



C O R P O R A T E S O C I A L I S S U E S R E P O R T E R

Impartial Research on Companies and Shareholders Worldwide

February 2006

Shareholders Highlight Wal-Mart Controversy

The question of whether Wal-Mart is paying an acceptable share of its employees' health care costs continues to dog the company. Not only has a religious order filed a shareholder proposal asking the company to report on how many of its employees are on public assistance, but the State of Maryland last month enacted a law that will require Wal-Mart to pay its "fair share" of health benefits. Other states may follow Maryland's lead.

Late this month, in an apparent move to respond to its critics, Wal-Mart announced that it will take some steps to upgrade its health benefits.

Controversy

Wal-Mart has been a lightning rod for labor activists and policymakers concerned about fighting poverty and stretching tight state budgets. Last year, an internal Wal-Mart memo, released to the public after portions of it had been leaked, confirmed that 46 percent of Wal-Mart employees' children were on Medicaid or uninsured.

The leaked memo seemed to reinforce critical studies such as one published in 2004 by University of California, Berkeley, *Hidden Cost of*

Wal-Mart Jobs: Use of Safety Net Programs by Wal-Mart Workers in California. Its authors said that Wal-Mart workers in California earn about 31 percent less than workers of other large retailers. In the San Francisco Bay area, the study esti-

Last year, an internal
Wal-Mart memo, released
to the public after portions
of it had been leaked,
confirmed that 46 percent
of Wal-Mart employees'
children were on Medicaid
or uninsured.

mated, a non-managerial Wal-Mart worker makes an average of \$9.40 an hour, compared with the average of \$15.31 that retail workers make, and is "half as likely to have health benefits."

Another 2004 report, by Rep. George Miller (D-Calif.), called *Everyday Low Wages: The Hidden Price We All Pay for Wal-Mart*, asserted that Wal-Mart's low wage and anti-union policies impose costs to taxpayers, via government subsidies that must be provided to Wal-Mart employees. It says, "The Democratic Staff of the Committee on Education and the Workforce estimates that one 200-person Wal-Mart store may result in a cost to federal taxpayers of \$420,750 per year—about \$2,103 per employee."

The Shareholder Resolution

In their resolution, the proponents at Basilian Fathers of Toronto ask Wal-Mart to report on the public health services used by Wal-Mart employees and their dependents, including data on their rate of using public assistance programs—such as Medicaid, Food Stamps, children's immunization and health insurance programs—as well as the costs to state and local governments in providing these services. The proponents ask Wal-Mart to publish this report—prepared at a reasonable cost and omitting proprietary information—within six months of the meeting.

(continued on p. 3)

4 Catholic Jobs Still Lag at Non-U.S. Firms in N. Ireland

7 SEC Staff Cracks Down on Business Risk Proposals

9 ExxonMobil Report Prompts Withdrawals, Critique

In This Issue

Workplace

Shareholders Highlight Wal-Mart Controversy – The question of whether Wal-Mart is paying an acceptable share of its employees' health care costs continues to dog the company. Not only has a religious order filed a shareholder proposal asking it to report on how many of its employees are on public assistance, but the State of Maryland last month enacted a law that will require Wal-Mart to pay its "fair share" of health benefits. **1**

Catholic Jobs Still Lag at Non-U.S. Firms in N. Ireland – Recently completed IRRC surveys documented a continued increase in Catholic firms in Northern Ireland, but further Protestant dominance at large non-U.S. companies. **4**

Nebraska MacBride Repeal Stirs Protest **6**

Proxy Season

SEC Staff Cracks Down on Business Risk Proposals – Shareholders will have little opportunity to express their views this year on how companies are meeting the challenges of AIDS, malaria and tuberculosis. The SEC staff, under a policy articulated last summer, has decided that these resolutions, too, can be excluded as "ordinary business" issues because they involve "an internal assessment of the risks or liabilities" the companies face over operations affecting the environment or public health. **7**

Environment

ExxonMobil Report Prompts Withdrawals, Critiques – The release this month of a new report by ExxonMobil has generated headlines and prompted shareholder activists to withdraw two proposals at the company concerning its climate change strategy, even as they continue to criticize the company for what they believe is inadequate action on this issue. **9**

Retreating Glaciers Spark Concerns **10**

ExxonMobil Climate Change Checklist **11**

Investors at Odds with Mutual Funds' Climate Votes – Two recent surveys have highlighted a major gap between individual mutual fund investors and mutual funds' management over how the funds vote their proxies on climate change questions. **13**

UK Corporate Reporting Rule Wins Reprieve **15**

Corporate Social Issues Reporter is an independent newsletter published 10 times a year by the Social Issues Service of IRRC, a wholly owned subsidiary of Institutional Shareholder Services. The Social Issues Service offers impartial research and analysis on corporate social responsibility issues, particularly those raised in proxy statements and at corporate annual meetings. *Corporate Social Issues Reporter* is available by separate subscription. For information, contact:

Institutional Shareholder
Services
1350 Connecticut Ave., NW
Suite 700
Washington, DC 20036
Telephone: (202) 833-0700
Fax: (202) 833-3555

www.irrc.com

Editor:
Meg Voorhes

Reporters:
Doug Cogan
Peter DeSimone
Sol Kwon
Carolyn Mathiasen
Heidi Welsh

Assistant to the Editor:
Carolyn Mathiasen

© Copyright 2006,
Institutional Shareholder
Services
ISSN 1090-0829



(continued from p. 1)

The proponents note in their resolution that the issue of Wal-Mart and its reliance on public health programs “plays a significant role in our corporate brand and reputation, relationships with policy-makers and regulators, and ability to site new stores.” They say that “the ability to create and implement policies regarding general employee benefits and compensation is fundamental to management’s ability to control day-to-day operations,” and the attorneys asserted that the Basilian Fathers’ proposal is shareholders’ attempt to “micro-manage” employee benefits at Wal-Mart. The SEC has not yet issued a decision on the matter.

The Fair Share Law

The Fair Share Health Care Fund Act passed in Maryland in early January with strong backing from labor unions and health care advocates, who say they are also pushing for the bill’s passage in almost 30 other states. Gov. Robert Ehrlich (R) had vetoed the bill in May 2005, calling it a government intrusion into private sector business. Wal-Mart reportedly lobbied hard against the bill, hiring 12 lobbyists in Annapolis and running full-page ads in major local newspapers, but the Democrat-led Maryland General Assembly overrode the veto on Jan. 12 with the Senate voting 30-17 and the House, 88-50.

The Fair Share Health Care Fund Act requires for-profit employers with more than 10,000 employees in the state to spend an amount equal to at least 8 percent of their payroll on employee health care. Under the new law, if an employer failed to meet this minimum, it would be required to pay the difference to the state to help offset the cost in public health care services. It would also be required to publish an annual report on how much the employers are

spending on employee health care, complete with an executive’s letter and signature to personally guarantee the report’s accuracy. This latter task is not expected to be particularly onerous, as corporations already gather such information for their internal accounting purposes.

In Maryland, three for-profit organizations reportedly employ more than 10,000: Giant Food, Lockheed Martin, and Wal-Mart. Only Wal-Mart, however, does not meet the new law’s required 8 percent minimum. According to press reports, Wal-Mart spent about 5 percent of its payroll on health care for its 17,000 Maryland employees in 2004, with the figure rising to 7 percent in 2005. In comparison, the grocery chain Giant Food testified at a Senate hearing last year that it spent 23 percent of its payroll on employee health care. Media reports speculate that Wal-Mart would have to pay about \$12 million to Maryland under current conditions, if it failed to increase its health care spending to more than 8 percent.

