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An Analysis of Omitted Shareholder Proposals

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Abstract

We intend to reveal the causes and the determinants of the omitted shareholder proposals. We find that individual investors are mostly likely to submit a proposal being excluded from the proxy ballot. Since individual investors are not so skillful as institutional investors, we summarize that shareholder proposals are excluded mainly due to sponsors' lack of experience and knowledge, rather than as a self-serving vehicle for shareholder activists to gain bargaining power or to simply annoy management. We also find that most shareholder proposals are omitted because they deal with a matter relating to the company's ordinary business operations.

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INTRODUCTION

Shareholder proposals have attracted significant attention in recent years. For instance, Wall Street Journal (WSJ hereafter) reported that on March 2013, Goldman Sachs Group Inc. lost its battle against CTW Investment Group due to ignoring CTW's shareholder proposal calling for separation of the chairman and CEO positions. CTW argued that the chairman's role should be filled by an outsider for the purpose of promoting "the robust oversight and accountability of management". In response to Goldman' statement, claiming that the proposal from CTW Investment Group was "inherently vague and indefinite", the SEC notified the Goldman Sachs, saying that "the agency is unable to concur with Goldman's view that the shareholder proposal does not warrant a vote". One month later, prior to the releasing of proxy statements by Goldman, CTW withdrew this proposal after Goldman agreed to bolster the role of its lead director, Dieter Waizenegger. Even though this proposal has never appeared in the proxy ballot, it certainly has caught the attention of the media, whose coverage on this issue has made the public, especially the shareholders of Goldman Sachs, be aware of the core arguments between the two parties.

Indeed, many shareholder proposals that are submitted never make it onto a proxy ballot. In some instances, shareholder proposals have been withdrawn by the sponsors after the private negotiations with the management. In other cases, the companies have excluded the proposals without the consent of the sponsors after receiving the no action letters written by the SEC.

Hence, the shareholder proposals listed in a company's proxy ballot for voting at the annual shareholder meetings do not present a complete picture. For instance, among all Fortune 250 firms, prior to the end of August of 2013, there are a total of 277 shareholder proposals voted at the annual shareholder meetings. In comparison, about 104 proposals are ruled out from the proxy statements with formal no action letters written by the SEC. Such a high omitting rate is perplexing, in that it does not make any sense for anybody to take such an unproductive approach, let alone those professional investors and executives, since the rules interpreting "no action request" proposal have been clearly defined in the SEC's Staff Legal Bulletin 14 and the SEC Rule 14a (8) in 2001. Thereby, it remains a puzzle as to why it ever occurs. To our knowledge, the studies covering this topic are still lacking in the literature. However, a better understanding of this subject can not only help the SEC to set up more appropriate regulations, but also facilitate investors to improve monitoring capabilities. We fill up the gap in this study by focusing on those shareholder proposals that have been excluded by the management. Our study intends to reveal the causes and the determinants of the omitted shareholder proposals. We find that individual investors are mostly likely to submit a proposal being excluded from the proxy ballot. Since individual investors are not so skillful as institutional investors, we thus summarize that shareholder proposals are excluded mainly due to sponsors' lack of experience and knowledge, rather than as a self-serving vehicle for shareholder activists to gain bargaining power or to simply annoy management. Furthermore, most shareholder proposals are omitted because they deal with a matter relating to the company's ordinary business operations.

The paper is structured as follows. In section 2, we explained the SEC rules and reviewed the literature. In section 3, we brought up the hypothesis and discussed the empirical results. Conclusion was provided in section 4.

Section II the SEC rules covering shareholder proposals and the literature review

The SEC Rule 14a-8 was released in 2001. It requires the company to choose one of the three options for the received shareholder proposals: 1) Include the proposal in its proxy materials; 2) Negotiate with the proposal sponsor to reach a jointly acceptable solution which can result in this proposal being withdrawn; 3) Submit a No-Action request to the SEC to exclude the proposal from the proxy documents, if companies affirm that a proposal violates the SEC Rule 14a-8. The detailed description of the shareholder proposals that are appropriate for "No-Action request" is provided in Staff Legal bulletin 14. Once receiving a No-Action request, the SEC will analyze it thoroughly before making a final decision.

Prior researches reveal that most of the submitted shareholder proposals have been voted at the annual shareholder meetings. Studies covering the voted shareholder proposals are abundant, even though it is still inconclusive as to whether or not they can be an effective tool to mitigate agency costs (Bebchuck, Cohen , and Ferrell, 2009; Gillan and Starks, 2000; Renneboog and Szilagyi, 2011; Ertimur , Ferri, and Stubben, 2010; Guercio, Seery, and Woidtke, 2008; Thomas and Cotter, 2007). At the same time, a great amount of shareholder proposals have never made it onto a proxy ballot because they were taken back by the proposals sponsors. Less than 20% of shareholder proposals ever submitted fall into this category (Gillan and Starks, 2000; Renneboog and Szilagyi, 2011). Countable studies in this area show that those withdrawn proposals are more likely to occur when shareholder activists are powerful and when the proposals cover sensitive issues (Foley, Cebula, and Boylan, 2013). Nevertheless, to our knowledge, there is a lack of studies in the literature focusing on the omitted shareholder proposals, the incident of which is difficult to understand since the corresponding rules have been clearly explained in SEC Rule

14a-8 and the SEC's Staff Legal Bulletin 14 in 2001. The details of the relevant rules are presented in the appendix.

