for example, from the ESG-focused nonprofit As You Sow to the anti-ESG fund Strive Capital. The advantage of such an approach, according to Griffin, is that the asset manager would no longer exercise their flawed judgment in selecting options; instead, third-parties would compete to provide policies that appeal to the fund's underlying investors.[159]

We agree that there could be advantages to this approach. One is that competition among third parties would likely lead to a large number of tailored voting menus, allowing investors to choose menus that fit their nuanced preferences. Moreover, if the guidelines provider was salient to investors that fact could ameliorate a lack of information. For example, if Greenpeace offered voting guidelines, an investor might know enough about the organization to trust their judgment and delegate their votes without closely reading the menu. For this reason, a larger set of guidelines options could be offered to investors, given that the costs of differentiation are smaller. Finally, because the investor would choose based on the party, there may be more of a reason to embrace the delegation of judgment that is inherent in any guidelines-based system.

There are disadvantages as well. One is that such competition might lead to extreme outcomes. The prize for creating a new set of guidelines would be the ability to swing a large number of votes and therefore control the exercise of raw economic power. But not many third parties will have the incentive to offer guidelines, much less do it well. Consider, again, Greenpeace and suppose it decided to enter their own voting guidelines. Would the nonprofit have the sophistication or resources to be able to assemble detailed voting guidelines for all of the issues that companies face each proxy season? Proxy advisors suffer from their own challenges, but at least their business model depends on providing voting advice for the marketplace. By contrast, a wholly open proxy system may soon be dominated by rich and idiosyncratic investors—billionaire entrepreneurs or activist hedge funds, for example—who are willing to spend to push investors to support them.[160]

Moreover, rationally apathetic investors are not well positioned to sort between guidelines options. Instead, as the rise of "finfluencers" has demonstrated, investors may not necessarily respond to the

---

[157] G. BINGHAM POWELL JR., CONTEMPORARY DEMOCRACIES (1982).
[158] Griffin, *Open Proxy*, *supra* note 65.
[159] *Id.*
[160] *See, e.g.*, Zoe Williams, *An Excess of Billionaires Is Destabilizing Politics – Just as Academics Predicted*, THE GUARDIAN (Oct. 31, 2024), https://www.theguardian.com/commentisfree/2024/oct/31/elon-musk-an-excess-of-billionaires-is-destabilising-politics-just-as-academics-predicted.

right signals.[161] And if the guidelines marketplace becomes flooded with superficial guidelines hawked by popular individuals (think voting guidelines by famous podcast hosts or TikTokers), the result is unlikely to lead to beneficial matches between investors and voting guidelines or an improved corporate governance ecosystem. And once underway, an inefficient equilibrium could persist for some time in light of investor rational apathy and switching costs.

Ultimately, it is not clear that an unlimited number of parties is optimal for investors, even if they are created by known entities. Research on consumer behavior has documented "choice overload" where facing too many options can lead to decision paralysis, decreased propensity for a purchase, and reduced satisfaction.[162] Similarly, research in public law and political science has also documented a negative correlation between the number of parties and turnout.[163] We therefore agree with Jill Fisch and Jeff Schwartz that asset managers can and should continue to provide a gatekeeping role—both in limiting the number of available policies, but also in screening out poor options.[164]

Setting the Default. Setting the default is one of the most prominent examples of choice architecture, and it has profound implications for the corporate governance ecosystem under voting choice. Consumers typically end up with the default option "for reasons of laziness, fear, or distraction," not necessarily because it is good for them.[165] Given investor apathy, the default is likely to be especially sticky in the voting choice context. Therefore, the choice of default rule is one of the most important design choices that must be made.

Although all asset managers have thus far set the default to the stewardship group's own voting policy, other options—including mirror voting, not voting, or voting in proportion to the other investors who have opted into voting choice—have been proposed. And we believe these other options are less sensible than the consensus default of keeping the votes with the asset manager.

Recall that blockholder concentration presents complex tradeoffs: large blockholders can benefit the corporate governance ecosystem by reducing coordination costs for activists and issuers; the size of the block also alleviates collective action problems for asset managers, strengthening their incentive

---

[161] Sue S. Guan, *The Rise of the Finfluencer*, 19 N.Y.U. J.L. & BUS. 489 (2023).

[162] Sheena S. Iyengar & Mark R. Lepper, *When Choice Is Demotivating: Can One Desire Too Much of a Good Thing?*, 79 J. PERSONALITY & SOC. PSYCH. 995 (2000). Alexander Chernev, Ulf Böckenholt & Joseph Goodman, *Choice Overload: A Conceptual Review and Meta-Analysis*, 25 J. CONSUMER PSYCH. 333 (2015).

[163] Robert W. Jackman, *Political Institutions and Voter Turnout in the Industrial Democracies*, 81 AM. POL. SCI. ASS'N 405 (1987); André Blais & R.K. Carty, *Does Proportional Representation Foster Voter Turnout?*, 18 EUR. J. POL. RSCH. 167 (1990); Robert W. Jackman & Ross A. Miller, *Voter Turnout in the Industrial Democracies During the 1980s*, 27 COMPAR. POL. STUD. 467 (1995); André Blais & Agnieszka Dobrzynska, *Turnout in Electoral Democracies*, 33 EUR. J. POL. RSCH. 239 (1998); Benjamin Radcliff & Patricia Davis, *Labor Organization and Electoral Participation in Industrial Democracies*, 44 AM. J. POL. SCI. 132 (2000); Tatiana Kostadinova, *Voter Turnout Dynamics in Post-Communist Europe*, 42 EUR. J. POL. RSCH. 741 (2003); André Blais, *What Affects Voter Turnout?*, 9 ANN. REV. POL. SCI. 111 (2006).

[164] Note that the risk of capture also exists in a world with asset manager control. *See* ROE, *supra* note 9 (arguing that in social democracies asset managers can be captured to push for an agenda other than shareholder value maximization); COATES, *supra* note 7.

[165] Richard H. Thaler, Cass R. Sunstein & John P. Balz, *Choice Architecture*, *in* THE BEHAVIORAL FOUNDATIONS OF PUBLIC POLICY 428, 430 (Eldar Shafir ed., 2013) ("[M]any people will take whatever option requires the least effort, or the path of least resistance. . . . These behavioral tendencies toward doing nothing will be reinforced if the default option comes with some implicit or explicit suggestion that it represents the normal or even the recommended course of action.")

to monitor and engage with their portfolio companies.[166] To the extent that asset managers experience scope economies in governance, their input will benefit the corporate governance ecosystem.[167]

That is not to say there are no risks to asset managers' accumulation of power. In particular, the aggregation of voting power within a small set of institutions presents the risk that these institutions can be targeted and "captured"—either by vocal clients or lawmakers.[168] Indeed, this is exactly what we saw over the past five years, where asset managers first bent to the will of their vocal clients in supporting shareholder activism in the form of ESG, only to do an about face in the wake of concerted government pressure in the opposite direction.[169] All in all, the presence of large institutional investors offers some benefits, and particularly, that of heightened incentives to engage,[170] but also costs in the form of capture risk.

Ideally, therefore, a voting choice program would result in a goldilocks solution—not a total diffusion of governance rights to dispersed and rationally apathetic investors, but instead, the empowerment of investors with well-defined preferences who can guide their own voting, with the rest of the votes remaining with the asset manager. In this way, the system would reap the gains that come from the presence of blockholders in the marketplace, but could also preserve a safety valve that reduces the risk of capture (or at the very least, provide an option for investors that disagree). Maintaining asset manager governance power would also ameliorate the risk that the outcome of voting choice would be the empowerment of proxy advisors, which suffer from their own incentive issues described above.

Quite obviously, setting the default choice to the asset manager's own policy is one way to preserve their power. Note, however, that the benefits that accrue from this default depend on a low transaction cost environment for investors that wish to opt out of the regime. Suppose, for example, that an asset manager selects its own voting as the default and opting out is cumbersome. In this scenario, investors opt for the default not because it represents their preferences, but because too many hurdles stand in the way of another choice. Therefore, the equilibrium result is asset manager dominance in spite of the fact that investors would prefer another allocation.

But ultimately, even this suboptimal scenario is preferable to one in which blockholder power is diffused to third parties, without a corresponding benefit to shareholders. For example, consider an alternative default that caused the investors' votes to be cast in alignment with other investors who have opted in to voting choice under a menu approach—a policy choice that has been suggested by regulators. This default rule would not only decimate asset manager power, but it would also disempower shareholders. In particular, there is no guarantee that investors who opt into proxy voting

[166] *See supra* notes 40-45 and accompanying text.
[167] *See supra* notes 40-45 and accompanying text.
[168] Lund, *Asset Managers as Regulators*, *supra* note 36; Schwartz, Stewardship Theater.
[169] *See supra* notes 53-65 and accompanying text.
[170] Kahan & Rock, *supra* note 15; Lewellen & Lewellen, *supra* note 16.

choice are representative of other investors—by contrast, the preferences of those that opt in are likely to be more extreme than that of the typical investor.[171]

Mirror voting or non-voting defaults are better but still present the issue of diffused blockholder power. The countervailing advantage, however, is that under these defaults, the votes would go to the ecosystem of *voters*—which consist of institutional shareholders (including activist funds and actively managed mutual funds), pension funds, and retail shareholders—and not necessarily proxy advisors. Assuming that these voters are generally representative of the typical investors' preferences and that a threshold number of blockholders remain in the market, the equilibrium could be beneficial, particularly for those who are concerned about the risk of asset manager capture.

ii. Third-Party Provider Compensation

As discussed, voting choice programs depend heavily on the effort invested by third-party proxy providers to design and execute voting policies on behalf of asset manager clients. And yet, the current fee structure provides poor incentives for proxy advisors to develop high-quality policies that represent investor preferences. Specifically, proxy advisors typically earn a fixed fee for the use of their policy guidelines regardless of investor uptake, meaning that they earn the same amount for designing high and low-quality policies.[172] Not only that, the investor's policy choice is sticky, which means that the proxy advisor need only work as hard as it takes to get a foot in the door. Finally, the concentrated nature of the market means that there is little competitive pressure on the provision of policies. Mitigating factors—including economies of scope in governance and reputation effects—only partially address these concerns. In turn, rationally apathetic investors and asset managers are limited in their capacity to monitor third parties.