Maryland residents seem to favor the new law: a January 2005 survey by Gonzales Marketing & Strategies found 55 percent of voters favored the override of the governor’s veto and only 34 percent opposed it. A similar Fair Share bill was recently killed in Kansas, according to press reports, but is still pending in Indiana, Kentucky, Michigan, Minnesota, Missouri, Rhode Island and West Virginia.

Wal-Mart’s Response

Wal-Mart chairman and CEO Lee Scott, in a letter published in the *Washington Post* on Feb. 9, defended Wal-Mart’s policies by asserting that its stores provide jobs, tax revenues and business that are all beneficial to the working families of Maryland. “If we closed our doors in Maryland,” he said, “a lot of things would hap-

pen, and none of them would be good for the working families of the state.” Calling Maryland’s Fair Share bill “bad public policy,” Scott asserted that the bill does not provide any solutions, adding, “Clearly, any policy that singles out large employers—much less a single large employer—ignores the reality that businesses of all sizes are struggling to deal with the soaring cost of health care in America.” Citing Kaiser Family Foundation research that almost every large business in the United States provides employee health care, compared with only six in 10 small businesses that provide employee health care, Scott contended that the law is “pitting large businesses against small businesses, the private sector against the public sector, [and] one group of Americans against another.”

In internal communication between Scott and Wal-Mart managers, the contents of which were published by the *New York Times* and Wal-Mart Watch (a labor-backed website dedicated to a campaign against Wal-Mart) this month, Scott offers a more unrestrained view on state efforts such as the Fair Share bill. He says, “...although our health care stacks up very, very competitively, there are people who are saying that as a large company, our health plan should be better than the competition. The problem we have with that is that if our health care is more costly than the competition, then how do we compete in the retail industry? You can’t have it both ways.” Scott continues, “The underlying issue is, though, that health care in the United States is at a crisis stage... What we’d like to see is a national program or at least state programs that are reasonably consistent that affect everyone equally. So that all our associates and customers have access to adequate health care that is affordable to them.” Scott says he met with five

governors in the previous month to discuss these issues (this entry was dated Nov. 11, 2005), and concludes, “You may remember that Sen. Hillary Clinton tried, but it didn’t work very well for her at that time. My personal feeling is the time is right, and right now, business and government have the opportunity to join together and get this problem behind us.”

In its latest move on the health care front, Wal-Mart announced that it would be taking various steps to upgrade health benefits for its workers. These include reducing by an unspecified amount the current two-year time period that part-time workers must wait before becoming eligible for coverage in the company plan. It also said children of part-

time workers for the first time would be made eligible for coverage. In addition, the company plans to expand the use of low-cost health clinics at its store sites. Scott plans to announce the plan formally at a meeting of the National Governors’ Association.

Legal Challenge

In the meantime, Wal-Mart is relying on allies to mount a legal challenge to the Maryland law.

Earlier this month, the Virginia-based Retail Industry Leaders Association (RILA), of which Wal-Mart is a member, filed suit against the Fair Share bill in the U.S. District Court in Baltimore. The association argues that the bill conflicts with the federal Employee Retirement Income

Security Act, or ERISA, which prevents states from requiring employers to provide a certain level of benefits. Sandy Kennedy, the president of RILA, told *The Baltimore Sun* on Feb. 8, “The brunt of these laws falls on the retail sector,” adding, “The retail industry needs the flexibility to meet the insurance needs of their diverse work force.” She said, “We certainly hope that the other states ... will pause and look at what we’re doing in Maryland ... and consider that these are unwise and unlawful laws.” Maryland Attorney General J. Joseph Curran Jr. (D) and other Democratic leaders have expressed confidence that the new law will withstand legal scrutiny, according to press reports.

— Sol Kwon

Catholic Jobs at Non-U.S. Firms in N. Ireland Still Lag

Recently completed IRRCSurveys documented a continued increase in Catholic firms in Northern Ireland, but further Protestant dominance at large non-U.S. companies. This year marks the 20th year of the campaign for the MacBride principles, a code U.S. shareholder activists believe has helped to bring about sea changes in employment equity in Northern Ireland. The Catholic share of employment at U.S. companies now stands at 46.6 percent, well above the 43 percent Catholic share of the economically active population. In contrast, Catholics account for only 36.6 percent of the aggregate work force of a large sample of non-U.S. firms surveyed by IRRC.

The reasons for the persistent gap in representation between the two groups of firms IRRC surveyed are not immediately obvious. U.S. companies dominate the IT and service sector in

Northern Ireland, however, where Catholics have strong representation, while several of the large non-U.S. companies are industrial firms with a long history in the province, with relatively low proportions of Catholics and little chance for change given significant work force attrition.

The Survey

IRRC’s Northern Ireland Service annually surveys U.S. and non-U.S. employers in Northern Ireland to assess their fair employment record and the extent to which they comply with the MacBride principles, a fair employment code proposed in 1984 by Nobel Peace Prize winner Sean MacBride and promoted by the New York City Comptroller’s Office and other institutional investors. These investors deem a company to be compliant with the MacBride principles if it affirms that its policies are consistent with the principles and agrees to cooperate with

IRRC’s annual monitoring survey. IRRC began its U.S. company survey in 1991 and the non-U.S. company survey in 2001.

IRRC sent the survey to corporate officials of 144 U.S. public and privately held companies—who owned 176 separate Northern Ireland employers—starting in May 2005. With all the results in, IRRC found that 11 of the firms no longer had ties to Northern Ireland. Of the 133 U.S. parent companies still active in the region, 71 are publicly held U.S. companies with subsidiaries (more than 50 percent ownership) or affiliates (10 to 50 percent ownership) employing more than 10 workers in Northern Ireland. About 55 percent of the public and private U.S. companies with more than 10 employees in Northern Ireland that IRRC surveyed responded in some fashion in 2005, a response rate that has held steady for several years.

With funding from the Califor-

nia Public Employees' Retirement System, IRRC also surveyed a group of non-U.S. Calpers portfolio companies with operations in Northern Ireland in summer and fall 2005. Of these firms, 104 had ties to the region as of December 2005, and they owned 143 Northern Ireland employees. IRRC received complete or partial responses from 45 percent of these parent companies; all told, however, nearly two-thirds of the non-U.S. companies IRRC studied this year have responded to IRRC's survey in the last three years.

Companies reported on the number of their employees by religion and job category and on their fair employment policies and grievance procedures. For survey respondents, IRRC assessed the percentage of Protestants and Catholics in each job category against an appropriate recruitment area, with more highly skilled categories generally assumed to draw from a broader geographic area. If a company did not respond to the survey, IRRC made best efforts to determine a reasonable recruitment area for the company as a whole, using detailed data from the most recent census.

IRRC also sought two key indicators from respondents to obtain a more nuanced sense of their overall fair employment record:

- *affirmative action* efforts taken because Catholics or Protestants are underrepresented, and
- the *impact* these efforts have had in moving firms towards fair representation where it is lacking.

In addition, IRRC looked up the number and disposition of *discrimination complaints* filed at individual companies.