Section Three: Empirical Analysis of Omitted Shareholder Proposals

3.1 Hypotheses

A Shareholder proposal can be omitted from the company's proxy materials. First, the management needs to send a no action request to the SEC. Next, after reviewing the documents, the SEC will make choices to support either the company or the proposal sponsors. The followings are several examples of the SEC criterion: (1) the proposal reflects a personal grievance; (2) the proposal requires the firm to violate state, federal, or international law; or (3) the proposal deals with the company in question's ordinary business operations. Only after receiving an approval from the SEC can management exclude the shareholder proposal. Once the proposal is legally excluded from the proxy lists, it will never be implemented. By contrast, a withdrawn proposal might be implemented eventually.

SEC rules 14a-8 are presumably well comprehended by professional investors, such as unions. Those skilled shareholders are not expected to waste valuable resources to sponsor proposals that tend to be overlooked by management. Thus, we hypothesize that when a proposal is submitted by non-professional sponsors, such as individuals and religious groups, this proposal is more likely to be omitted. Furthermore, since the subject of the proposal determines whether or not it could be ruled out, we hypothesize that the likelihood of a proposal being excluded increases when its theme is closely tied to the firm's ordinary business operation.

3.2 Data

To investigate the hypotheses in Section 3.1, we gathered information of shareholder proposals from the Investor Responsibility Research Center (IRRC) which collects the proxy statements of over 1,900 firms, including S&P 1500. In total, there were 2,743 shareholder proposals related to corporate governance issues for the period 2004 through 2007. Furthermore, we focused on firms in The Corporate Library (TCL) and collected information on antitakeover provisions, and ownership by insiders for the period 2005-2007. There were a total of 8,257 observations in the sample period. After merging with shareholder proposals dataset, we had a total of 1,806 shareholder proposals related to corporate governance issues.

Moreover, we control for firm size, leverage, and firm performance. Firm size, proxied by total assets, as well as leverage, is collected from COMPUSTAT. Firm performance is measured by stock returns on a fiscal year basis from CRSP. We also control for insider ownership and collect relevant data from TCL. Additionally, we use E-Index as a proxy for corporate governance quality (Bebchuk, Cohen, Ferrell, 2009).

Lastly, following Gillan and Starks (2000) and Renneboog and Szilagyi (2011), we divided the sample of shareholder proposals into five major groups according to proposal sponsors: Individual investors, religious investors, institutional investors, unions, and public pension funds. We also split the data into eight key groups according to issues: Antitakeover issues, board, executive compensation, voting, sales of the company, auditing, annual meeting, and others. Based on IRRC, each group was broken down further into four subsets, with each representing one of the four proposal outcomes: voted, withdrawn, omitted, and others.

3.3 Descriptive Analysis

To test the hypotheses in Section 3.1, we analyze the percentage of proposals that are omitted among variant shareholder activists and the results can be found in Table 1.

Table 1 indicates that the percentages of proposals that are excluded range from 10.48% to 16.74%. The proposals from religious investors are the least likely to be omitted, followed by other institutional investors and public pension funds. Union investors are second only to individual investors to face omitted proposals, with an annual average of 1.65%. However, the occurrence of such proposals is becoming less common, dropping to 0.27% in 2007. Not surprisingly, management is mostly likely to take no actions against proposals from individual investors, the least professional investors among all shareholder activists. Each year, about 9.49%, the average, are submitted by individual investors but are omitted eventually.

Moreover, regarding omitted shareholder proposals, the differences among variant proposal topics are less obvious than those among variant proposal proponents. However, some specific topics are still more likely to be omitted. Table 2 reports the relevant comparison among different topics of shareholder proposals. The results show that antitakeover, executive compensation, and board issues as the top three subjects that related proposals are more likely to be omitted, with an annual average of 4.51%, 3.56% and 2.73%, respectively. Interestingly, the exclusion rate of proposals devoting to antitakeover issues has been steadily dropping, but that related to study of the sale of the company is increasing until 2006. This fact is within the expectation in that the latter is more closely related to the company's ordinary business operations that can be omitted under rule 14a-8. To further explore the omission of shareholder proposals, we combine all omitted proposals together according to proposal proponents and proposal subjects. The results are reported in Table 3.

Table 3 shows that 32.49% of all omitted shareholder proposals are submitted by individual investors regarding antitakeover issues, followed by 19.05%, 13.75%, both from individual shareholders regarding executive compensation and board issues, respectively. The three groups constitute over 65% of all proposals that are omitted, implying that it is individual investor that might lack of knowledge and experience with respect to SEC rules. Furthermore, 14.49% of omitted proposals are from unions, among which, 4.48% and 4.20% of proposals cover issues regarding board and executive compensations. Unions' omitted rate seems high. However, as shown in Table 2, unlike individual sponsors, unions' absolute exclusion rate is actually low, since unions have sponsored more shareholder proposals than the other groups. In sum, our findings thus far tend to support our hypothesis indicating that professional investors are less likely to submit proposals against SEC rules.