Given the importance that proxy advisors are positioned to play in the voting choice ecosystem, we believe that the proxy advisor compensation structure may need to be altered to encourage the provision of beneficial policies. One possibility would be for asset managers to pay fees based on some measure of performance, such as the dollar value of client capital that has chosen the third-party provider policy option. By tying the proxy advisor's fee to investor uptake, the advisor would have an incentive to offer high quality guidelines that investors prefer.[173]

Nonetheless, recall that any compensation system that increases proxy advisor fees will be borne by asset managers and investors. To the extent that asset managers bear these higher fees, it will reduce

[171] Malenko & Malenko, *Voting Choice*, supra note 122; Jackson & Zytnick , *supra* note 143; Bolton et al., *supra* note 141.
[172] ISS Brochure, *supra* note 27. In our conversations with representatives from Glass Lewis, we learned that clients will sometimes request "service level agreements" or "key performance indicators," some of which may have penalties. Although these contracts may help focus the proxy advisor in the provision of their advice, they are unlikely to substitute for performance-based compensation.
[173] Note that advisers such as Glass Lewis will occasionally charge custom policy subscribers a fee based on the number of ballots voted, which reflects the additional effort needed to advise on a larger number of companies. However, such a fee does not necessarily incentivize effort, as the proxy advisor is able to set the fee based on the number of companies in the portfolio and then capture it regardless of the impact on performance.

their incentives to incur stewardship costs in-house.[174] Asset managers could pass on costs to fee-sensitive investors, but that would create a competitive disadvantage relative to asset managers that did not employ this fee structure. All in all, improved incentives for proxy advisors could lead to dampened incentives for asset managers to participate in governance; there is also a first-mover disadvantage to moving to a pay-for-proxy advice performance system. Moreover, because investor choices are sticky, the proxy advisor would only need to get client uptake at one moment in time, and so the ongoing incentive effect of the compensation would be less beneficial.

Note further that paying for proxy advice on the basis of uptake may lead to a greater focus on marketing, rather than genuine investments in policy quality. Consider, for example, the popularity of the Egan-Jones "wealth-focused" policy. Marketing of this kind may contribute to uptake regardless of underlying performance, and this reveals how difficult it is to genuinely incentivize proxy advisor attention to quality. Moreover, paying on the basis of uptake may also lead to gamesmanship. If fee income is tied to uptake, asset managers may offer their own in-house policies at a lower cost to try to secure a larger share of investors. In this scenario, third-party contracts would need to evolve to constrain such action. Finally, there is also the possibility that a pay-for-performance regime may encourage third party providers to aggressively market their policies directly to investors to entice them to select their preferred policy. This can be achieved by paying brokers or retirement plans' recordkeepers to market their policies directly to investors. Therefore, a pay-for-performance regime for proxy advisor compensation is not an uncomplicated solution.

C. Critical Choices for Regulators

The advent of proxy voting choice has the potential to reshape the governance ecosystem, and as such, it raises critical questions for regulators. Here, we describe some of the interventions that warrant additional consideration as proxy voting choice programs expand across the marketplace.

i. Proxy Advisor Disclosure

As the previous Parts discussed, proxy voting choice programs have typically empowered third-party proxy advisors with their own incentive limitations, and particularly so when their votes disagree with those of asset managers. Proxy advisors have served an important role in corporate governance for decades, with some commentators questioning whether their importance in the ecosystem warrants greater regulation of their activities.[175] These critiques led to a regulatory push in 2021 and a host of reforms that put greater onus on investment advisers to monitor proxy advisors, and also

---

[174] *Cf.* Andrey Malenko & Nadya Malenko, *Proxy Advisory Firms: The Economies of Selling Information to Voters*, 74 J. FIN. 2441 (developing a model that predicts that proxy advisor research can crowd out investors' incentives to generate independent research).

[175] *See, e.g.*, Tamara C. Belinfanti, *The Proxy Advisory and Corporate Governance Industry: The Case for Increased Oversight and Control*, 14 STAN. J.L. BUS. & FIN. 384 (2009); Sagiv Edelman, *Proxy Advisory Firms: A Guide for Regulatory Reform*, 62 EMORY L.J. 1369 (2013); Gallagher, *supra* note 123; Concept Release on the U.S. Proxy System, 75 Fed. Reg. 42982 (July 22, 2010); *NAM: D.C. Circuit Should Preserve SEC Oversight of Proxy Firms*, NAT'L ASS'N OF MFRS. (Dec. 3, 2024), https://nam.org/nam-d-c-circuit-should-preserve-sec-oversight-of-proxy-firms-32766/?stream=policy-legal; *Exposing the Proxy Advisory Cartel: How ISS & Glass Lewis Influence Markets: Hearing Before the Subcomm. on Cap. Mkts. of the H. Comm. on Fin. Servs.*, 119th Cong. (2025) (statement of Ann Wagner, Chairman, H. Subcomm. on Cap. Mkts.).

mandated that proxy advisors disclose conflicts of interest.[176] The U.S. Court of Appeals for the DC circuit recently struck down these rules,[177] but additional regulatory efforts are on the horizon, as evidenced by a December 2025 White House order directing the SEC and the Department of Labor to consider additional regulatory oversight of proxy advisors.[178]

Overall, proxy advisory firms are lightly regulated, and many exceptions exist for them to evade basic disclosure requirements. The SEC currently requires investment advisers to file a Form ADV, which provides information about the firm's business, ownership and control, clients, employees, compensation, business practices, financial industry affiliations, and any disciplinary events.[179] Proxy advisors that apply discretion to vote on behalf of clients can be viewed as investment advisers with these filing obligations, but many exceptions exist. For example, Glass Lewis pre-populates votes for clients but does not cast them, which has enabled the advisor not to register under the Investment Advisers Act of 1940 and therefore avoid filing a Form ADV.[180] At this moment, ISS is the only proxy advisor firm to file as an investment adviser,[181] although Glass Lewis has announced that it is considering changing its registration status in response to criticism from politicians about its voting policies.[182]

---

[176] Cydney Posner, *SEC Adopts Guidance for Investment Advisers and Proxy Advisory Firms — Will It Make a Difference?*, COOLEY PUBCO. (Aug. 22, 2019), https://cooleypubco.com/2019/08/22/sec-guidance-for-investment-advisers-and-proxy-advisory-firms/ ("The guidance recommends that investment advisers can satisfy their own fiduciary duties . . ., in part, through careful oversight of proxy advisory firms, such as by monitoring and analyzing the methodology and processes of proxy advisory firms, including their processes for engagement with companies and procedures to address errors."); Cydney Posner, *What's Going on With the SEC's Proxy Advisor Rules?*, COOLEY PUBCO (Sep. 12, 2024), https://cooleypubco.com/2024/09/12/whats-going-proxy-advisors/ [hereinafter Posner, *What's Going on*].

[177] Colin J. Diamond, Sean Donahue, Doug Brown & Meg Dennard, *Regulating Proxy Advisors: Court Rules Advice Is Not a 'Solicitation' and Texas Enacts Its Own Law*, PAUL HASTINGS (July 9, 2025), https://www.paulhastings.com/insights/client-alerts/regulating-proxy-advisors-court-rules-advice-is-not-a-solicitation-and-texas-enacts-its-own-law.

[178] Exec. Order No. 14,366, 90 Fed. Reg. 58503 (Dec. 16, 2025).

[179] *See* Form ADV Instructions, SEC. EXCH. COMM'N, https://www.sec.gov/files/formadv-instructions.pdf (last visited Aug. 1, 2025).

[180] Glass Lewis also relies on Rule 14a-2(b)(3) of the Securities Exchange Act of 1934 which provides another exemption for the provision of proxy voting advice to a client if the provider of advice:

> (i) . . .[R]enders financial advice in the ordinary course of [its] business;
> (ii) . . . [D]iscloses to the recipient of its advice any significant relationship with the [issuer], its affiliates, or a security holder proponent of the matter on which advice is given, as well as any material interests [it] may have in [the] matter [to be voted on];
> (iii) . . .[R]eceives no special commission or remuneration for furnishing the proxy voting advice from any person other than a recipient of the advice and other persons who receive similar advice . . .; and
> (iv) The proxy voting advice is not furnished on behalf of any person soliciting proxies or on behalf of a participant in [a contested] election . . . .

17 C.F.R. § 240.14a-2(b)(3); *see also* Nichol Garzon, *Glass Lewis Response to SEC Statement Regarding Staff Proxy Advisory Letters*, HARV. L. SCH. F. CORP. GOVERNANCE (Sep. 19, 2018), https://corpgov.law.harvard.edu/2018/09/19/glass-lewis-response-to-sec-statement-regarding-staff-proxy-advisory-letters/#:~:text=In%20addition%2C%20there%20is%20another,participant%20in%20a%20contested%20election.

[181] Egan-Jones is a "nationally recognized statistical organization" or "NRSRO" and is therefore required to disclose and manage certain conflicts of interest. *See* Rule 17g-5 Supporting Statement, OFF. MGMT. & BUDGET (2012), https://omb.report/icr/201205-3235-001/doc/34991601.pdf.

[182] Ross Kerber, *Glass Lewis Mulls US Investment Adviser Registration, Could Ease Criticism*, REUTERS (Nov. 21, 2025), https://www.reuters.com/sustainability/boards-policy-regulation/glass-lewis-mulls-us-investment-adviser-registration-could-ease-criticism-2025-11-21/.l

Given the importance of proxy advisors' role in the voting choice ecosystem and the incentive challenges they face, disclosure of information on their business model, compensation, ownership and control, and business affiliation is particularly important. Such disclosure could enable investors, governance organizations, and scholars to more easily examine their ownership, incentives, and potential conflicts of interest. Therefore, the SEC and the Department of Labor should reconsider whether third-party voting choice providers like Glass Lewis and Egan-Jones—advisors that may soon have the ability to direct a large fraction of shareholder votes—should be entitled to Form ADV exemptions.[183]

Moreover, as third-party proxy advisors continue to play an important role in the voting ecosystem, disclosure of additional information beyond Form ADV may be warranted. For example, even for Form ADV filers, firm-specific proxy advisor fees are not required to be disclosed, meaning that the precise compensation arrangements operate in secret.[184] Regulators would do well to consider enhancing the disclosure of these fees which would allow investors to better monitor the incentives they provide.