The Picture at U.S. Firms

Since IRRC's last survey of U.S. employers in Northern Ireland in 2004, the total level of employment rose to a little more than 24,500. The proportion of these jobs held by Catholics also

rose, to 46.6 percent from 45.1 percent the previous year.

Catholic representation at U.S. firms with equity ties to Northern Ireland has risen about one percentage point a year for the last several years and now stands well above the Catholic share of the working age population of Northern Ireland. Between 2004 and 2005, Protestants gained 372 jobs (compared with an increase of 666 in 2004), and Catholics 905 (up from 701 in 2004). The trend at U.S. employers continues to be for a faster increase of Catholic workers and slower growth or attrition of Protestant workers. Some of the changes have come from corporate acquisitions and divestitures, but they also appear to reflect larger shifts in the wider Northern Ireland work force.

Recent Catholic gains can be traced at least in part to high tech firms, which tend to employ many young people and closely reflect the 50-50 Protestant-Catholic population of this younger age cohort. Overall, private sector and manufacturing employment where Protestants have dominated, has dropped; service jobs have grown and construction has seen a modest increase, and Catholics are more likely to be employed in both sectors.

Despite the overall balance at U.S. companies, IRRC found that either Catholics or Protestants appeared to be under-represented at about one-quarter of the U.S. firms that employ more than 10 workers, down from one-third in the previous several years. Specifically, Catholics appear to be clearly underrepresented at 15 companies and Protestants at 11. IRRC reached these conclusions after comparing each firm's work force to a customized recruitment area, using detailed local census data and taking a number of company-specific factors into account. Nonetheless, most of these employers are taking affirmative action, which has been working with some important exceptions.

Affirmative action: U.S. employers that are undertaking affirmative action are using a number of methods. Links with particular schools are most popular, but companies also are meeting with local community or church leaders. Participation in training programs targeted to a particular community remains a rarity. Equality activists point out that most of Northern Ireland investment and industry tends to be located in Protestant-dominated areas, making it more difficult for Catholics to achieve fair participation in the work force.

Progress toward fair participation: Companies where little affirmative action progress has been made and fair participation by Catholics in the work force still appears to be lacking are **Baker Hughes**, **United Technologies'** UTC Fire & Security, and **Chesapeake's** Field Boxmore operation. Eight firms with Protestant underrepresentation have seen little change or negative progress in the last couple of years; of particular note in this category are **Bemis** and **Manpower**.

Discrimination complaints: Since 1994, complainants lodged at least 273 formal discrimination grievances against the subsidiaries or affiliates of 50 of the U.S. companies with current operations in Northern Ireland. Throughout its history, though, the Fair Employment Tribunal has formally determined discrimination has occurred at only three U.S. companies—**BE Aerospace**, **Visteon** (spun off from Ford Motor in 2000), and an affiliate of **General Electric**. But 22 firms have settled a total of 54 cases with complainants, often but not always admitting in the process that discrimination had occurred and generally paying some form of monetary compensation to the complainant.

There were only 25 cases pending against 12 U.S. firms as of November 2005, a substantial drop from

Nebraska MacBride Repeal Stirs Protest

In early February, Irish Americans in Nebraska began fighting a proposed repeal (LB1022) of the state's law on the MacBride principles, which says state pension money should be invested to encourage portfolio companies to adopt the principles. Nebraska state investment officer Carol Kantor, who is about to retire, testified in support of a repeal. She argued that the 1994 MacBride law conflicts with a 1996 statute that appears to preclude social investment objectives.

The state recently published a report, as the law requires, using information supplied by IRRC's Northern Ireland Service that shows Nebraska has investments in many firms that do not comply with the principles. According to the Lincoln *Journal Star*, Kantor told the legislative retirement committee that the law's restriction concerning MacBride does not apply to state funds since they all now are managed by outside investment firms. When the law was first passed, the State Investment Council managed some of the funds in-house. But many other jurisdictions with MacBride laws do require their investment managers to implement investment restrictions tied to the principles.

State Senator Pat Bourne disagrees with Kantor's interpretation, as does one of the original proponents of the law, lobbyist James Cavanagh of Omaha, the *Journal Star* reported. Cavanagh called the repeal attempt a "slap in the face of Irish Americans," and said that serious problems of employment equality continue to exist in Northern Ireland, providing continued justification for the law.

The effort to repeal the law may backfire, a legislative aide familiar with the dispute told IRRC. He said although the issue of conflicting statutes may be referred to the state attorney general for an opinion, there also is sentiment among some legislators for adding more stringent enforcement requirements to the law. Coincidentally, St. Patrick's Day is fast approaching, and a new state investment officer will have to go through confirmation hearings soon at the capitol. Both events are likely to concentrate attention on the state's MacBride investment restrictions.

about 60 open cases at about the same time in each of the previous three years. Four or more cases are pending against subsidiaries of publicly traded firms **Caterpillar** and **Visteon**.

Non-U.S. Firms

Catholics again appear to be much better represented at publicly traded U.S. firms in Northern Ireland than at the non-U.S. publicly traded firms surveyed by IRRC, a difference that has shown up every year since IRRC began its non-U.S. survey in 2001.

The 2005 survey findings cover

104 non-U.S. parent companies of the 207 publicly traded non-U.S. firms currently in Northern Ireland. These companies employ about 54,000 people, 36.6 percent of whom are Catholics. Progress towards fair participation at companies with affirmative action obligations—about half of the sample—has been limited. The work force breakdown either stayed the same or became more one-sided since 2001 at two-thirds of the non-U.S. employers where Catholics or Protestants were underrepresented in both 2003 and 2004.

The main findings from the 2005

survey of non-U.S. firms are:

- Far more firms surveyed appear to have problems with Catholic underrepresentation (31 employers) than with Protestant underrepresentation (22 employers), as has been the case for the last three years. Among the companies clearly lacking fair participation at present, there has been change in work force composition in the last several years at only about one-third of the companies for which sufficient data are available to examine long-term trends. At the other two-thirds, work force composition has stayed about the same or representation has become more one-sided. IRRC has reached this conclusion for the last three years.
- As in previous years, companies that responded to the survey reported using a full range of affirmative action measures prescribed by Northern Ireland's fair employment law, including the use of goals and timetables.
- In a switch from last year, far more discrimination complaints remain unresolved at non-U.S. companies compared to U.S. firms, and non-U.S. firms also appeared to be a little less likely than their U.S. counterparts to see complaints withdrawn or conciliated, although there was little difference in the proportions of cases settled or dismissed.
- The number of firms that appear to be compliant with the MacBride principles fell a little among the survey sample—40 compared to 44 firms in 2004, but it has grown from 37 in 2003 and only 16 in 2002. These numbers appear to reflect the relative comfort non-U.S. firms have with the principles and the Northern Ireland Service monitoring process.

—Heidi Welsh

SEC Staff Cracks Down on Business Risk Proposals

Shareholders will have little opportunity to express their views this year on how companies are meeting the challenges of AIDS, malaria and tuberculosis. The SEC staff, under a policy articulated last summer, has decided that resolutions can be excluded as “ordinary business” issues not appropriate for shareholder scrutiny if they involve “an internal assessment of the risks or liabilities that the company faces as a result of its operations that may adversely affect the environment or the public’s health.”

That new policy was signaled in SEC Staff Bulletin 14C of June 28, 2005, but its practical impact has only become clear with the startup to the 2006 proxy season.