Additionally, by reasons of exclusion, Institutional Shareholder Service (ISS) classifies omitted proposals into 19 categories. Following the ISS, we summarize all omitted shareholder proposals by those 19 categories. Table 4 and Table 5 report these results.

[Insert Table 4 here]

[Insert Table 5 here]

Table 4 and Table 5 describe in detail the omission reasons with respect to the issues and the proposal proponents of those omitted proposals, respectively. Specifically, there are 82 proposals covering antitakeover issues that are omitted and recorded as I-10. B-2, I-2, I-3, I-7, and I-10 are the most likely reasons for this group of proposals' being omitted, indicating that proponents do not provide verification of stock ownership, or that those proposals violate laws, contain misleading statements, relate to the conduct of the company's ordinary business operations, or are moot by virtue of already being substantially implemented by the company, respectively. Moreover, for proposals related to voting and board membership issues, the most likely reasons for no action taken are I-8 and I-6, indicating that those proposals deal with a matter beyond the company's power to influence or relate to an election to office, respectively. Focusing on proposals sponsored by individuals, we identify 88 proposals cancelled as I-10, followed by 31 and 22, because of B-2 and I-2, respectively. Additionally, this group of omitted proposals appears in all ISS omission categories. In contrast, the remaining groups of omitted proposals, including unions, are more concentrated. There are 13 union sponsored proposals that are omitted due to I-7, followed by 9 and 8 due to I-11 and I-10, respectively. I-11 indicates duplication of an earlier submitted proposal.

In sum, we find evidence that the occurrences of proposals that are excluded eventually are mainly due to sponsors' lack of experience and knowledge, rather than those proposals being a *de facto* self-serving vehicle for shareholder activists to gain bargaining power or to simply annoy management, and so forth. Furthermore, most shareholder proposals are omitted because they deal with a matter relating to the company's ordinary business operations.

3.5 Regression Results

To further demonstrate the hypotheses regarding the associations between the likelihood of a proposal's being omitted and proposal sponsors and subjects, we applied a logistic regression cluster - robust variance model by treating the appearance of an omitted proposal as an event and the occurrence of an excluded proposal as the base, while controlling for firm performance, E-Index, insider ownership, leverage, and firm size (Cameron, Trivedi, 2005).

The model adopted is expressed, as follows:

$$\begin{aligned}\text{Logit}(\pi_{\text{omitted\_proposal}}) &= \beta_0 + \beta_1\text{Individual} + \beta_2\text{Religion} + \beta_3\text{Union} + \beta_4\text{Investment\_firm} + \beta_5\text{Antitakeover} + \beta_6\text{Board} \\ &+ \beta_7\text{Executive\_Compensation} + \beta_8\text{Voting} + \beta_9\text{E-Index} + \beta_{10}\text{Stock\_return} + \beta_{11}\text{insider\%} \\ &+ \beta_{12}\text{Leverage} + \beta_{13}\text{Size} + \beta_{14}\text{Individual} * \text{Antitakeover} + \beta_{15}\text{Individual} * \text{Executive\_comp} \\ &+ \beta_{16}\text{Union} * \text{Board} + \beta_{17}\text{Union}*\text{Executive\_comp} + \beta_{18}\text{Year\_06} + \beta_{19}\text{Year\_07} \qquad (2)\end{aligned}$$

The sample under study contained 1,294 observations, from which 251 proposals were omitted and 1,043 proposals were voted over the 2005 through 2007 study period. Furthermore, when an omitted proposal occurred, it was recorded as a 1; otherwise, it was recorded as a 0.

The results are reported in Table 6.

Model One confirms that when a proposal is submitted by individual investors, it is more likely to be excluded from the proxy ballot than to be voted. However, a similar conclusion cannot be drawn among religious investors who are inexperienced shareholders as well. Of note, the base class for types of investors is public pension fund. Furthermore, when a proposal is associated with board, executive compensation, or voting issues, it is less likely to be omitted rather than voted. Since the base category for the proposal subjects is related to ordinary business operations, such as sales of the company and others sales, we conclude that shareholder proposals are more likely to be omitted when they deal with a matter relating to the company's ordinary business operations. Moreover, when looking at control variables, we find that the likelihood of a proposal being omitted increases with firm size but decreases with leverage ratio.

Model Two is based on Model One with two new variables: one for corporate governance quality, E-Index; and the other one for insider ownership. The results tend to show that the likelihood of a proposal being omitted decreases with both E-index and insider ownership. All the other results are similar to those in Model One.

As a robustness test as shown in Model Three, we add several interaction variables for proposal sponsors and subjects. The prior findings still hold.

The following Figure 1 to Figure 8 further demonstrate the regression results.