Finally, and perhaps most important, despite their large and growing influence over proxy voting, there is currently no requirement that third-party proxy providers disclose how they translated their authority via voting guidelines into votes. As a result, investors that wish to monitor voting choice programs must search on the asset manager's Form N-PX, a cumbersome process that need not reveal differences in how votes were cast according to different policies.[185] Moreover, because most 13F institutions do not provide account-level disclosure, their investors cannot learn about voting outcomes for their particular account or voting choice policy. Mandating clear disclosure of votes cast would improve incentives in this area; doing so would incentivize proxy advisors to more accurately describe their voting policies ex ante and translate them to votes that match these guidelines ex post.

ii. Fiduciary Duty

In spite of the important role that proxy advisors are positioned to play in the world of voting choice, they have no duty to produce policies or votes that represent the interests of the underlying investors.[186] Instead, institutional asset managers are duty-bound to act in their investors' best interests when voting,[187] and this duty extends to the oversight of third-party proxy advisors, with a particular

[183] The Subcommittee on Capital Markets held a hearing in April of 2025 to discuss an amendment to the Securities Exchange Act of 1934 that would require proxy advisory firms to register as Investment Advisers. *See* Memorandum from Comm. Majority Staff to Members of the Comm. On Fin. Servs (Apr. 24, 2025), http://docs.house.gov/meetings/BA/BA16/20250429/118146/HHRG-119-BA16-20250429-SD002.pdf.

[184] See Amendments to Exemptions From the Proxy Rules for Proxy Voting Advice, 84 Fed. Reg. 66518 (Dec. 4, 2019). We do not have access to general financial information for ISS, Glass Lewis, and Egan-Jones such as annual revenues, earnings before interest, taxes, depreciation, and amortization, and net income. We also do not have access to client-specific financial information or more general or aggregate information regarding the economics of the proxy voting advice business.

[185] *See* Lund & Robertson, *supra* note 31, at 15 n.73, 25-26.

[186] *See* Strine, *supra* note 124.

[187] *ESG and the Duties of Investment Managers Examined*, NORTON ROSE FULBRIGHT (Jan. 2020), https://www.nortonrosefulbright.com/en/knowledge/publications/cc162a75/esg-and-the-duties-of-investment-managers-examined.

focus on monitoring conflicts of interest.[188] But as discussed, asset managers have limited resources to devote to screening proxy advisor policies and votes. Moreover, while screening conflicts of interest is an important function, it only scratches the surface in terms of the types of issues that accompany the grant of voting and discretion to third-party proxy advisors.

Recall from Tables A4 and A5 in the Appendix that a significant fraction of votes cast pursuant to the Glass Lewis ESG policy could not be directly mapped to the rules set forth in the policy; likewise, the Egan-Jones policy offered a mix of specificity and opacity (in referring to a proprietary model). Our inability to perfectly map votes to policies may reflect the fact that votes depend on information that is not available to parties other than the third-party provider when the vote is cast; it could also indicate that proxy advisors exercise discretion beyond their guiding policies when casting votes.[189]

All in all, this evidence reveals that third-party proxy advisors exercise ample discretion that complicates monitoring efforts. This reality is compounded by the lack of comprehensive voting disclosure, which makes it difficult for investors to scrutinize votes, even those that can be attributed to policies. In light of high monitoring costs, conflicts of interest, and the lack of a compensation structure that rewards performance, proxy advisor authority has few guardrails.

While we agree with the SEC that the asset managers are the appropriate gatekeepers for policy quality in this context, we think that additional regulatory intervention may be needed to protect investors. One potential avenue would be for the SEC to provide additional guidance to asset managers about what their fiduciary duty looks like in the context of voting choice. More specifically, we believe that the agency should urge not just attention to conflicts of interest, but also careful monitoring of policies and votes that are cast pursuant to them.

Currently, the SEC expects that, as part of their fiduciary duty, asset managers will screen the "capacity and competency" of proxy advisors for detailed analysis, as well as their process for updating policies[190]; it also advises investment advisers to periodically audit votes to ensure consistency with policies.[191] Going forward, the SEC should make clear that such monitoring applies to voting choice programs as well. Indeed, as proxy voting choice expands, routine diligence to ensure the quality of votes as well as research will become all the more important. Of course, this monitoring role will

---

[188] *See, e.g.,* SEC Interpretation Regarding Standard of Conduct for Investment Advisers, 17 CFR Part 276, July 12, 2019.

[189] Indeed, a representative from ISS has admitted as much. See Jill Fisch, Remarks by Jill Fisch Before the Investor Advisory Committee of the U.S. Securities and Exchange Commission (July 1, 2025), https://corpgov.law.harvard.edu/2025/07/01/remarks-by-jill-fisch-before-the-investor-advisory-committee-of-the-u-s-securities-and-exchange-commission/#7 (quoting an ISS representative: "We note there may be cases in which the final vote recommendation at a particular company varies from the voting guidelines due to the fact that we closely examine the merits of each proposal and consider relevant information and company-specific circumstances in arriving at our decisions.").

[190] Bernard S. Sharfman, *Fiduciary Duties of Proxy Advisors Under the Investment Advisors Act*, HARV. L. SCH. F. CORP. GOVERNANCE (Nov. 3, 2019), https://corpgov.law.harvard.edu/2019/11/03/fiduciary-duties-of-proxy-advisors-under-the-investment-advisors-act/#:~:text=In%20addition%2C%20an%20adviser%20must,best%20interest%20of%20its%20client. Indeed, representatives from Glass Lewis confirmed that the "application of our guidelines allow for discretion to consider companies' individual circumstances."

[191] *See* Exemptions from the Proxy Rules for Proxy Voting Advice, 85 Fed. Reg. 55082 (Sep. 3, 2020).

increase stewardship expenses for asset managers to some degree, which can have several effects. One likely impact would be that asset managers would pass monitoring expenditures on to investors. In the alternative, asset managers may choose to offer their own in-house guidelines and/or a smaller number of third-party guidelines to minimize costs. This latter scenario may be a good compromise—a small number of well-crafted guidelines would likely lead to better outcomes for investors than a large number of poorly designed ones.

It is also possible that expanded control over investor votes should change the fiduciary landscape for third-party voting choice providers themselves. For example, because ISS is a registered investment adviser, it has a fiduciary obligation in its provision of voting advice.[192] Glass Lewis, by contrast, had long taken the position that it did not qualify as an investment adviser because it did not execute client votes, and instead only offered research and recommendations to clients in a general sense.[193] It committed to changing its status in November 2025,[194] but there is no guarantee that this position will continue (in fact, it has switched its status back and forth in the past[195]). Given asset managers' limitations in screening policies and votes, a more direct regulatory path would be to hold the third-party proxy advisor responsible for the consequences of the votes it directs. Specifically, the SEC or the Department of Labor (DOL) could alter its interpretive guidance to clarify that the provision of analysis that indirectly dictates the voting choice is sufficient.[196] Indeed, the language of the Investment Advisors Act, which states than an investment advisor "means any person who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities," appears to be consistent with that view.[197] And in April 2026, the DOL issued a technical release stating that proxy advisory firms exercising "any authority or control" over shareholder rights attributable to ERISA assets (including research and recommendations on how to vote) are functional fiduciaries.[198]

---

[192] See Sharfman, *supra* note 190 ("As a registered investment adviser, we have a fiduciary obligation to our clients to provide advice that is in their best interest." (internal quotation marks omitted)); 15 USC sec. 80b-6; SEC v. Capital Gains Research Bureau, Inc., 375 U.S. 180 (1963).

[193] Before 2005, Glass Lewis determined that it qualified as an investment adviser, but then it withdrew that designation on the advice of its legal team. Letter from Kather H. Rabin to Dean Heller (June 1, 2018), *available at* https://resources.glasslewis.com/hubfs/Compliance/2018%20Response%20to%20Chairman%20Heller%20Letter.pdf. Interestingly, Glass Lewis' code of ethics implies that it has a fiduciary duty, perhaps as a result of client agreements that explicitly designate it as a fiduciary. *Code of Ethics*, GLASS LEWIS (Aug. 2024), https://urldefense.proofpoint.com/v2/url?u=https-3A__resources.glasslewis.com_hubfs_Compliance_2024-2520Glass-2520Lewis-2520Code-2520of-2520Ethics.pdf&d=DwMGaQ&c=009klHSCxuh5AI1vNQzSO0KGjl4nbi2Q0M1QLJX9BeE&r=Aym5u7uMLuU2I7KCyLFS3HOmHC0jNQFto4Uv3CUaEIE&m=wNztwapPZ9nFZAWZ06NgHaezZTPrCfAeBDEpotReAa4wVZPqWZEB_e2cxXL_-aMi&s=wf_2xn5nGe1It1D5yI81CUONv0jXcgjoq1EwNlgrYkA&e=. It is unclear whether such a duty would be enforceable beyond such contracts, however.

[194] https://www.glasslewis.com/article/personal-commitment-change-proxy-voting-practices

[195] See note 190 supra.

[196] The White House order of December 2025 asks the SEC to consider whether proxy advisors should register as an investment adviser, which would subject them to a fiduciary duty. https://www.whitehouse.gov/presidential-actions/2025/12/protecting-american-investors-from-foreign-owned-and-politically-motivated-proxy-advisors/

[197] 15 USC § 80b-2(a)(11)

[198] https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/technical-releases/26-01

The benefit of the application of a duty is that it heightens the proxy advisor's responsibility when voting; it also provides additional causes of action for the SEC and DOL (and potentially private plaintiffs, who can support the agency is in its monitoring efforts[199]) for breaches.[200] Such claims can include those alleging that the investment adviser engaged "in a[] transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client"[201]—a broad catchall anti-fraud prohibition that the SEC has used to regulate statements made by ESG mutual funds in their marketing efforts.[202] Therefore, the investment adviser designation can help the SEC and private parties regulate not only proxy advisor voting, but also policy marketing. The cost, however, is that additional regulatory hurdles will further limit the ability of new entrants to participate in the voting choice market and solidify existing concentration.

The presence of a fiduciary duty might also mitigate the risk of third-party capture. To the extent that proxy advisors begin controlling a significant fraction of investor votes, there is a risk that they will be targeted by parties seeking to influence their significant voting power, just as occurred with asset managers. But if proxy advisors are subject to an enforceable fiduciary duty to their investors, there is a limit to how much they can bend their advice in response to idiosyncratic individuals or governments. On the flip side, the prospect of regulation, of course, is also a tool that the government can use to extract concessions. Therefore, if proxy advisor influence grows with time, multiple safeguards may need to be employed to ensure the provision of quality voting guidance.