Pandemic Proposal Gets Axe

As a result, the SEC staff has told **Pfizer**, **Marathon** and **Conoco-Phillips** that they can omit proposals that ask them to review the economic effects of the three pandemics on their operations and to report on the initiatives they have taken. The word “risk” does not appear in the resolutions, but the companies had all argued that the proposal boiled down to a request for an economic assessment of internal risks, rather than raising a significant social issue. The proponents have also withdrawn the same resolutions at **Abbott** and **Anheuser-Busch**, concluding that they, too, were headed for defeat at the SEC. As a result, the only proposal on the issue that will come to a vote is one at **Gilead Sciences**, where the company and proponents came close but failed to reach a withdrawal agreement, and where the company did not try to get the resolution omitted. The proposal got 31.7 percent support at Gilead last year.

This is the fourth year that proponents affiliated with the Interfaith Center on Corporate Responsibility have proposed resolutions on the three pandemics in the developing world. Similar, early resolutions had survived SEC challenge, but last year the staff allowed Texas Instruments to omit a proposal on the issue, agreeing with the company’s argument that it “related to ordinary business operations, i.e. evaluation of risk.” The staff did not spell out its thinking on the risk question at that time, but in retrospect, the June 2005 bulletin, which was issued after the Texas Instruments’ omission decision, sheds light on the SEC staff’s evolving thinking as to why proposals on the pandemics as currently written should be excludable.

The Risk Issue

As noted in last month’s *Corporate Social Issues Reporter*, the key paragraph in the staff bulletin is as follows:

To the extent that a proposal and supporting statement focus on the company engaging in an internal assessment of the risks or liabilities that the company faces as a result of its operations that may adversely affect the environment or the public’s health, we concur with the company’s view that there is a basis for it to exclude the proposal under rule 14a-8 (i)7 [the ordinary business exclusion] as relating to an evaluation of risk. To the extent that a proposal and supporting statement focus on the company minimizing or eliminating operations that may adversely affect the environment or the public’s health, we do not concur with the company’s view that there is a basis for it to exclude the proposal under rule 14a(8)(i)(7).

The SEC decisions on the pandemic proposals follow decisions earlier this season allowing companies to exclude resolutions on reimportation of drugs from Canada and the environmental effects of operations in Indonesia on grounds that they raised the question of corporate risk. In arguing that those resolutions should be excluded, the companies had also cited Staff Bulletin 14C.

Asked about the effects of the bulletin, Paul Neuhauser, long-time lawyer for church-affiliated shareholder proponents, said that it raised roadblocks for the 2006 proxy season, but that in the long run proponents would be able “to work around it,” because it “didn’t absolutely prevent you from putting in resolutions on your issue.” But Neuhauser also noted that the June bulletin had raised the bar by saying that the staff would look at both the resolved clause and the supporting statement of the resolution in deciding whether the fundamental issue of the resolution was risk. In the past, he said, the staff has usually made its decisions on the basis of the resolved clause language alone, except that it has allowed companies to omit resolutions asking for reports if the supporting statement specifies that the proposed report should include information that clearly falls into the ordinary business category.

Dan Rosan, who coordinates shareholder resolutions on health issues at the Interfaith Center, said he was “very concerned about the application of the staff bulletin on risk.” He said, “Shareholders are concerned with maximizing return and minimizing risk. If the SEC is creating a situation where anything in these areas is an ordinary business matter, we’re in a real bind.” Still, he agreed with Neuhauser that the pro-

Proxy Season

ponents should be able to find acceptable, different ways next year to broach the question of corporate response to the pandemics.

Other Decisions

Since the decisions on the pandemic proposals, the SEC staff has knocked out three more social issues proposals on the basis of risk. Two of these were new resolutions from the Service Employees International Union Master Trust asking **Wachovia** and **Wells Fargo** to report on the effect of the challenges created by global climate change on the companies' business strategy. The other was a resolution from the Nathan Cummings Foundation asking **Ryland Group** to "assess its response to rising regulatory, competitive and public pressure to increase energy efficiency." The same resolution had been submitted to seven other targets, including big box stores; IRRC has seen no evidence that the other recipients filed challenges.

The full extent of the damage that the June staff bulletin on risk has inflicted on this year's shareholder campaigns will become clearer when the SEC staff hands down some more decisions on arguments that cite the bulletin as the basis for omitting resolutions as ordinary business. These include several proposals that have come to votes in the past, including one that asks **Chevron** about cleanup of contamination that resulted from a Texaco subsidiary's now-closed oil drilling operations in Ecuador, and one that asks **Dow Chemical** to report on any new initiatives to address specific health, environmental and social concerns of survivors of the Bhopal disaster at its Union Carbide subsidiary. Also challenged as dealing fundamentally with risk are proposals from several church groups asking **ConocoPhillips** and **ExxonMobil** to report on how each "ensures that it is accountable for its

environmental impacts in all of the communities where it operates," and a proposal from Green Century Funds to **DuPont** on a policy for mitigating damage from potential catastrophic chemical releases.

Other Omissions

In other recently reported omissions, **Raytheon** was allowed to omit a resolution asking for a report on sustainability as moot; the staff agreed with the company that its Stewardship Report, posted on its website, served the purpose of the resolution. More and more companies have been doing such reports and posting them on their websites, so exclusion of a sustainability proposal on mootness grounds is not unusual.

Cooper Industries won its argument at the SEC that it should be able to omit a church resolution asking for a human rights policy on grounds that it was too similar to New York City's resolution asking for a report on supplier standards, which was filed first and which will appear in the proxy.

Great Plains Energy has been allowed to omit a proposal on a carbon tax, filed by Bart Naylor on behalf of the Sierra Club, because Naylor failed to supply documentary evidence of his stockholding within the required 14 days.

Also omitted is a proposal from the Community Reinvestment Association of North Carolina to **Wells Fargo** on payday lending, and a church-sponsored resolution to **Reynolds American** asking the company to undertake a campaign aimed at African Americans to apprise them of the health hazards associated with menthol cigarettes. Both were omitted on ordinary business grounds, the former as dealing with "credit policies, loan underwriting and customer relations," and the latter as involving "litigation strat-

egy."

The SEC staff, though, told **IBM** that it couldn't omit Virginia Brown's resolution asking it to drop sexual orientation from its EEO policy. But it agreed that the company could knock out most of the supporting statement as false or misleading, including statements that "domestic partner benefit policies pay people who engage in homosexual sex actions, which were illegal in this country for hundreds of years." Brown has since withdrawn the proposal.

The staff also told **Occidental Petroleum** that it couldn't omit a resolution from global warming skeptic Carl Olson asking for a "Scientific Report on Global Warming/Cooling." The proposal, which asks for such information as the "global temperature measurements Occidental uses in discussing 'global warming' or 'global cooling,'" is similar to but less extensive than an Olson proposal that the staff allowed **Ford Motor** and **General Motors** to omit in 2004 and 2005 on grounds that "the specific method of preparation and the specific information to be included in a highly detailed report" relates to ordinary business operations.

Withdrawals

Other resolutions won't come to votes because companies and the proponents have worked out withdrawal agreements. Church-affiliated proposals are withdrawing the resubmissions of two climate change-related proposals that came to votes at **ExxonMobil** last year. One of those asked for a report that includes all relevant data on its position with regard to the science of climate change. The other asked that the board review and publish within six months a report on how the company "will meet the greenhouse gas reduction targets of those countries in which it operates which have adopted

(continued on p. 16)

ExxonMobil Report Prompts Withdrawals, Critique

The release this month of a new report by ExxonMobil has generated headlines and prompted shareholder activists to withdraw two proposals at the company concerning its climate change strategy, even as they continue to criticize the company for what they believe is inadequate action on this issue.