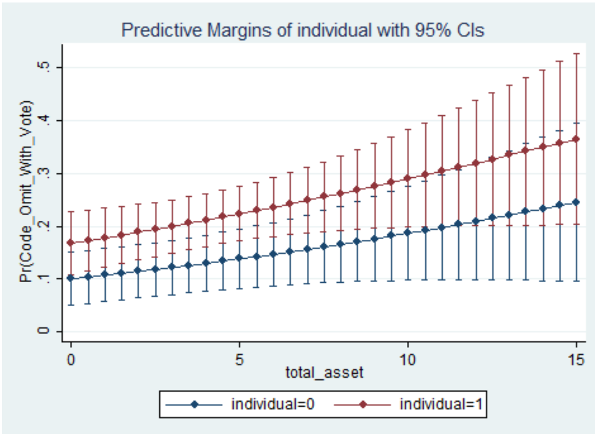


Figure 1: **Individual * Total Assets**

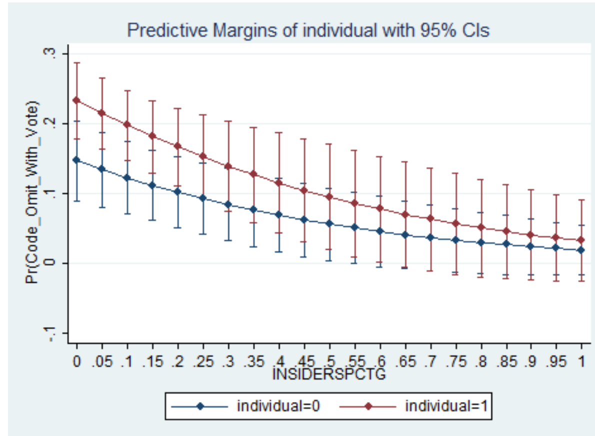


Figure 2: **Individual * Insider Ownership**

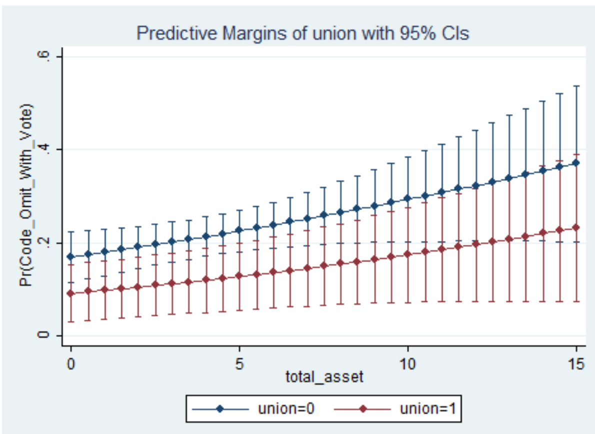


Figure 3: **Union * Total Assets**

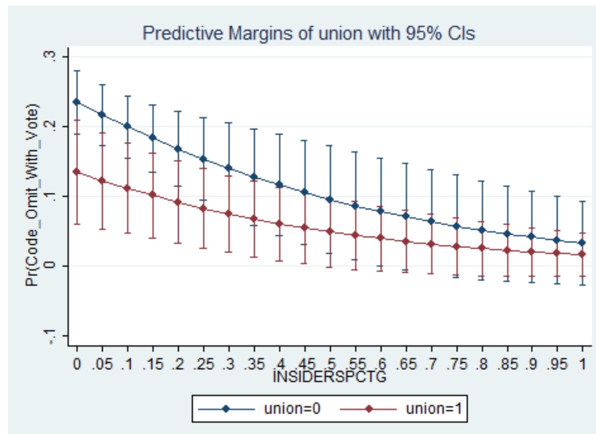


Figure 4: **Union * Insider Ownership**

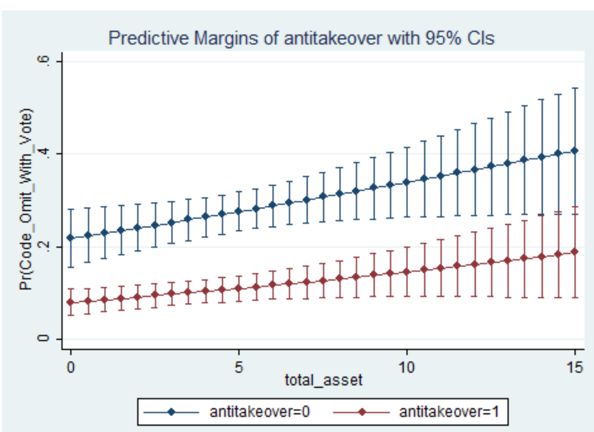


Figure 5: **Antitakeover * Total Assets**

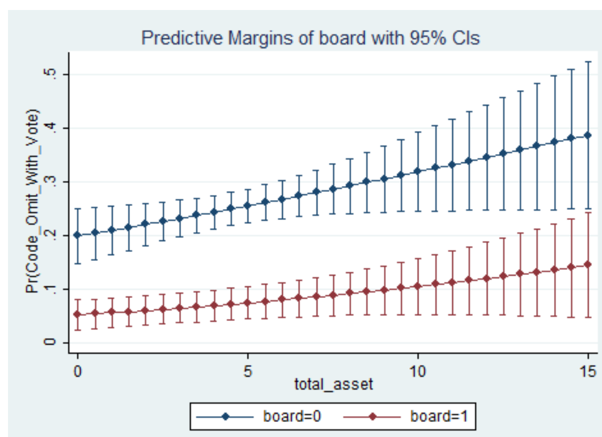
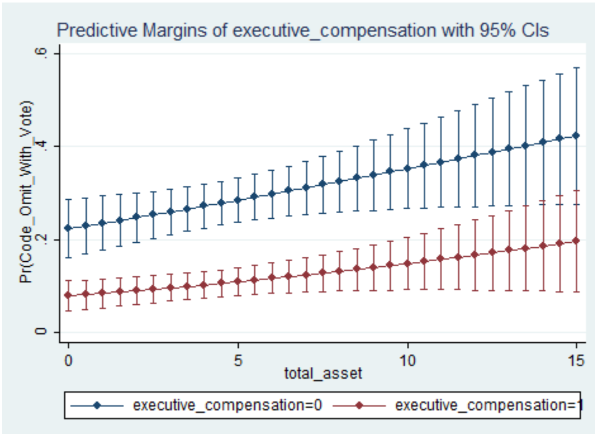


Figure 6: **Board * Total Asset**



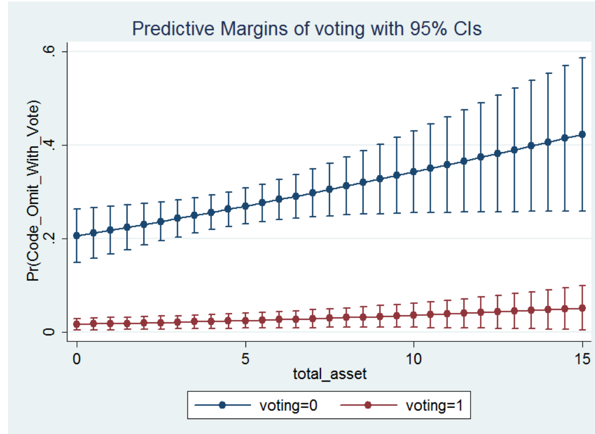


Figure 7: **Executive-Compensation * Total Assets**

Figure 8: **Voting * Total Asset**

In summation, the sponsors' lack of knowledge, combined with the subject raised in the proposal, are the major causes for the proposal being omitted rather than voted. Additionally, the occurrence of omitted shareholder proposals is related to firm size, leverage, E-index and insider ownership. In specific, when a firm is large, with less insider ownership, low leverage, and poor corporate governance quality as measured by small value of E-Index, a shareholder proposal is more likely to be omitted.

In June of 2009, the SEC proposed changes to federal proxy rules in facilitating shareholder director nominations; said proposed changes were adopted in August of 2010. In October of 2010, the SEC proposed say-on-pay rules, which were finalized in January of 2011. Those changes in regulation, along with the eruption of the financial crisis in 2008, can potentially impact how shareholders deal with shareholder resolutions. Therefore, as a robustness test, we analyze shareholder proposals in the proxy seasons after 2007. There were 751 shareholder proposals submitted in 2008, among which 146 proposals were withdrawn and 161 proposals were omitted. The higher percentage of omitted proposals might be due to shareholders' overreaction to the volatile financial market during the financial crisis. In 2009, 743 shareholder resolutions were submitted, among which 121 proposals were withdrawn and 81 proposals were excluded. Thus, it appears that the activities with respect to shareholder proposals in recent years seem to be reasonably similar to that from over the 2004-2007 period.