D. Potential Outcomes

The previous Sections discussed the critical issues facing asset managers that offer voting choice programs, as well as regulators overseeing such programs. We now describe how the resolution of these choices could affect the corporate governance ecosystem as proxy voting choice expands across the marketplace. We begin by describing the best possible scenario for proxy voting choice—the empowerment of investors with well-defined choices, without the total disempowerment of asset managers. We then turn to the many design pitfalls with negative consequences for companies, shareholders, and the broader economy.

i. Beneficial Outcomes

In spite of the incentive limitations facing investors, asset managers, and third-party proxy advisors, the advent of proxy voting choice could benefit the overall ecosystem. In other words, we offer a rosier view than that of scholars who view the expansion of voting choice as unequivocally bad for corporate governance.[203]

At a high level, we argue that a beneficial voting choice equilibrium will achieve two goals. First, at least initially, asset manager power would not fall below a minimal level (represented by the bottom

---

[199] Stephen L. Brodsky, *Fiduciary Duty Claims Involving Investment Advisers and Other Financial Professionals*, *in* LITIGATING FIDUCIARY DUTY CLAIMS 91, 108 (Jason M. Domark, ed., 2022) (discussing claims under the IAA).
[200] Sharfman, *supra* note 190.
[201] Investment Advisers Act of 1940 § 206(2), 15 U.S.C. § 80b-6(2).
[202] *See, e.g.*, In re WisdomTree Asset Mgmt., Inc., Investment Advisers Act Release No. 6753, 2024 WL 4542937 (Oct. 21, 2024).
[203] *See, e.g.*, Fisch & Schwartz, *supra* note 21.

grid line in Figure 1), thereby preserving the asset manager's incentive to invest in stewardship and the formulation of beneficial voting choice programs. Second, proxy voting choice would efficiently transfer asset manager power into gains in shareholder power (represented by the shaded corridor in Figure 1). An important component of this second observation is that the programs must achieve a close fit between a voter's policy election and their actual preferences. By the same token, losses in asset manager power should empower *investors* and not proxy advisors. Of course, proxy advisors can be a component of this empowerment so long as their voting advances investor interests.

Embedded in this argument is the normative conclusion that voting choice programs ought to improve the alignment between how votes are cast and investor preferences, rather than better aggregate information from informed investors.[204] While the aggregation of information may be a plausible goal in some settings,[205] it is implausible in scenarios involving retail shareholders invested in mutual funds. For the reasons we discuss earlier in this Part, individual mutual fund investors will not be as informed as asset managers or proxy advisors when casting votes.[206] Therefore, it is best to think of voting choice as a means to empower investors with heterogeneous preferences, without decimating the informational advantage of asset managers.

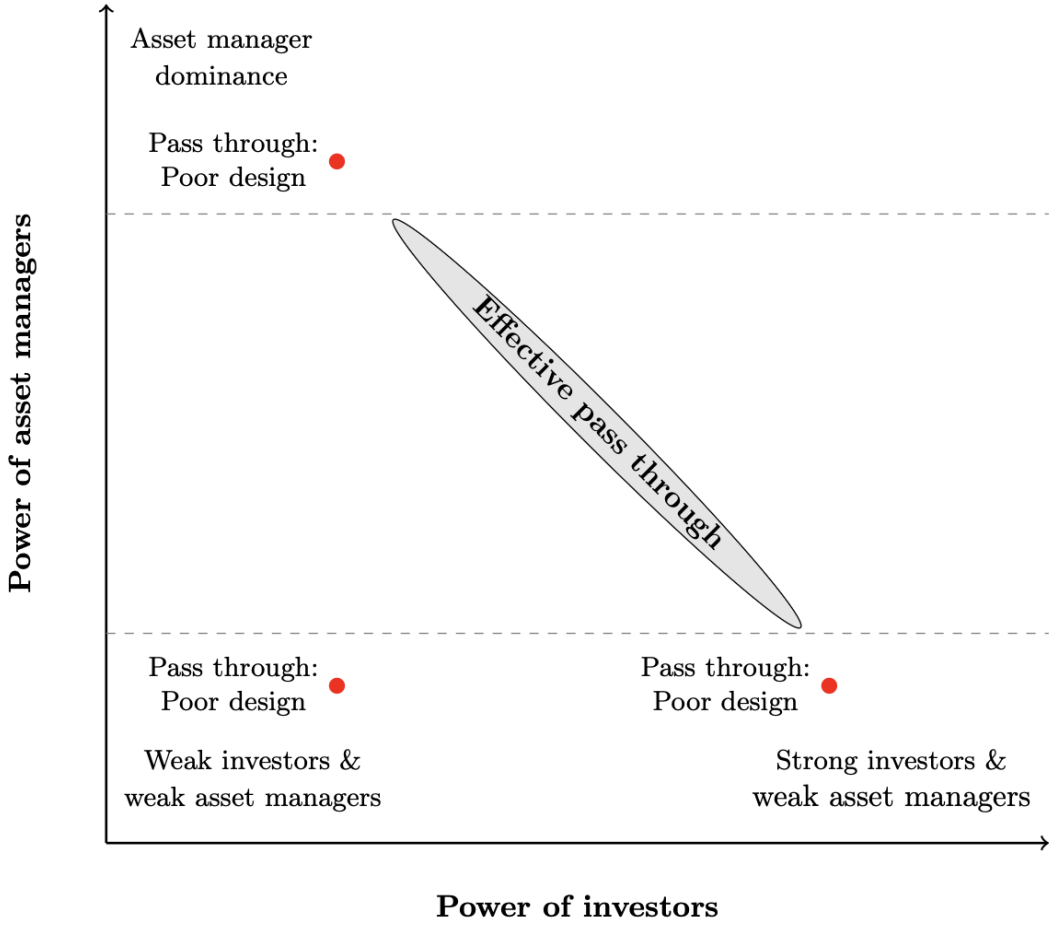
Under this rubric, the happy story for proxy voting choice is simple to articulate: Investors are easily able to compare policy options that (mostly and efficiently) represent their preferences, and they can opt into the choice that best suits them. Those investors that prefer the asset manager's policy do not opt in and will thus be defaulted into having their votes remain with the asset manager. In this scenario, voting choice would result in an efficient substitution of shareholder power for asset manager power, and asset managers would retain a large enough voting block to preserve their stewardship incentives and thus their informational advantage.

[204] See Malenko & Malenko.

[205] See, e.g., Lund, *Asset Managers as Regulators*.

[206] Voting choice may allow for some information aggregation when investors choose not to delegate to the asset manager. When investors select a policy designed by a proxy advisor, they allow the advisor to reflect any private information that it has gathered. Of course, if the quality of the proxy advisors' information is of low quality or they all use the same information then there is little to be gained from their information relative to that of the asset managers.

Figure 1: Balance of voting power: Asset managers and investors



At this moment in time, given that many of the design issues we highlight remain unaddressed, a prudent implementation of voting choice programs would allow asset managers to retain significant voting power (see the top left part of the shaded corridor in Figure 1). In other words, the fact that proxy voting choice has not had much of an impact on the ecosystem might actually be desirable, at least for now. But we also expect that the optimal amount of participation could increase in the future. For example, when a large number of investors can efficiently opt out of the asset manager's stewardship and choose an option that better matches their preferences, this higher rate of participation (and corresponding decline in asset manager power) would be beneficial, assuming a baseline level of blockholder concentration remains.[207] In the Figure above, this would represent moving down the shaded corridor but staying above the lower grid line.

ii. Harmful Outcomes

[207] A related benefit of this evolution is that asset managers that wish to continue exercising governance rights will need to continue to improve their in-house stewardship programs given the risk of losing clients to other third-party providers. In this way, the advent of voting choice could have a disciplinary effect.

Although proxy voting choice could result in an improved equilibrium, there are many paths to a worsened corporate governance ecosystem. Here, we address some of the pitfalls that could lead to market-wide harm.

Governance Noise and Fragmentation. Proxy voting choice could harm the governance ecosystem by creating governance noise and fragmentation. This would occur, for example, if votes are split across a large number of third-party providers that do not accurately reflect the preferences of investors. Consider an open proxy system where finfluencers and billionaires competed for investor votes via social media campaigns, and investors selected from a large number of poorly designed policies that advanced the idiosyncratic interest of the designer. Moreover, there is no clear winner among guidelines providers, each of which secures only a tiny share of the investors.

In this scenario, voting choice would not empower investors but would instead create noise to the detriment of the ecosystem as a whole. The resulting fragmentation would hamper investor coordination, meaning that shareholder activists with good ideas would have more difficulty mustering support for their proposals or campaigns. Likewise, corporate management would also struggle to communicate effectively with their investors.

Note further that the choice of default could further exacerbate the risk of fragmentation. For example, a default that cast opt-out votes the same way as voters that opted into voting choice would lead to massive fragmentation and noise. All in all, such a program would diffuse asset manager power and without a corresponding gain for shareholders, landing on the bottom left part of Figure 1.

Empowering Poorly Incentivized Third Parties. A different but related suboptimal outcome involves the empowerment of proxy advisors advancing poorly designed policies. This prospect is highly possible given proxy advisor incentive issues and the lack of clear voting disclosure, as well as asset managers' and investors' poor incentives to monitor policies and votes.

Although we have thus far assumed that proxy advisor policies could be poorly designed due to inadequate disclosure, lack of resources, or insufficient attention, there is another possibility. As proxy voting choice expands, there is a genuine risk of proxy advisor capture, particularly given the extent of concentration in the proxy advisor market. Currently, there are three major players providing voting guidelines; as such, expanded proxy voting programs will increase their voting power and the likelihood that those proxy advisors will have a target on their back from vocal investor groups or policymakers. The presence of this risk increases the case for mandated disclosure of proxy advisor compensation and votes as well as the application of a fiduciary duty to advisors who guide investor votes, as discussed in Part IV.C.