Background

The report, entitled *Tomorrow's Energy, A Perspective on Energy Trends, Greenhouse Gas Emissions and Future Energy Options*, follows up to a report ExxonMobil issued in 2004.

This latest release prompted Christian Brothers Investment Services to withdraw a resolution asking ExxonMobil to report on its views on climate change science, and other members of the Interfaith Center on Corporate Responsibility to pull a proposal asking ExxonMobil to report on its Kyoto compliance. The newest energy trends report answers the letter, if not the spirit, of both resolutions' calls, as it contains a one-page synopsis on ExxonMobil's position on climate change science, as well as a one-page discussion of its plans to comply with regulations associated with Kyoto.

The new report is making headlines, because it represents the first time ExxonMobil has explicitly stated a link between humans burning fossil fuels for energy and global warming and is being released at a time when scientists are saying that the threats associated with climate change may be far worse than they had originally thought. (See box.)

However, an ExxonMobil investor relations representative, David Henry, told IRRC that the report "does not represent a change in view-

point," but is rather "more expansive about our position on climate change than the previous report." He says that ExxonMobil decided to clarify its position, since its views on climate change have been "all too often been misinterpreted or misunderstood." Still, he says, "our fundamental position on the issue has not changed."

He notes, as does the report, that ExxonMobil recognizes possible risks associated with climate change and believes action is warranted based on them. However, he adds, "the report makes clear our view that policies to address climate change need to consider the consequences of climate-related actions for social and economic development, not just the environment, and recognize the many significant gaps in climate science."

While ExxonMobil also denies that the report was released in reaction to the shareholders' requests, representatives from both Christian Brothers and the Interfaith Center said the report made it highly likely that the SEC would rule in favor of ExxonMobil's challenges that it had substantially implemented the resolutions. As such, the withdrawals were not an endorsement of ExxonMobil's practices and do not sound an end to the longstanding dispute between ExxonMobil and socially responsible investors on the steps the company should be taking to mitigate climate change risk, although they might make its 2006 annual meeting a bit less raucous than past ones.

The new report also does not change ExxonMobil's status with regard to IRRC's 14-point checklist on corporate governance and climate change, as noted on p. 11.

The Report

In its one-page discussion of climate

change science, ExxonMobil concedes, "Since the 1800s concentrations of carbon dioxide in the atmosphere have increased by roughly 30 percent" as have concentrations of other greenhouse gases, most notably a doubling of methane. It says, "Human activities have contributed to these increased concentrations, mainly through the combustion of fossil fuels for energy use; land use changes (especially deforestation); and agricultural, animal husbandry and waste-disposal practices." It goes on to say, "While assessments such as those of the Intergovernmental Panel on Climate Change (IPCC) have expressed growing confidence that recent warming can be attributed to increases in greenhouse gases, these conclusions rely on expert judgment rather than objective, reproducible statistical methods." It adds, "Taken together, gaps in the scientific basis for theoretical climate models and the interplay of significant natural variability make it very difficult to determine objectively the extent to which recent climate change might be the result of human actions. These gaps also make it difficult to predict objectively the timing, extent and consequences of future climate change." ExxonMobil, however, says, "Even with many scientific uncertainties, the risk that greenhouse gas emissions may have serious impacts justifies taking action." Recognizing these risks, it says it is "taking actions to improve energy efficiency and reduce greenhouse gas emissions" in its operations.

In the report, Exxon Mobil also predicts:

- "By 2030, global energy demand will increase approximately 50 percent from the 2004 level, driven by economic progress and population growth.

Retreating Glaciers Spark Concerns

Glaciers in Greenland are dissipating at more than twice the rate they did a decade ago, according to a report released by researchers from the University of Kansas and NASA's Jet Propulsion Laboratory earlier this month and published in the Feb. 17 edition of the journal *Science*. As a result, the researchers say, we are underestimating the amount sea levels will rise as a result of global warming.

Researchers Pannir Kanagaratnam, at the University of Kansas' Center for Remote Sensing of Ice Sheets, and Eric Rignot of NASA's Jet Propulsion Laboratory in Pasadena, Calif., measured Greenland's glacial melt rates, determined their variances over time and how those variances affected the discharge of ice from Greenland's ice sheet into the ocean. Their data, collected through the satellites and airborne radar supported by NASA, indicate that the dissipation of Greenland's glaciers accelerated 28.5 percent between 1996 and 2000 and 57 percent between 1996 and 2005. The flow acceleration varies substantially from glacier to glacier, they report, but is nonetheless widespread. The researchers found the ice sheet mass balance declined by roughly 220 cubic kilometers—about 52.7 cubic miles, or one-tenth the size of Mount Everest—in 2005. Its contribution to sea level rise is approximately a half of a millimeter a year today, up from 0.2 millimeters per year in 1996.

"We do not know how much of it is due to natural climate change and how much of it is due to human influence," Kanagaratnam said. "But the fact is that temperature is definitely rising, and there is a strong correlation between the temperature rise and sea level rise."

The *Science* article notes that over the past 12 years parts of Greenland have experienced an increase of average annual temperature of about 5 degrees Fahrenheit. "We cannot infer too much from a local temperature change of that magnitude. However, if the temperature of that magnitude extends worldwide, then the glaciers will probably have an irreversible retreat" Kanagaratnam said. "I think it is disconcerting to see the ice melting at such a rapid rate," he added. "There is a large population living in the coastal areas and rising sea levels will affect them."

Rignot and Kanagaratnam declined to guess how much the faster melting would raise sea levels but said current estimates of around 20 inches over the next century are "probably too low." Greenland's ancient ice sheet is nearly two miles thick in places and holds enough water to raise global sea levels 20 feet or more should it all flow into the ocean.

Another report commissioned by the UK government and also released earlier this month similarly found that the huge west Antarctic ice sheet might be starting to disintegrate, an event that could raise sea levels by 16 feet. Chris Rapley, the head of the British Antarctic Survey and co-author of the report, said a previous Intergovernmental Panel on Climate Change report playing down worries about the Antarctic ice sheet's stability should be revised. "The last IPCC report characterized Antarctica as a slumbering giant in terms of climate change," he wrote. "I would say it is now an awakened giant. There is real concern."

—Peter DeSimone

- "About 80 percent of growing energy demand will occur in developing countries.
- "Improvements in energy efficiency and intensity will accelerate, due to advancing technologies.
- "Oil, gas and coal remain the predominant energy sources, maintaining about an 80 percent share of total energy demand through 2030.
- "Global resources are sufficient to meet demand.
- "Natural gas will grow rapidly in importance, mainly due to its environmental benefits and efficiency in electricity generation.
- "Biofuels, wind and solar will grow rapidly as sources of energy, contributing about 2 percent of total energy supply by 2030.
- "Increased use of fossil fuels will increase global carbon dioxide emissions, with close to 85 percent of the increase in developing countries.
- "Advances in technology are critical to successfully meeting future energy supply and demand challenges."

