



**MMA**<sup>®</sup>

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*Stewardship Solutions*

2010 Mennonite Mutual Aid  
U.S. Proxy Voting Guidelines

January 2010

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# 2010 MMA U.S. Proxy Voting Guidelines

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## 1. Board of Directors

A corporation's board of directors sits at the apogee of the corporate governance system. Though they normally delegate responsibility for the management of the business to the senior executives they select and oversee, directors bear ultimate responsibility for the conduct of the corporation's business. The role of directors in publicly held corporations has undergone considerable change in recent years. Once derided as rubber stamps for management, directors of public corporations today are expected to serve as guardians of shareholders' interests.

The role and responsibilities of directors has been the subject of much discussion and debate in the past and more recently, given the current economic climate and the difficulties many companies now face in their respective markets. Influential organizations, including the American Law Institute, the American Bar Association, the National Association of Corporate Directors, and the Business Roundtable have issued reports and recommendations regarding the duties and accountability of corporate boards. Both mainstream and alternative media outlets have highlighted the numerous gaps within risk oversight of company boards and individual directors, and many institutional investors have capitalized on their rights as stakeholders to force changes in response. Corporate America has taken notice, enacting in principle many of the reforms championed by its critics.

Although differences of opinion remain, a fairly strong consensus has emerged on a number of key issues. It is widely agreed that the board's most important responsibility is to ensure that the corporation is managed in shareholders' best long-term economic interest. This will often require boards to consider the impact of their actions on other constituencies, including employees, customers, and local communities.

The board's principal functions are widely agreed to consist of the following:

- To select, evaluate, and if necessary replace management, including the chief executive officer
- To review and approve major strategies and financial objectives
- To advise management on significant issues
- To assure that effective controls are in place to safeguard corporate assets, manage risk, and comply with the law
- To nominate directors and otherwise ensure that the board functions effectively

Boards are expected to have a majority of directors independent of management. The independent directors are expected to organize much of the board's work, even if the chief executive officer also serves as Chairman of the board. Key committees of the board are expected to be entirely independent of management. It is expected that boards will engage in critical self-evaluation of themselves and of individual members. Individual directors, in turn, are expected to devote significant amounts of time to their duties, to limit the number of directorships they accept, and to own a meaningful amount of

stock in companies on whose boards they serve. Directors are ultimately responsible to the corporation's shareholders. The most direct expression of this responsibility is the requirement that directors be elected to their positions by the shareholders. Shareholders are also asked to vote on a number of other matters regarding the role, structure, and composition of the board. MMA classifies directors as either inside directors, affiliated directors, or independent directors. The following chart outlines the requirements for the various classifications:

## 1a. Uncontested Election of Directors

MMA votes on director nominees on a **case-by-case** basis.

Four broad principles apply when determining votes on director nominees:

**Board Accountability:** Practices that promote accountability include; transparency into a company's governance practices, annual board elections, and providing shareholders the ability to remove problematic directors and to vote on takeover defenses or other charter/bylaw amendments. These practices help reduce the opportunity for management entrenchment.

**Board Responsiveness:** Directors should be responsive to shareholders, particularly in regard to shareholder proposals that receive a majority vote and to tender offers where a majority of shares are tendered. Furthermore, shareholders should expect directors to devote sufficient time and resources to oversight of the company.

**Director Independence:** Without independence from management, the board may be unwilling or unable to effectively set company strategy and scrutinize performance or executive compensation.

**Director Competence/Diversity:** Companies should seek a diverse board of directors who can add value to the board through specific skills or expertise and who can devote sufficient time and commitment to serve effectively. While directors should not be constrained by arbitrary limits such as age or term limits, directors who are unable to attend board and committee meetings and/or who are overextended (i.e. serving on too many boards) raise concern on the director's ability to effectively serve in shareholders' best interests.

### 1a-1 Board Accountability

#### *1a-1(i) Problematic Takeover Defenses*

Vote **against/ withhold** from the entire board of directors, (except new nominees, who should be considered on a **case-by-case basis**) if;

- The board is classified, and a continuing director responsible for a problematic governance issue at the board/committee level that would warrant a withhold/against vote recommendation is not up for election -- any or all appropriate nominees (except new) may be held accountable.
- The company's poison pill has a "dead-hand" or "modified dead-hand" feature. Vote against/withhold every year until this feature is removed.
- The board adopts a poison pill with a term of more than 12 months ("long-term pill"), or renews any existing pill, including any "short-term" pill (12 months or less), without shareholder approval, and does not commit to putting a newly-adopted pill to a binding

shareholder vote or the board makes a material, adverse change to an existing poison pill without shareholder approval. Review such companies with classified boards every year, and such companies with annually-elected boards at least once every three years, and vote **against** or **withhold** votes from all nominees if the company still maintains a non-shareholder-approved poison pill.

- The board makes a material adverse change to an existing poison pill without shareholder approval.

Vote **case-by-case** on all nominees if the board adopts a poison pill with a term of 12 months or less ("short-term pill") without shareholder approval, taking into account the following factors: a) the date of the pill's adoption relative to the date of the next meeting of shareholders - i.e. whether the company had time to put the pill on ballot for shareholder ratification given the circumstances; b) the issuer's rationale; c) the issuer's governance structure and practices; d) the issuer's track record of accountability to shareholders

#### *1a-1(ii) Problematic Audit-Related Practices*

Vote **against/withhold** from the members of the Audit Committee if;

- The non-audit fees paid to the auditor are excessive (i.e. more than 50 percent of the total fees paid to the auditor is attributable to non-audit work) or if a company has pulled auditor ratification from the ballot within the past year.
- The company receives an adverse opinion on the company's financial statements from its auditor; or
- There is persuasive evidence that the audit committee entered into an inappropriate indemnification agreement with its auditor that limits the ability of the company, or its shareholders, to pursue legitimate legal recourse against the audit firm.

Vote **case-by-case** on members of the Audit Committee and/or the full board if poor accounting practices are identified that rise to a level of serious concern, such as; fraud, misapplication of GAAP, and material weaknesses identified in Section 404 disclosures. Examine the severity, breadth, chronological sequence and duration, as well as the company's efforts at remediation or corrective actions, in determining whether **against/withhold** votes are warranted.

#### *1a-1(iii) Problematic Compensation Practices*

Vote **against/withhold** from members of the Compensation Committee and potentially the full board if;

- There is a negative correlation between chief executive pay and company performance
- The company reprices underwater options for stock, cash, or other consideration without prior shareholder approval, even if allowed in the firm's equity plan
- The company fails to submit one-time transfers of stock options to a shareholder vote
- The company fails to fulfill the terms of a burn rate commitment made to shareholders
- The company has problematic pay practices including options backdating, excessive perks and overly generous employment contracts etc. Problematic pay practices may warrant voting against/withholding from the CEO and potentially the entire board as well.

### 1a-1(iv) Other Problematic Governance Practices

Vote **against/withhold** from the entire board of directors (except new nominees, who should be considered on a **case-by-case** basis), if:

- The company's proxy indicates that not all directors attended 75 percent of the aggregate board and committee meetings, but fails to provide the required disclosure of the names of the director(s) involved. If this information cannot be obtained, withhold from all incumbent directors.
- The board lacks accountability and oversight, coupled with sustained poor performance relative to peers. Sustained poor performance is measured by one- and three-year total shareholder returns in the bottom half of a company's four-digit GICS industry group (Russell 3000 companies only). Take into consideration the company's five-year total shareholder return and five-year operational metrics. Problematic provisions include but are not limited to a classified board structure, supermajority vote requirements, a majority vote standard for director elections with no carve out for contested elections, inability for shareholders to call special meetings or act by written consent, a dual-class capital structure, and/or a non-shareholder approved poison pill.

Vote **against/withhold** from directors individually, committee members, or the entire board, under extraordinary circumstances due to; a) material failures of governance, stewardship, or fiduciary responsibilities at the company, b) failure to replace management as appropriate, or c) egregious actions related to the director(s)' service on other boards that raise substantial doubt about his or her ability to effectively oversee management and serve the best interests of shareholders at any company.

### 1a-2 Board Responsiveness

Vote **against/withhold** from the entire board of directors (except new nominees, who should be considered on a **case-by-case** basis), if:

- The board failed to act on a shareholder proposal that received approval by a majority of the shares outstanding the previous year (*a management proposal with other than a for recommendation by management will not be considered as sufficient action taken*)
- The board failed to act on a shareholder proposal that received approval of the majority of shares cast for the previous two consecutive years (*a management proposal with other than a for recommendation by management will not be considered as sufficient action taken*)
- The board failed to act on takeover offers where the majority of the shareholders tendered their shares.
- At the previous board election, any director received more than 50 percent withhold/against votes of the shares cast and the company has failed to address the issue(s) that caused the high withhold/against vote.

### 1a-3 Director Independence

Vote **against/withhold** from all the entire slate if the full board is less than majority independent.

Vote **against/withhold** from Inside Directors and Affiliated Outside Directors when;

- The inside or affiliated outside director serves on any of the three key committees, audit, compensation, or nominating
- The company lacks an audit, compensation, or nominating committee so that the full board functions as that committee

The company lacks a formal nominating committee, even if the board attests that the independent directors fulfill the functions of such a committee

### 1a-4 Director Competence/Diversity

Vote **against/withhold** from individual directors who:

- Serve as members of the nominating committee and have failed to establish gender and/or racial diversity on the board. If the company does not have a formal nominating committee, vote **against/withhold** votes from the entire board of directors.
- Attend less than 75 percent of the board and committee meetings without a valid excuse, such as illness, service to the nation, work on behalf of the company, or funeral obligations. If the company provides meaningful public or private disclosure explaining the director's absences, evaluate the information on a **case-by-case** basis taking into account; a) the degree to which absences were due to an unavoidable conflict, b) pattern of absenteeism, and c) other extraordinary circumstances underlying the director's absence.
- Sit on more than six public company boards;
- Are CEOs of public companies who sit on the boards of more than two public companies besides their own—vote **against/withhold** only at their outside boards.

## 2010 Categorization of Directors

### 1. Inside Director (I)

- 1.1. Employee of the company or one of its affiliates<sup>i</sup>.
- 1.2. Among the five most highly paid individuals (excluding interim CEO).
- 1.3. Listed as an officer as defined under Section 16 of the Securities and Exchange Act of 1934 ("Section 16 officer")<sup>ii</sup>.
- 1.4. Current interim CEO.
- 1.5. Beneficial owner of more than 50 percent of the company's voting power (this may be aggregated if voting power is distributed among more than one member of a defined group).

### 2. Affiliated Outside Director (AO)

#### Board Attestation

- 2.1. Board attestation that an outside director is not independent.

#### Former CEO

- 2.2. Former CEO of the company<sup>iii,iv</sup>.
- 2.3. Former CEO of an acquired company within the past five years<sup>iv</sup>.
- 2.4. Former interim CEO if the service was longer than 18 months. If the service was between twelve and eighteen months an assessment of the interim CEO's employment agreement will be made<sup>v</sup>.

#### Non-CEO Executives

- 2.5. Former Section 16 officer<sup>ii</sup> of the company, an affiliate<sup>i</sup> or an acquired firm within the past five years.
- 2.6. Section 16 officer<sup>ii</sup> of a former parent or predecessor firm at the time the company was sold or split off from the parent/predecessor within the past five years.
- 2.7. Section 16 officer<sup>ii</sup>, former Section 16 officer, or general or limited partner of a joint venture or partnership with the company.

#### Family Members

- 2.8. Immediate family member<sup>vi</sup> of a current or former Section 16 officer<sup>ii</sup> of the company or its affiliates<sup>i</sup> within the last five years.
- 2.9. Immediate family member<sup>vi</sup> of a current employee of company or its affiliates<sup>i</sup> where additional factors raise concern (which may include, but are not limited to, the following: a director related to numerous employees; the company or its affiliates employ relatives of numerous board members; or a non-Section 16 officer in a key strategic role).

#### Transactional, Professional, Financial, and Charitable Relationships

- 2.10. Currently provides (or an immediate family member<sup>vi</sup> provides) professional services<sup>vii</sup> to the company, to an affiliate<sup>i</sup> of the company or an individual officer of the company or one of its affiliates in excess of \$10,000 per year.
- 2.11. Is (or an immediate family member<sup>vi</sup> is) a partner in, or a controlling shareholder or an employee of, an organization which provides professional services<sup>vii</sup> to the company, to an affiliate<sup>i</sup> of the company, or an individual officer of the company or one of its affiliates in excess of \$10,000 per year.
- 2.12. Has (or an immediate family member<sup>vi</sup> has) any material transactional relationship<sup>viii</sup> with the company or its affiliates<sup>i</sup> (excluding investments in the company through a private placement).
- 2.13. Is (or an immediate family member<sup>vi</sup> is) a partner in, or a controlling shareholder or an executive officer of, an organization which has any material transactional relationship<sup>viii</sup> with the company or its affiliates<sup>i</sup> (excluding investments in the company through a private placement).
- 2.14. Is (or an immediate family member<sup>vi</sup> is) a trustee, director, or employee of a charitable or non-profit organization that receives material grants or endowments<sup>viii</sup> from the company or its affiliates<sup>i</sup>.

#### Other Relationships

- 2.15. Party to a voting agreement<sup>ix</sup> to vote in line with management on proposals being brought to shareholder vote.
- 2.16. Has (or an immediate family member<sup>vi</sup> has) an interlocking relationship as defined by the SEC involving members of the board of directors or its Compensation Committee<sup>x</sup>.
- 2.17. Founder<sup>xi</sup> of the company but not currently an employee.
- 2.18. Any material<sup>xii</sup> relationship with the company.

### 3. Independent Outside Director (IO)

- 3.1. No material<sup>xiii</sup> connection to the company other than a board seat.

**Footnotes:**

<sup>i</sup> "Affiliate" includes a subsidiary, sibling company, or parent company. MMA uses 50 percent control ownership by the parent company as the standard for applying its affiliate designation.

<sup>ii</sup> "Section 16 officer" (officers subject to Section 16 of the Securities and Exchange Act of 1934) includes the chief executive, operating, financial, legal, technology, and accounting officers of a company (including the president, treasurer, secretary, controller, or any vice president in charge of a principal business unit, division, or policy function). A non-employee director serving as an officer due to statutory requirements (e.g. corporate secretary) will be classified as an Affiliated Outsider. If the company provides explicit disclosure that the director is not receiving additional compensation in excess of \$10,000 per year for serving in that capacity, then the director will be classified as an Independent Outsider.

<sup>iii</sup> Includes any former CEO of the company prior to the company's initial public offering (IPO).

<sup>iv</sup> When there is a former CEO of a special purpose acquisition company (SPAC) serving on the board of an acquired company, MMA will generally classify such directors as independent unless determined otherwise taking into account the following factors: the applicable listing standards determination of such director's independence; any operating ties to the firm; and the existence of any other conflicting relationships or related party transactions.

<sup>v</sup> MMA will look at the terms of the interim CEO's employment contract to determine if it contains severance pay, long-term health and pension benefits, or other such standard provisions typically contained in contracts of permanent, non-temporary CEOs. MMA will also consider if a formal search process was underway for a full-time CEO at the time.

<sup>vi</sup> "Immediate family member" follows the SEC's definition of such and covers spouses, parents, children, step-parents, step-children, siblings, in-laws, and any person (other than a tenant or employee) sharing the household of any director, nominee for director, executive officer, or significant shareholder of the company.

<sup>vii</sup> Professional services can be characterized as advisory in nature, generally involve access to sensitive company information or to strategic decision-making, and typically have a commission- or fee-based payment structure. Professional services generally include, but are not limited to the following: investment banking/financial advisory services; commercial banking (beyond deposit services); investment services; insurance services; accounting/audit services; consulting services; marketing services; legal services; property management services; realtor services; lobbying services; executive search services; and IT consulting services. The following would generally be considered transactional relationships and not professional services: deposit services; IT tech support services; educational services; and construction services. The case of participation in a banking syndicate by a non-lead bank should be considered a transactional (and hence subject to the associated materiality test) rather than a professional relationship. "Of Counsel" relationships are only considered immaterial if the individual does not receive any form of compensation (in excess of \$10,000 per year) from, or is a retired partner of, the firm providing the professional service. The case of a company providing a professional service to one of its directors or to an entity with which one of its directors is affiliated, will be considered a transactional rather than a professional relationship. Insurance services and marketing services are assumed to be professional services unless the company explains why such services are not advisory.

<sup>viii</sup> A material transactional relationship, including grants to non-profit organizations, exists if the company makes annual payments to, or receives annual payments from, another entity exceeding the greater of \$200,000 or 5 percent of the recipient's gross revenues, in the case of a company which follows NASDAQ listing standards; or the greater of \$1,000,000 or 2 percent of the recipient's gross revenues, in the case of a company which follows NYSE/Amex listing standards. In the case of a company which follows neither of the preceding standards, MMA will apply the NASDAQ-based materiality test. (The recipient is the party receiving the financial proceeds from the transaction).

<sup>ix</sup> Dissident directors who are parties to a voting agreement pursuant to a settlement arrangement, will generally be classified as independent unless determined otherwise taking into account the following factors: the terms of the

agreement; the duration of the standstill provision in the agreement; the limitations and requirements of actions that are agreed upon; if the dissident director nominee(s) is subject to the standstill; and if there any conflicting relationships or related party transactions.

<sup>x</sup> Interlocks include: executive officers serving as directors on each other's compensation or similar committees (or, in the absence of such a committee, on the board); or executive officers sitting on each other's boards and at least one serves on the other's compensation or similar committees (or, in the absence of such a committee, on the board).

<sup>xi</sup> The operating involvement of the founder with the company will be considered. Little to no operating involvement may cause MMA to deem the founder as an independent outsider.

<sup>xii</sup> For purposes of MMA's director independence classification, "material" will be defined as a standard of relationship (financial, personal or otherwise) that a reasonable person might conclude could potentially influence one's objectivity in the boardroom in a manner that would have a meaningful impact on an individual's ability to satisfy requisite fiduciary standards on behalf of shareholders.

## 1b. Board-Related Management Proposals

### 1b-1. Classification/Declassification of the Board

Under a classified board structure only one class of directors would stand for election each year, and the directors in each class would generally serve three-year terms. Although staggered boards can provide continuity for companies at the board level, there are also a number of downsides to the structure. First, a classified board can also be used to entrench management and effectively preclude most takeover bids or proxy contests. Board classification forces dissidents and would-be acquirers to negotiate with the incumbent board, which has the authority to decide on offers without a shareholder vote. In addition, when a board is classified, it is difficult to remove individual members for either poor attendance or poor performance; shareholders would only have the chance to vote on a given director every third year when he or she comes up for election. The classified board structure can also limit shareholders' ability to withhold votes from inside directors that sit on key board committee, or to withhold votes from an entire board slate to protest the lack of board diversity. According to RiskMetrics' 2009 Board Practices study, the number of S&P 500 companies with classified boards has continued to fall. In 2008, only 36 percent of S&P 500 companies maintained staggered boards, compared to 40 percent in 2007, 45 percent in 2006 and 53 percent in 2005. While we recognize that there are some advantages to classified boards, based on the latest studies on classified boards, the fact that classified boards can make it more difficult for shareholders to remove individual directors, and the fact that classified boards can be used as an antitakeover device, MMA recommends against the adoption of classified boards.

- Vote for proposals to repeal classified boards and to elect all directors annually.
- Vote against proposals to classify (stagger) the board of directors.

## 1b-2 Majority Vote Threshold for Director Elections

Generally vote **for** management proposals to adopt a majority of votes cast standard for directors in uncontested elections.

Vote **against** if no carve-out for plurality in contested elections is included.