Doing Too Little. Another possibility is that the advent of voting choice will have a minimal effect on the ecosystem. Suppose, for example, that an asset manager's voting choice program is too cumbersome for an investor to navigate and so the investor opts for the default that empowers the asset manager, not because it represents the investor's preferences, but because too many hurdles stand in the way of another choice. In this scenario, the voting choice program will maintain asset manager dominance in spite of the fact that investors would prefer another allocation (see the red dot

in the top left quadrant of Figure 1). Although this scenario is suboptimal, it is not particularly concerning. Indeed, to the extent that asset managers have already been taking the preferences of their underlying investors into account, the harm to investors from keeping asset managers as governance stewards may be quite small.[208]

Although the prospect of insignificance is real (and close to reality at this current moment in time, as Table 5 revealed), it need not continue. The largest asset managers, including Vanguard, are moving rapidly to expand their voting choice programs, and their smaller rivals are contemplating the same. As a result, a proxy voting choice governance revolution is on the horizon—and the time is ripe to ensure that it is appropriately calibrated.

V. Conclusion

A voting choice revolution is underway that has the potential to transform not only investing in mutual funds, but also the broader stewardship and corporate governance landscape. This Article has taken first steps at describing what a world of voting choice may bring. It provides the first empirical study of an asset manager's voting choice program, revealing insights about the current design of these programs as well as investor participation in them. Our study further demonstrates that voting choice, if expanded, could reshape the corporate governance ecosystem in surprising ways—empowering management and shareholder activists alike whenever asset managers oppose them. Finally, our study also generates insights about the critical design elements that asset managers face, particularly under a menu of voting guidelines approach.

Beyond our descriptive analysis, we offer a normative account of what may come. In particular, we unpack the thorny choice architecture issues facing asset managers and regulators and show that they have the potential to exacerbate existing governance issues, including the perennial problem of investor rational apathy. We reveal that nuanced incentive issues across proxy voting choice participants result in complex tradeoffs for voting choice program designers. We conclude by showing that careful attention to issues ranging from setting the default rule to regulating third-party proxy advisors would ensure that the advent of proxy voting choice will benefit the corporate governance ecosystem, rather than harm it.

[208] *See* Lund, *Asset Managers as Regulators*; *supra* note 36; *see also* Gomtsian & Gosling, *supra* note 43 (discussing how pass-through voting diminishes the influence of asset owners in setting the asset manager's governance policy).

Appendix

Table A1. Distribution of Voting Disagreements Across Proposals (July 1, 2022 through June 30, 2024)

Panel A: Vanguard vs. Management policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	0.2%	415	0.9%	676	1.3%	398	0.9%	685	0.8%	644	0.5%	1,151
Compensation - Say on Pay	0.0%	36	0.0%	59	0.0%	33	0.0%	58	0.0%	59	0.0%	100
Compensation - Other	0.0%	12	6.2%	48	7.7%	13	9.1%	44	8.7%	46	7.0%	71
Auditor Ratification	0.0%	37	0.0%	62	0.0%	35	0.0%	60	0.0%	61	0.0%	103
Other Management Proposal	4.8%	21	0.0%	11	0.0%	10	0.0%	13	0.0%	17	2.6%	38
Shareholder - E	0.0%	16	0.0%	29	0.0%	25	3.6%	56	0.0%	35	2.8%	71
Shareholder - S	0.0%	50	0.0%	159	1.1%	92	0.6%	179	0.0%	144	0.5%	218
Shareholder - G	3.7%	27	11.3%	80	15.4%	39	11.8%	76	12.7%	71	10.8%	111
Total	**0.5%**	**614**	**1.6%**	**1,124**	**2.0%**	**645**	**1.9%**	**1,171**	**1.7%**	**1,077**	1.4%	**1,863**

Panel B: Vanguard vs. Glass Lewis ESG policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	13.3%	415	13.2%	676	15.1%	398	15.8%	685	17.4%	644	15.5%	1,151
Compensation - Say on Pay	33.3%	36	35.6%	59	33.3%	33	39.7%	58	33.9%	59	34.0%	100
Compensation - Other	0.0%	12	4.2%	48	7.7%	13	4.5%	44	6.5%	46	4.2%	71
Auditor Ratification	83.8%	37	79.0%	62	82.9%	35	80.0%	60	72.1%	61	77.7%	103
Other Management Proposal	19.0%	21	45.5%	11	50.0%	10	38.5%	13	41.2%	17	23.7%	38
Shareholder - E	18.8%	16	58.6%	29	28.0%	25	51.8%	56	57.1%	35	49.3%	71
Shareholder - S	40.0%	50	59.7%	159	45.7%	92	60.9%	179	63.2%	144	61.0%	218
Shareholder - G	70.4%	27	52.5%	80	53.8%	39	51.3%	76	46.5%	71	53.2%	111
Total	**23.5%**	**614**	**28.5%**	**1,124**	**27.3%**	**645**	**31.0%**	**1,171**	**30.6%**	**1,077**	**28.5%**	**1,863**

Panel C: Vanguard vs. Glass Lewis benchmark policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	3.4%	415	5.8%	676	9.0%	398	6.7%	685	5.4%	644	4.9%	1,151
Compensation - Say on Pay	13.9%	36	11.9%	59	12.1%	33	17.2%	58	11.9%	59	13.0%	100
Compensation - Other	0.0%	12	4.2%	48	7.7%	13	4.5%	44	6.5%	46	4.2%	71
Auditor Ratification	0.0%	37	0.0%	62	0.0%	35	0.0%	60	0.0%	61	0.0%	103
Other Management Proposal	19.0%	21	45.5%	11	50.0%	10	38.5%	13	41.2%	17	23.7%	38
Shareholder - E	6.3%	16	6.9%	29	16.0%	25	23.2%	56	31.4%	35	21.1%	71
Shareholder - S	20.0%	50	27.0%	159	30.4%	92	30.2%	179	27.1%	144	29.8%	218
Shareholder - G	63.0%	27	46.3%	80	46.2%	39	50.0%	76	42.3%	71	50.5%	111
Total	**8.3%**	**614**	**12.0%**	**1,124**	**14.9%**	**645**	**14.3%**	**1,171**	**12.3%**	**1,077**	**11.6%**	**1,863**

Note: The Vanguard ESG U.S. Stock ETF, Russell 1000 Index Fund, and S&P 500 Growth Index Fund began participating in the pilot program in 2023, while the Dividend Appreciation Index Fund and Mega Cap Index Fund joined in 2024.

Table A2. Distribution of Voting Disagreements Across Contentious Proposals (July 1, 2022 through June 30, 2024)

Panel A: Vanguard vs. Management policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	0.0%	10	10.8%	37	16.7%	24	9.3%	43	17.4%	23	7.5%	53
Compensation - Say on Pay	0.0%	2	0.0%	7	0.0%	5	0.0%	10	0.0%	8	0.0%	12
Compensation - Other	—	0	50.0%	6	33.3%	3	50.0%	8	57.1%	7	55.6%	9
Auditor Ratification	—	0	—	0	—	0	—	0	—	0	—	0
Other Management Proposal	50.0%	2	0.0%	1	0.0%	1	0.0%	1	0.0%	2	25.0%	4
Shareholder - E	0.0%	5	0.0%	12	0.0%	10	9.5%	21	0.0%	13	7.1%	28
Shareholder - S	0.0%	12	0.0%	56	2.7%	37	1.4%	70	0.0%	53	1.2%	84
Shareholder - G	5.9%	17	22.2%	36	33.3%	18	25.0%	36	32.1%	28	23.5%	51
Total	**4.2%**	**48**	**9.7%**	**155**	**12.2%**	**98**	**10.6%**	**189**	**12.7%**	**134**	**10.0%**	**241**

Panel B: Vanguard vs. Glass Lewis ESG policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	40.0%	10	54.1%	37	62.5%	24	60.5%	43	65.2%	23	58.5%	53
Compensation - Say on Pay	100.0%	2	100.0%	7	80.0%	5	100.0%	10	87.5%	8	91.7%	12
Compensation - Other	—	0	33.3%	6	33.3%	3	25.0%	8	28.6%	7	22.2%	9
Auditor Ratification	—	0	—	0	—	0	—	0	—	0	—	0
Other Management Proposal	0.0%	2	100.0%	1	100.0%	1	100.0%	1	50.0%	2	25.0%	4
Shareholder - E	60.0%	5	75.0%	12	40.0%	10	61.9%	21	69.2%	13	60.7%	28
Shareholder - S	100.0%	12	85.7%	56	73.0%	37	84.3%	70	86.8%	53	84.5%	84
Shareholder - G	52.9%	17	52.8%	36	61.1%	18	47.2%	36	35.7%	28	52.9%	51
Total	**62.5%**	**48**	**68.4%**	**155**	**64.3%**	**98**	**67.7%**	**189**	**67.2%**	**134**	**66.4%**	**241**

Panel C: Vanguard vs. Glass Lewis benchmark policy

	Dividend Appreciation		ESG U.S. Stock ETF		Mega Cap Index		Russell 1000 Index		S&P 500 Growth Index		Total	
	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.	%	Obs.
Director Election	20.0%	10	32.4%	37	54.2%	24	41.9%	43	43.5%	23	37.7%	53
Compensation - Say on Pay	100.0%	2	71.4%	7	40.0%	5	70.0%	10	62.5%	8	66.7%	12
Compensation - Other	—	0	33.3%	6	33.3%	3	25.0%	8	28.6%	7	22.2%	9
Auditor Ratification	—	0	—	0	—	0	—	0	—	0	—	0
Other Management Proposal	0.0%	2	100.0%	1	100.0%	1	100.0%	1	50.0%	2	25.0%	4
Shareholder - E	20.0%	5	16.7%	12	30.0%	10	28.6%	21	38.5%	13	28.6%	28
Shareholder - S	50.0%	12	48.2%	56	56.8%	37	52.9%	70	49.1%	53	51.2%	84
Shareholder - G	52.9%	17	41.7%	36	55.6%	18	47.2%	36	32.1%	28	51.0%	51
Total	**41.7%**	**48**	**41.3%**	**155**	**52.0%**	**98**	**46.6%**	**189**	**43.3%**	**134**	**44.8%**	**241**

Note: The Vanguard ESG U.S. Stock ETF, Russell 1000 Index Fund, and S&P 500 Growth Index Fund began participating in the pilot program in 2023, while the Dividend Appreciation Index Fund and Mega Cap Index Fund joined in 2024.