CONCLUSION

The goal of this study is to extend the research into the effectiveness and role of shareholder proposals in corporate governance. Prior studies mainly concentrate on the voted proposals and find that management which overlooked proposals that were supported by the majority shareholders tend to be penalized, which suggests the effectiveness of using shareholder proposals as a means whereby to discipline management. However, some shareholder proposals have never made it onto proxy ballot. They were either withdrawn by shareholders or excluded by the management prior to the annual shareholder meetings. The published studies focusing on the withdrawn or omitted shareholder proposals are still limited. In this study, we endeavor to contribute to this literature by proceeding with a detailed study in shareholder proposals that are omitted and by exploring what determines a shareholder resolution as being omitted [within the context of proposal sponsors and issues, firm performance, insider ownership, and corporate governance quality].

Focusing on shareholder proposals related to corporate governance from 2004 to 2007, we find that on average 10% of shareholder proposals are excluded from the proxy ballot. Further, the occurrence of the excluded shareholder proposals is mainly due to sponsors' lack of experience and knowledge. In other words, the omitted shareholder proposals are due to sponsor's mistakes or misinformation. The issue of a proposal that might intervene in the company's ordinary business operations is another major cause for a proposal being excluded. The future study can focus on the changes in resolutions of shareholder proposals after recent modifications in rules since the onset of the financial crisis.