## 1b-3. Cumulative Voting

Most corporations provide that shareholders are entitled to cast one vote for each share owned. Under a cumulative voting scheme the shareholder is permitted to have one vote per share for each director to be elected. Shareholders are permitted to apportion those votes in any manner they wish among the director candidates. Shareholders have the opportunity to elect a minority representative to a board through cumulative voting, thereby ensuring representation for all sizes of shareholders. For example, if there is a company with a ten-member board and 500 shares outstanding—the total number of votes that may be cast is 5,000. In this case a shareholder with 51 shares (10.2 percent of the outstanding shares) would be guaranteed one board seat because all votes may be cast for one candidate. MMA will monitor any counterbalancing governance structures in place when evaluating cumulative voting.

- Vote **against** management proposals to eliminate cumulative voting.

## 1b-4. Director and Officer Liability Protection

Management proposals typically seek shareholder approval to adopt an amendment to the company's charter to eliminate or limit the personal liability of directors to the company and its shareholders for monetary damages for any breach of fiduciary duty to the fullest extent permitted by state law. In contrast, shareholder proposals seek to provide for personal monetary liability for fiduciary breaches arising from gross negligence. While MMA recognizes that a company may have a more difficult time attracting and retaining directors if they are subject to personal monetary liability, MMA believes the great responsibility and authority of directors justifies holding them accountable for their actions. Each proposal addressing director liability will be evaluated consistent with this philosophy. MMA may support these proposals when the company persuasively argues that such action is necessary to attract and retain directors, but MMA may often oppose management proposals and support shareholder proposals in light of our philosophy of promoting director accountability.

- Vote **against** proposals to limit or eliminate entirely director and officer liability for: (i) a breach of the duty of loyalty, (ii) acts or omissions not in good faith or involving intentional misconduct or knowing violations of the law, (iii) acts involving the unlawful purchases or redemptions of stock, (iv) the payment of unlawful dividends, or (v) the receipt of improper personal benefits.

## 1b-5. Director and Officer Indemnification

Indemnification is the payment by a company of the expenses of directors who become involved in litigation as a result of their service to a company. Proposals to indemnify a company's directors differ from those to eliminate or reduce their liability because with indemnification, directors may still be

liable for an act or omission, but the company will bear the expense. MMA may support these proposals when the company persuasively argues that such action is necessary to attract and retain directors, but will generally oppose indemnification when it is being proposed to insulate directors from actions they have already taken.

- Vote **against** indemnification proposals that would expand coverage beyond just legal expenses to acts, such as negligence, that are more serious violations of fiduciary obligations than mere carelessness.
- Vote **for** only those proposals that provide such expanded coverage in cases when a director's or officer's legal defense was unsuccessful if: (i) the director was found to have acted in good faith and in a manner that the director reasonably believed was in the best interests of the company, and (ii) only if the director's legal expenses would be covered.

### 1b-6. Shareholder Ability to Remove Directors

Shareholder ability to remove directors, with or without cause, is either prescribed by a state's business corporation law, an individual company's articles of incorporation, or its bylaws. Many companies have sought shareholder approval for charter or bylaw amendments that would prohibit the removal of directors except for cause, thus ensuring that directors would retain their directorship for their full-term unless found guilty of self-dealing. By requiring cause to be demonstrated through due process, management insulates the directors from removal even if a director has been performing poorly, not attending meetings, or not acting in the best interests of shareholders.

- Vote **against** proposals that provide that directors may be removed only for cause.
- Vote **for** proposals to restore shareholder ability to remove directors with or without cause.
- Vote **against** proposals that provide that only continuing directors may elect replacements to fill board vacancies.
- Vote **for** proposals that permit shareholders to elect directors to fill board vacancies.

### 1b-7. Board Size

Proposals which would allow management to increase or decrease the size of the board at its own discretion are often used by companies as a takeover defense. MMA supports management proposals to fix the size of the board at a specific number, thus preventing management, when facing a proxy contest, from increasing the board size without shareholder approval. By increasing the size of the board, management can make it more difficult for dissidents to gain control of the board. Fixing the size of the board also prevents a reduction in the size of the board as a strategy to oust independent directors. Fixing board size also prevents management from increasing the number of directors in order to dilute the effects of cumulative voting.

- Vote **for** proposals that seek to fix the size of the board.
- Vote **case-by-case** on proposals that seek to change the size or range of the board.

- Vote **against** proposals that give management the ability to alter the size of the board without shareholder approval.

### **1b-8 Establish/Amend Nominee Qualifications**

Vote case-by-case on proposals that establish or amend director qualifications. Votes should be based on how reasonable the criteria are and to what degree they may preclude dissident nominees from joining the board.

### **1b-9 Term Limits**

Vote against management proposals to limit the tenure of outside directors through term limits. However, scrutinize boards where the average tenure of all directors exceeds 15 years for independence from management and for sufficient turnover to ensure that new perspectives are being added to the board.

### **1b-10 Age Limits**

Vote against management proposal to limit the tenure of outside directors through mandatory retirement ages.

## **1c Board-Related Shareholder Proposals/Initiatives**

### **1c-1 Proxy Contests- Voting for Director Nominees in Contested Elections**

Contested elections of directors frequently occur when a board candidate or slate runs for the purpose of seeking a significant change in corporate policy or control. Competing slates will be evaluated based upon the personal qualifications of the candidates, the economic impact of the policies that they advance, and their expressed and demonstrated commitment to the interests of all shareholders.

Votes in a contested election of directors are evaluated on a case-by-case basis, considering the following factors;

- Long-term financial performance of the target company relative to its industry.
- Management's track record.
- Background to the proxy contest.
- Qualifications of director nominees (both slates).
- Strategic plan of dissident slate and quality of critique against management.
- Likelihood that the proposed goals and objectives can be achieved (both slates).
- Stock ownership positions.
- Impact on stakeholders, such as job loss, community lending, equal opportunity, impact on environment.



### **1c-2 Annual Election (Declassification) of the Board**

- Vote for shareholder proposals to repeal classified (staggered) boards and to elect all directors annually.

### **1c-3 Majority Threshold Voting Shareholder Proposals**

Shareholders have expressed strong support for precatory shareholder proposals on majority threshold voting. MMA believes shareholders should have a greater voice in the election of directors and believes majority threshold voting represents a viable alternative to the current plurality system in the U.S. Companies are strongly encouraged to also adopt a post-election policy (also known as a director resignation policy) that will provide guidelines so that the company will promptly address the situation of a holdover director.

- Vote for precatory and binding resolutions requesting that the board change the company's bylaws to stipulate that directors need to be elected with an affirmative majority of votes cast, provided it does not conflict with the state law where the company is incorporated. Binding resolutions need to allow for a carve-out for a plurality vote standard when there are more nominees than board seats.

### **1c-4 Cumulative Voting**

Vote for shareholder proposals to restore or permit cumulative voting.

### **1c-5 Majority of Independent Directors**

MMA believes that a board independent from management is of vital importance to a company and its shareholders. Accordingly, MMA will cast votes in a manner that shall encourage the independence of boards.

- Vote for shareholder proposals asking that a majority or more of directors be independent unless the board composition already meets the proposed threshold by MMA's definition of independent outsider.
- Vote for shareholder proposals to strengthen the definition of independence for board directors.

### **1c-6 Establishment of Independent Committees**

Most corporate governance experts agree that the key board committees (audit, compensation, and nominating/corporate governance) of a corporation should include only independent directors. The independence of key committees has been encouraged by regulation. MMA believes that initiatives to increase the independent representation of these committees or to require that these committees be independent should be supported.

- Vote for shareholder proposals asking that board audit, compensation, and/or nominating committees be composed exclusively of independent directors.

### 1c-7 Independent Board Chair

One of the principle functions of the board is to monitor and evaluate the performance of the CEO. The chairperson's duty to oversee management is obviously compromised when he or she is required to monitor himself or herself. Generally MMA votes for shareholder proposals that would require that the position of board chair be held by an individual with no material ties to the company other than their board seat.

- Vote for shareholder proposals that would require the board chair to be independent of management.

### 1c-8 Establishment of Board Committees

Generally vote **against** shareholder proposals to establish a new board committee, as such proposals seek a specific oversight mechanism/structure that potentially limits a company's flexibility to determine an appropriate oversight mechanism for itself. However, the following factors will be considered;

- Existing oversight mechanisms (including current committee structure) regarding the issue for which board oversight is sought.
- Level of disclosure regarding the issue for which board oversight is sought.
- Company performance related to the issue for which board oversight is sought.
- Board committee structure compared to that of other companies in its industry sector.
- The scope and structure of the proposal.

### 1c-9 Establish/Amend Nominee Qualifications

Vote **case-by-case** on proposals that establish or amend director qualifications. Votes should be based on the reasonableness of the criteria and to what degree they may preclude dissident nominees from joining the board.

Vote **case-by-case** on shareholder resolutions seeking a director nominee candidate who possesses a particular subject matter expertise, considering;

- The company's board committee structure, existing subject matter expertise, and board nomination provisions relative to that of its peers.
- The company's existing board and management oversight mechanisms regarding the issue for which board oversight is sought.
- The company's disclosure and performance relating to the issue for which board oversight is sought and any significant related controversies.
- The scope and structure of the proposal.

### 1c-10 Board Policy on Shareholder Engagement

Vote **for** shareholders proposals requesting that the board establish an internal mechanism/process, which may include a committee, in order to improve communications between directors and shareholders, unless the company has the following features, as appropriate;

- Established a communication structure that goes beyond the exchange requirements to facilitate the exchange of information between shareholders and members of the board.
- Effectively disclosed information with respect to this structure to its shareholders.
- Company has not ignored majority-supported shareholder proposals or a majority withhold vote on a director nominee.
- The company has an independent chairman or a lead director (according to MMA's definition). This individual must be made available for periodic consultation and direct communication with major shareholders.

### 1c-11 Open Access (Proxy Access)

Vote case-by-case on shareholder proposals asking for open or proxy access, taking into account;

- The ownership threshold proposed in the resolution.
- The proponent's rationale for the proposal at the targeted company in terms of board and director conduct.

### 1c-12 Term Limits

Supporters of term limits argue that this requirement would bring new ideas and approaches to a board. However, we prefer to look at directors and their contributions to the board individually rather than impose a strict rule.

- Vote **against** shareholder proposals to limit the tenure of outside directors. However, scrutinize boards where the average tenure of all directors exceeds 15 years for independence from management and for sufficient turnover to ensure that new perspectives are being added to the board.

### 1c-13 Age Limits

Vote **against** shareholder proposals to limit the tenure of outside directors through mandatory retirement ages.

## 2. Ratification of Auditors

Annual election of the outside accountants is standard practice. While it is recognized that the company is in the best position to evaluate the competence of the outside accountants, we believe that outside accountants must ultimately be accountable to shareholders. A Blue Ribbon Commission report concluded that audit committees must improve their current level of oversight of independent accountants. Given the rash of accounting irregularities that were not detected by audit panels or auditors, shareholder ratification is an essential step in restoring investor confidence. Special consideration will be given when non-audit fees exceed audit fees, as high non-audit fees can compromise the independence of the auditor. MMA will also monitor both auditor tenure and whether auditor ratification has been pulled from the ballot.

- Vote for proposals to ratify auditors, unless the non-audit fees paid represent 25 percent or more of the total fees paid to the auditor or there is reason to believe that the independent auditor has rendered an opinion that is neither accurate nor indicative of the company's financial position.

### 2a Auditor-Related Shareholder Proposals

#### 2a-1. Ratify Auditors / Ensure Auditor Independence

These shareholder proposals request that the board allow shareholders to ratify the company's auditor at each annual meeting. Annual ratification of the outside accountants is standard practice. While it is recognized that the company is in the best position to evaluate the competence of the outside accountants, we believe that outside accountants must ultimately be accountable to shareholders.

Given the rash of accounting irregularities that were not detected by audit panels or auditors, shareholder ratification is an essential step in restoring investor confidence. MMA believes that shareholders should have the ability to ratify the auditor on an annual basis.

- Vote for shareholder proposals to allow shareholders to vote on auditor ratification.
- Vote for proposals that ask a company to adopt a policy on auditor independence
- Vote for proposals that seek to limit the non-audit services provided by the company's auditor

#### 2a-2. Auditor Rotation

To minimize any conflict of interest that may rise between the company and its auditor, MMA supports the rotation of auditors. Currently, SEC rules provide that partners should be rotated every five years. However, MMA also believes that the long tenure of audit firms at U.S. companies can be problematic.

- [Vote for shareholder proposals to rotate company's auditor every five years or more. MMA believes that proposing a rotation period less than five years is unreasonably restrictive and may negatively affect audit quality and service while increasing expense.](#)

### 3. Takeover Defenses / Shareholder Rights

Corporate takeover attempts come in various guises. Usually, a would-be acquirer makes a direct offer to the board of directors of a targeted corporation. The bidder may offer to purchase the company for cash and/or stock. If the board approves the offer, a friendly transaction is completed and presented to shareholders for approval. If, however, the board of directors rejects the bid, the acquirer can make a tender offer for the shares directly to the targeted corporation's shareholders. Such offers are referred to as hostile tender bids. Prior to 1968, tender offers were not federally regulated. In 1968, Congress enacted the Williams Act as an amendment to the 1934 Securities and Exchange Act to regulate all tender offers. The Securities and Exchange Commission has adopted regulations pursuant to the Williams Act that are intended to promote fairness and prevent fraudulent or manipulative practices. At the same time, many states have enacted statutes that are aimed at protecting incorporated or domiciled corporations from hostile takeovers. Many of these state statutes have been challenged as being unconstitutional on grounds that they violate the Williams Act and the commerce and supremacy clauses of the U.S. Constitution. Most statutes, however, have been upheld. The result is a complex set of federal and state regulation, with federal regulation designed to facilitate transactions and state laws intended to impede them.

Not wishing to wait until they are subjects of hostile takeover attempts, many corporations have adopted antitakeover measures designed to deter unfriendly bids or buy time. The most common defenses are the shareholders rights protection plan, also known as the poison pill, and charter amendments that create barriers to acceptance of hostile bids. In the U.S., poison pills do not require shareholder approval. However, shareholders must approve charter amendments, such as classified boards or supermajority vote requirements. In brief, the very existence of defensive measures can foreclose the possibility of tenders and hence, opportunities to premium prices for shareholders.

#### 3a Takeover Defenses and Shareholder Rights-Related Management Proposals

##### 3a-1. Poison Pills

Poison pills are corporate-sponsored financial devices that, when triggered by potential acquirers, do one or more of the following: 1) dilute the acquirer's equity holdings in the target company, 2) dilute the acquirer's voting interests in the target company, or 3) dilute the acquirer's equity holdings in the post-merger company. Poison pills generally allow shareholders to purchase shares from, or sell shares back to, the target company (flip-in pill) and/or the potential acquirer (flip-out pill) at a price far out of line with fair market value. Depending on the type of pill, the triggering event can either transfer wealth from the target company or dilute the equity holdings of current shareholders. Poison pills insulate management from the threat of a change in control and provide the target board with veto power over takeover bids. Because poison pills greatly alter the balance of power between

shareholders and management, shareholders should be allowed to make their own evaluation of such plans.

Vote **case-by-case** on management proposals on poison pill ratification, focusing on the features of the shareholder rights plan. Rights plans should contain the following attributes;

- No lower than a 20% trigger, flip-in or flip-over provision;
- A term of no more than three years;
- No dead-hand, slow-hand, no-hand or similar feature that limits the ability of a future board to redeem the pill;
- Shareholder redemption feature (qualifying offer clause); if the board refuses to redeem the pill 90 days after a qualifying offer is announced, 10 percent of the shares may call a special meeting or seek a written consent to vote on rescinding the pill.
- In addition, the rationale for adopting the pill should be thoroughly explained by the company. In examining the request for the pill, take into consideration the company's existing governance structure, including: board independence, existing takeover defenses, and any problematic governance concerns.

### **3a-2. Net Operating Loss (NOL) Poison Pills/Protective Amendments**

The financial crisis has prompted widespread losses in certain industries. This has resulted in previously profitable companies considering the adoption of an NOL protective amendment and/or poison pill to protect their NOL tax assets, which may be lost upon an acquisition of 5 percent of a company's shares.

When evaluating management proposals seeking to adopt NOL protective amendments, the purpose behind the proposal, its terms, and the company's existing governance structure should be taken into account to assess whether the structure actively promotes board entrenchment or adequately protects shareholder rights. While MMA acknowledges the high estimated tax value of NOLs, which benefit shareholders, the ownership acquisition limitations contained in an NOL protective amendment coupled with a company's problematic governance structure could serve as an antitakeover device.

Given the fact that shareholders will want to ensure that such an amendment does not remain in effect permanently, MMA will also closely review whether the pill/amendment contains a sunset provision or a commitment to cause the expiration of the NOL pill/protective amendment upon exhaustion or expiration of the NOLs.

For management proposals to adopt a poison pill for the stated purpose of preserving a company's net operating losses ("NOLs"), the following factors are considered on a case-by-case basis:

- The ownership threshold to transfer (NOL pills generally have a trigger slightly below 5%)
- The value of the NOLs
- The term
- Shareholder protection mechanisms (sunset provision, or commitment to cause expiration of the pill upon exhaustion or expiration of NOLs)
- The company's existing governance structure including: board independence, existing takeover defenses, track record of responsiveness to shareholders, and any other problematic governance concerns
- Any other factors that may be applicable

For management proposals to adopt a protective amendment for the stated purpose of protecting a company's net operating losses ("NOLs"), the following factors should be considered on a case-by-case basis:

- The ownership threshold (NOL protective amendments generally prohibit stock ownership transfers that would result in a new 5-percent holder or increase the stock ownership percentage of an existing five-percent holder)
- The value of the NOLs
- Shareholder protection mechanisms (sunset provision or commitment to cause expiration of the protective amendment upon exhaustion or expiration of the NOL)
- The company's existing governance structure including: board independence, existing takeover defenses, track record of responsiveness to shareholders, and any other problematic governance concerns
- Any other factors that may be applicable.

### 3a-3c. Supermajority Shareholder Vote Requirements

Supermajority provisions violate the principle that a simple majority of voting shares should be all that is necessary to effect change at a company.

- Vote for proposals to reduce supermajority shareholder vote requirements for charter amendments, mergers and other significant business combinations. For companies with shareholder(s) who own a significant amount of company stock, vote case-by-case, taking into account; a) ownership structure, b) quorum requirements, and c) supermajority vote requirements.
- Vote against proposals to require a supermajority shareholder vote for charter amendments, mergers and other significant business combinations.

### 3a-4. Shareholder Ability to Call Special Meeting

Most state corporation statutes allow shareholders to call a special meeting when they want to take action on certain matters that arise between regularly scheduled annual meetings. Sometimes this right applies only if a shareholder or a group of shareholders own a specified percentage of shares, with 10 percent being the most common. Shareholders may lose the ability to remove directors, initiate a shareholder resolution, or respond to a beneficial offer without having to wait for the next scheduled meeting if they are unable to act at a special meeting of their own calling.

- Vote for proposals that provide shareholders with the ability to call special meetings taking into account; a) shareholders' current right to call special meetings, b) minimum ownership threshold necessary to call special meetings (10% preferred), c) the inclusion of exclusionary or prohibitive language, d) investor ownership structure, and e) shareholder support of and management's response to previous shareholder proposals.
- Vote against proposals to restrict or prohibit shareholders' ability to call special meetings.

### 3a-5. Shareholder Ability to Act by Written Consent

Consent solicitations allow shareholders to vote on and respond to shareholder and management proposals by mail without having to act at a physical meeting. A consent card is sent by mail for shareholder approval and only requires a signature for action. Some corporate bylaws require supermajority votes for consents while at others, standard annual meeting rules apply. Shareholders may lose the ability to remove directors, initiate a shareholder resolution, or respond to a beneficial offer without having to wait for the next scheduled meeting if they are unable to act at a special meeting of their own calling.