Table A3. Participation Analysis (July 1, 2023 through June 30, 2024)

Panel A: Percent of fund AUM choosing a menu based on the firm with the latest record date

Fund Name	Fund Size (Billion dollars)	% fund AUM			
		Vanguard-Advised Policy	Company Board-Aligned Policy	Glass Lewis ESG Policy	"Not Voting" Policy
Dividend Appreciation Index Fund	103.0	98.8%	0.9%	0.3%	0.1%
ESG U.S. Stock ETF	10.0	96.6%	0.1%	3.3%	0.0%
Mega Cap Index Fund	6.9	99.2%	0.7%	0.2%	0.0%
Russell 1000 Index Fund	8.1	99.5%	0.3%	0.1%	0.0%
S&P 500 Growth Index Fund	16.0	99.2%	0.6%	0.2%	0.0%
Total	**144.0**	**98.73%**	**0.73%**	**0.48%**	**0.05%**

Panel B: Percent of fund investors choosing a policy conditional on participation

Fund Name	Participation Rate	% fund AUM conditional on participation			
		Vanguard-Advised Policy	Company Board-Aligned Policy	Glass Lewis ESG Policy	"Not Voting" Policy
Dividend Appreciation Index Fund	2.3%	46.0%	33.0%	18.0%	3.0%
ESG U.S. Stock ETF	4.0%	15.0%	6.0%	78.0%	1.0%
Mega Cap Index Fund	1.5%	45.0%	32.0%	22.0%	1.0%
Russell 1000 Index Fund	0.9%	45.0%	31.0%	21.0%	3.0%
S&P 500 Growth Index Fund	1.6%	46.0%	30.0%	21.0%	3.0%
Total	**2.2%**	**43.7%**	**30.6%**	**22.9%**	**2.8%**

Note: Fund size is as of February 2025. We back out the participation rate using the following equality: Participation rate × Percent of a fund's AUM choosing the Vanguard-advised policy conditional on participation + (1 – Participation rate) = Percent of fund shares choosing the Vanguard-advised policy. We obtain a similar participation rate when using any of the other three voting policies, for which we use the following equality: Participation rate × Percent of a fund's AUM choosing the menu conditional on participation = Percent of fund shares choosing the policy. We use the percentage of investors choosing each voting policy conditional on participation, disclosed by Vanguard, as a proxy for the percentage of fund AUM choosing that policy. The leftmost column in Panel B provides the participation rate backed out based on the Vanguard-advised policy. In Panel B, the aggregate percentages are weighted by fund size.

Appendix A4. Disagreements under Glass Lewis 2024 ESG Policy and Benchmark Policy

	GL ESG policy text	Corresponding GL benchmark policy text	Count
Director Election (1,151 unique proposals; 124 conflicting proposals; 71 matched with GL ESG policy)	"The ESG Policy may consider voting against directors with a lengthy tenure (e.g. over 12 years) when we identify significant performance or governance concerns indicating that a fresh perspective would be beneficial and there is no evidence of any plans of future board refreshment."	"We will note as a potential concern instances where the average tenure of non-executive directors is 10 years or more and no new directors have joined the board in the past five years. While we will be highlighting this as a potential area of concern, we will not be making voting recommendations strictly on this basis, unless we have identified other governance or board performance concerns."	40
	"The ESG Policy will vote the incumbent male nominating committee members in instances where the board of a large- or mid-cap company is comprised of fewer than 30% female directors, or the local market requirement for gender diversity where higher."	"As such, we will generally recommend voting against the chair of the nominating committee of a board that is not at least 30 percent gender diverse, or all members of the nominating committee of a board with no gender diverse directors, at companies within the Russell 3000 index." "When making these voting recommendations, we will carefully review a company's disclosure of its diversity considerations and may refrain from recommending that shareholders vote against directors when boards have provided sufficient rationale for the lack of diversity or a plan to address the lack of diversity, including a timeline of when the board intends to appoint additional gender diverse directors (generally by the next annual meeting or as soon as reasonably practicable)." "We may extend our gender diversity recommendations to additional members of the nominating committee in cases where the committee chair is not standing for election due to a classified board, or based on other factors, including the company's size and industry, applicable laws in its state of headquarters, and its overall governance profile."	40
	"For companies included in the Climate Action 100+ focus list and those that operate in industries where the Sustainability Accounting Standards Board (SASB) has determined that greenhouse gas (GHG) emissions represent a financially material risk, the ESG Policy will vote against the chair of the board in instances where a company has not adopted a net zero emissions target or ambition. For all other companies, the ESG Policy will vote against the chair of the board in instances where companies have not established any forward-looking GHG emissions reduction targets. In both instances, if the chair of the board is also the company's CEO, the ESG Policy will vote against the chair of the audit committee."	------	13
Compensation - Say on Pay (100 unique proposals; 21 conflicting proposals; 18 matched with GL ESG policy)	"In most markets, should a company not provide any environmental or social considerations in its remuneration scheme, the ESG Policy will vote against the proposed plan."	"Although we are strongly supportive of companies' incorporation of material E&S risks and opportunities in their long-term strategic planning, we believe that the inclusion of E&S metrics in compensation programs should be predicated on each company's unique circumstances." "While we believe that companies should generally set long-term targets for their environmental and social ambitions, we are mindful that not all compensation schemes lend themselves to the inclusion of E&S metrics. We also are of the view that companies should retain flexibility in not only choosing to incorporate E&S metrics in their compensation plans, but also in the placement of these metrics."	16

	"For companies with a greater degree of exposure to environmental and climate-related issues (i.e., Climate Action 100+ focus list companies and those where SASB has deemed GHG emissions to be financially material), the ESG Policy will vote against compensation proposals if the company has not adequately incentivized executives to act in ways that mitigate a company's climate impact."	------	9
	"The ESG Policy will vote against the approval of a compensation report or policy in the following scenarios: Short-term (e.g., generally less than three year) performance measurement is weighted excessively in incentive plans."	"There are certain elements that Glass Lewis believes are common to most well-structured long-term incentive (LTI) plans. These include: Performance periods of at least three years."	2
	"[For] plans that include a provision to allow for the re-testing of performance conditions; [...] a vote against is recommended."	"There are certain elements that Glass Lewis believes are common to most well-structured long-term incentive (LTI) plans. These include: No re-testing or lowering of performance conditions."	1
Compensation - Other (71 unique proposals; 0 conflicting proposals; / matched with GL ESG policy)	------	------	
Auditor Ratification (103 unique proposals; 80 conflicting proposals; 80 matched with GL ESG policy)	"The ESG Policy will vote against auditor ratification proposals in instances where it is clear that a company's auditor has not been changed for 20 or more years."	"Glass Lewis believes auditor rotation can ensure both the independence of the auditor and the integrity of the audit; we will typically recommend supporting proposals to require auditor rotation when the proposal uses a reasonable period of time (usually not less than 5-7 years), particularly at companies with a history of accounting problems." "In determining whether shareholders would benefit from rotating the company's auditor, where relevant we will consider factors that may call into question an auditor's effectiveness, including auditor tenure, a pattern of inaccurate audits, and any ongoing litigation or significant controversies."	80
Other Management Proposal (38 unique proposals; 0 conflicting proposals; / matched with GL ESG policy)	------	------	
Shareholder - E (71 unique proposals; 21 conflicting proposals; 21 matched with GL ESG policy)	"The ESG Policy will generally support proposals regarding the environment, in particular, those seeking improved sustainability reporting and disclosure about company practices which impact the environment."	"We believe that firms with significant exposure to sustainability-related risks, such as in the extractive industries, should produce reports regarding the risks presented by their environmental and adverse effects on stakeholders that reduce shareholder value, and will consider recommending a vote for reasonably crafted proposals requesting that such a report be produced; however, as with all shareholder proposals, we will evaluate these report requests on a case-by-case basis."	8
	"Similarly, the ESG Policy will support proposals requesting companies develop greenhouse gas emissions reduction goals, comprehensive recycling programs, and other proactive means to mitigate a company's environmental footprint."	"On a case-by-case basis, we will consider supporting well-crafted proposals requesting that companies report their greenhouse gas (GHG) emissions and adopt a reduction goal for these emissions."	7
	"The ESG Policy will also vote for proposals seeking that companies provide certain disclosures or adopt certain policies related to mitigating their climate change-related risks."	"While we are generally supportive of proposals seeking this enhanced disclosure, we will closely evaluate the request of each resolution in the context of a company's unique circumstances [...] We may recommend against these proposals, however, if we believe that a company's existing climate policies or reporting sufficiently address the request of the resolution or if we do not believe that adoption of the resolution, as written, is consistent with long-term shareholder value creation."	4

	"The ESG Policy will vote in favor of increased disclosure of a company's environmental risk through company-specific disclosure as well as compliance with international environmental conventions and adherence to environmental principles."	------	1
	"The ESG Policy generally votes in favor of proposals seeking to tie executive compensation to performance measures such as compliance with environmental regulations, health and safety regulations, nondiscrimination laws and compliance with international human rights standards."	"When reviewing proposals seeking to tie executive compensation to environmental or social practices, we will review the target firm's compliance with (or contravention of) applicable laws and regulations, and examine any history of environmentally and socially related concerns, including those resulting in material investigations, lawsuits, fines and settlements. We will also review the firm's current compensation policies and practices."	1
Shareholder - S (218 unique proposals; 68 conflicting proposals; 65 matched with GL ESG policy)	"The ESG Policy will support reporting and reviewing a company's political and charitable spending as well as its lobbying practices."	"We consider proposals requesting reports on political contributions and expenditures and lobbying activities on a case-by-case basis"	18
	"The ESG Policy also generally votes in favor of proposals seeking increased disclosure regarding […] safety issues"	"In certain situations, we may consider supporting a proposal requesting increased disclosure regarding a company's efforts to ensure safe operations if the company has been unresponsive to safety violations or injuries, if there is credible evidence of egregious or illegal behavior, or if there is a clear link between the adoption of the requested proposal and an increase in or the protection of shareholder value."	13
	"The ESG Policy will generally vote for proposals requesting that companies provide greater disclosure regarding impact on local stakeholders, workers' rights and human rights in general."	"While we typically rely on the oversight of the board on these important policy issues, we recognize that, in some instances, shareholders could benefit from increased reporting or further codification of human rights policies."	12
	"The ESG Policy will support proposals requesting disclosure from companies regarding gender pay inequity and company initiatives to reduce the gap in compensation paid to women compared to men."	"Glass Lewis will review such proposals on a case-by-case basis, taking into consideration: (i) the company's industry; (ii) the company's current efforts and disclosure with regard to gender pay equity; (iii) practices and disclosure provided by a company's peers concerning gender pay equity; and (iv) any legal and regulatory actions at the company."	7
	"The ESG Policy will support proposals requesting that a company develop sustainable business practices, such as animal welfare policies"	"However, in general, we believe that the board and management are in the best position to determine policies relating to the care and use of animals."	6
	"The ESG Policy further supports proposals related to [...] and companies' compliance with internationally recognized human rights or safety standards."	"While we typically rely on the oversight of the board on these important policy issues, we recognize that, in some instances, shareholders could benefit from increased reporting or further codification of human rights policies."	2
	"The ESG Policy also generally votes in favor of proposals seeking increased disclosure regarding public health"	"We will review proposals regarding healthcare-related issues on a case-by-case basis and may consider supporting proposals in cases where proponents have clearly demonstrated that a company's current practices or policies present significant financial or reputational harm."	2
	"The ESG Policy will also support proposals requesting additional information concerning workforce diversity."	"We will also generally support proposals requesting that companies provide other types of disclosure concerning their workforce diversity, as well as shareholder proposals asking for details concerning how companies are promoting diversity within their workforce."	2
	"The ESG Policy will support proposals requesting that companies cease political spending or associated activities."	"Glass Lewis will generally not support shareholder resolutions requesting that companies either provide a study on prohibiting or prohibit corporate political spending."	1
	"The ESG Policy will support proposals for companies to adopt or comply with certain codes of conduct relating to labor standards, human rights conventions, and corporate responsibility at large."	"While we typically rely on the oversight of the board on these important policy issues, we recognize that, in some instances, shareholders could benefit from increased reporting or further codification of human rights policies."	1