Exxon Mobil also says it will promote global participation in long-term policies to address climate change, encourage more rapid use of existing efficient technologies and stimulate research and development to create "innovative, affordable, lower GHG technologies sooner." However, it believes that climate risks must be addressed in the context of developing countries' priorities for development, poverty eradication and access to energy. It also says that it will "continue scientific research to assess risks" and "pace policy response."

On Kyoto compliance, ExxonMobil reports that it operates approximately 40 facilities and shares ownership in another 40 that are covered under the European Union's

Emissions Trading Scheme, representing an equity share of emissions of approximately 20 million metric tons of carbon dioxide annually. For the period from 2005 through 2007, it says, it will meet its obligations under Europe's cap and trade program without acquiring allowances through emission trading. Beyond 2007, it says, "the impact of the EU Emissions Trading Scheme is unknown, as the member governments have not yet determined what emissions will be covered or how emissions allowances will be allocated." Worldwide, it notes, "no governments have established definitive regulations for the 2008-2012 Kyoto Protocol compliance period, and there is currently no consensus on plans for the post-2012 period." It adds that in light of trends in climate change negotiations, any regulatory assumptions it or any other group would make would be "speculative and unlikely." Despite these uncertainties, ExxonMobil believes its strengths, namely its financial position, strong management and technical capacity, will enable it to prosper in the future.

Poor Marks

John Wilson from Christian Brothers Investment Services told IRRC, "ExxonMobil has clarified its position on global warming, acknowledging that human activities, namely the burning fossil fuels, have contributed to higher levels of carbon dioxide in our atmosphere and global warming, although they say that the extent of warming could be negligible." In making its position clear, he said, ExxonMobil has articulated for the first time "a clear public position on the science" and has thereby met the letter of Christian Brothers' request as stated in its resolution's resolved clause. "As such, we had no choice but to withdraw the resolution," even though the resolution only achieved a minor victory. "If you look at its report in its

entirety, there hasn't been much change in their vision for energy over the next 30 years," he explained. "ExxonMobil's latest disclosure does not solve the bulk of the issues we have with the company." He added, "If anything, I think ExxonMobil's latest position statement highlights the contradiction between the company's recognition of climate change risks and its lack of vision about how to respond."

He notes that shareholders coordinated by the Interfaith Center on Corporate Responsibility and the Ceres coalition have been asking Exxon and other companies to meet at least three objectives on climate change:

- "Disclose financial risks and opportunities posed by climate change and policies to address it, as AEP, Cinergy and other large companies have done;
- "Set absolute greenhouse gas reduction goals, as BP has done; and
- "Support a mandatory national limit on global warming pollutants to end the harmful uncer-

IRRC Climate Change Governance Checklist		
ExxonMobil		
Board level		
1	Assign a committee of directors with direct oversight responsibility for environmental affairs.	
2	Conduct a formal board-level review of climate change and monitor company response strategies.	
Management level		
3	Place the chief environmental officer in a position to report directly to the chief executive officer or the CEO's executive committee.	
4	Make attainment of greenhouse gas targets an explicit factor in employee compensation.	
5	Have the CEO issue a clear and proactive statement about the company's climate change response and greenhouse gas control strategy.	
Reporting		
6	Include a statement on material risks and opportunities posed by climate change in the company's securities filings. (* ExxonMobil's 2006 energy trends report discusses risks associated with climate change.)	*
7	Issue a report that includes a discussion of climate change and a listing of the company's greenhouse gas emissions and trends. (* The company's Corporate Citizenship Report has this discussion, but does not follow the sustainability guidelines of the Global Reporting Initiative or comparable "triple bottom line" format.)	*
Emissions data		
8	Calculate and register greenhouse gas emissions savings or offsets from company projects.	
9	Conduct a system-wide inventory of the company's emissions and report the results directly to shareholders.	
10	Establish an emissions baseline (dating back at least 10 years) by which to gauge the company's emissions trends. (* Reporting goes back to 2000.)	*
11	Make projections of future emissions and set firm, company-wide targets to manage and control them.	
12	Hire a third party auditor to certify there are no material misstatements of the company's emissions data.	
Other actions		
13	Participate in an external voluntary greenhouse gas emissions trading program.	
14	Purchase and/or develop renewable energy sources.	

tainty about the future course of U.S. climate change policy.”

He told IRRC, “My sense is that this report does none of these three.”

Similarly, Leslie Lowe, director of the Interfaith Center’s global warming working group, says, “ExxonMobil’s latest energy trends report might adequately answer questions about the company’s plans to cope with regulations spurred by Kyoto for the SEC’s purposes, but it does not for ours or other concerned investors.” She notes that the company’s discussion of Kyoto has a very short-term outlook and does not speak to the company’s biggest problem when it comes to possible future regulation—its product mix.

Lowe acknowledges that ExxonMobil has done a good job of improving the energy efficiency of its facilities, but she says that management continues to be extremely short sighted in looking into new energy sources beyond fossil fuels. She said she would have liked to see more talk about ExxonMobil’s budget for research and development and how it is being directed to mitigate climate change risk. She also would have liked ExxonMobil to discuss how it will cope, if scientists’ predictions about more severe hurricane seasons and rises in sea levels come to bear. In her view, “The SEC’s view that a company can produce just about anything to win a favorable ruling to omit a shareholder proposal requesting a report is doing investors a major disservice.”

‘A Massive Bet’

Ceres and other investor groups share the proponents’ views and concerns. “This report is the clearest statement yet of ExxonMobil’s fringe position on climate change, and, coming from the

largest company in the world, it is a troubling document,” Andrew Logan, director of Ceres’s oil program, told IRRC. “It confirms that ExxonMobil is out of the mainstream, and increasingly isolated, on one of the most important issues facing the energy sector in the 21st century.” He added, “Exxon continues to deny the scientific consensus that connects human activity and climate change, focusing instead on supposed ‘gaps’ in the science that seem to trouble no other company or mainstream scientific group.” He says, “as a result, the company’s recommendations for dealing with climate change are focused on delaying any response while additional research is pursued.” He believes a better approach would be one many investors are advocating—“to invest in solutions, rather than coming up with still more excuses for delaying aggressive action to combat climate change.”

Logan contends that the company’s climate change strategy is built “around a massive contradiction.” He says, “While ExxonMobil expresses concerns over the possibility that climate change might be a serious threat, the company is investing all of its capital in fossil fuel development, claiming that biofuels, wind, solar and other renewables will account for only 2 percent of global energy supply in 2030.” With a capital budget of more than \$15 billion a year, he says, ExxonMobil “has the ability to affect this.” He notes, “If the company diverted even a small percentage of its spending to renewables, like wind and solar where it currently invests nothing, our energy future could end up being significantly different from the

one laid out in this report.” In essence, he says, ExxonMobil is “making a massive bet with shareholders’ money that the world will remain addicted to oil for decades, even as its competitors are taking steps to hedge their bets and invest in renewables.” He says that ExxonMobil “is poised to do well in a world that looks like the present.” However, he adds, “Investors are concerned that if the world’s scientists are correct and we have to find a way to transform the way we use energy, then ExxonMobil is going to lag significantly behind its peers.”

The combination of being the world’s largest energy company and one of the most ardent opponents of binding greenhouse gas controls has made ExxonMobil a lightning rod for criticism among many environmental groups and some elements of the investment community. In 1999, a group of faith-based investors and environmental groups launched Campaign ExxonMobil in an effort to get the company to take a more progressive position on climate change. A key element of this campaign has been to file shareholder proposals at the company and enlist support from large institutional investors.