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TABLE 1
Summary of Shareholder Proposal Sponsors and Proposal Resolutions

Table 1 reports the percentages of shareholder proposals from 2004 to 2007 that are voted, withdrawn, and omitted, respectively. There are a total of 2,743 corporate governance related proposals, classified into five sponsor groups.

	2004			2005			2006			2007		
Sponsor	**Voted**	**Withdrawn**	**Omitted**	**Voted**	**Withdrawn**	**Omitted**	**Voted**	**Withdrawn**	**Omitted**	**Voted**	**Withdrawn**	**Omitted**
Individual investors	25.97	0.86	10.04	23.05	1.17	10.72	29.15	1.29	9.02	26.21	3.76	8.20
Religious/socially responsible investor	2.58	0.72	0.14	4.99	0.73	0.44	3.38	0.97	0.48	2.55	0.67	0.00
Union funds	21.38	14.63	2.44	22.76	11.60	3.08	26.89	10.31	0.81	21.91	18.01	0.27
Public pension funds	1.43	3.73	0.57	1.91	3.08	1.91	1.77	1.61	0.32	3.49	1.88	1.08
Other institutions	1.72	2.30	0.43	1.62	2.35	0.59	2.74	2.25	0.64	2.28	2.69	0.94
Total (%)	**53.08**	**22.24**	**13.63**	**54.33**	**18.94**	**16.74**	**63.93**	**16.43**	**11.27**	**56.45**	**27.02**	**10.48**

TABLE 2
Summary of Shareholder Proposal Issues and Proposal Resolutions

Table 2 reports the yearly volume of shareholder proposals in accordance with the proposal issues and the final resolutions from 2004 through 2007. There are a total of 2,743 corporate governance related proposals, classified into eight subject groups.

Year	2004					2005					2006					2007				
Proposals	Subtotal	Vote	With-draw	Omit	Other	Sub-total	V	W	O	Other	Sub-total	V	W	O	Other	Sub-total	V	W	O	Other
Antitakeover	**179**	110	15	41	13	**152**	97	8	30	17	**174**	106	18	33	17	**153**	102	25	18	8
Voting issues	**48**	33	7	6	2	**119**	78	24	13	4	**176**	116	40	1	19	**182**	67	106	0	9
Board issues	**115**	69	11	17	18	**153**	86	20	28	19	**135**	103	12	12	8	**180**	137	14	18	11
Executive compensation	**241**	139	50	18	34	**184**	81	59	33	11	**105**	53	32	18	2	**172**	90	46	29	7
Study sale of company	**8**	3	1	1	3	**13**	7	0	2	4	**9**	5	0	3	1	**8**	5	0	0	3
Audit-related	**86**	7	68	9	2	**25**	1	17	4	3	**1**	0	0	1	0	**0**	0	0	0	0
Annual/special meeting	**3**	2	0	1	0	**0**	0	0	0	0	**1**	0	0	0	1	**4**	0	2	2	0
Others	**17**	11	4	1	1	**35**	20	1	4	10	**19**	14	0	2	3	**45**	19	8	11	7
Total proposals	**697**	**370**	**155**	**95**	**73**	**681**	**370**	**129**	**114**	**68**	**621**	**397**	**102**	**70**	**52**	**744**	**420**	**201**	**78**	**45**

TABLE 3
Summary of Withdrawn Shareholder Proposal and Proposal Resolutions

Table 3 reports the percentages of shareholder proposals that are withdrawn, omitted and voted from 2004 to 2007. There are a total of 2,743 corporate governance related proposals, classified into eight subject groups. Within each group, they are classified into five sponsor groups.

Proposal Status	**Sponsor / Issues**	**Antitakeover**	**Audit**	**Board**	**Executive Compensation**	**Sale of Company**	**Voting**	**Special Meeting**	**Others**	**Subtotal**
Withdrawn	Individual (%)	3.07	0.17	0.68	1.37	0.17	2.56	0.17	0.17	**8.36**
	Union (%)	4.44	11.60	1.19	22.35	0.00	23.55	0.17	1.19	**64.49**
	Public Pension Funds (%)	0.85	2.73	1.37	3.75	0.00	3.24	0.00	0.34	**12.28**
	Other Institutions (%)	2.56	0.00	4.78	3.24	0.00	0.51	0.00	0.17	**11.26**
	Religious (%)	0.34	0.00	1.71	1.19	0.00	0.34	0.00	0.00	**3.58**
	Subtotal	**11.26**	**14.51**	**9.73**	**31.91**	**0.17**	**30.20**	**0.34**	**1.88**	**100**
Omitted	*Individual (%)*	*32.49*	*0.84*	*13.73*	*19.05*	*1.68*	*2.52*	*0.56*	*1.96*	***72.83***
	Union (%)	*0.84*	*2.80*	*4.48*	*4.20*	*0.00*	*1.12*	*0.00*	*0.84*	***14.28***
	Public Pension Funds (%)	*0.56*	*0.28*	*1.12*	*1.68*	*0.00*	*1.68*	*0.28*	*0.28*	***5.88***
	Other Institutions (%)	*0.28*	*0.00*	*1.40*	*1.12*	*0.00*	*0.00*	*0.00*	*2.24*	***5.04***
	Religious (%)	*0.00*	*0.00*	*0.28.*	*1.40*	*0.00*	*0.28*	*0.00*	*0.00*	***1.68***
	Subtotal	***34.17***	***3.92***	***21.01***	***27.45***	***1.68***	***5.60***	***0.84***	***5.32***	***100***
Voted	Individual (%)	16.65	0.00	9.17	10.97	0.70	6.68	-	0.80	**44.97**
	Union (%)	6.08	0.10	2.99	16.15	0.00	17.35	-	0.40	**43.07**
	Public Pension Funds (%)	2.49	0.30	0.60	0.70	0.00	0.30	-	0.00	**4.39**
	Other Institutions (%)	0.60	0.00	0.50	0.70	0.60	0.10	-	0.20	**2.69**
	Religious (%)	0.30	0.00	2.59	1.89	0.00	0.10	-	0.00	**4.89**
	Subtotal	**26.12**	**0.40**	**15.85**	**30.41**	**1.30**	**24.53**	**-**	**1.40**	**100**