	"The ESG Policy also supports proposals seeking a report on [...] as well as on a company's ethical responsibility as it relates to drug distribution and manufacture."	"We will review proposals regarding healthcare-related issues on a case-by-case basis and may consider supporting proposals in cases where proponents have clearly demonstrated that a company's current practices or policies present significant financial or reputational harm."	1
Shareholder - G (111 unique proposals; 18 conflicting proposals; 17 matched with GL ESG policy)	"The ESG Policy will generally support separating the positions of CEO and chair whenever the question is posed in a shareholder proposal, as in the long-term it is in the best interests of the company."	"As such, separating the roles of CEO and chair may lead to a more proactive and effective board of directors [...] we will typically support reasonably crafted shareholder proposals seeking the installation of an independent chair. However, we will not support proposals that include overly prescriptive independence definitions and may consider recommending against proposals where the company makes a compelling case for combining the two roles, has a clearly defined lead independent director role, has indicated that it intends to separate the roles, and has strong performance and governance provisions."	7
	"The ESG Policy will vote in favor of shareholder proposals […] to clawback unearned bonuses."	"If the board has already adopted a comprehensive recoupment policy, we will generally not support amendments to that policy. However, in instances where companies have not adopted policies that provide sufficient protections for reputational and financial harm, we may consider supporting resolutions seeking to expand a company's recoupment policy."	4
	"The ESG Policy will support enhanced oversight of environmental and social issues at the board level by supporting resolutions calling for the creation of an environmental or social committee of the board."	------	4
	"The ESG Policy generally votes in favor of proposals seeking to tie executive compensation to performance measures such as compliance with environmental regulations, health and safety regulations, nondiscrimination laws and compliance with international human rights standards."	When reviewing proposals seeking to tie executive compensation to environmental or social practices, we will review the target firm's compliance with (or contravention of) applicable laws and regulations, and examine any history of environmentally and socially related concerns, including those resulting in material investigations, lawsuits, fines and settlements. We will also review the firm's current compensation policies and practices. However, regarding the selection of performance metrics for executive compensation, Glass Lewis generally believes that such decisions should be left to the compensation committee.	1
	"The ESG Policy will also generally vote for proposals seeking to increase disclosure of a company's business ethics and code of conduct."	------	1

Appendix A5. Disagreement under Glass Lewis 2025 ESG Policy and Benchmark Policy

	Glass Lewis ESG policy text	Glass Lewis Benchmark policy text	Count
Director Election (5,843 unique proposals; 1,014 conflicting votes; 664 matched with Glass Lewis ESG policy)	The ESG Policy will: (i) vote against members of the nominating committee in the event that the board has an average tenure of over ten years and the board has not appointed a new nominee to the board in at least five years; (ii) vote against the incumbent male nominating committee members in instances where the board of a large- or mid-cap company is comprised of fewer than 33% gender-diverse directors, or the local market requirement for gender diversity where higher; or (iii) vote against the male members of the nominating committee where there is not at least one gender-diverse director on the board of a small-cap company.	(i) The nominating committee chair when, alongside other governance or board performance concerns, the average tenure of non-executive directors is 10 years or more and no new independent directors have joined the board in the past five years. We will not be making voting recommendations solely on this basis; rather, insufficient board refreshment may be a contributing factor in our recommendations when additional board-related concerns have been identified. (ii) The chair of the nominating committee of a board that is not at least 30 percent gender diverse, or all members of the nominating committee of a board with no gender diverse directors, at companies within the Russell 3000 index. (iii) For companies outside of the Russell 3000 index, we will recommend voting against the chair of the nominating committee if there are no gender diverse directors.	297
	The ESG Policy may consider voting against directors with a lengthy tenure (e.g. over 12 years) when we identify significant performance or governance concerns indicating that a fresh perspective would be beneficial and there is no evidence of any plans of future board refreshment.	The nominating committee chair when, alongside other governance or board performance concerns, the average tenure of non-executive directors is 10 years or more and no new independent directors have joined the board in the past five years. We will not be making voting recommendations solely on this basis; rather, insufficient board refreshment may be a contributing factor in our recommendations when additional board-related concerns have been identified.	275
	For companies included in the Climate Action 100+ focus list and those that operate in industries where the Sustainability Accounting Standards Board (SASB) has determined that greenhouse gas (GHG) emissions represent a financially material risk, the ESG Policy will vote against the chair of the board in instances where a company has not adopted a net zero emissions target or ambition. For all other companies, the ESG Policy will vote against the chair of the board in instances where companies have not established any forward-looking GHG emissions reduction targets. In both instances, if the chair of the board is also the company's CEO, the ESG Policy will vote against the chair of the audit committee.	-----	59
	In instances where these companies [U.S. companies listed in the S&P 500 index] have not disclosed their full EEO-1 reports, the ESG Policy will vote against the nominating and governance chair.	-----	15
	For Climate Action 100+ focus list companies, as well as those where SASB has determined that GHG emissions represent a material risk, the ESG Policy will vote against the chair of the board when the company has failed to produce reporting that is aligned with the recommendations of the Task Force on Climate-related Financial Disclosures ("TCFD") or IFRS S2 framework . For all other companies, the ESG Policy may vote against the chair of the board when they have not produced sufficient sustainability reporting.	-----	13
	The ESG Policy will vote against the chair of the board in instances where companies in major blue chip indices are not signatories or participants in the United Nations Global Compact ("UNGC") or have not adopted a human rights policy that is aligned with the standards set forth by the International Labour Organization ("ILO") or the Universal Declaration on Human Rights ("UDHR").	-----	5

Compensation - Say on Pay (692 unique proposals; 231 conflicting votes; 235 matched with Glass Lewis ESG policy)	Should a company not provide any environmental or social considerations in its remuneration scheme, the ESG Policy will vote against the proposed plan.	Glass Lewis does not have a policy that requires the inclusion of E&S metrics in a company's incentive plans. We believe that the board and compensation committee are in the best position to determine the appropriate metrics for a company's incentive plans.	207
	For companies with a greater degree of exposure to environmental and climate-related issues (i.e., Climate Action 100+ focus list companies and those where SASB has deemed GHG emissions to be financially material), the ESG Policy will vote against compensation proposals if the company has not adequately incentivized executives to act in ways that mitigate a company's climate impact.	Glass Lewis does not have a policy that requires the inclusion of E&S metrics in a company's incentive plans. We believe that the board and compensation committee are in the best position to determine the appropriate metrics for a company's incentive plans.	28
Compensation - Other (249 unique proposals; 0 conflicting votes)	------	------	
Auditor Ratification (734 unique proposals; 385 conflicting votes; 371 matched with Glass Lewis ESG policy)	The ESG Policy will vote against auditor ratification proposals in instances where it is clear that a company's auditor has not been changed for 20 or more years.	------	371
Other Management Proposal (259 unique proposals; 0 conflicting votes)	------	------	
Shareholder - E (45 unique proposals; 25 conflicting votes; 25 matched with Glass Lewis ESG policy)	The ESG Policy will generally support proposals regarding the environment, in particular, those seeking improved sustainability reporting and disclosure about company practices which impact the environment.	We believe that firms with significant exposure to sustainability-related risks, such as in the extractive industries, should produce reports regarding the risks presented by their environmental and adverse effects on stakeholders that reduce shareholder value, and will consider recommending a vote for reasonably crafted proposals requesting that such a report be produced; however, as with all shareholder proposals, we will evaluate these report requests on a case-by-case basis.	13
	Similarly, the ESG Policy will support proposals requesting companies develop greenhouse gas emissions reduction goals, comprehensive recycling programs, and other proactive means to mitigate a company's environmental footprint.	On a case-by-case basis, we will consider supporting well-crafted proposals requesting that companies report their greenhouse gas (GHG) emissions and adopt a reduction goal for these emissions.	9
	Further, the ESG Policy will support proposals requesting that a company consider energy efficiency and renewable energy sources in its project development and overall business strategy.	When reviewing proposals requesting an action or disclosure related to renewable energy or energy efficiency, Glass Lewis considers the following factors: (i) current energy regulations facing the company and their attendant risks to its operations; (ii) the company's responsiveness to issues related to energy efficiency and renewable energy; (iii) the company's current disclosure on this issue; and (iv) whether the company's actions and disclosure are aligned with that of its peers.	2
	The ESG Policy will vote in favor of increased disclosure of a company's environmental risk through company-specific disclosure as well as compliance with international environmental conventions and adherence to environmental principles.	------	1
Shareholder - S (97 unique proposals; 20 conflicting votes; 12 matched with Glass Lewis ESG policy)	The ESG Policy also generally votes in favor of proposals seeking increased disclosure regarding public health	We will review proposals regarding healthcare-related issues on a case-by-case basis and may consider supporting proposals in cases where proponents have clearly demonstrated that a company's current practices or policies present significant financial or reputational harm.	5