- Vote **for** proposals to allow or facilitate shareholder action by written consent, taking into consideration; a) shareholders' current right to act by written consent, b) consent threshold, c) the inclusion of exclusionary or prohibitive language, d) Investor ownership structure, and e) shareholder support of and management's response to previous shareholder proposals.
- Vote **against** proposals to restrict or prohibit shareholders' ability to take action by written consent.

### 3a-6. Advance Notice Requirements for Shareholder Proposals/Nominations

Vote **case-by-case** basis on advance notice proposals, giving support to those proposals which allow shareholders to submit proposals/nominations as close to the meeting date as reasonably possible and within the broadest window possible, recognizing the need to allow sufficient notice for company, regulatory and shareholder review.

To be reasonable, the company's deadline for shareholder notice of a proposal/ nominations must not be more than 60 days prior to the meeting, with a submittal window of at least 30 days prior to the deadline. The submittal window is the period under which a shareholder must file his proposal/nominations prior to the deadline.

In general, support additional efforts by companies to ensure full disclosure in regard to a proponent's economic and voting position in the company so long as the informational requirements are reasonable and aimed at providing shareholders with the necessary information to review such proposals.

### 3a-7. Fair Price Provisions

Fair price provisions were originally designed to specifically defend against the most coercive of takeover devices, the two-tiered, front-end loaded tender offer. In such a hostile takeover, the bidder offers cash for enough shares to gain control of the target. At the same time the acquirer states that once control has been obtained, the target's remaining shares will be purchased with cash, cash and securities or only securities. Since the payment offered for the remaining stock is, by design less valuable than the original offer for the controlling shares, shareholders are forced to sell out early to maximize their value. Standard fair price provisions require that, absent board or shareholder approval of the acquisition, the bidder must pay the remaining shareholders the same price for their shares that brought control.

- Vote **case-by-case** on proposals to adopt fair price provisions evaluating factors such as the vote required to approve the proposed acquisition, the vote required to repeal the fair price provision, and the mechanism for determining the fair price.

- Generally, vote **against** fair price provisions with shareholder vote requirements greater than a majority of disinterested shares.

### 3a-8. Greenmail

Greenmail payments are targeted share repurchases by management of company stock from individuals or groups seeking control of the company. Since only the hostile party receives payment, usually at a substantial premium over the market value of shares, the practice discriminates against most shareholders. This transferred cash, absent the greenmail payment, could be put to much better use for reinvestment in the company, payment of dividends, or to fund a public share repurchase program.

- Vote **for** proposals to adopt antigreenmail charter or bylaw amendments or otherwise restrict a company's ability to make greenmail payments.
- Review on a **case-by-case** basis antigreenmail proposals when they are bundled with other charter or bylaw amendments.

### 3a-9. Confidential Voting

Confidential voting, or voting by secret ballot, is one of the key structural issues in the proxy system. It ensures that all votes are based on the merits of proposals and cast in the best interests of fiduciary clients and pension plan beneficiaries. In a confidential voting system, only vote tabulators and inspectors of election may examine individual proxies and ballots; management and shareholders are given only vote totals. In an open voting system, management can determine who has voted against its nominees or proposals and then re-solicit those votes before the final vote count. As a result, shareholders can be pressured to vote with management at companies with which they maintain, or would like to establish, a business relationship. Confidential voting also protects employee shareholders from retaliation. Shares held by employee stock ownership plans, for example, are important votes that are typically voted by employees.

- Vote **for** management proposals to adopt confidential voting.

### 3a-10. Control Share Acquisition Provisions

Control share acquisition statutes function by denying shares their voting rights when they contribute to ownership in excess of certain thresholds. Voting rights for those shares exceeding ownership limits may only be restored by approval of either a majority or supermajority of disinterested shares. Thus, control share acquisition statutes effectively require a hostile bidder to put its offer to a shareholder vote or risk voting disenfranchisement if the bidder continues buying up a large block of shares.

- Vote **for** proposals to opt out of control share acquisition statutes unless doing so would enable the completion of a takeover that would be detrimental to shareholders.
- Vote **against** proposals to amend the charter to include control share acquisition provisions.
- Vote **for** proposals to restore voting rights to the control shares.

### 3a-11. Control Share Cash-Out Provisions

Control share cash-out statutes give dissident shareholders the right to "cash-out" of their position in a company at the expense of the shareholder who has taken a control position. In other words, when an investor crosses a preset threshold level, remaining shareholders are given the right to sell their shares to the acquirer, who must buy them at the highest acquiring price.

- Vote for proposals to opt out of control share cash-out statutes.

### 3a-12. Disgorgement Provisions

Disgorgement provisions require an acquirer or potential acquirer of more than a certain percentage of a company's stock to disgorge, or pay back, to the company any profits realized from the sale of that company's stock purchased 24 months before achieving control status. All sales of company stock by the acquirer occurring within a certain period of time (between 18 months and 24 months) prior to the investor's gaining control status are subject to these recapture-of-profits provisions.

- Vote for proposals to opt out of state disgorgement provisions.

### 3a-13. State Takeover Statutes

Vote on a case-by-case basis proposals to opt in or out of state takeover statutes (including control share acquisition statutes, control share cash-out statutes, freezeout provisions, fair price provisions, stakeholder laws, poison pill endorsements, severance pay and labor contract provisions, antigreenmail provisions, and disgorgement provisions).

Vote for opting into stakeholder protection statutes if they provide comprehensive protections for employees and community stakeholders. We would be less supportive of takeover statutes that only serve to protect incumbent management from accountability to shareholders and which negatively influence shareholder value.

### 3a-14. Freeze-Out Provisions

Freeze-out provisions force an investor who surpasses a certain ownership threshold in a company to wait a specified period of time before gaining control of the company.

- Vote for proposals to opt out of state freeze-out provisions.

### 3a-15. Reincorporation Proposals

Vote on a case-by-case basis proposals to change a company's state of incorporation giving consideration to both financial and corporate governance concerns including the following;

- Reasons for reincorporation
- Comparison of company's governance practices and provisions prior to and following the reincorporation
- Comparison of corporation laws of original state and destination state

Reincorporations into “tax havens” will be given special consideration.

**3a-16. Amend Bylaws without Shareholder Consent**

Vote **against** proposals giving the board exclusive authority to amend the bylaws.

Vote **for** proposals giving the board the ability to amend the bylaws in addition to shareholders.

## 3b Takeover Defenses and Shareholder Rights-Related Shareholder Proposals

### 3b-1. Shareholder Proposals to put Pill to a Vote and/or Adopt a Pill Policy

Vote for shareholder proposals requesting that the company submit its poison pill to a shareholder vote or redeem it UNLESS the company has; a) a shareholder approved poison pill in place, or b) The company has adopted a policy concerning the adoption of a pill in the future specifying that the board will only adopt a shareholder rights plan if either;

- Shareholders have approved the adoption of the plan; or
- The board, in its exercise of its fiduciary responsibilities, determines that it is in the best interest of shareholders under the circumstances to adopt a pill without the delay in adoption that would result from seeking stockholder approval (i.e., the “fiduciary out” provision). A poison pill adopted under this fiduciary out will be put to a shareholder ratification vote within 12 months of adoption or expire. If the pill is not approved by a majority of the votes cast on this issue, the plan will immediately terminate.

If the shareholder proposal calls for a time period of less than 12 months for shareholder ratification after adoption, vote for the proposal, but add the caveat that a vote within 12 months would be considered sufficient implementation.

### 3b-2. Reduce Supermajority Vote Requirements

Supermajority provisions violate the principle that a simple majority of voting shares should be all that is necessary to effect change regarding a company.

- Vote for shareholder proposals to lower supermajority shareholder vote requirements for charter and bylaw amendments.
- Vote for shareholder proposals to lower supermajority shareholder vote requirements for mergers and other significant business combinations.

### 3b-3. Remove Antitakeover Provisions

There are numerous antitakeover mechanisms available to corporations that can make takeovers prohibitively expensive for a bidder or at least guarantee that all shareholders are treated equally. The debate over antitakeover devices centers on whether these devices enhance or detract from shareholder value. One theory argues that a company’s board, when armed with these takeover protections, may use them as negotiating tools to obtain a higher premium for shareholders. The opposing view maintains that managements afforded such protection are more likely to become entrenched than to actively pursue the best interests of shareholders. Such takeover defenses also serve as obstacles to the normal functioning of the marketplace which, when operating efficiently, should replace incapable and poorly performing managements.

- Vote for shareholder proposals that seek to remove antitakeover provisions



### 3b-4 Reimbursing Proxy Solicitation Expenses.

Vote case-by-case on proposals to reimburse proxy solicitation expenses. When voting in conjunction with support of a dissident slate, vote for the reimbursement of all appropriate proxy solicitation expenses associated with the election.

Vote for shareholder proposals calling for the reimbursement of reasonable costs incurred in connection with nominating one or more candidates in a contested election where the following apply:

- The election of fewer than 50% of the directors to be elected is contested in the election
- One or more of the dissident's candidates is elected
- Shareholders are not permitted to cumulate their votes for directors
- The election occurred, and the expenses were incurred, after the adoption of this bylaw.

## 4. Miscellaneous Governance Provisions

### 4a. Bundled Proposals

Review on a case-by-case basis bundled or “conditioned” proxy proposals. In the case of items that are conditioned upon each other, examine the benefits and costs of the packaged items. In instances where the joint effect of the conditioned items is not in shareholders’ best interests, vote against the proposals. If the combined effect is positive, support such proposals.

### 4b. Adjourn Meeting if Votes are Insufficient

Companies may ask shareholders to adjourn a meeting in order to solicit more votes. Generally, shareholders already have enough information to make their vote decisions. Once their votes have been cast, there is no justification for spending more money to continue pressing shareholders for more votes.

- Vote against proposals to adjourn the meeting when votes are insufficient.

### 4c. Changing Corporate Name

Proposals to change a company’s name are generally routine matters. Generally, the name change reflects a change in corporate direction or the result of a merger agreement.

- Vote for changing the corporate name.

### 4d. Other Business

Other business proposals are routine items to allow shareholders to raise other issues and discuss them at the meeting. Only issues that may be legally discussed at meetings may be raised under this authority. However, shareholders cannot know the content of these issues so they are generally not supported.

- Generally vote against other business proposals.

## 5. Capital Structure

The equity in a corporate enterprise (that is, the residual value of the company's assets after the payment of all debts) belongs to the shareholders. Equity securities may be employed, or manipulated, in a manner that will ultimately enhance or detract from shareholder value. As such, certain actions undertaken by management in relation to a company's capital structure can be of considerable significance to shareholders. Changes in capitalization usually require shareholder approval or ratification.

### 5a. Common Stock Authorization

State statutes and stock exchanges require shareholder approval for increases in the number of common shares. Corporations increase their supply of common stock for a variety of ordinary business purposes: raising new capital, funding stock compensation programs, business acquisitions, and implementation of stock splits or payment of stock dividends.

Proposals to increase authorized common stock are evaluated on a case-by-case basis, taking into account the size of the increase, the company's rationale for additional shares, the company's use of authorized shares during the last three years, the board's governance structure and practices, the company's performance as compared with its industry peers, and the risk to shareholders if the request is not approved. A company's need for additional shares is gauged by measuring shares outstanding and reserved as a percentage of the total number of shares currently authorized for issuance. For industry peer comparisons, MMA relies on data compiled by RiskMetrics on common stock authorization proposals for companies comprising 98 percent of the investable U.S. equity market. Companies are classified into one of 11 peer groups and each company's performance is measured on the basis of three-year total shareholder returns.

MMA evaluates proposals where the company intends to use the additional stock to implement a poison pill or other takeover defense on a case-by-case basis.

- Review on a **case-by-case** basis proposals to increase the number of shares of common stock authorized for issue, considering company-specific factors that include:
  - Past Board Performance;
    - ✓ The company's use of authorized shares during the last three years
    - ✓ One- and three-year total shareholder return
    - ✓ The board's governance structure and practices
  - The Current Request;
    - ✓ Disclosure in the proxy statement of specific reasons for the proposed increase
    - ✓ The dilutive impact of the request as determined through an allowable cap generated by MMA's quantitative model, which examines the company's need for shares and three-year total shareholder return

✓ Risks to shareholders of not approving the request

- Vote **against** proposals at companies with more than one class of common stock to increase the number of authorized shares of the class that has superior voting rights.

## 5b. Issue Stock for Use with Rights Plan

Vote **against** proposals that increase authorized common stock for the explicit purpose of implementing a non-shareholder approved shareholder rights plan (poison pill).

## 5c. Stock Distributions: Splits and Dividends

Vote **for** management proposals to increase common share authorization for a stock split, provided that the increase in authorized shares would not result in an excessive number of shares available for issuance given a company's industry and performance as measured by total shareholder returns.

## 5d. Reverse Stock Splits

Reverse splits exchange multiple shares for a lesser amount to increase share price. Increasing share price is sometimes necessary to restore a company's share price to a level that will allow it to be traded on the national stock exchanges. In addition, some brokerage houses have a policy of not monitoring or investing in very low priced shares. Reverse stock splits help maintain stock liquidity.

- Review management proposals to implement a reverse stock split on a **case-by-case** basis.
- Generally vote **for** a reverse stock split if management provides a reasonable justification for the split and the company's authorized shares are adjusted accordingly.
- Vote **for** management proposals to implement a reverse stock split to avoid delisting.

## 5e. Blank Check Preferred Authorization

Preferred stock is an equity security which has certain features similar to debt instruments, such as fixed dividend payments, seniority of claims to common stock, and in most cases no voting rights. The terms of blank check preferred stock give the board of directors the power to issue shares of preferred stock at their discretion—with voting rights, conversion, distribution and other rights to be determined by the board at time of issue. Blank check preferred stock can be used for sound corporate purposes, but could be used as a device to thwart hostile takeovers without shareholder approval.

- Vote on a **case-by-case** basis proposals to increase the number of shares of preferred stock authorized for issuance, considering company-specific factors that include:
  - Past Board Performance;
    - ✓ The company's use of authorized shares during the last three years
    - ✓ One- and three-year total shareholder return
    - ✓ The board's governance structure and practices
  - The Current Request;
    - ✓ Disclosure in the proxy statement of specific reasons for the proposed increase
    - ✓ The dilutive impact of the request as determined through an allowable cap generated by MMA's quantitative model, which examines the company's need for shares and three-year total shareholder return
    - ✓ Risks to shareholders of not approving the request

- Vote **against** proposals that would authorize the creation of new classes of preferred stock with unspecified voting, conversion, dividend distribution, and other rights ("blank check" preferred stock)
- Vote **against** proposals to increase the number of blank check preferred stock authorized for issuance when no shares have been issued or reserved for a specific purpose.
- Vote **for** proposals to create "declawed" blank check preferred stock (stock that cannot be used as a takeover defense).
- Vote **for** proposals to authorize preferred stock in cases where the company specifies the voting, dividend, conversion, and other rights of such stock and the terms of the preferred stock appear reasonable.
- Vote **for** requests to require shareholder approval for blank check authorizations.

## 5f. Adjustments to Par Value of Common Stock

Stock that has a fixed per share value that is on its certificate is called par value stock. The purpose of par value stock is to establish the maximum responsibility of a stockholder in the event that a corporation becomes insolvent. Proposals to reduce par value come from certain state level requirements for regulated industries such as banks, and other legal requirements relating to the payment of dividends.

- Vote **for** management proposals to reduce the par value of common stock.

## 5g. Unequal Voting Rights

Incumbent managers use unequal voting rights with the voting rights of their common shares superior to other shareholders in order to concentrate their power and insulate themselves from the wishes of the majority of shareholders. Dual class exchange offers involve a transfer of voting rights from one group of shareholders to another group of shareholders typically through the payment of a preferential dividend. A dual class recapitalization also establishes two classes of common stock with unequal voting rights, but initially involves an equal distribution of preferential and inferior voting shares to current shareholders.

- Generally vote **against** dual class.
- Vote **for** dual class recapitalizations when the structure is designed to protect economic interests of investors.

## 5h. Preemptive Rights

Preemptive rights permit shareholders to share proportionately in any new issues of stock of the same class. These rights guarantee existing shareholders the first opportunity to purchase shares of new issues of stock in the same class as their own and in the same proportion. The absence of these rights could cause stockholders' interest in a company to be reduced by the sale of additional shares without their knowledge and at prices unfavorable to them. Preemptive rights, however, can make it difficult

for corporations to issue large blocks of stock for general corporate purposes. Both corporations and shareholders benefit when corporations are able to arrange issues without preemptive rights that do not result in a substantial transfer of control.

- Review on a **case-by-case** basis proposals to create or abolish preemptive rights. In evaluating proposals on preemptive rights, we look at the size of a company and the characteristics of its shareholder base.

## 5i. Debt Restructurings

Proposals to increase common and/or preferred shares and to issue shares as part of a debt-restructuring plan will be analyzed considering the following issues:

*Dilution*—How much will the ownership interest of existing shareholders be reduced, and how extreme will dilution to any future earnings be?

*Change in Control*—Will the transaction result in a change in control of the company? Are board and committee seats guaranteed? Do standstill provisions and voting agreements exist?

*Financial Issues*— company's financial situation, degree of need for capital, use of proceeds, and effect of the financing on the company's cost of capital

*Terms of the offer*—discount/premium in purchase price to investor including any fairness opinion,

termination penalties and exit strategy

*Conflict of interest*—arm's length transactions and managerial incentives

*Management's efforts to pursue other alternatives*

- Review on a **case-by-case** basis proposals regarding debt restructurings.
- Vote for the debt restructuring if it is expected that the company will file for bankruptcy if the transaction is not approved.

## 5j. Share Repurchase Programs

Vote for management proposals to institute open-market share repurchase plans in which all shareholders may participate on equal terms.

## 5k. Conversion of Securities

Vote **case-by-case** on proposals regarding conversion of securities, taking into account the dilution to existing shareholders, the conversion price relative to market value, financial issues, control issues, termination penalties, and conflicts of interest.

Vote for the conversion if it is expected that the company will be subject to onerous penalties or will be forced to file for bankruptcy if the transaction is not approved.

## 5l. Recapitalization

Vote **case-by-case** on recapitalizations (reclassifications of securities), taking into account whether capital structure is simplified, liquidity is enhanced, fairness of conversion terms; impact on voting power and dividends, reasons for the reclassification, conflicts of interest, and other alternatives considered.

## 5m. Formation of Holding Company

Vote **case-by-case** on proposals regarding the formation of a holding company, taking into consideration a) the reasons for the change, b) any financial or tax benefits, c) regulatory benefits, d) increases in capital structure, and e) changes to the articles of incorporation or bylaws of the company.

Vote **against** the formation of a holding company, absent compelling financial reasons to support the transaction, if the transaction would include either; a) increases in common or preferred stock in excess of the allowable maximum, or b) adverse changes in shareholder rights.

# 6. Executive and Director Compensation

The global financial crisis has resulted in significant erosion of shareholder value and highlighted the need for greater assurance that executive compensation is principally performance-based, fair, reasonable and not designed in a manner that would incentivize excessive risk-taking by managements. The financial crisis has raised questions about the role of pay incentives in influencing executive behavior and motivating inappropriate or excessive risk-taking that could threaten a corporation's long-term viability.

Evolving disclosure requirements have opened a wider window into compensation practices and processes, giving shareholders more opportunity and responsibility to ensure that pay is designed to create and sustain value. Companies in the U.S. are now required to evaluate and discuss potential risks arising from misguided or misaligned compensation programs. The advent of "say on pay" votes for shareholders in the U.S. is providing a new communication mechanism and impetus for constructive engagement between shareholders and managers/directors on pay issues.