TABLE 4
Summary of the Reasons for Shareholder Proposals Being Omitted According to Proposal Issues

Table 4 summarizes the reasons for shareholder proposals being omitted by proposal issues from 2004 to 2007.

Omit Status	Antitakeover	Audit	Board	Executive Compensation	Voting	Meeting	Sell firm	Other	Total
omitted B-1	2	1	4	6	1	0	0	3	**17**
omitted B-2	12	1	7	12	0	0	2	1	**35**
omitted C	1	0	2	0	0	0	0	0	**3**
omitted E-2	3	0	3	6	0	0	1	0	**13**
omitted H-3	8	0	5	3	0	0	0	0	**16**
omitted I-1	0	1	0	2	0	0	0	1	**4**
omitted I-2	2	0	4	14	0	3	0	0	**23**
omitted I-3	1	0	2	13	0	0	0	0	**16**
omitted I-6	0	0	11	1	0	0	0	1	**13**
omitted I-7	1	11	7	13	0	0	3	9	**44**
omitted I-8	0	0	9	0	14	0	0	0	**23**
omitted I-9	0	0	0	4	0	0	0	0	**4**
omitted I-10	82	0	4	11	0	0	0	1	**98**
omitted I-11	5	0	7	8	0	0	0	0	**20**
omitted I-12	0	3	0	0	0	0	0	0	**3**
omitted I-13	1	0	0	0	0	0	0	0	**1**
N/A	4	1	6	5	5	0	0	3	**24**
Total	**122**	**18**	**71**	**98**	**20**	**3**	**6**	**19**	**357**

Note: Securities and Exchange Commission Staff Decisions

omitted: B-1	Proponent failed to meet requirements for ownership of stock entitled to vote on.
omitted: B-2	Proponent did not provide verification of stock ownership.
omitted: C	Proponent allowed only one proposal.
omitted: D	Supporting statement exceeds 500 words.
omitted: E-2	Resolution was filed too late for consideration.
omitted: H-3	Proponent did not have "good cause" for failure to present the proposal at the previous annual meeting; company may exclude proponent's resolutions for the next two years.
omitted: I-1	Is improper under state law.
omitted: I-2	Is a violation of state, federal or foreign law.
omitted: I-3	Contains false or misleading statements.
omitted: I-4	Relates to a personal claim or redress of personal grievance.
omitted: I-5	Relates to less than 5 percent of the company's total assets and less than 5 percent of net earnings and gross sales and "is not significantly related" to the company's business.
omitted: I-6	Deals with a matter beyond the company's power to effectuate.
omitted: I-7	Relates to the conduct of the company's ordinary business.
omitted: I-8	Relates to an election to office.
omitted: I-9	Is counter to a proposal to be submitted by management at the same meeting.
omitted: I-10	Is moot by being substantially implemented by the company.
omitted: I-11	Is a duplicate of an earlier-submitted proposal.
omitted: I-12	Did not receive the required number of votes cast at a previous shareholder meeting.
omitted: I-13	Relates to specific amounts of cash or stock dividends.

TABLE 5
Summary of the Reasons for Shareholder Proposals Being Omitted by Proposal Sponsors

Table 5 summarizes the reasons for shareholder proposals being omitted by proposal sponsors from 2004 to 2007.