Since 1998, a total of 17 resolutions have been filed, and seven have come to votes. Two are still pending this year—a new church resolution asking that the board “establish policies designed to achieve the long-term goal of making ExxonMobil the recognized leader in low-carbon emissions in both our production and products,” and a proposal from Kirk Miller asking it to report on its plans to reduce its greenhouse gas emissions.

—Peter DeSimone

Investors at Odds with Mutual Funds' Climate Votes

Two recent surveys have highlighted a major gap between individual mutual fund investors and leading mutual funds' management over how the funds vote their proxies on climate change questions. An IRRC survey of mutual fund voting policies, commissioned by environmental organization Ceres, has found that none of the 100 largest mutual funds in the United States supported any of the global warming resolutions filed with U.S. companies in 2005. This is despite the fact that a majority of U.S. mutual fund investors want their fund managers to vote in favor of resolutions that ask companies to review and reduce their climate change risk, according to a poll commissioned by the Civil Society Institute.

Mutual Fund Voting Survey

The Ceres-commissioned IRRC report, *Unexamined Risk: How Mutual Funds Voted on 2005 Climate Change Shareholder Resolutions*, analyzes how the nation's 100 largest mutual funds voted their shareholder proxies on the climate change resolutions voted upon at corporate annual meetings in 2005. The shareholder resolutions asked companies to disclose the financial risks and opportunities posed by climate change and, in some cases, their strategies for controlling greenhouse gas emissions. The report shows the following:

- None of the 100 largest mutual funds whose specific votes were analyzed supported any climate change resolutions in 2005.
- None of the 31 investment management companies routinely supports shareholder proposals seeking more corporate disclosure on

climate change.

- Twenty-eight of the 31 investment management companies have proxy voting policies that require them to oppose or abstain on all environment-related resolutions, including those on climate change. Among those 28 companies with such policies are mutual fund giants Fidelity, Vanguard and American Funds, which collectively manage more than \$1 trillion of the assets held in the top 100 mutual funds (equal to 70 percent of the total).
- Only three mutual fund companies—Columbia, Franklin Templeton and Neuberger Berman—have guidelines that even allow some proxy votes to be cast in favor of climate change proposals.

For more details on the top funds' voting record, see the table on p. 14.

Mutual Fund Investor Survey

The survey commissioned by the Civil Society Institute was conducted by Opinion Research Corp., which interviewed 845 U.S. mutual fund investors by telephone in early January. (The Civil Society Institute, which is based in Newton, Mass., provides funding and other support to initiatives on climate change and health care reform, among others.) The survey found:

- Three out of four mutual fund investors (74 percent) want their "mutual fund to ask questions about the potential impact of global warming on the companies in which they are investing your money." More than four out of five women (83 percent) want their mutual funds to ask these questions of companies tied to global warming, as opposed to slightly

fewer than two thirds of the men respondents (64 percent).

- About seven out of 10 mutual fund investors (71 percent) said "yes" when asked: "Many investors are filing shareholder resolutions with companies requesting that company management pay closer attention to global warming concerns and problems. Do you think your mutual fund should support these resolutions on your behalf?" Just one quarter of the respondents said "no" (including only 11 percent who said "definitely no").
- Roughly seven in 10 mutual fund investors (71 percent) said they would not "invest directly in a company that is a major source of pollution linked to global warming, whether from its operations or the products it produces." Of this group, more than a third (36 percent) responded "definitely no" versus less than a quarter (23 percent) who said "yes" (including just 6 percent "definitely yes"). Female mutual fund owners are considerably more likely than their male counterparts—by a margin of 82 percent to 60 percent—to be opposed to investing directly in polluters tied to global warming.
- About four in five mutual fund investors (79 percent) "think that companies should analyze the long-term financial impacts that global warming will have on their businesses and on the potential value of their stock to people who either own shares directly or indirectly through a mutual fund." Well over two-fifths of mutual funds investors (45 percent) responded "definitely yes" versus fewer than one in five (16 percent) who said "no" (including just 6 percent responding "definitely no").

Response

In a press release highlighting the two studies, Mindy Lubber, the president of Ceres and director of the Investor Network of Climate Risk, whose institutional investor members represent \$3 trillion in assets under management, criticized the leading mutual funds. In her view, “Mutual funds are a critical missing link in the push for better corporate disclosure about climate risks. Mutual funds are ignoring the growing evidence that climate change will have far-reaching fiscal impacts on a wide range of business sectors, whether from rising insurance claims due to hurricanes and other natural disasters or growing worldwide demand for hybrid vehicles and other ‘clean’ technologies.”

Alisa Gravitz, the executive director of Co-op America, a not-for-profit membership organization that describes its mission as to harness investor and consumer power “to create a socially just and environmentally sustainable society,” took a similar view. “Mutual funds should be at the forefront of investors encouraging companies to address global warming,” she said. Co-op America has since launched a campaign to encourage

investors in the top three mutual fund companies in the United States—Fidelity, Vanguard and American Funds—to write to the

companies to ask them to alter their voting policies on climate change. In a suggested letter for individuals to use in contacting the three mutual

Mutual Fund Company Voting Results on Climate Change Resolutions				
Mutual Fund Family	# Top 100 Funds	Top 100 Assets (\$Millions)	Votes on Web Site	Voting Results Applicable to Climate Change Resolutions
American Century	1	\$19,537.10	Yes	Against
American Funds	11	\$286,657.90	Yes	Against
Ameriprise Financial	1	\$6,709.00	Yes	Against
Ariel	1	\$5,035.60	No	No holdings*
Artisan	1	\$5,996.80	Yes	No holdings*
Calamos Investments	1	\$11,601.10	No	Against
Clipper Fund	1	\$6,593.70	Yes	No holdings*
Columbia	1	\$9,784.30	Yes	No holdings [^]
Davis Funds	3	\$27,822.90	Yes	Against
DFA Investments	1	\$6,914.50	Yes	Against
Dodge & Cox	1	\$48,073.00	Yes	No holdings*
Excelsior	1	\$5,060.30	Yes	Against
Fidelity (active funds)	16	\$337,619.30	Yes	Against
Fidelity (index funds)	2	\$35,131.70	Yes	Abstain
Franklin Templeton	1	\$7,171.20	Yes	No holdings [^]
Harbor Fund	1	\$6,987.20	Yes	Against
Hartford Mutual Funds	3	\$16,057.20	Yes	Against
Janus	3	\$27,336.50	Yes	Abstain or Against
Legg Mason	2	\$16,911.30	Yes	Against
Longleaf Partners	1	\$8,819.20	Yes	Against
Lord Abbett	2	\$22,266.50	No	Against
MFS	1	\$4,931.70	Yes	Against
Neuberger Berman	1	\$6,361.30	Yes	No holdings [^]
Oakmark	2	\$13,055.00	Yes	No holdings*
Oppenheimer	2	\$13,459.50	No	Abstain or Against
Pioneer Funds	1	\$5,518.30	Yes	Against
Putnam	2	\$19,820.80	Yes	Against
Selected Funds	1	\$7,482.60	Yes	Against
T Rowe Price	8	\$73,312.60	Yes	Against
Third Avenue	1	\$6,011.60	Yes	No holdings*
Van Kampen	2	\$17,317.80	Yes	Against
Vanguard	24	\$385,673.70	Yes	Abstain

* These firms held no stock in companies receiving 2005 climate change resolutions among their funds listed in the top 100 equity mutual funds.