The socially responsible investing community contends that corporations should be held accountable for their actions and decisions, including those around executive compensation. MMA believes that executive pay programs should be fair, competitive, reasonable, and appropriate, and that pay for performance should be a central tenet in executive compensation philosophy. Most investors expect corporations to adhere to certain best practice pay considerations in designing and administering executive and director compensation programs, including;

- Appropriate pay-for-performance alignment with emphasis on long-term shareholder value: executive pay practices must be designed to attract, retain, and appropriately motivate the key employees who drive shareholder value creation over the long term. Evaluating appropriate alignment of pay incentives with shareholder value creation includes taking into consideration, among other factors, the link between pay and performance, the mix between fixed and variable pay, performance goals, and equity-based plan costs.

- Avoiding arrangements that risk “pay for failure”: this includes assessing the appropriateness of long or indefinite contracts, excessive severance packages, and guaranteed compensation.
- Independent and effective compensation committee: oversight of executive pay programs by directors with appropriate skills, knowledge, experience, and a sound process for compensation decision-making (e.g., including access to independent expertise and advice when needed) should be promoted.
- Clear, comprehensive compensation disclosures: shareholders expect companies to provide informative and timely disclosures that enable shareholders to evaluate executive pay practices fully and fairly.

A non-exhaustive list of best pay practices include;

*Employment contracts:* Companies should enter into employment contracts under limited circumstances for a short time period (e.g., new executive hires for a three-year contract) for limited executives. The contracts should not have automatic renewal feature and should have a specified termination date.

*Severance agreements:* Severance provisions should not be so appealing that it becomes an incentive for the executive to be terminated. Severance provisions should exclude excise tax gross-up. The severance formula should be reasonable and not overly generous to the executive (e.g., severance multiples of 1X, 2X, or 3X and use pro-rated target/average historical bonus and not maximum bonus). Failure to renew employment contract, termination under questionable events, or poor performance should not constitute as good reason for severance payments.

*Change-in-control payments:* Change-in-control payments should only be made when there is a significant change in company ownership structure, and when there is a loss of employment or substantial change in job duties associated with the change in company ownership structure (“double-triggered”). Change-in-control provisions should exclude excise tax gross-up and eliminate the acceleration of vesting of equity awards upon a change in control unless provided under a double-trigger scenario. Similarly, change in control provisions in equity plans should be double-triggered. A change in control event should not result in an acceleration of vesting of all unvested stock options or removal of vesting/performance requirements on restricted stock/performance shares, unless there is a loss of employment or substantial change in job duties.

*Supplemental executive retirement plans (SERPs):* SERPs should not include sweeteners that can increase the SERP value significantly or even exponentially, such as additional years of service credited for pension calculation, inclusion of variable pay (e.g. bonuses and equity awards) into the formula. Pension formula should not include extraordinary annual bonuses paid close to retirement years, and should be based on the average, not the maximum level of compensation earned.

*Deferred compensation:* Above-market returns or guaranteed minimum returns should not be applied on deferred compensation.

*Disclosure practices:* The Compensation Discussion & Analysis should be written in plain English, with as little “legalese” as possible and formatted using section headers, bulleted lists, tables, and charts where possible to ease reader comprehension. Ultimately, the document should provide detail and rationale regarding compensation, strategy, pay mix, goals/metrics, challenges, competition and pay for performance linkage, etc. in a narrative fashion.

*Responsible use of company stock:* Companies should adopt policies that prohibit executives from speculating in company's stock or using company stock in hedging activities, such as "cashless" collars, forward sales, equity swaps or other similar arrangements. Such behavior undermines the ultimate alignment with long-term shareholders' interests. In addition, the policy should prohibit or discourage the use of company stock as collateral for margin loans, to avoid any potential sudden stock sales (required upon margin calls), that could have a negative impact on the company's stock price.

*Long-term focus:* Executive compensation programs should be designed to support companies' long-term strategic goals. A short-term focus on performance does not necessarily create sustainable shareholder value, since long-term goals may be sacrificed to achieve short-term expectations. Compensation programs embedding a long-term focus with respect to company goals better align with the long-term interests of shareholders. Granting stock options and restricted stock to executives that vest in five years do not necessarily provide a long-term focus, as executives can sell the company shares once they vest. However, requiring senior executives to hold company stock until they retire can encourage a long-term focus on company performance.

## Criteria for Evaluating Executive Pay

### Pay for Performance

Evaluate the alignment of the CEO's pay with performance over time, focusing particularly on companies that have underperformed their peers over a sustained period. From a shareholders' perspective, performance is predominantly gauged by the company's stock performance over time. Even when financial or operational measures are utilized in incentive awards, the achievement related to these measures should ultimately translate into superior shareholder returns in the long-term.

Focus on companies with sustained underperformance relative to peers, considering the following key factors:

- Whether a company's one-year and three-year total shareholder returns ("TSR") are in the bottom half of its industry group (i.e., four-digit GICS - Global Industry Classification Group).
- Whether the total compensation of a CEO who has served at least two consecutive fiscal years is aligned with the company's total shareholder return over time, including both recent and long-term periods.

If a company falls in the bottom half of its four-digit GICS, further analysis of the CD&A is required to better understand the various pay elements and whether they create or reinforce shareholder alignment. Also assess the CEO's pay relative to the company's TSR over a time horizon of at least five years. The most recent year-over-year increase or decrease in pay remains a key consideration, but there will be additional emphasis on the long term trend of CEO total compensation relative to shareholder return.

Also consider the mix of performance-based compensation relative to total compensation. In general, standard stock options or time-vested restricted stock are not considered to be performance-based. If a company provides performance-based incentives to its executives, the company is highly encouraged to provide the complete disclosure of the performance measure and goals (hurdle rate) so that shareholders can assess the rigor of the performance program.

The use of non-GAAP financial metrics also makes it very challenging for shareholders to ascertain the rigor of the program as shareholders often cannot tell the type of adjustments being made and if the adjustments were made consistently. Complete and transparent disclosure helps shareholders to better understand the company's pay for performance linkage.

## Problematic Pay Practices

The focus is on executive compensation practices that contravene the global pay principles, including:

- Problematic practices related to non-performance-based compensation elements;
- Incentives that may motivate excessive risk-taking; and
- Options Backdating.

### *Non-Performance based Compensation Elements*

Companies adopt a variety of pay arrangements that may be acceptable in their particular industries, or unique for a particular situation, and all companies are reviewed on a case-by-case basis. However, there are certain adverse practices that are particularly contrary to a performance-based pay philosophy, including guaranteed pay and excessive or inappropriate non-performance-based pay elements.

While not exhaustive, the list of practices below the carry greatest weight in this consideration and may result in negative vote recommendations on a stand-alone basis;

- Multi-year guarantees for salary increases, non-performance based bonuses, and equity compensation
- Including additional years of unworked service that result in significant additional benefits, without sufficient justification, or including long-term equity awards in the pension calculation
- Perquisites for former and/or retired executives, and extraordinary relocation benefits (including home buyouts) for current executives
- Change-in-control payments exceeding 3 times base salary and target bonus; change-in-control payments without job loss or substantial diminution of duties ("Single Triggers"); new or materially amended agreements that provide for "modified single triggers" (under which an executive may voluntarily leave for any reason and still receive the change-in-control severance package); new or materially amended agreements that provide for an excise tax gross-up (including "modified gross-ups")
- Tax Reimbursements related to executive perquisites or other payments such as personal use of corporate aircraft, executive life insurance, bonus, etc.
- Dividends or dividend equivalents paid on unvested performance shares or units.
- Executives using company stock in hedging activities, such as "cashless" collars, forward sales, equity swaps or other similar arrangements.
- Repricing or replacing of underwater stock options/stock appreciation rights without prior shareholder approval (including cash buyouts and voluntary surrender/subsequent regrant of underwater options).

### *Incentives that may Motivate Excessive Risk-Taking*

Assess company policies and disclosure related to compensation that could incentivize excessive risk-taking, for example;

- Guaranteed bonuses
- A single performance metric used for short- and long-term plans
- Lucrative severance packages
- High pay opportunities relative to industry peers
- Disproportionate supplemental pensions
- Mega annual equity grants that provide unlimited upside with no downside risk

Factors that potentially mitigate the impact of risky incentives include rigorous claw-back provisions and robust stock ownership/holding guidelines.

### *Options Backdating*

Vote **case-by-case** on options backdating issues. Generally, when a company has recently practiced options backdating, **withhold** from or vote **against** the compensation committee, depending on the severity of the practices and the subsequent corrective actions on the part of the board. When deciding on votes on compensation committee members who oversaw questionable options grant practices or current compensation committee members who fail to respond to the issue proactively, consider several factors, including, but not limited to, the following:

- Reason and motive for the options backdating issue, such as inadvertent vs. deliberate grant date changes
- Duration of options backdating
- Size of restatement due to options backdating
- Corrective actions taken by the board or compensation committee, such as canceling or repricing backdated options, the recouping of option gains on backdated grants
- Adoption of a grant policy that prohibits backdating, and creates a fixed grant schedule or window period for equity grants in the future

### **Board Communications and Responsiveness**

Consider the following factors on a **case-by-case** basis when evaluating ballot items related to executive pay:

- Poor disclosure practices, including;
  - Unclear explanation of how the CEO is involved in the pay setting process
  - Retrospective performance targets and methodology not discussed

- Methodology for benchmarking practices and/or peer group not disclosed and explained
- Board's responsiveness to investor input and engagement on compensation issues, for example;
  - Failure to respond to majority-supported shareholder proposals on executive pay topics; or
  - Failure to respond to concerns raised in connection with significant opposition to MSOP proposals.

A case-by-case analysis approach allows distinctions to be made between companies that had "sloppy" plan administration versus those that acted deliberately and/or committed fraud, as well as those companies that subsequently took corrective action. Cases where companies have committed fraud are considered most egregious.

### 6a. Vote on Executive Compensation (Say-on-Pay) Management Proposals

Advisory votes on executive compensation have been a subject of debate among investors' and companies for many years. The subject became more pertinent in the fall of 2008 when many countries, including the United States found themselves in an economic downturn due to recent events in certain industries. In early 2009, President Obama signed the American Recovery and Reinvestment Act of 2009, which mandated companies that were beneficiaries of the Troubled Assets Relief Program (TARP) to put "Say on Pay" proposals on their firms' annual meeting ballot agenda.

- Vote on a case-by-case basis management proposals seeking advisory votes on executive compensation, considering the following factors;
  - Evaluation of performance metrics in short-term and long-term plans, considering a) the measures, goals, and target awards reported by the company for executives' short- and long-term incentive awards, b) whether the metrics are disclosed, c) whether the company explains their alignment with the company's business strategy, and d) whether the goals appear to be sufficiently challenging in relation to resulting payouts
  - Evaluation of peer group benchmarking used to set target pay or award opportunities, including a) the rationale stated by the company for constituents in its pay benchmarking peer group, and b) as the benchmark targets it uses to set or validate executives' pay
  - Balance of performance-based versus non-performance-based pay, considering a) the ratio of performance-based versus non-performance-based CEO pay elements, b) presence of concerns about other compensation factors such as performance metrics/goals, benchmarking practices, and pay-for-performance disconnects
  - Presence of problematic pay practices (see Problematic Pay Practices discussion under Criteria for Evaluating Executive Pay for further details)
  - Poor disclosure practices (see Board Communications and Responsiveness discussion under Criteria for Evaluating Executive Pay for further details)

- Vote against management say on pay proposals where there is a misalignment between CEO pay and company performance, the company maintains problematic pay practices, the board exhibits poor communication and responsiveness to shareholders or if the board has failed to demonstrate good stewardship of investors' interests regarding executive compensation practices.

## 6b. Equity-Based Incentive Plans

As executive pay levels continue to soar, non-salary compensation remains one of the most sensitive and visible corporate governance issues. The financial crisis raised new questions about the role of pay incentives in influencing executive behavior, including their appetite for risk-taking. Although shareholders may have little say about how much the CEO is paid in salary and bonus, they do have a major voice in approving stock incentive plans.

Stock-based plans can transfer significant amounts of wealth from shareholders to executives and directors and are among the most economically significant issues that shareholders are entitled to vote on. Rightly, the cost of these plans must be in line with the anticipated benefits to shareholders. Clearly, reasonable limits must be set on dilution as well as administrative authority. In addition, shareholders must consider the necessity of the various pay programs and examine the appropriateness of award types. Consequently, the pros and cons of these proposals necessitate a case-by-case evaluation.

Factors that increase the cost (or have the potential to increase the cost) of plans to shareholders include: excessive dilution, options awarded at below-market discounts, permissive policies on pyramiding, restricted stock giveaways that reward tenure rather than results, sales of shares on concessionary terms, blank-check authority for administering committees, option repricing or option replacements, accelerated vesting of awards in the event of defined changes in corporate control, stand-alone stock appreciation rights, loans or other forms of assistance, or evidence of improvident award policies.

Positive plan features that can offset costly features include: plans with modest dilution potential (i.e. appreciably below double-digit levels), bars to pyramiding and related safeguards for investor interests. Also favorable are performance programs with a duration of two or more years, bonus schemes that pay off in non-dilutive, fully deductible cash, 401K and other thrift or profit sharing plans, and tax-favored employee stock purchase plans. In general, we believe that stock plans should afford incentives, not sure-fire, risk-free rewards.

The analysis of compensation plans focuses primarily on the transfer of shareholder wealth. In addition, MMA prefers that companies take additional steps to improve the incentive value of the plan by adopting equity holding periods, vesting provisions, and additional performance criteria are therefore encouraged.

- Vote case-by-case on equity-based compensation plans taking the following factors into consideration;
  - appropriate pay-for-performance alignment with an emphasis on long-term shareholder value

- unresponsiveness to shareholder concerns with regard to executive compensation issues
- clear, comprehensive compensation disclosures
- inappropriate pay to non-executive directors
- arrangements that risk “pay for failure”
- Vote against the plan if any of the following factors apply:
  - The total cost of the company’s equity plans is unreasonable
  - The plan expressly permits the repricing of stock options/stock appreciate rights (SARs) without prior shareholder approval
  - The CEO is a participant in the proposed equity-based compensation plan and there is a disconnect between CEO pay and the company’s performance where over 50 percent of the year-over-year increase is attributed to equity awards
  - The company’s three year burn rate exceeds the greater of 2% and the mean plus one standard deviation of its industry group
  - Liberal change-in-control definition - i.e. the plan provides for the acceleration of vesting of equity awards even though an actual change in control may not occur (e.g., upon shareholder approval of a transaction or the announcement of a tender offer)
  - The plan is a vehicle for poor pay practices

Each of these factors is described below.

#### ***6b-1. Cost of Equity Plans:***

The cost of the equity plans is expressed as Shareholder Value Transfer (SVT), which is measured using a binomial option pricing model that assesses the amount of shareholders’ equity flowing out of the company to employees and directors. SVT is expressed as both a dollar amount and as a percentage of market value, and includes the new shares proposed, shares available under existing plans, and shares granted but unexercised. All award types are valued. For omnibus plans, unless limitations are placed on the most expensive types of awards (for example, full value awards), the assumption is made that all awards to be granted will be the most expensive types.

The Shareholder Value Transfer is reasonable if it falls below the company-specific allowable cap. The allowable cap is determined as follows: The top quartile performers in each industry group (using the Global Industry Classification Standard GICS) are identified. Benchmark SVT levels for each industry are established based on these top performers’ historic SVT. Regression analyses are run on each industry group to identify the variables most strongly correlated to SVT. The benchmark industry SVT level is then adjusted upwards or downwards for the specific company by plugging the company-specific performance measures, size and cash compensation into the industry cap equations to arrive at the company’s allowable cap.

- Vote against stock plans if the cost is unreasonable.

### ***6b-2. Repricing:***

Vote **against** plans that expressly permit the repricing or exchange of underwater stock options without prior shareholder approval, even if the cost of the plan is reasonable. Also, vote **against** or **withhold** from members of the Compensation Committee who approved and/or implemented a repricing or an option exchange program, by buying out underwater options for stock, cash or other consideration or canceling underwater options and regranting options with a lower exercise price, without prior shareholder approval, even if such repricings are allowed in their equity plan.

- Vote **against** plans if the company has a history of repricing options without shareholder approval, and the applicable listing standards would not preclude them from doing so.

### ***6b-3. Pay-for-Performance Disconnect:***

In the event there is a disconnect between the CEO's pay and performance, where a significant portion of the CEO's misaligned pay is attributed to equity awards, and there is an equity plan on the ballot, vote **against** the equity plan, taking in to consideration; a) the magnitude of pay increase/decrease in the last fiscal year, b) source of pay increase (cash or equity), c) proportion of equity awards granted in the last fiscal year concentrated at the named executive officer level. MMA will also vote **against** or **withhold** votes from the compensation committee members whether or not an equity plan is on the ballot.

See Pay-for-Performance discussion under Criteria for Evaluating Executive Pay for further details.

### ***6b-4. Burn Rate:***

MMA will also consider the average three-year burn rate of companies in evaluating the costs of equity plans. Annual burn-rate levels are becoming increasingly important to institutional investors. Burn-rate, also known as run rate, is another measure of dilution that shows how rapidly the company is depleting its shares reserved for equity compensation plans. It also captures the annual cost of granting equity to employees in terms of shares. The burn rate policy shall apply when there is an equity plan on the ballot.

- Generally vote **against** plans if the company's most recent three-year burn rate exceeds one standard deviation in excess of the industry mean (per the following Burn Rate Table) and is over 2 percent of common shares outstanding. The three-year burn rate policy does not apply to non-employee director plans unless outside directors receive a significant portion of shares each year.
- Vote **for** equity plans if the company fails this burn rate test but the company commits in a public filing to a three-year average burn rate equal to its GICS group burn rate mean plus one standard deviation (or 2%, whichever is greater), assuming all other conditions for voting for the plan have been met. If a company fails to fulfill its burn rate commitment, vote **against** or **withhold** from the compensation committee.

### ***6b-5. Liberal Definition of Change-in-Control:***

Generally vote **against** equity plans if the plan provides for the acceleration of vesting of equity awards even though an actual change in control may not occur. Examples of such a definition could include, but are not limited to, announcement or commencement of a tender offer, provisions for acceleration upon a "potential" takeover, shareholder approval of a merger or other transactions, or similar language.

## 6c. Other Compensation Plans

### 6c-1. Incentive Bonus Plans and Tax Deductibility Proposals (OBRA-Related Compensation Proposals)

Cash bonus plans can be an important part of an executive's overall pay package, along with stock-based plans tied to long-term total shareholder returns. Over the long term, stock prices are an excellent indicator of management performance. However, other factors, such as economic conditions and investor reaction to the stock market in general and certain industries in particular, can greatly impact the company's stock price. As a result, a cash bonus plan can effectively reward individual performance and the achievement of business unit objectives that are independent of short-term market share price fluctuations.

- Vote for plans where the performance measures included under the plan are appropriate, the plan is administered by a committee of independent outsiders, and the preservation of the full deductibility of all compensation paid reduces the company's corporate tax obligation
- Vote for cash or cash and stock bonus plans that are submitted to shareholders for the purpose of exempting compensation from taxes under the provisions of Section 162(m) if no increase in shares is requested
- Vote for proposals that simply amend shareholder-approved compensation plans to include administrative features or place a cap on the annual grants any one participant may receive to comply with the provisions of Section 162(m) of the Internal Revenue Code
- Vote for proposals to add performance goals to existing compensation plans to comply with the provisions of Section 162(m) unless they are clearly inappropriate
- Vote on a case-by-case basis proposals to amend existing plans to increase shares reserved and to qualify for favorable tax treatment under the provisions of Section 162(m)

Vote against proposals if the compensation committee does not fully consist of independent outsiders

### 6c-2. Employee Stock Purchase Plans (ESPPs)

Employee stock purchase plans enable employees to become shareholders, which gives them a stake in the company's growth. However, purchase plans are beneficial only when they are well balanced and in the best interests of all shareholders. From a shareholder's perspective, plans with offering periods of 27 months or less are preferable. Plans with longer offering periods remove too much of the market risk and could give participants excessive discounts on their stock purchases that are not offered to other shareholders.