Omit Status	Individual	Religious	Union	Public Fund	Other Institutions	Total
omitted B-1	8	1	3	1	4	**17**
omitted B-2	31	1	3	0	0	**35**
omitted C	3	0	0	0	0	**3**
omitted E-2	9	0	3	1	0	**13**
omitted H-3	14	0	1	0	1	**16**
omitted I-1	3	0	1	0	0	**4**
omitted I-2	22	0	0	1	0	**23**
omitted I-3	16	0	0	0	0	**16**
omitted I-6	7	0	4	1	1	**13**
omitted I-7	17	4	13	4	6	**44**
omitted I-8	14	1	3	4	1	**23**
omitted I-9	1	0	1	1	1	**4**
omitted I-10	88	0	8	1	1	**98**
omitted I-11	7	0	9	3	1	**20**
omitted I-12	3	0	0	0	0	**3**
omitted I-13	1	0	0	0	0	**1**
Omitted-NA	16	0	2	4	2	**24**
Total	**260**	**7**	**51**	**21**	**18**	**357**

TABLE 6
Logistic Regression Models Explaining the Omitted Proposals

Table 6 explains the occurrence of omitted proposals, using logistic regression with adjusted variance. The occurrence of omitted proposals is treated as the event. Among TCL firms, there are 251 shareholder proposals that are omitted and 1,043 proposals that are voted from 2005 through 2007. Marginal effects are defined as the instantaneous rates of change that depend on the values of the independent variables, measured at the means.

	Model I		**Model II**		**Model III**	
Variables	**Marginal Effect**	**Z value**	**Marginal Effect**	**Z value**	**Marginal Effect**	**Z value**
Individual	0.0993**	2.07	0.0886*	1.71	0.0254	0.39
Union	-0.0727	-1.6	-0.0695	-1.38	-0.1194*	-1.95
Investment Firm	-0.0195	-0.33	-0.008	-0.12	-0.0325	-0.51
Religious	-0.0591	-1.33	-0.06	-1.24	-0.0740*	-1.74
Antitakeover	-0.1394	-5.36	-0.1399***	-4.62	-0.2013***	-5.22
Board	-0.1413***	-6.9	-0.1469***	-6.42	-0.1498***	-6.65
Executive_compenstation	-0.1465***	-5.12	-0.1551***	-4.53	-0.1607***	-3.45
Voting	-0.2162***	-10.86	-0.2168***	-9.59	-0.2046***	-8.37
Year 2006	-0.0555***	-2.66	-0.0576***	-2.65	-0.0526**	-2.5
Year 2007	-0.0711***	-3.52	-0.0790***	-3.26	-0.0760***	-3.18
Firm Size	0.0134***	3.02	0.0090**	2.05	0.0096**	2.21
Leverage	-0.1174**	-2.42	-0.1067**	-20.1	-0.0988*	-1.9
Stock Return	-0.029	-0.74	-0.0439	-0.96	-0.0385	-0.86
E-Index			-0.0240*	-1.94	-0.0224*	-1.88
Insider Ownership			-0.3027**	-2.55	-0.2800**	-2.54
individual*Antitakeover					0.1760*	1.68
Individual*Executive_Comp					0.0363	0.47
Union*Executive_comp					0.0194	0.24
Union*Board					0.2609*	1.86
Observations	1294		1294		1294	
Wald Chi2	182.47		140.6		148.9	
Log likelihood	-545.32		-539.61		-532.2	

Note: ***, ** and * represent probabilities less than 1%, between 1% and 5%, and between 5% and 10%, respectively.

Appendix - The SEC Rule 14a(8)

The SEC Rule 14a(8) generally requires the company to include the proposal unless the shareholder has not complied with the rule's procedural requirements or the proposal falls within one of the 13 substantive bases for exclusion described in the table below.

Substantive Basis	**Description**
Rule 14a-8(i)(1)	The proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization.
Rule 14a-8(i)(2)	The proposal would, if implemented, cause the company to violate any state, federal or foreign law to which it is subject.
Rule 14a-8(i)(3)	The proposal or supporting statement is contrary to any of the Commission's proxy rules, including rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials.
Rule 14a-8(i)(4)	The proposal relates to the redress of a personal claim or grievance against the company or any other person, or is designed to result in a benefit to the shareholder, or to further a personal interest, which is not shared by the other shareholders at large.
Rule 14a-8(i)(5)	The proposal relates to operations that account for less than 5% of the company's total assets at the end of its most recent fiscal year, and for less than 5% of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business.
Rule 14a-8(i)(6)	The company would lack the power or authority to implement the proposal.
Rule 14a-8(i)(7)	The proposal deals with a matter relating to the company's ordinary business operations.
Rule 14a-8(i)(8)	The proposal relates to an election for membership on the company's board of directors or analogous governing body.
Rule 14a-8(i)(9)	The proposal directly conflicts with one of the company's own proposals to be

	submitted to shareholders at the same meeting.
Rule 14a-8(i)(10)	The company has already substantially implemented the proposal.
Rule 14a-8(i)(11)	The proposal substantially duplicates another proposal previously submitted to the company by another shareholder that will be included in the company's proxy materials for the same meeting.
Rule 14a-8(i)(12)	The proposal deals with substantially the same subject matter as another proposal or proposals that previously has or have been included in the company's proxy materials within a specified time frame and did not receive a specified percentage of the vote. Please refer to questions and answers F.2, F.3 and F.4 for more complete descriptions of this basis.
Rule 14a-8(i)(13)	The proposal relates to specific amounts of cash or stock dividends.