	Accordingly, the ESG Policy will generally vote for proposals requesting that companies provide greater disclosure regarding impact on […] human rights in general.	As such, while we typically rely on the oversight of the board on these important policy issues, we recognize that, in some instances, shareholders could benefit from increased reporting or further codification of human rights policies.	3
	The ESG Policy will generally vote for proposals requesting that companies provide greater disclosure regarding impact on […] workers' rights	Glass Lewis may consider supporting proposals requesting that companies adopt broader nondiscrimination policies in cases where a company's lack of alignment with peers in this regard may hamper its ability to attract and retain employees or where a company may be subject to regulatory scrutiny as a result of its nondiscrimination policies.	2
	The ESG Policy will support proposals for companies to adopt or comply with certain codes of conduct relating to […] corporate responsibility at large.	In the case of proposals requesting that a company adopt policies or improve disclosure regarding some aspect of its water usage or its impact on water supplies, Glass Lewis will consider a company's current level of related disclosure, the level of oversight afforded to water-related issues and a company's overall management of its water usage and impact on water supplies. We will also review a company's exposure to potential regulatory, legislative, legal, reputational and direct environmental and social risks associated with its water management.	1
	The ESG Policy will support proposals requesting that a company develop sustainable business practices, such as animal welfare policies	However, in general, we believe that the board and management are in the best position to determine policies relating to the care and use of animals.	1
Shareholder - G (146 unique proposals; 12 conflicting votes; 10 matched with Glass Lewis ESG policy)	The ESG Policy will vote in favor of shareholder proposals to link pay with performance, to eliminate or require shareholder approval of golden coffins, and to clawback unearned bonuses.	If the board has already adopted a comprehensive recoupment policy, we will generally not support amendments to that policy. However, in instances where companies have not adopted policies that provide sufficient protections for reputational and financial harm, we may consider supporting resolutions seeking to expand a company's recoupment policy.	9
	The ESG Policy will generally support separating the positions of CEO and chair whenever the question is posed in a shareholder proposal, as in the long-term it is in the best interests of the company.	As such, separating the roles of CEO and chair may lead to a more proactive and effective board of directors [...] we will typically support reasonably crafted shareholder proposals seeking the installation of an independent chair. However, we will not support proposals that include overly prescriptive independence definitions and may consider recommending against proposals where the company makes a compelling case for combining the two roles, has a clearly defined lead independent director role, has indicated that it intends to separate the roles, and has strong performance and governance provisions.	1
Shareholder - Director Election (Proxy Contest) (10 unique proposals; 0 conflicting votes)	------	------	

Appendix A6. Disagreement under Egan Jones 2025 Wealth-Focused Policy and Management Recommendation

	Egan Jones wealth-focused policy text	Count
Director Election (9,136 unique proposals; 93 conflicting votes; 93 matched with EJ wealth-focused policy)	WITHHOLD votes from nominees who: • are affiliated outside directors and sit on the Audit, Compensation, or Nominating committees. • are inside directors and sit on the Audit, Compensation, or Nominating committees. • are inside directors and the Company does not have Audit, Compensation, or Nominating committees. • are identified as not independent by the Company and sit on the Audit, Compensation, or Nominating committees. • attend less than 75 percent of the board and committee meetings. Participation by phone is acceptable. • fail to act on takeover offers where the majority of the shareholders have tendered their shares unless the proposal was focused on environmental or social issues. • implement or renew a "dead-hand" or modified "dead-hand" poison pill. • sit on the existing board, which has failed to respond adequately to a say-on-pay vote in which the majority of votes cast voted AGAINST. • sit on the existing board, which has implemented a less frequent say-on-pay vote than the frequency option which received a majority of votes cast in the previous frequency vote. In cases in which the Company has engaged in the practice commonly referred to as "options backdating," Egan-Jones may recommend that votes be withheld from nominees serving on the Company's compensation committee, the Company's entire board of directors, and/or its chief executive officer. Such recommendations will be made on a case-by-case basis, taking into consideration such matters as intent of the individuals involved, scope and timing of the practice, significance of financial restatement required, and corrective action taken. Furthermore, we may recommend withholding votes from either members of the Company's compensation committee, its entire board of directors and/or its chief executive officer where the Company has engaged in what we judge to be other unsatisfactory compensation practices. Considerations may include such factors as "pay-for-failure" executive severance provisions, change-in-control payments which are either excessive or which are not tied to loss of job or significant reduction in duties, excessive executive perquisites, unjustified changes in the performance standards applied to performance based compensation, and executive compensation out of proportion to performance of the Company. Case-by-case basis, examining composition of board and key board committees, attendance history, corporate governance provisions and takeover activity, long-term company financial performance relative to a market index, directors' investment in the Company, etc.	93
Compensation - Say on Pay (1,180 unique proposals; 316 conflicting votes; 316 matched with EJ wealth-focused policy)	Case-by-case basis on advisory votes on executive compensation ("Say-on-Pay"), based on the score obtained by the Company in Egan-Jones Compensation model. AGAINST a non-binding compensation advisory vote when the Company obtains the lowest score on the Egan-Jones Compensation model, FOR otherwise.	316
Compensation - Other (471 unique proposals; 33 conflicting votes; 19 matched with EJ wealth-focused policy)	AGAINST compensation plans that result in an excess amount of dilution (or the equivalent value in cash) that is more than the maximum dilution determined by the Compensation Score. AGAINST compensation plans involving "pay for failure," such as excessively long contracts, guaranteed compensation, excessive severance packages, or other problematic practice not accounted for in the Egan-Jones compensation Score. Case-by-case (but generally FOR) plans that are completely "decoupled" from the CEOs compensation and thus have no impact on the CEO's current or future total compensation.	10
	FOR management proposals that recommend that advisory votes on executive compensation take place annually.	8
	Case-by-case basis on employee stock purchase plans.	1
Auditor Ratification (1,244 unique proposals; 4 conflicting votes; 0 matched with EJ wealth-focused policy)	------	/

Other Management Proposal (406 unique proposals; 40 conflicting votes; 13 matched with EJ wealth-focused policy)	AGAINST management proposals increasing the number of authorized shares of the class of stock that has superior voting rights in companies that have dual-class capitalization structures. AGAINST management proposals to increase the number of authorized shares of common stock, or equivalents, that exceeds 50 percent of share capital, without a specified legitimate purpose. Case-by-case basis on other such management proposals considering the specified purposes of the proposed increase, any explanation of risks to shareholders of failing to approve the request, potential dilution, and recent track record for using authorized shares, in which case judgment is applied to weigh such factors. Factors which are normally weighed in making such judgments include prior performance of the issuer, changes within the industry, relative performance within the industry, client preferences and overall good corporate governance. In general, we view the authorization of additional common shares to be ordinary and necessary and in the best long-term interests of the issuer and its shareholders.	8
	AGAINST proposals that request that the Board prepare, at reasonable expense and omitting proprietary information, a sustainability report.	3
	Case-by-case management proposals to approve unusual board size.	1
	This proposal is considered on a case-by-case basis by the guidelines committee.	1
Shareholder - E (49 unique proposals; 0 conflicting votes)	------	/
Shareholder - S (101 unique proposals; 0 conflicting votes)	------	/
Shareholder - G (162 unique proposals; 95 conflicting votes; 88 matched with EJ wealth-focused policy)	FOR shareholder proposals to allow shareholders holding at least 10% or more of the Company's shares, to call a special shareholder meeting regardless of length of stock ownership to the fullest extent possible, and proposals asking to give to give street name shares and non-street name shares an equal right to call for a special shareholder meeting.	39
	FOR shareholder proposals that request all matters presented to shareholders, other than the election of directors, shall be decided by a simple majority of the shares voted 'For' and 'Against' an item and abstentions from the vote count be excluded.	16
	FOR shareholder proposals to allow or make easier shareholder action by written consent.	11
	FOR shareholder proposals requesting that the Board seek shareholder approval of any senior manager's new or renewed pay package that provides for severance or termination payments with an estimated value exceeding 2.99 times the sum of the executive's base salary plus target short-term bonus.	10
	According to our policy, a simple majority requirement in director elections, combined with a mandatory resignation policy and prohibition on the renomination of directors, ensures that the election results accurately reflect shareholder sentiment.	5
	FOR shareholder proposals to repeal ("de-stagger") classified boards and to elect all directors annually.	3
	FOR shareholder proposals requesting separate disclosure of voting results by classes of shares.	2
	We generally recommend FOR because according to our policy, vesting of equity awards over a period of time is intended to promote long-term improvements in performance. The link between pay and long-term performance can be severed if awards pay out on an accelerated schedule.	1
	In order to provide equal voting right to all shareholders, we prefer that companies do not utilize multiple class capital structures.	1
Shareholder - Director Election (Proxy Contest) (7 unique proposals; 7 conflicting votes; 7 matched with EJ wealth-focused policy)	Case-by-case basis for voting for directors in contested elections, considering long-term financial performance of the target company relative to its industry, management's track record, background to the proxy contest, qualifications of director nominees on both slates, evaluation of what each side is offering shareholders as well as likelihood that proposed objectives and goals will be met, and stock ownership positions.	7

european corporate governance institute

about ECGI

The European Corporate Governance Institute has been established to improve *corporate governance through fostering independent scientific research and related activities.*

The ECGI will produce and disseminate high quality research while remaining close to the concerns and interests of corporate, financial and public policy makers. It will draw on the expertise of scholars from numerous countries and bring together a critical mass of expertise and interest to bear on this important subject.

The views expressed in this working paper are those of the authors, not those of the ECGI or its members.

www.ecgi.global

european corporate governance institute

ECGI Working Paper Series in Law

Editorial Board

Editor	Amir Licht, Professor of Law, Harry Radzyner Law School, Reichman University
Consulting Editors	Hse-Yu Iris Chiu, Professor of Corporate Law and Financial Regulation, University College London
	Martin Gelter, Professor of Law, Fordham University School of Law
	Geneviève Helleringer, Professor of Law, ESSEC Business School and Oxford Law Faculty
	Kathryn Judge, Professor of Law, Coumbia Law School
	Wolf-Georg Ringe, Professor of Law & Finance, University of Hamburg
Editorial Assistant	Asif Malik, ECGI Working Paper Series Manager

https://ecgi.global/content/working-papers