Qualified employee stock purchase plans qualify for favorable tax treatment under Section 423 of the Internal Revenue Code. Such plans must be broad-based, permitting all full-time employees to participate. Some companies also permit part-time staff to participate. Qualified ESPPs must be expensed under SFAS 123 unless the plan meets the following conditions; a) purchase discount is 5 percent or below; b) all employees can participate in the program; and 3) no look-back feature in the program.. Therefore, some companies offer nonqualified ESPPs.

For nonqualified ESPPs, companies provide a match to employees' contributions instead of a discount in stock price. Also, limits are placed on employees' contributions. Some companies provide a maximum dollar value for the year and others specify the limits in terms of a percent of base salary, excluding bonus or commissions. For plans that do not qualify under Section 423 of the Internal Revenue Code, a plan participant will not recognize income by participating in the plan, but will recognize ordinary compensation income for federal income tax purposes at the time of the purchase.

- Vote **for** qualified employee stock purchase plans with an offering period of 27 months or less when voting power dilution is ten percent or less.
- Vote **against** qualified employee stock purchase plans with an offering period of greater than 27 months or voting power dilution of greater than ten percent.
- Vote **for** nonqualified employee stock purchase plans with broad-based participation, limits on employee contribution, company matching of up to 25 percent, and no discount on the stock price on the date of purchase.
- Vote **against** nonqualified employee stock purchase plans without broad-based participation, or when company matching exceeds 25 percent, or discounts are offered on the stock price at the date of purchase.

### 6c-3. Employee Stock Ownership Plans (ESOPs)

An Employee Stock Ownership Plan (ESOP) is an employee benefit plan that makes the employees of a company also owners of stock in that company. The plans are designed to defer a portion of current employee income for retirement purposes.

The primary difference between ESOPs and other employee benefit plans is that ESOPs invest primarily in the securities of the employee's company. In addition, an ESOP must be created for the benefit of non-management level employees and administered by a trust that cannot discriminate in favor of highly paid personnel.

Academic research of the performance of ESOPs in closely held companies found that ESOPs appear to increase overall sales, employment, and sales per employee over what would have been expected absent an ESOP. Studies have also found that companies with an ESOP are also more likely to still be in business several years later, and are more likely to have other retirement oriented benefit plans than comparable non-ESOP companies.

- Vote **for** proposals to implement an ESOP or increase authorized shares for existing ESOPs, unless the number of shares allocated to the ESOP is excessive (more than five percent of outstanding shares).

### 6c-4. Option Exchange Programs/Repricing Options

Vote case-by-case on management proposals seeking approval to exchange/reprice options taking into consideration;

- Historic trading patterns – the stock price should not be so volatile that the options are likely to be back “in-the-money” over the near term.
- Rationale for the re-pricing – was the stock price decline beyond management's control?

- Is this a value-for-value exchange?
- Are surrendered stock options added back to the plan reserve?
- Option vesting – does the new option vest immediately or is there a black-out period?
- Term of the option – the term should remain the same as that of the replaced option.
- Exercise price – should be set at fair market or a premium to market.
- Participants – executive officers and directors should be excluded.

If the surrendered options are added back to the equity plans for re-issuance, then also take into consideration the company's total cost of equity plans and its three-year average burn rate.

In addition to the above considerations, evaluate the intent, rationale, and timing of the repricing proposal. The proposal should clearly articulate why the board is choosing to conduct an exchange program at this point in time. Repricing underwater options after a recent precipitous drop in the company's stock price demonstrates poor timing. Repricing after a recent decline in stock price triggers additional scrutiny and a potential vote against the proposal. At a minimum, the decline should not have happened within the past year. Also, consider the terms of the surrendered options, such as the grant date, exercise price and vesting schedule. Grant dates of surrendered options should be far enough back (two to three years) so as not to suggest that repricings are being done to take advantage of short-term downward price movements. Similarly, the exercise price of surrendered options should be above the 52-week high for the stock price.

Vote for shareholder proposals to put option repricings to a shareholder vote.

## 6c-5. 401(k) Employee Benefit Plans

The 401(k) plan is one of the most popular employee benefit plans among U.S. companies. A 401(k) plan is any qualified plan under Section 401(k) of the Internal Revenue Code that contains a cash or deferred arrangement.

In its simplest form, an employee can elect to have a portion of his salary invested in a 401(k) plan before any

income taxes are assessed. The money can only be withdrawn before retirement under penalty.

However,

because the money contributed to the plan is withdrawn before taxes (reducing the employee's income tax), a

properly planned 401(k) plan will enable an employee to make larger contributions to a 401(k) plan than to a

savings plan, and still take the same amount home.

- Vote for proposals to implement a 401(k) savings plan for employees.

## 6c-6. Severance Agreements for Executives/Golden Parachutes

Vote on a case-by-case basis on proposals to ratify or cancel golden parachutes. An acceptable parachute should include, but is not limited to, the following;

- The triggering mechanism should be beyond the control of management.

- The amount should not exceed three times base amount (defined as the average annual taxable W-2 compensation during the five years prior to the year in which the change of control occurs).
- Change-in-control payments should be double-triggered, i.e., (1) after a change in control has taken place, and (2) termination of the executive as a result of the change in control. Change in control is defined as a change in the company ownership structure.

## Criteria for Evaluating Director Compensation

The board's legal charge of fulfilling its fiduciary obligations of loyalty and care is put to the ultimate test through the task of the board setting its own compensation. Directors themselves oversee the process for evaluating board performance and establishing pay packages for board members.

Shareholders provide limited oversight of directors by electing individuals who are primarily selected by the board, or a board nominating committee, and by voting on stock-based plans for directors designed by the board compensation committee. Additionally, shareholders may submit and vote on their own resolutions seeking to limit or restructure director pay. While the cost of compensating non-employee directors is small in absolute terms, compared to the cost of compensating executives, it is still a critical aspect of a company's overall corporate governance structure.

Overall, director pay levels are rising in part because of the new forms of pay in use at many companies, as well as because of the increased responsibilities arising from the 2002 Sarbanes-Oxley Act requirements. In addition to an annual retainer fee, many companies also pay fees for attending board and committee meetings, fees for chairing a committee, or a retainer fee for chairing a committee.

Director compensation packages should be designed to provide value to directors for their contribution. Given that many directors are high-level executives whose personal income levels are generally high, cash compensation may hold little appeal. Stock-based incentives on the other hand reinforce the directors' role of protecting and enhancing shareholder value. The stock-based component of director compensation should be large enough to ensure that when faced with a situation in which the interests of shareholders and management differ, the board will have a financial incentive to think as a shareholder. Additionally, many companies have instituted equity ownership programs for directors. MMA recommends that directors receive stock grants equal to three times of their annual retainer, as it is a reasonable starting point for companies of all sizes and industries. A vesting schedule for director grants helps directors to meet the stock ownership guidelines and maintains their long-term interests in the firm.

Director compensation packages should also be designed to attract and retain competent directors who are willing to risk becoming a defendant in a lawsuit and suffer potentially adverse publicity if the company runs into financial difficulties or is mismanaged.

### 6d. Equity Plans for Non-Employee Directors

Stock-based plans may take on a variety of forms including: grants of stock or options, including: discretionary grants, formula based grants, and one-time awards; stock-based awards in lieu of all or some portion of the cash retainer and/or other fees; and deferred stock plans allowing payment of retainer and/or meeting fees to be taken in stock, the payment of which is postponed to some future time, typically retirement or termination of directorship.

Vote **case-by-case** on compensation plans for non-employee directors, based on the cost of the plans against the company's allowable cap.

On occasion, director stock plans that set aside a relatively small number of shares when combined with employee or executive stock compensation plans will exceed the allowable cap. Vote for the plan if ALL of the following qualitative factors in the board's compensation are met and disclosed in the proxy statement;

- Director stock ownership guidelines with a minimum of three times the annual cash retainer.
- Vesting schedule or mandatory holding/deferral period - a minimum vesting of three years for stock options or restricted stock, or deferred stock payable at the end of a three-year deferral period.
- Mix between cash and equity - a balanced mix of cash and equity, e.g. 40% cash/60% equity or 50% cash/50% equity, or if the mix is heavier on the equity component, the vesting schedule or deferral period should be more stringent, with the lesser of five years or the term of directorship.
- No retirement/benefits and perquisites provided to non-employee directors; and
- Detailed disclosure provided on cash and equity compensation delivered to each non-employee director for the most recent fiscal year in a table. The column headers for the table may include; name of each non-employee director, annual retainer, board meeting fees, committee retainer, committee-meeting fees, and equity grants.

## 6e. Outside Director Stock Awards / Options in Lieu of Cash

These proposals seek to pay outside directors a portion of their compensation in stock rather than cash. By doing this, a director's interest may be more closely aligned with those of shareholders.

- Vote for proposals that seek to pay outside directors a portion of their compensation in stock rather than cash.

## 6f. Director Retirement Plans

Vote against retirement plans for non-employee directors.

Vote for shareholder proposals to eliminate retirement plans for non-employee directors.

## Shareholder Proposals on Compensation

### 6g. Increase Disclosure of Executive Compensation

The SEC requires that companies disclose, in their proxy statements, the salaries of the top five corporate executives (who make at least \$100,000 a year). Companies also disclose their compensation practices and details of their stock-based compensation plans. While this level of disclosure is helpful, it does not always provide a comprehensive picture of the company's compensation practices. For shareholders to make informed decisions on compensation levels, they need to have clear, concise information at their disposal. Increased disclosure will help ensure that management (1) has legitimate reasons for setting specific pay levels, and (2) is held accountable for its actions.

- Vote for shareholder proposals seeking increased disclosure on executive compensation issues including the preparation of a formal report on executive compensation practices and policies.

### **6h. Limit Executive Compensation**

Proposals that seek to limit executive or director compensation usually focus on the absolute dollar figure of the compensation or focus on the ratio of compensation between the executives and the average worker of a specific company. A Business Week article cited by the AFL-CIO has stated that the average CEO of a major corporation made 42 times the pay of a typical American factory worker in 1980. By 1990, that ratio had more than doubled to 85 times the average factory wage. Eight years later the ratio was a “staggering” 419 times the average factory wage in 1998. According to the AFL-CIO, if this rate of growth were to continue, the average CEO’s salary would equal that of about 150,000 American factory workers in the year 2050. Proponents argue that the exponential growth of executive salaries is not in the best interests of shareholders, especially when that pay is exorbitant when compared to the compensation of other workers.

- Vote for proposals to prepare reports seeking to compare the wages of a company’s lowest paid worker to the highest paid workers.
- Vote case-by-case on proposals that seek to establish a fixed ratio between the company’s lowest paid workers and the highest paid workers.

### **6i. Prohibit/Require Shareholder Approval for Option Repricing**

Repricing involves the reduction of the original exercise price of a stock option after the fall in share price. MMA does not support repricing since it undermines the incentive purpose of the plan. The use of options as an incentive means that employees must bear the same risks as shareholders in holding these options. Shareholder resolutions calling on companies to abandon the practice of repricing or to submit repricings to a shareholder vote will be supported.

- Vote for shareholder proposals seeking to limit repricing.
- Vote for shareholder proposals asking the company to have option repricings submitted for shareholder ratification.

### **6j. Severance Agreements/ Golden Parachutes**

Golden and tin parachutes are designed to protect the employees of a corporation in the event of a change in control. With Golden Parachutes senior level management employees receive a payout during a change in control at usually two to three times base salary. Increasingly companies that have golden parachute agreements for executives are extending coverage for all their employees via tin parachutes. The SEC requires disclosure of all golden parachutes arrangements in the proxy, such disclosure is not required of tin parachutes.

- Vote for shareholder proposals to have golden and tin parachutes submitted for shareholder ratification.

### **6k. Cash Balance Plans**

A cash balance plan is a defined benefit plan that treats an earned retirement benefit as if it were a credit from a defined contribution plan, but which provides a stated benefit at the end of its term. Because employer contributions to these plans are credited evenly over the life of a plan, and not based on a seniority formula they may reduce payouts to long-term employees who are currently vested in plans.

Cash-balance pension conversions are undergoing congressional and federal agency scrutiny in the wake of high-profile EEOC complaints on age discrimination and employee anger at companies like IBM. While significant change is unlikely in the short-term, business interests were concerned enough that the National Association of Manufacturers and other business lobbies formed a Capitol Hill coalition to preserve the essential features of the plans and to overturn a IRS ruling. Driving the push behind conversions from traditional pension plans to cash-balance plans are the substantial savings that companies generate in the process. Critics point out that these savings are gained at the expense of the most senior employees. Resolutions call on corporate boards to establish a committee of outside directors to prepare a report to shareholders on the potential impact of pension-related proposals now being considered by national policymakers in reaction to the controversy spawned by the plans.

- Vote for shareholder proposals calling for non-discrimination in retirement benefits.
- Vote for shareholder proposals asking a company to give employees the option of electing to participate in either a cash balance plan or in a defined benefit plan.

### **6l. Performance-Based Options/Indexed Options**

MMA supports compensating executives at a reasonable rate and believes that executive compensation should be strongly correlated to performance. MMA supports option plans that provide challenging performance objectives and serve to motivate executives to excellent performance, and oppose plans that offer unreasonable benefits to executives that are not available to any other shareholders. MMA supports performance-contingent stock options as a significant component of compensation, but believes that there should be limits on grants to both individuals and the company's top executives, including: (1) no individual may be granted more than five percent of the total options granted in a single year, and (2) a company's group of executive officers may not be granted more than ten percent of the total options granted in the single year.

- Vote for shareholder proposals to link executive pay to performance, including the use of performance-based, indexed, or premium-priced options.

### **6m. Link Compensation to Non-Financial Factors**

Proponents of these proposals feel that social criteria should be factored into the formulas used in determining compensation packages for executives. These shareholders are looking for companies to

review current compensation practices and to include social performance criteria, such as increasing investment in order to revitalize “distressed areas,” meeting environmental goals, and accounting for “poor corporate citizenship” when evaluating executive compensation. Some of the non-financial criteria that proponents of these resolutions seek to be incorporated in compensation formulas include employee satisfaction, corporate responsibility, diversity and customer satisfaction as part of a written policy used in linking compensation with financial performance and non-financial bases for evaluation. Proponents believe that factors such as poor environmental performance, workplace lawsuits, etc. are likely to have an impact on the company’s financial performance in the future if they are not addressed adequately today. As a result, shareholders believe they should be considered along with traditional financial considerations when determining executive pay.

- Vote for shareholder proposals calling for linkage of executive pay to non-financial factors, such as corporate downsizing, customer/employee satisfaction, community involvement, human rights, social and environmental goals and performance, and predatory lending.
- Vote for shareholder proposals seeking reports on linking executive pay to non-financial factors.

#### **6n. Advisory Vote on Executive Compensation (Say-on-Pay) Shareholder Proposals**

Generally, vote for shareholder proposals that call for non-binding shareholder ratification of the compensation of the Named Executive Officers and the accompanying narrative disclosure of material factors provided to understand the Summary Compensation Table.

#### **6o. Termination of Employment Prior to Severance Payment and Eliminating Accelerated Vesting of Unvested Equity**

Vote on a case-by-case on shareholder proposals seeking a policy requiring termination of employment prior to severance payment, and eliminating accelerated vesting of unvested equity. Change-in-control payouts without loss of job or substantial diminution of job duties (single-triggered) are considered a problematic pay practice under MMA’s policy, and may even result in against/withheld votes from compensation committee members. The second component of this proposal -- related to the elimination of accelerated vesting - requires more careful consideration. The following factors will be taken into regarding this policy.

- The company’s current treatment of equity in change-of-control situations (i.e. is it double triggered, does it allow for the assumption of equity by acquiring company, the treatment of performance shares.
- Current employment agreements, including potential problematic pay practices such as gross-ups embedded in those agreements.

#### **6p. Tax Gross-up Proposals**

Generally vote for proposals calling for companies to adopt a policy of not providing tax gross-up payments to executives, except in situations where gross-ups are provided pursuant to a plan, policy, or arrangement applicable to management employees of the company, such as a relocation or expatriate tax equalization policy.

#### **6q. Compensation Consultants - Disclosure of Board or Company’s Utilization**

Generally vote for shareholder proposals seeking disclosure regarding the Company, Board, or Compensation Committee's use of compensation consultants, such as company name, business relationship(s) and fees paid.

#### **6r. Golden Coffins/Executive Death Benefits**

Generally vote for proposals calling companies to adopt a policy of obtaining shareholder approval for any future agreements and corporate policies that could oblige the company to make payments or awards following the death of a senior executive in the form of unearned salary or bonuses, accelerated vesting or the continuation in force of unvested equity grants, perquisites and other payments or awards made in lieu of compensation. This would not apply to any benefit programs or equity plan proposals that the broad-based employee population is eligible.

#### **6s. Recoup Bonuses**

Vote on a case-by-case on proposals to recoup unearned incentive bonuses or other incentive payments made to senior executives if it is later determined that the figures upon which incentive compensation is earned later turn out to have been in error. This is line with the clawback provision in the Troubled Asset Relief Program. Many companies have adopted policies that permit recoupment in cases where fraud, misconduct, or negligence significantly contributed to a restatement of financial results that led to the awarding of unearned incentive compensation. The following will taken into consideration;

- If the company has adopted a formal recoupment bonus policy.
- If the company has chronic restatement history or material financial problems.
- If the company's policy substantially addresses the concerns raised by the proponent.

## 7. Mergers and Corporate Restructurings

A merger occurs when one corporation is absorbed into another and ceases to exist. The surviving company gains all the rights, privileges, powers, duties, obligations and liabilities of the merged corporation. The shareholders of the absorbed company receive stock or securities of the surviving company or other consideration as provided by the plan of merger. Mergers, consolidations, share exchanges, and sale of assets are friendly in nature, which is to say that both sides have agreed to the combination or acquisition of assets.

Shareholder approval for an acquiring company is generally not required under state law or stock exchange regulations unless the acquisition is in the form of a stock transaction which would result in the issue of 20 percent or more of the acquirer's outstanding shares or voting power, or unless the two entities involved require that shareholders approve the deal. Under most state laws, however, a target company must submit merger agreements to a shareholder vote. Shareholder approval is required in the formation of a consolidated corporation.

### 7a. Mergers and Acquisitions

M&A analyses are inherently a balance of competing factors. Bright line rules are difficult if not impossible to apply to a world where every deal is different. Ultimately, the question for shareholders (both of the acquirer and the target) is the following: Is the valuation fair? Shareholders of the acquirer may be concerned that the deal values the target too highly. Shareholders of the target may be concerned that the deal undervalues their interests.

Vote recommendation will be based on primarily an analysis of shareholder value, which itself can be affected by ancillary factors such as the negotiation process. The importance of other factors, including corporate governance and social and environmental considerations however, should not fail to be recognized.

- Votes on mergers and acquisitions are considered on a case-by-case basis. A review and evaluation of the merits and drawbacks of the proposed transaction is conducted, balancing various and sometimes countervailing factors including:
  - *Valuation* - is the value to be received by the target shareholders (or paid by the acquirer) reasonable? While the fairness opinion may provide an initial starting point for assessing valuation reasonableness, emphasis is placed on the offer premium, market reaction and strategic rationale.
  - *Market reaction* - how has the market responded to the proposed deal? A negative market reaction should cause closer scrutiny of a deal.
  - *Strategic rationale* - does the deal make sense strategically? From where is the value derived? Cost and revenue synergies should not be overly aggressive or optimistic, but reasonably achievable. Management should also have a favorable track record of successful integration of historical acquisitions.
  - *Negotiations and process* - were the terms of the transaction negotiated at arm's-length? Was the process fair and equitable?