[^] These firms did vote FOR some 2005 climate change resolutions, but did not hold shares in their top 100 U.S. equity mutual funds.

Source: IRRC and Business Week (for assets under management)

fund families, Co-op America says, “As a major mutual fund company in the United States, you play an important role in safeguarding the investments of millions on investors. However, whenever your largest funds had the opportunity to vote on a shareholder resolution encouraging corporations in your portfolio to take

climate change seriously, they have failed to support these resolutions.”

In response to the press release, a spokesman for Vanguard, which abstained on climate change resolutions in 2005, told *Pensions and Investment Age* that “Most policy issues, while we may support them philosophically, generally don’t cre-

ate shareholder value and therefore we abstain from voting on such matters.” An American Funds spokesman, contacted by the same publication, said, “We don’t ever discuss reasons for our votes.”

The mutual fund study can be found on the Ceres website at <http://www.ceres.org/news/>.

—Meg Voorhes and Doug Cogan

UK Corporate Reporting Rule Wins Reprieve

A proposed accounting standard that would require listed companies in the United Kingdom to report more fully on environmental, social and governance factors has won a reprieve after Chancellor of the Exchequer Gordon Brown tried to prevent it from going into effect this year, provoking an outcry from institutional investors and a lawsuit by Friends of the Earth.

History

The rule’s tortuous history began in May 2004, when the British government announced its proposals for a statutory reporting regime and placed the Accounting Standards Board in charge. The ASB is an operating board of the Financial Reporting Council, an independent regulator that seeks to promote confidence in corporate reporting and governance. One year later, the ASB published guidelines to require listed British companies to detail in their annual operating and financial reviews—a statutory filing—“the resources and risks that may affect the entity’s long-term value,” including in the environmental, labor and social arenas. The standard, which was to have applied to all results reported by companies after April 1, 2005, built on existing regulations and the ASB’s 2003 statement of best

practice, which the new standard was to supersede.

In explaining the new standard, the ASB said in the document’s supporting principles that an operating and financial report needs to have a forward-looking orientation” and cover, among other things, “the resources, risks and uncertainties and relationships that may affect the entity’s long-term value.” More specifically, the ASB said it would be “required whenever the directors in good faith judge them material” to report on:

- “corporate governance,” including “values and structures”;
- “key relationships with employees, customers, suppliers and others, on which...success depends”; and
- “policies and performance on environmental, community, social, ethical and reputational issues including compliance with relevant laws and regulations.”

In formulating guidance on reporting on social and environmental issues, the ASB said it considered the measures outlined in the Global Reporting Initiative, the AccountAbility AA1000 series and the guidelines for company reporting on environmental performance produced by the United Kingdom’s Department for Environment, Food and Rural Affairs.

Brown’s Decision

There matters stood until November, with British companies preparing to issue their operating and financial reviews covering calendar year 2005, when Brown announced that he was scrapping the requirement for listed companies to produce OFRs, leaving them only to comply with European Union requirements, which apparently are less prescriptive than the ASB standard, but are also not very well understood by British companies, according to British media reports. Brown hailed his decision as a de-regulatory move to boost business confidence, but while some businesses expressed pleasure with the decisions, others protested that they had spent considerable resources studying and preparing to implement the new standard.

Investor groups were still more critical. The head of investment affairs at the influential Association of British Insurers, Peter Montagnon, quoted in *The Daily Mail*, said Brown’s decision would leave investors “worse off than we were before.” He added, “On the one hand the government is encouraging us to engage with companies and use our voting rights in a considered way, and on the other it is backing down from imposing a requirement on companies to give us the kind of information we need to do just that.”

Reversal

When the Environmental group Friends of the Earth (FOE) responded by filing a suit accusing Brown of having illegally abolished the rules without proper consultation, though, the government backed down. This month, it settled the suit out of court, agreeing to pay the FOE's legal expenses and to extend the consultation period for the rule through March 24, presumably with the intent to restore the rules in some form

(*SEC Staff, continued from p. 8*) the Kyoto Protocol." The proponents concluded that recent reporting by ExxonMobil showed that the company had complied with those requests, though they are by no means satisfied with the contents of the report. (See story, p. 9.) Still pending is a new church resolution to ExxonMobil asking that the board "establish policies designed to achieve the long-term goal of making ExxonMobil the recognized leader in low-carbon emissions in both our production and products," and a proposal from Kirk Miller asking the company to report on the benefits of emphasizing renewable energy and greenhouse gas reduction, both of which the company has challenged at the SEC.

Also withdrawn, for a second year, is the resolution from a large coalition asking **Anadarko** to assess how the company is responding to rising regulatory, competitive and public pressure to significantly reduce carbon dioxide and other greenhouse gas emissions. The proponents re-submitted it after concluding that the "company appears to lag behind its industry peers in developing and implementing a strategic and comprehensive approach to the chal-

into the company law reform bill pending in Parliament. FOE has hailed the settlement as a victory, saying that the government was forced into a "massive U-turn."

Several observers have clucked over the government's clumsiness in dealing with the rule. As the *Financial Times* argued in a recent column, "Mr Brown said he was slashing red tape. But to many businesses, the mandatory OFR was not primarily a compliance burden. It was the legal risks associated with forward-

enges posed by climate change," but then withdrew it when Anadarko agreed to update and annually disclose greenhouse gas emissions. Proponent representative Shelley Alpern of Trillium Asset Management told IRRC that the company will also provide an update by September on where it stands on setting reduction targets.

Shareholder proponents have secured similar arguments now from four of the electric utilities that had received the same proposals. As noted in last month's issue, the climate change proposals were withdrawn at Alliant Energy and Great Plains Energy, when those companies agreed to produce the requested reports. Two more utilities—WPS Resources and MGE Energy, both based in Wisconsin—have now pledged to prepare these feasibility studies as well. In a press release announcing the withdrawal agreements at the four utilities, the investors involved in the campaign noted that "all four companies have proposed to build new pulverized coal-fired power plants that could be especially vulnerable to greenhouse gas emission limits on power plants." The proponents are concerned about the pulverized coal-

looking statements that worried directors....Directors did not want to be hit with legal action by investors for making forecasts in good faith that turned out to be inaccurate, or for failing to identify risks that later blew up." The *Financial Times* said Brown could have handed this concern by creating a legal "safe harbor" for companies that file these reports.

—Meg Voorhes

burning process, because it does not represent the cleanest coal-burning technology today. **American Electric Power**, the largest U.S. coal-burning utility and the first utility targeted by the shareholder campaign to produce the climate risk report, back in 2004, has since pledged that any future coal-fired plants it builds will be based on IGCC technology (for "integrated gasification combined cycle"), a process that lends itself to capture of greenhouse gases. (For more on IGCC, see "Varied Interests Push for Cleanest Coal Technology," in the November 2005 *Reporter*.)

Also withdrawn was a church-sponsored proposal on board diversity at **CBS**, simply because the proponents found they held the wrong class of stock to propose a resolution. Church-affiliated proponents also withdrew a resolution on global labor standards at **General Electric** after the company agreed to continue a conversation on the issue. Seamus Finn of the Missionary Oblates told IRRC that the proponents weren't happy with GE's level of transparency but felt that a dialogue was "the most constructive way to go forward."

—Carolyn Mathiasen