- *Conflicts of interest* - are insiders benefiting from the transaction disproportionately and inappropriately as compared to non-insider shareholders?
- *Governance* - will the combined company have a better or worse governance profile than the current governance profiles of the respective parties to the transaction?
- *stakeholder impact* - impact on community stakeholders and workforce including impact on stakeholders, such as job loss, community lending, equal opportunity, impact on environment
- Votes on Special Purpose Acquisition Corporation (SPAC) mergers and acquisitions are considered on a **case-by-case** basis taking into account: a) valuation; b) market reaction; c) deal timing; d) negotiations and process; e) conflicts of interest; f) voting agreements; and g) post-merger governance

## 7d. Corporate Reorganization/Restructuring Plans (Bankruptcy)

The recent financial crisis has placed Chapter 11 bankruptcy reorganizations as a potential alternative for distressed companies. While the number of bankruptcies has risen over the past year as evidenced by many firms, including General Motors and Lehman Brothers, the prevalence of these reorganizations can vary year over year due to, among other things, market conditions and a company's ability to sustain its operations. Additionally, the amount of time that lapses between a particular company's entrance into Chapter 11 and its submission of a plan of reorganization varies significantly depending on the complexity, timing, and jurisdiction of the particular case. These plans are often put to a vote of shareholders (in addition to other interested parties), as required by the Bankruptcy Code.

- Vote **case-by-case** on proposals to common shareholders on bankruptcy plans of reorganization, considering the following factors including, but not limited to.
  - Estimated value and financial prospects of the reorganized company.
  - Percentage ownership of current shareholders in the reorganized company.
  - Whether shareholders are adequately represented in the reorganization process (particularly through the existence of an Official Equity Committee).
  - The cause(s) of the bankruptcy filing, and the extent to which the plan of reorganization addresses the cause(s).
  - Existence of a superior alternative to the plan of reorganization.
  - Governance of the reorganized company.

## 7e. Spin-offs

Votes on spin-offs should be considered on a **case-by-case** basis depending on the tax and regulatory advantages, planned use of sale proceeds, valuation of spinoff, , fairness opinion, benefits to the parent company, conflicts of interest, managerial incentives, corporate governance changes, changes in the capital structure.

## 7f. Asset Purchases

Votes on asset purchase proposals should be made on a **case-by-case** after considering the purchase price, fairness opinion, financial and strategic benefits, how the deal was negotiated, conflicts of interest, other alternatives for the business, non-completion risk.

## 7g. Asset Sales

Votes on asset sales should be made on a **case-by-case** basis after considering the impact on the balance sheet/working capital, value received for the asset, potential elimination of diseconomies, anticipated financial and operating benefits, anticipated use of funds, fairness opinion, how the deal was negotiated, and conflicts of interest.

## 7h. Liquidations

Votes on liquidations should be made on a **case-by-case** basis after reviewing management's efforts to pursue other alternatives, appraisal value of assets, and the compensation plan for executives managing the liquidation. Vote for the liquidation if the company will file for bankruptcy if the proposal is not approved.

## 7i. Joint Ventures

Vote **case-by-case** on proposals to form joint ventures, taking into account percentage of assets/business contributed, percentage ownership, financial and strategic benefits, governance structure, conflicts of interest and other alternatives.

## 7j. Appraisal Rights

Rights of appraisal provide shareholders who do not approve of the terms of certain corporate transactions the right to demand a judicial review in order to determine the fair value for their shares. The right of appraisal generally applies to mergers, sales of essentially all assets of the corporation, and charter amendments that may have a materially adverse effect on the rights of dissenting shareholders.

- Vote for proposals to restore, or provide shareholders with, rights of appraisal.

## 7k. Going Private/Dark Transactions (LBOs and Minority Squeeze-outs)

Vote **case-by-case** on going private transactions, taking into account the following: offer price/premium, fairness opinion, how the deal was negotiated, conflicts of interest, other alternatives/offers considered, and non-completion risk.

Vote **case-by-case** on "going dark" transactions, determining whether the transaction enhances shareholder value by taking into consideration:

- Whether the company has attained benefits from being publicly-traded (examination of trading volume, liquidity, and market research of the stock).
- Cash-out value.
- Whether the interests of continuing and cashed-out shareholders are balanced.
- The market reaction to public announcement of transaction.

## 7I. Private Placements/Warrants/Convertible Debentures

Vote case-by-case on proposals regarding private placements taking into consideration:

- Dilution to existing shareholders' position.
- Terms of the offer including discount/premium in purchase price to investor, fairness opinion, conversion features, termination penalties and exit strategy.
- Financial issues which include but are not limited to examining the company's financial situation, degree of need for capital, use of proceeds, effect of the financing on the company's cost of capital, current and proposed cash burn rate, and going concern viability and state of the capital and credit markets.
- Management's efforts to pursue alternatives and whether the company engaged in a process to evaluate alternatives.
- Control issues including assessments on change in management, change in control, guaranteed board and committee seats, standstill provisions, voting agreements and veto power over certain corporate actions.
- Conflicts of interest.
- Market reaction to proposed deal.

Vote **for** the private placement if it is expected that the company will file for bankruptcy if the transaction is not approved.

## 7m. Formation of Holding Company

Vote case-by-case on proposals regarding the formation of a holding company, taking into consideration the reasons for the change, any financial or tax benefits, regulatory benefits, increases in capital structure and changes to the articles of incorporation or bylaws of the company.

Absent compelling financial reasons to recommend the transaction, vote **against** the formation of a holding company if the transaction would include increases in common or preferred stock in excess of the allowable maximum (see discussion under "Capital Structure"), or adverse changes in shareholder rights.

## 7n. Value Maximization Shareholder Proposals

Vote case-by-case on shareholder proposals seeking to maximize shareholder value by hiring a financial advisor to explore strategic alternatives, selling the company or liquidating the company and distributing the proceeds to shareholders. These proposals should be evaluated based on the following factors;

- Prolonged poor performance with no turnaround in sight.
- Signs of entrenched board and management.
- Strategic plan in place for improving value.
- Likelihood of receiving reasonable value in a sale or dissolution.
- Whether company is actively exploring its strategic options, including retaining a financial advisor.

## 8. Mutual Fund Proxies

### 8a. Election of Trustees

Votes on trustee nominees are made on a case-by-case basis.

MMA will vote **against/withhold** votes from trustees that;

1. attend less than 75 percent of the board and committee meetings without a valid excuse for the absences .
2. implement or renew a dead-hand or modified dead-hand poison pill.
3. ignore a shareholder proposal that is approved by a majority of the votes cast.
4. have failed to act on takeover offers where the majority of the shareholders have tendered their shares. serve as members of a nominating committee that has failed to establish gender and/or racial diversity on the board. If there is no formal nominating committee, vote against/withhold votes from the entire slate of trustees.

### 8b. Investment Advisory Agreement

An investment advisory agreement is an agreement between a mutual fund and its financial advisor under which the financial advisor provides investment advice to the fund in return for a fee based on the fund's net asset size.

- Votes on investment advisory agreements should be evaluated on a case-by-case basis.

### 8c. Fundamental Investment

Fundamental investment restrictions are limitations within a fund's articles of incorporation that limit the investment practices of the particular fund.

- Votes on amendments to a fund's fundamental investment restrictions should be evaluated on a **case-by-case** basis.

#### **8d. Distribution Agreements**

Distribution agreements are agreements between a fund and its distributor which provide that the distributor is paid a fee to promote the sale of the fund's shares.

- Votes on distribution agreements should be evaluated on a **case-by-case** basis.

#### **8e. Convert closed-end fund to open-end fund**

Although approval of these proposals would eliminate the discount at which the fund's shares trade. The costs associated with converting the fund, in addition to the potential risks to long-term shareholder value, outweigh the potential benefits of the conversion.

- Vote **case-by-case** on shareholder proposals to convert a closed-end fund to an open-end fund.

## 10. Social & Environmental Proposals

Socially responsible shareholder resolutions are receiving a great deal more attention from institutional shareholders today than in the past. In addition to moral and ethical considerations intrinsic to many of these proposals, there is a growing recognition of their potential impact on the economic performance of the company. Among the reasons for this change are;

- the number and variety of shareholder resolutions on social and environmental issues has increased.
- many of the sponsors and supporters of these resolutions are large institutional shareholders with significant holdings, and therefore, greater direct influence on the outcomes.
- the proposals are more sophisticated - better written, more focused, and more sensitive to the feasibility of implementation.
- investors now understand that a company's response to social and environmental issues can have serious economic consequences for the company and its shareholders.

In general, MMA votes for shareholder social, workforce, and environmental proposals that create good corporate citizens while enhancing long-term shareholder and stakeholder value. MMA will vote for disclosure reports that seek additional information particularly when it appears companies have not adequately addressed shareholders' social, workforce, and environmental concerns. In determining our votes on shareholder social, workforce, and environmental proposals, we also analyze the following factors;

- whether adoption of the proposal would have either a positive or negative impact on the company's short-term or long-term share value.
- the percentage of sales, assets and earnings affected.
- the degree to which the company's stated position on the issues could affect its reputation or sales, or leave it vulnerable to boycott or selective purchasing.
- whether the issues presented should be dealt with through government or company-specific action.
- whether the company has already responded in some appropriate manner to the request embodied in a proposal.
- whether the company's analysis and voting recommendation to shareholders is persuasive.
- what other companies have done in response to the issue.
- whether the proposal itself is well framed and reasonable.
- whether implementation of the proposal would achieve the objectives sought in the proposal.

- whether the subject of the proposal is best left to the discretion of the board.

In general, MMA supports proposals that request the company to furnish information helpful to shareholders in evaluating the company's operations. In order to be able to intelligently monitor their investments shareholders often need information best provided by the company in which they have invested. Requests to report such information merit support. Requests to establish special committees of the board to address broad corporate policy and provide forums for ongoing dialogue on issues including, but not limited to shareholder relations, the environment, human rights, occupational health and safety, and executive compensation, will generally be supported, particularly when they appear to offer a potentially effective method for enhancing shareholder value. We will closely evaluate proposals that ask the company to cease certain actions that the proponent believes are harmful to society or some segment of society with special attention to the company's legal and ethical obligations, its ability to remain profitable, and potential negative publicity if the company fails to honor the request. MMA supports shareholder proposals that improve the company's public image, and reduce exposure to liabilities.

### 10a. Diversity and Equality

Significant progress has been made in recent years in the advancement of women and racial minorities in the workplace and the establishment of greater protections against discriminatory practices in the workplace. In the U.S, there are many civil rights laws that are enforced by the Equal Employment Opportunity Commission. The Civil Rights Act of 1964 prohibits discrimination based on race, color, religion, sex and nationality. However, discrimination on the basis of race, gender, religion, nationality, and sexual preference continues. The SEC's revised disclosure rules now require information on how boards factor diversity into the director nomination process, as well as disclosure on how the board assesses the effectiveness of its diversity policy. Shareholder proposals on diversity may target a company's board nomination procedures or seek greater disclosure on a company's programs and procedures on increasing the diversity of its workforce, and make reference to one or more of the following points;

- Violations of workplace anti-discrimination laws lead to expensive litigation and damaged corporate reputations that are not in the best interests of shareholders.
- Employers already prepare employee diversity reports for the EEOC, so preparing a similar report to shareholders can be done at minimal cost.
- The presence of women, ethnic minorities and union members in workforce and customer pools gives companies with diversified boards a practical advantage over their competitors as a result of their unique perspectives.
- Efforts to include women, minorities and union representatives on corporate boards can be made at reasonable costs.
- Reports can be prepared "at reasonable expense" describing efforts to encourage diversified representation on their boards.

- Board diversification increases the pool of the company's potential investors because more and more investors are favoring companies with diverse boards.
- A commitment to diversity in the workforce can lead to superior financial returns.

### ***10a-1. Add Women and Minorities to Board:***

Board diversification proposals ask companies to put systems in place to increase the representation of women, racial minorities, union members or other underrepresented minority groups on boards of directors. In prior years, board diversification proposals requested that companies nominate board members from certain constituencies, appoint special committees to recommend underrepresented classes of board members, establish board positions reserved for representatives of certain groups, or simply "make greater efforts" to nominate women and ethnic minorities to their boards.

- Vote for shareholder proposals that ask the company to take steps to nominate more women and racial minorities to the board.
- Vote for shareholder proposals asking for reports on board diversity.
- Vote for shareholder proposals asking companies to adopt nomination charters or amend existing charters to include reasonable language addressing diversity.

### ***10a-2. Report on the Distribution of Stock Options by Gender and Race:***

Companies have received requests from shareholders to prepare reports documenting the distribution of the stock options and restricted stock awards by race and gender of the recipient. Proponents of these proposals argue that, in the future, there will be a shift toward basing racial and gender discrimination suits on the distribution of corporate wealth through stock options. The appearance of these proposals is also in response to the nationwide wage gap and under representation of minorities and women at the highest levels of compensation.

- Vote for shareholder proposals asking companies to report on the distribution of stock options by race and gender of the recipient.

### ***10a-3. Prepare Report/Promote EEOC-Related Activities:***

Filers of proposals on this issue generally ask a company to make available, at reasonable cost and omitting proprietary information, data the company includes in its annual report to the Equal Employment Opportunity Commission (EEOC) outlining the make-up of its workforce by race, gender and position. Shareholders also ask companies to report on any efforts they are making to advance the representation of women and ethnic minorities in jobs in which they have been historically underrepresented, such as sales and management. The costs of violating federal laws that prohibit discrimination by corporations are high and can affect corporate earnings. The Equal Opportunities

Employment Commission does not release the companies' filings to the public, unless it is involved in litigation, and this information is difficult to obtain from other sources. Companies need to be sensitive to minority employment issues as the new evolving work force becomes increasingly diverse. This information can be provided with little cost to the company and does not create an unreasonable burden on management.

- Vote for shareholder proposals that ask the company to report on its diversity and/or affirmative action programs.
- Vote for shareholder proposals calling for legal and regulatory compliance and public reporting related to non-discrimination, affirmative action, workplace health and safety, and labor policies and practices that effect long-term corporate performance.
- Vote for shareholder proposals requesting nondiscrimination in salary, wages and all benefits.
- Vote for shareholder proposals calling for action on equal employment opportunity and antidiscrimination.

#### ***10a-4. Report on Progress Toward Glass Ceiling Commission Recommendations:***

In November 1995, the Glass Ceiling Commission (Commission), a bipartisan panel of leaders from business and government, issued a report describing "an unseen yet unbreachable barrier that keeps women and minorities from rising to the upper rungs of the corporate ladder." The Commission recommended that companies take practical steps to rectify this disparity, such as including diversity goals in business plans, committing to affirmative action for qualified employees and initiating family-friendly labor policies. Shareholders have submitted proposals asking companies to report on progress made toward the Commission's recommendations.

- Vote for shareholder proposals that ask the company to report on its progress against the Glass Ceiling Commission's recommendations.
- Vote for shareholder proposals seeking to eliminate the "glass ceiling" for women and minority employees.

#### ***10a-5. Prohibit Discrimination on the Basis of Sexual Orientation or Gender Identity:***

Federal law does not ban workplace discrimination against gay and lesbian employees, and only a handful of states have enacted workplace protections for these employees. Although an increasing number of US companies have explicitly banned discrimination on the basis of sexual orientation or gender identity in their equal employment opportunity (EEO) statements, many still do not. Shareholder proponents and other activist groups concerned with gay and lesbian rights, such as the Human Rights Campaign (HRC) and the Pride Foundation, have targeted U.S. companies that do not specifically restrict discrimination on the basis of sexual orientation in their EEO statements. Shareholder proposals on this topic ask companies to change the language of their EEO statements in order to put in place anti-discrimination protection for their gay and lesbian employees. In addition,

proposals may seek disclosure on a company's general initiatives to create a workplace free of discrimination on the basis of sexual orientation, including reference to such items as support of gay and lesbian employee groups, diversity training that addresses sexual orientation, and non-medical benefits to domestic partners of gay and lesbian employees.

- Vote **for** shareholder proposals to include language in EEO statements specifically barring discrimination on the basis of sexual orientation or gender identity.
- Vote **for** shareholder proposals seeking reports on a company's initiatives to create a workplace free of discrimination on the basis of sexual orientation or gender identity.
- Vote **against** shareholder proposals that seek to eliminate protection already afforded to gay and lesbian employees.

#### ***10a-6. Report on/Eliminate Use of Racial Stereotypes in Advertising:***

Many companies continue to use racial stereotypes or images perceived as racially insensitive in their advertising campaigns. Filers of shareholder proposals on this topic often request companies to give more careful consideration to the symbols and images that are used to promote the company.

- Vote **for** shareholder proposals seeking more careful consideration of using racial stereotypes in advertising campaigns, including preparation of a report on this issue.

#### **10b. Labor and Human Rights**

Investors, international human rights groups, and labor advocacy groups have long been making attempts to safeguard worker rights in the international marketplace. In instances where companies themselves operate factories in developing countries for example, these advocates have asked that the companies adopt global corporate standards that guarantee sustainable wages and safe working conditions for their workers abroad. Companies that contract out portions of their manufacturing operations to foreign companies have been asked to ensure that the products they receive from those contractors have not been made using forced labor, child labor, or sweatshop labor. These companies are asked to adopt formal vendor standards that, among other things, include some sort of monitoring mechanism. Globalization, relocation of production overseas, and widespread use of subcontractors and vendors, often make it difficult to obtain a complete picture of a company's labor practices in global markets. Many Investors believe that companies would benefit from adopting a human rights policy based on the Universal Declaration of Human Rights and the International Labour Organization's Core Labor Standards. Efforts that seek greater disclosure on a company's labor practices and that seek to establish minimum standards for a company's operations will be supported. In addition, requests for independent monitoring of overseas operations will be supported.

MMA generally supports proposals that call for the adoption and/or enforcement of principles or codes relating to countries in which there are systematic violations of human rights; such as the use of slave,

child, or prison labor; a government that is illegitimate; or there is a call by human rights advocates, pro-democracy organizations, or legitimately-elected representatives for economic sanctions. The use of child, sweatshop, or forced labor is unethical and can damage corporate reputations. Poor labor practices can lead to litigation against the company, which can be costly and time consuming.

### ***10b-1. Codes of Conduct and Vendor Standards:***

In recent years, an increasing number of shareholder proposals have been submitted that pertain to the adoption of codes of conduct or provision of greater disclosure on a company's international workplace standards. Companies have been asked to adopt a number of different types of codes, including a workplace code of conduct, standards for international business operations, human rights standards, International Labour Organization (ILO) standards and the SA 8000 principles. The ILO is an independent agency of the United Nations which consists of 180 member nations represented by workers, employers, and governments. The ILO's general mandate is to promote a decent workplace for all individuals. The ILO sets international labor standards in the form of its conventions and then monitors compliance with the standards. The seven conventions of the ILO fall under four broad categories: Right to organize and bargain collectively, Nondiscrimination in employment, Abolition of forced labor, and End of child labor. Each of the 183 member nations of the ILO is bound to respect and promote these rights to the best of their abilities. SA 8000 is a set of labor standards, based on the principles of the ILO conventions and other human rights conventions, and covers eight workplace conditions, including: child labor, forced labor, health and safety, freedom of association and the right to collective bargaining, discrimination, disciplinary practices, working hours and compensation. The Global Sullivan Principles are a set of guidelines that support economic, social and political justice by companies where they do business; to support human rights and to encourage equal opportunity at all levels of employment.

- Vote for shareholder proposals to implement human rights standards and workplace codes of conduct.
- Vote for shareholder proposals calling for the implementation and reporting on ILO codes of conduct, SA 8000 Standards, or the Global Sullivan Principles.
- Vote for shareholder proposals that call for the adoption of principles or codes of conduct relating to company investments in countries with patterns of human rights abuses (e.g. Northern Ireland, Burma, former Soviet Union, and China).
- Vote for shareholder proposals that call for independent monitoring programs in conjunction with local and respected religious and human rights groups to monitor supplier and licensee compliance with codes.
- Vote for shareholder proposals that seek publication of a "Code of Conduct" to the company's foreign suppliers and licensees, requiring they satisfy all applicable standards and laws protecting employees' wages, benefits, working conditions, freedom of association, and other rights.
- Vote for shareholder proposals seeking reports on, or the adoption of, vendor standards including: reporting on incentives to encourage suppliers to raise standards rather than terminate contracts and providing public disclosure of contract supplier reviews on a regular basis.

- Vote for shareholder proposals to adopt labor standards for foreign and domestic suppliers to ensure that the company will not do business with foreign suppliers that manufacture products for sale in the U.S. using forced labor, child labor, or that fail to comply with applicable laws protecting employee's wages and working conditions.

### ***10b-2. Adopt/Report on MacBride Principles:***

The MacBride Principles, a set of nine fair employment guidelines for companies with operations in Northern Ireland, were created to remedy the under-representation of a minority (Catholics) in the workforce. Critics of the principles, most notably the British Government, point out that companies in Northern Ireland already are subject to Britain's Fair Employment Act (FEA) that has been credited with significantly improving the representation of Catholics in the workforce in that region. Some MacBride opponents say that by agreeing to abide by the Principles, companies may unintentionally run afoul of the FEA by engaging in reverse discrimination. Aware of the potential legal liability, shareholder proponents of the Principles word their MacBride resolutions to request only that firms, "take all lawful steps" to implement the MacBride Principles.

- Vote for shareholder proposals to report on or implement the MacBride Principles.

### ***10b-3. Community Impact Assessment / Indigenous Peoples' Rights:***

In recent years, a number of U.S. public companies have found their operations or expansion plans in conflict with local indigenous groups. In order to improve their standing with indigenous groups and decrease any negative publicity companies may face, some concerned shareholders have sought reports requesting that companies review their obligations, actions and presence on these groups. Some have also requested these companies adopt policies based on the Draft UN Declaration on the Rights of Indigenous Peoples and the Organization of American States' (OAS) American Declaration on rights of Indigenous Peoples. Some companies such as Starbucks have reached agreements with local governments to ensure better business practices for products produced by indigenous groups. Shareholders, concerned with the negative impact that the company's operations may have on the indigenous people's land and community, have sought reports detailing the impact of the company's actions and presence on these groups.

- Vote for shareholder proposals to prepare reports on a company's environmental and health impact on communities.

### ***10b-4. Report on Risks of Outsourcing:***

Consumer interest in keeping costs low through comparison shopping, coupled with breakthroughs in productivity have prompted companies to look for methods of increasing profit margins while keeping prices competitive. Through a practice known as off-shoring, the outsourcing or moving of

manufacturing and service operations to foreign markets with lower labor costs, companies have found one method where the perceived savings potential is quite substantial. Shareholder opponents of outsourcing argue that there may be long-term consequences to offshore outsourcing that outweigh short-term benefits such as backlash from a public already sensitive to off-shoring, security risks from information technology development overseas, and diminished employee morale. Shareholder proposals addressing outsourcing ask that companies prepare a report to shareholders evaluating the risk to the company's brand name and reputation in the U.S. from outsourcing and off-shoring of manufacturing and service work to other countries.

- Vote for shareholders proposals asking for companies to report on the risks associated with outsourcing or off-shoring.

### ***10b-5. Report on the Impact of Health Pandemics on Company Operations***

Sub-Saharan Africa is the most affected region in the world with regard to the HIV/AIDS epidemic. In 2003, an estimated 26.6 million people in this region were living with HIV and approximately 2.3 million people died of AIDS. With limited access to antiretroviral treatment for HIV/AIDS, the increasing death toll is expected to have profound social, political and economic impact on that region and the companies or industries with operations in Sub-Saharan Africa. In the past, shareholder proposals asked companies to develop policies to provide affordable HIV/AIDS, Malaria, and Tuberculosis drugs in third-world countries. However, in recent years, shareholders have changed their tactic, asking instead for reports on the impact of these pandemics on company operations, including both pharmaceutical and non-pharmaceutical companies operating in high-risk areas. This change is consistent with the general shift in shareholder proposals towards risk assessment and mitigation.

- Vote for shareholder proposals asking for companies to report on the impact of pandemics, such as HIV/AIDS, Malaria, and Tuberculosis, on their business strategies.

### ***10b-6. Operations in High Risk Markets***

In recent years, shareholder advocates and human rights organizations have highlighted concerns associated with companies operating in regions that are politically unstable, including state sponsors of terror. The U.S. government has active trade sanction regimes in place against a number of countries, including Burma, Cuba, Iran, North Korea, Sudan, and Syria, among others. These sanctions are enforced by the Office of Foreign Assets Control, which is part of the U.S. Department of the Treasury. However, these countries do not comprise an exhaustive list of countries considered to be high-risk markets.

Shareholder proponents have filed resolutions addressing a variety of concerns around how investments and operations in high-risk regions may support, or be perceived to support, potentially oppressive governments. Proponents contend that operations in these countries may lead to potential reputational, regulatory, and/or supply chain risks as a result of operational disruptions. Concerned shareholders have requested investment withdrawals or cessation of operations in high-risk markets as well as reports on operations in high-risk markets. Such reports may seek additional disclosure from

companies on criteria employed for investing in, continuing to operate in, and withdrawing from specific countries.

Depending on the country's human rights record, investors have also asked companies to refrain from commencing new projects in the country of concern until improvements are made. In addition, investors have sought greater disclosure on the nature of a company's involvement in the country and on the impact of their involvement or operations.

Vote for requests for a review of and a report outlining the company's potential financial and reputation risks associated with operations in "high-risk" markets, such as a terrorism-sponsoring state or otherwise, taking into account;

- The nature, purpose, and scope of the operations and business involved that could be affected by social or political disruption.
- Current disclosure of applicable risk assessment(s) and risk management procedures.
- Compliance with U.S. sanctions and laws.
- Consideration of other international policies, standards, and laws.
- Whether the company has been recently involved in significant controversies or violations in "high-risk" markets.

#### *Reports on Operations in Burma/Myanmar:*

Since the early 1960s, Burma (also known as Myanmar) has been ruled by a military dictatorship that has been condemned for human rights abuses, including slave labor, torture, rape and murder. Many companies have pulled out of Burma over the past decade given the controversy surrounding involvement in the country. In July 2003, Congress and President Bush passed The Burmese Freedom and Democracy Act, which bans import goods and services from Burma. Violence in Burma prompted the U.S. to tighten financial sanctions on Burma and extend the ban on visas for officials from the country. Oil companies continue to be the largest investors in Burma, and therefore are the usual targets of shareholder proposals on this topic. However, proposals have also been filed at other companies, including financial companies, for their involvement in the country.

- Vote for shareholder proposals to adopt labor standards in connection with involvement in Burma.
- Vote for shareholder proposals seeking reports on Burmese operations and reports on costs of continued involvement in the country.
- Vote shareholder proposals to pull out of Burma on a case-by-case basis.

#### *Reports on Operations in China:*

Documented human rights abuses in China continue to raise concerns among investors, specifically with respect to alleged use of prison and child labor in manufacturing. Reports have identified U.S. companies with direct or indirect ties to companies controlled by the Chinese military, the People's Liberation Army (PLA), and hence links to prison labor. The U.S. Business Principles for Human Rights of

Workers in China may help a company with operations in China avoid being blacklisted by U.S. states and municipalities, many of whom have limited their contracts with companies that fail to adopt similar principles in other countries recognized for committing gross human rights violations.

- Vote for shareholder proposals requesting more disclosure on a company's involvement in China
- Vote on a case-by-base basis shareholder proposals that ask a company to terminate a project or investment in China.

***Product Sales to Repressive Regimes:***

Certain Internet technology companies have been accused of assisting repressive governments in violating human rights through the knowing misuse of their hardware and software. Human rights groups have accused companies such as Yahoo!, Cisco, Google, and Microsoft of allowing the Chinese government to censor and track down dissenting voices on the internet.

- Vote case-by-case on shareholder proposals requesting that companies cease product sales to repressive regimes that can be used to violate human rights.
- Vote for proposals to report on company efforts to reduce the likelihood of product abuses in this manner.

Internet Privacy and Censorship Information technology sector companies have been at the center of shareholder advocacy campaigns regarding concerns over Internet service companies and technology providers' alleged cooperation with potentially repressive regimes, notably the Chinese government. Shareholder proposals, submitted at Yahoo!, Google, Microsoft, and Cisco, among others, asked companies to take steps to stop abetting repression and censorship of the Internet and/or review their human rights policies taking this issue into consideration. Resolution sponsors generally argue that the Chinese government is using IT company technologies to track, monitor, identify, and, ultimately, suppress political dissent. In the view of proponents, this process of surveillance and associated suppression violates internationally accepted norms outlined in the U.N. Universal Declaration of Human Rights.

Google recently announced its intention to discontinue censoring results on its Chinese web search engine and indicated it was considering withdrawing business operations in China. This announcement followed reports of cyberattacks originating in China aimed at accessing the email accounts of Chinese human rights activists. Google's refusal to filter search results and potentially withdraw from the lucrative Chinese market has generated a lot of discussion among proponents of free speech and human rights on long-standing issues of privacy, government control, and censorship in China.

Vote for resolutions requesting the disclosure and implementation of Internet privacy and censorship policies and procedures considering;

- The level of disclosure of policies and procedures relating to privacy, freedom of speech, Internet censorship, and government monitoring of the Internet.

- Engagement in dialogue with governments and/or relevant groups with respect to the Internet and the free flow of information.
- The scope of business involvement and of investment in markets that maintain government censorship or monitoring of the Internet.
- The market-specific laws or regulations applicable to Internet censorship or monitoring that may be imposed on the company.
- The level of controversy or litigation related to the company's international human rights policies and procedures.

### ***10b-7. Disclosure on Plant Closings:***

Shareholders have asked that companies contemplating plant closures consider the impact of such closings on employees and the community, especially when such plant closures involve a community's largest employers. MMA usually recommends voting for greater disclosure of plant closing criteria. In cases where it can be shown that companies have been proactive and responsible in adopting these criteria, MMA recommends against the proposal.

- Vote for shareholder proposals seeking greater disclosure on plant closing criteria if the company has not provided such information.

## **10c. Environment**

Proposals addressing environmental and energy concerns are plentiful, and generally seek greater disclosure on an issue or seek to improve a company's environmental practices in order to protect the world's natural resources. In addition, some proponents cite the negative financial implications for companies with poor environmental practices, including liabilities associated with site clean-ups and lawsuits, as well as arguments that energy efficient products and clean environmental practices are sustainable business practices that will contribute to long-term shareholder value. Shareholders say the majority of independent atmospheric scientists agree that global warming poses a serious problem to the health and welfare of our planet, citing the findings of the Intergovernmental Panel on Climate Change. Shareholders argue that companies can report on their greenhouse gas emissions within a few months at reasonable cost. In general, there is a call for companies to have proactive environmental policies, focusing on maximizing the efficient use of non-renewable resources and minimizing threats of harm to human health or the environment.

### ***10c-1. Environmental/Sustainability Report:***

Shareholders may request general environmental reports or reports on a specific location/operation, often requesting that the company detail the environmental risks and potential liabilities of a specific project. Companies have begun to report on environmental and sustainability issues using the Global Reporting Initiative (GRI) standards. The GRI was established in 1997 with the mission of developing globally applicable guidelines for reporting on economic, environmental, and social performance. The

GRI was developed by the Coalition for Environmentally Responsible Economies (CERES) in partnership with the United Nations Environment Programme (UNEP).

CERES was formed in the wake of the March 1989 Exxon Valdez oil spill, when a consortium of investors, environmental groups, and religious organizations drafted what were originally named the Valdez Principles, and later to be renamed the CERES Principles. Corporate signatories to the CERES Principles are pledge to publicly report on environmental issues, including protection of the biosphere, sustainable use of natural resources, reduction and disposal of wastes, energy conservation, and employee and community risk reduction in a standardized form.

The Equator Principles are the financial industry's benchmark for determining, assessing and managing social and environmental risk in project financing. The Principles were first launched in June 2003 and were ultimately adopted by over forty financial institutions during a three year implementation period. The principles were subsequently revised in July 2006 to take into account the new performance standards approved by the World Bank Group's International Finance Corporation (IFC). Financial institutions adopt these principles to ensure that the projects they venture in are developed in a socially responsible manner and reflect sound environmental management practices.

- Vote for shareholder proposals seeking greater disclosure on the company's environmental practices, and/or environmental risks and liabilities.
- Vote for shareholder proposals asking companies to report in accordance with the Global Reporting Initiative (GRI).
- Vote for shareholder proposals to prepare a sustainability report.
- Vote for shareholder proposals to study or implement the CERES principles.
- Vote for shareholder proposals to study or implement the Equator Principles.

### ***10c-2. Climate Change/Greenhouse Gas Emissions:***

In December of 2009, the UN Climate Change Conference in Copenhagen ended with an agreement by countries to cap the global temperature rise by committing to significant emission reductions and to raise finance to kick start action in the developing world to deal with climate change.

Climate change has emerged as the most significant environmental threat to the planet to date. Scientists generally agree that gases released by chemical reactions including the burning of fossil fuels contribute to a "greenhouse effect" that traps the planet's heat. Environmentalists claim that the Greenhouse Gases(GHG) produced by the industrial age have caused recent weather crises such as heat waves, rainstorms, melting glaciers, rising sea levels and receding coastlines. With notable exceptions, business leaders have described the rise and fall of global temperatures as naturally occurring phenomena and depicted corporate impact on climate change as minimal. Shareholder proposals asking a company to issue a report to shareholders, "at reasonable cost and omitting proprietary information," on greenhouse gas emissions ask that the report include descriptions of efforts within

companies to reduce emissions, their financial exposure and potential liability from operations that contribute to global warming, their direct or indirect efforts to promote the view that global warming is not a threat, and their goals in reducing these emissions from their operations. Proponents argue that there is scientific proof that the burning of fossil fuels causes global warming, that future legislation may make companies financially liable for their contributions to global warming, and that a report on the company's role in global warming can be assembled at reasonable cost.

- Vote for shareholder proposals seeking disclosure of liabilities or preparation of a report pertaining to global warming and climate change risk.
- Vote for shareholder proposals calling for the reduction of GHG or adoption of GHG goals in products and operations.
- Vote for shareholder proposals seeking reports on responses to regulatory and public pressures surrounding climate change, and for disclosure of research that aided in setting company policies around climate change.
- Vote for shareholder proposals requesting a report on greenhouse gas emissions from company operations and/or products and operations.

### ***10c-3. Invest in Clean/Renewable Energy:***

Filers of proposals on renewable energy ask companies to increase their investment in renewable energy sources and to work to develop products that rely more on renewable energy sources. Increased use of renewable energy will reduce the negative environmental impact of energy companies. In addition, as supplies of oil and coal exist in the earth in limited quantities, renewable energy sources represent a competitive, and some would argue essential, long-term business strategy.

- Vote for shareholder proposals seeking the preparation of a report on a company's activities related to the development of renewable energy sources.
- Vote for shareholder proposals seeking increased investment in renewable energy sources unless the terms of the resolution are overly restrictive.

### ***10c-4. Energy Efficiency:***

Reducing the negative impact to the environment can be done through the use of more energy efficient practices and products. Shareholders propose that corporations should have energy efficient manufacturing processes and should market more energy efficient products. This can be done by utilizing renewable energy sources that are cost-competitive and by implementing energy efficient operations.

- Vote for shareholder proposals requesting a report on company energy efficiency policies and/or goals.

### ***10c-5. Drilling in the Arctic National Wildlife Refuge:***

The Arctic National Wildlife Refuge (ANWR) is a federally protected wilderness along Alaska's North Slope. Legislation has been introduced in both the House and Senate that, if passed, would allow a portion of this area to be leased to private companies for the development and production of oil. Oil companies have expressed an interest in bidding for these leases given the opportunity. In response, shareholder activists have filed resolutions asking these companies to cancel any plans to drill in the ANWR and cease their lobbying efforts to open the area for drilling. Proponents of shareholder proposals on this issue argue that the Coastal Plain section of the ANWR is the most environmentally sensitive area of the refuge, the majority of Alaska's North Slope that is not federally designated wilderness already provides the oil industry with sufficient resources for oil production, advocates of drilling in ANWR overstate the benefit to be derived from opening the wilderness to oil production. Those in favor of opening the area up to drilling note that only a small portion of ANWR would be considered for exploration, and if drilling were to take place, it would be on less than one percent of the entire area, that modern technology reduces the environmental impact of oil drilling on both the land and surrounding wildlife, and that oil production in ANWR would have considerable benefit to company shareholders, Alaskans, and the United States as a whole.

In 2008, proposals asking for a report on oil sands operations in the Athabasca region of Alberta, Canada appeared in the proxy statements of ConocoPhillips and Chevron. Alberta's oil sands contain a reserve largely thought to be one of the world's largest potential energy sources. Rising oil sands production in Alberta has been paralleled with concerns from a variety of stakeholders—including environmental groups, local residents, and shareholders—regarding the environmental impacts of the complicated extraction and upgrading processes required to convert oil sands into a synthetic crude oil. The high viscosity of bitumen makes its extraction a challenging and resource-intensive process; the most common extraction technique involves pumping steam into the oil sands to lower the viscosity of bitumen in order to pump it to the surface.

One of the biggest issues on the table concerning oil sands is the large volume of greenhouse gases (GHG) associated with production. Oil sands are by far one the most energy-intensive form of oil production, releasing three times more GHG emissions from production than conventional oil. In fact, oil sands are the fastest growing source of Canada's overall GHG emissions, releasing roughly 40 million tonnes of carbon dioxide equivalent (CO<sub>2</sub>e) in 2007. According to the Pembina Institute, a Canadian environmental policy think tank, oil sands are projected to account for 41 to 47 percent of Canada's total annual emissions growth between 2003 and 2010 under a business-as-usual (BAU) scenario. This would make oil sands responsible for 7.5 to 8.2 percent of Canada's projected BAU emissions. Syncrude, currently the largest oil sands producer in Canada, was Canada's third largest greenhouse gas emitter in 2008.

- **Vote for** requests for reports on potential environmental damage as a result of company operations in protected regions.
- **Vote for** shareholder proposals asking companies to prepare a feasibility report or to adopt a policy not to mine, drill, or log in environmentally sensitive areas.
- **Vote for** shareholder proposals seeking to prohibit or reduce the sale of products manufactured from materials extracted from environmentally sensitive areas such as old growth forests.

### ***10c-6. Phase Out Chlorine-Based Chemicals:***

The Environmental Protection Agency (EPA) identified chlorine bleaching of pulp and paper as a major source of dioxin, a known human carcinogen linked to have negative effects to humans and animals. A number of shareholder proposals have been filed in recent years asking companies to report on the possible phase-out of chlorine bleaching in the production of paper because of the practice's negative environmental impact.

- Vote for shareholder proposals to prepare a report on the phase-out of chlorine bleaching in paper production.
- Vote on a case-by-case basis on shareholder proposals asking companies to cease or phase-out the use of chlorine bleaching.

### ***10c-7. Land Procurement and Development***

Certain real estate developers including big-box large retailers have received criticism over their processes for acquiring and developing land. Given a 2005 Supreme Court decision allowing for the usage of eminent domain laws in the U.S. to take land from property-owners for tax generating purposes, as well as certain controversies outside of the U.S. with land procurement, some shareholders would like assurances that companies are acting ethically and with local stakeholders in mind.

- Vote for shareholder proposals requesting that companies report on or adopt policies for land procurement and utilize the policies in their decision-making.

### ***10c-8. Report on the Sustainability of Concentrated Area Feeding Operations (CAFO)***

The potential environmental impact on water, aquatic ecosystems, and local areas from odor and chemical discharges from CAFOs has led to lawsuits and EPA regulations. Certain shareholders have asked companies to provide additional details on their CAFOs in addition to those with which the companies contract to raise their livestock.

- Vote for requests that companies report on the sustainability and the environmental impacts of both company-owned and contract livestock operations.

### ***10c-9. Adopt a Comprehensive Recycling Policy:***

A number of companies have received proposals to step-up their recycling efforts, with the goal of reducing the company's negative impact on the environment and reducing costs over the long-term.

- Vote for shareholder proposals requesting the preparation of a report on the company's recycling efforts.

- Vote for shareholder proposals that ask companies to increase their recycling efforts or to adopt a formal recycling policy.

### ***10c-10. Facility Safety***

- Vote shareholder proposals requesting companies report on or implement procedures associated with their operations and/or facilities on a case-by-case basis.

### ***10c-11. Nuclear Energy:***

Nuclear power continues to be a controversial method of producing electricity. Opponents of nuclear energy are primarily concerned with serious accidents and the related negative human health consequences, and with the difficulties involved in nuclear waste storage.

- Vote for shareholder proposals seeking the preparation of a report on a company's nuclear energy procedures.
- Vote case-by-case on proposals that ask the company to cease the production of nuclear power.

### ***10c-12. Water Use:***

Shareholders may ask for a company to prepare a report evaluating the business risks linked to water use and impacts on the company's supply chain, including subsidiaries and bottling partners. Such proposals also ask companies to disclose current policies and procedures for mitigating the impact of operations on local communities in areas of water scarcity.

- Vote for shareholder proposals seeking the preparation of a report on a company's risks linked to water use.
- Vote for shareholder proposals requesting that companies report on or adopt policies for water use that incorporate social and environmental factors.

### ***10c-13. Kyoto Protocol Compliance***

With the Kyoto Protocol operational as of February 2005, ratifying countries have agreed to reduce their emissions of carbon dioxide and five other greenhouse gases. While some signatories have yet to release specific details of corporate regulations, the impact on multinationals operating in Kyoto-compliant countries is anticipated to be significant.

- Vote for shareholder proposals asking companies to review and report on how companies will meet GHG reduction targets of the Kyoto-compliant countries in which they operate.

## 10d. Health and Safety

### 10d-1. Toxic Materials

- Vote for shareholder proposals asking companies to report on policies and activities to ensure product safety.
- Vote for shareholder proposals asking companies to disclose annual expenditures relating to the promotion and/or environmental cleanup of toxins.
- Vote for shareholder proposals asking companies to report on the feasibility of removing, or substituting with safer alternatives, all “harmful” ingredients used in company products.

### 10d-2. Product Safety

- Generally vote for proposals requesting the company to report on or adopt consumer product safety policies and initiatives.
- Generally vote for proposals requesting the study, adoption and/or implementation of consumer product safety programs in the company's supply chain.

### 10d-3. Report on Weapons Safety:

Shareholders may ask for a company to report on policies and procedures that are aimed at curtailing the incidence of gun violence. Such a report may include: implementation of the company's contract instruction to distributors not to sell the company's weapons at gun shows or through pawn shops; recalls or retro-fits of products with safety-related defects causing death or serious injury to consumers, as well as development of systems to identify and remedy these defects; names and descriptions of products that are developed or are being developed for a combination of higher caliber/maximum capacity and greater conceal-ability; and the company's involvement in promotion campaigns that could be construed as aimed at children.

- Vote for shareholder proposals asking the company to report on its efforts to promote handgun safety.
- Vote for shareholder proposals asking the company to stop the sale of handguns and accessories.

### 10d-4. Phase-out or Label Products Containing Genetically Engineered Ingredients:

Shareholders ask companies engaged in the development of genetically modified agricultural products to adopt a policy of not marketing or distributing such products until “long term safety testing” demonstrates that they are not harmful to humans, animals or the environment. Until further long term testing demonstrates that these products are not harmful, companies in the restaurant and prepared foods industries are being asked to remove genetically altered ingredients from products they

manufacture or sell, and label such products in the interim. Shareholders are asking supermarket companies to do the same for their own private label brands.

- **Abstain** on shareholder proposals to label products that contain genetically engineered products or products from cloned animals.
- **Abstain** on shareholder proposals that ask the company to phase out the use of genetically engineered ingredients in their products.
- **Abstain** on shareholder proposals that ask the company to report on the use of genetically engineered organisms in their products.
- **Abstain** on shareholder proposals asking for reports on the financial, legal, and operational risks posed by the use of genetically engineered organisms.

### ***10d-5. Tobacco-related Proposals:***

Under the pressure of ongoing litigation and negative media attention, tobacco companies and even non-tobacco companies with ties to the industry have received an assortment of shareholder proposals seeking increased responsibility and social consciousness from tobacco companies and as well as firms affiliated with the tobacco industry.

While the specific resolutions for shareholder proponents vary from year to year, activist shareholders consistently make the tobacco industry one of their most prominent targets. Examples of shareholder proposals focused on tobacco include: warnings on the risks of tobacco smoke and smoking-related diseases, attempting to link executive compensation with reductions in teen smoking rates, the placement of company tobacco products in retail outlets, a review of advertising campaigns and their impact on children and minority groups, prohibiting non-tobacco companies from entering into contracts with tobacco companies, and requesting restaurant operators maintain smoke-free restaurants.

In June 2009, the Family Smoking Prevention and Tobacco Control Act was signed into law, giving the FDA authority to regulate the tobacco industry for the first time, including the power to block or approve new products as well as the nicotine and other content in existing tobacco products. This legislation empowers the impose a ban on tobacco advertising within 1,000 feet of schools and playgrounds, require FDA-approved graphic warning labels that occupy 50 percent of the space on each package of cigarettes.

In September 2009, the FDA issued a ban on the sale of flavored cigarettes, exercising its regulatory power in a major way over tobacco for the first time under the new law. The ban affected tobacco products with chocolate, vanilla, clove, and other similar flavors.

- **Vote for** shareholder proposals seeking to limit the sale of tobacco products to children.
- **Vote for** shareholder proposals asking producers of tobacco product components (such as filters, adhesives, flavorings, and paper products) to halt sales to tobacco companies.

- Vote for shareholder proposals that ask restaurants to adopt smoke-free policies and that ask tobacco companies to support smoke-free legislation.
- Vote for shareholder proposals seeking a report on a tobacco company's advertising approach.
- Vote for shareholder proposals at insurance companies to cease investment in tobacco companies.
- Vote for proposals at producers of cigarette components calling for a report outlining the risks and potential liabilities of the production of these components.
- Vote for proposals calling for tobacco companies to cease the production of tobacco products.
- Vote for shareholder proposals asking companies to stop all advertising, marketing and sale of cigarettes using the terms "light," "ultra-light," "mild," and other similar words and/or colors.
- Vote for shareholder proposals asking companies to increase health warnings on cigarette smoking. (i.e.: information for pregnant women, "Canadian Style" warnings, filter safety).

#### ***10d-6. Adopt Policy/Report on Drug Pricing:***

Shareholder proponents, activists and even some legislators have called upon drug companies to restrain pricing of prescription drugs. According to proponents, the high cost of prescription drugs is a vital issue for senior citizens across the country. Seniors have the greatest need for prescription drugs, accounting for about one-third of all prescription drug sales, but they often live on fixed incomes and are underinsured. Today about 20 million elderly people have little or no drug coverage in the U.S. and it is precisely this group, proponents argue, that faces that highest prescription drug costs. Proponents argue that the uninsured and underinsured pay substantially more for drugs than manufacturers' "favored" customers, such as HMOs and Federal agencies, and drug manufacturers are responsible for this discrepancy. Proponents also note that efforts to reign-in pharmaceutical costs will not negatively impact research and development (R&D) costs and that retail drug prices are consistently higher in the U.S. than in other industrialized nations. Proponents highlight this disparity, noting that pharmaceuticals sold to Canada are sold at a lower price than in the United States which has encouraged certain states and municipalities to re-import drugs from Canada, an action currently illegal under U.S. federal law. Pharmaceutical companies often respond that adopting a formal drug pricing policy could put the company at a competitive disadvantage. Against the backdrop of the AIDS crisis in Africa, shareholders have called on companies to address the issue of affordable drugs for the treatment of AIDS, as well as TB and Malaria. While MMA generally supports increased disclosure of economic and legal risks as well as the development of policies favorable to consumer welfare, however we recommend that shareholders do not encourage companies to enact plans that run counter to existing laws and regulations.

- Vote for shareholder proposals to prepare a report on drug pricing.
- Vote for shareholder proposals to adopt a formal policy on drug pricing.
- Vote for shareholder proposals that call on companies to develop a policy to provide affordable HIV, AIDS, TB and Malaria drugs in third-world nations.
- Vote for proposals asking for reports on the economic effects and legal risks of limiting pharmaceutical products to Canada or certain wholesalers.

- Vote case-by-case proposals requesting that companies adopt policies not to constrain prescription drug re-importation by limiting supplies to foreign markets.

### ***10d-7. Healthcare Reform and Disclosure***

Shareholder activity around reforming the healthcare system in the U.S. has increased over the past few years. In 2008, a coalition of investors, primarily members of the Interfaith Center on Corporate Responsibility (ICCR) and labor groups, including the AFL-CIO, proposed a resolution on health care reform at a number of U.S. corporations.

According to the proponents, this health care reform resolution is akin to those proposals that seek corporate endorsement of labor or human rights principles. The resolution requests companies to sign on to a set of general health care reform principles based on those that the Institute of Medicine (IOM) articulated in 2004. The IOM developed its principles after conducting an exhaustive review of the problems relating to the large and growing number of people who have limited access to health care due to the lack of insurance. The proponents seek the endorsement of a set of principles that support healthcare coverage that is universal, continuous, affordable, and of high-quality.

- Vote for shareholder proposals requesting companies to endorse or adopt IOM -based healthcare reform principles.
- Vote for shareholder proposals requesting a report on the implications of rising healthcare costs.

### ***10d-8. Ride Safety***

In recent years there has been a steady increase in the amount of amusement park ride injuries. Proponents of this issue argue that there is little regulation by federal and state authorities in regards to the safety of amusement parks and their rides and that it is hard for consumers to judge the safety of a ride without a standardized recording, reporting, and disclosure mechanism in place. Shareholders have asked companies to issues reports on their policies for amusement park ride safety including a company's medical response policy and all recorded injuries caused by rides over a certain amount of years.

- Vote for shareholder proposals to report on ride safety.

## **10e. Government and Military**

Weapons-related proposals may target handguns, landmines, defense contracting, or sale of weapons to foreign governments.

### ***10e-1. Prepare Report to Renounce Future Landmine Production:***

Although very few companies currently produce landmines, some companies continue to have links to landmine production or produce components that are used to make landmines. Shareholders have asked companies to renounce the future development of landmines or their components, or to prepare a report on the feasibility of such a renouncement.

- Vote for shareholder proposals seeking a report on the renouncement of future landmine production.

### ***10e-2. Prepare Report on Foreign Military Sales:***

Every year, shareholders file proxy resolutions asking companies to account for their policies surrounding the sale of military equipment to foreign governments. The proposals take various forms. One resolution simply calls on companies to report on their foreign military sales, providing information about any military products exported over the past three years, the company's basis for determining whether those sales should be made, and any procedures used to market or negotiate those sales. Another resolution calls for companies to report on "offsets" e.g. guarantee of new jobs in the purchasing country and technology transfers. Offsets involve a commitment by military contractors and the U.S. government to direct benefits back to a foreign government as a condition of a military sale.

- Vote for shareholder proposals to report on foreign military sales or offset agreements.
- Vote case-by-case on proposals that call for outright restrictions on foreign military sales.

### ***10e-3. Depleted Uranium/Nuclear Weapons:***

Depleted uranium is the remains of the element uranium after some components are removed. The main difference is that depleted uranium contains at least three times less <sup>235</sup>U than natural uranium. It is weakly radioactive. However, shareholders want reports on companies policies, procedures and involvement in the said substance and nuclear weapons.

- Vote for shareholder proposals requesting a report on involvement, policies, and procedures related to depleted uranium (DU) and nuclear weapons.

### ***10e-5. Adopt Ethical Criteria for Weapons Contracts:***

Shareholders have requested that companies review their code of conduct and statements of ethical criteria for military production-related contract bids, awards and execution to incorporate environmental factors and sustainability issues related to the contract bidding process. Sustainability is a business model that requires companies to balance the needs and interests of various stakeholders while concurrently sustaining its business, communities, and environment for future generations.

- Vote for shareholder proposals asking companies to review and amend, if necessary, the company's code of conduct and statements of ethical criteria for military production-related contract bids, awards and execution.

## 10f. Animal Welfare

### *10f-1. Animal Rights/Testing:*

Shareholders and animal rights groups, including People for the Ethical Treatment of Animals (PETA), may file resolutions calling for the end to painful and unnecessary animal testing on laboratory animals by companies developing products for the cosmetics and medical supply industry. Since advanced testing methods now produce many reliable results without the use of live animals, MMA generally recommends voting for proposals on this issue. In cases where it can be determined that alternative testing methods are unreliable or are required by law, MMA recommends voting against such proposals. Other resolutions call for the adoption of animal welfare standards that would ensure humane treatment of animals on vendors' farms and slaughter houses. MMA will generally vote in favor of such resolutions.

- Vote for shareholder proposals that seek to limit unnecessary animal testing where alternative testing methods are feasible or not barred by law.
- Vote for shareholder proposals that ask companies to adopt or/and report on company animal welfare standards.
- Vote for shareholder proposals asking companies to report on the operational costs and liabilities associated with selling animals.
- Vote for shareholder proposals to eliminate cruel product testing methods.
- Vote for shareholder proposals that seek to monitor, limit, report, or eliminate outsourcing animal testing to overseas laboratories.
- Vote for shareholder proposals to publicly adopt or adhere to an animal welfare policy at both company and contracted laboratory levels.
- Vote for shareholder proposals to evaluate, adopt or require suppliers to adopt CAK and/or CAS slaughter methods.

## 10g. Political and Charitable Giving

### *10g-1. Lobbying Efforts:*

Shareholders have asked companies to report on their lobbying efforts to refute established scientific research regarding climate change, the health effects of smoking, and fuel efficiency standards. Given the poor performance of the US automotive industry and the highly litigious nature surrounding the tobacco industry, shareholders would like assurances that companies are acting in their best long-term interests.

- Vote for shareholder proposals asking companies to review and report on how companies utilize lobbying efforts to challenge scientific research and governmental legislation.

### ***10g-2. Non-Partisanship/ Political Contributions:***

Proponents of resolutions calling for the abolishment of political contributions or contributions to political campaigns are concerned with the increasing power of corporations in the political process. These resolutions seek to limit the involvement of corporations in the political process.

- Vote for proposals calling for a company to disclose its political and trade association contributions, unless the terms of the proposal are unduly restrictive.
- Vote for proposals calling for a company to maintain a policy of non-partisanship and to limit political contributions.
- Vote against proposals calling for a company to refrain from making any political contributions.

### ***10g-3. Control over Charitable Contributions:***

Shareholders have attempted to impose criteria on companies for the selection of recipients of corporate charitable contributions that would further specific objectives supported by the sponsors of the proposals. MMA believes that management is in a much better position than shareholders to decide what criteria are appropriate for corporate charitable contributions. Also, some of the proposals would require companies to poll their shareholders as part of the grant-making process. Since many companies have hundreds of thousands of shareholders, contacting, confirming, and processing each individual opinion and/or consent would be burdensome and expensive.

- Vote against shareholder proposals giving criteria for requiring shareholder ratification of grants.
- Vote against shareholder proposals requesting that companies prohibit charitable contributions.

### ***10g-4. Disclosure on Prior Government Service:***

Shareholders have asked companies to disclose the identity of any senior executive and/or other high-level employee, consultant, lobbyist, attorney, or investment banker who has served in government. Although the movement of individuals between government and the private sector may benefit both, the potential also exists for conflicts of interest, especially in industries that have extensive dealings with government agencies.

- Vote for shareholder proposals calling for the disclosure of prior government service of the company's key executives.

## **10h. Consumer Lending and Economic Development**

### ***10h-1. Adopt Policy/Report on Predatory Lending Practices:***

Predatory lending involves charging excessive fees to sub prime borrowers without adequate disclosure. More specifically, predatory lending includes misleading sub prime borrowers about the terms of a loan, charging excessive fees that are folded into the body of a refinancing loan, including life insurance policies or other unnecessary additions to a mortgage, or lending to homeowners with insufficient income to cover loan payments.

- Vote for shareholder proposals seeking the development of a policy or preparation of a report to guard against predatory lending practices.

### ***10h-2. Disclosure on Credit in Developing Countries (LDCs) or Forgive LDC Debt:***

Shareholders have asked banks and other financial services firms to develop and disclose lending policies for less developed countries. Proponents are concerned that, without such policies, lending to developing countries may contribute to the outflow of capital, the inefficient use of capital, and corruption, all of which increase the risk of loan loss. In the interest of promoting improved LDC lending practices and responsible loan disclosure, MMA usually recommends voting for this type of proposal. In cases where it can be determined that companies have been proactive and responsible in developing policies, MMA recommends a vote against the proposal's adoption. MMA usually recommends against proposals that call for outright loan forgiveness; such action represents an unacceptable loss to lending institutions and their shareholders. MMA may support such proposals at banks that have failed to make reasonable provisions for non-performing loans as a means to encourage banks to change their policies.

- Vote for shareholder proposals asking for disclosure on lending practices in developing countries, unless the company has demonstrated a clear proactive record on the issue.
- Vote against shareholder proposals asking banks to forgive loans outright.
- Vote case-by-case on shareholder proposals asking for loan forgiveness at banks that have failed to make reasonable provisions for non-performing loans.
- Vote for proposals to restructure and extend the terms of non-performing loans.

### ***10h-3. Community Investing:***

Shareholders may ask for a company to prepare a report addressing the company's community investing efforts. Such proposals also ask companies to review their policies regarding their investments in different communities.

- Vote for proposals that seek a policy review or report addressing the company's community investing efforts.

## 10i. Miscellaneous

### ***10i-1. Adult Entertainment:***

Traditionally, there have not been many proposals filed in the area of adult entertainment. However, with the consolidation of the communications industry, a number of large companies have ended up with ownership of cable companies. These cable companies may offer their customers access to pay-per-view programming or channels intended for adult audiences. Proponents of shareholder proposals on this issue ask cable companies and companies with interests in cable companies to assess the costs and benefits of continuing to distribute sexually-explicit content, including the potential negative impact on the company's image.

- **Vote for** shareholder proposals that seek a review of the company's involvement with pornography.

### ***10i-2. Abortion/Right to Life Issues:***

Shareholder proposals pertaining to abortion and right to life issues are rare. However, in the past shareholders have asked companies to stop manufacturing abortifacient drugs, to separate abortifacient drug operations from other operations, or to discontinue acute-care or physician management practices that involve support for abortion services. As long as abortion is legal, MMA's position is that issues related to abortion should be a personal decision, not a corporate one. Therefore MMA recommends abstaining on anti-abortion and right-to-life proposals.

- **Abstain** on shareholder proposals that address right to life issues.

### ***10i-3. Coffee Crisis***

- Since the early 1990's coffee producing countries have seen a decline in their earnings from the sale of coffee while the retail sale value has risen in coffee in industrial countries. 2001 -2002 saw the lowest price in earnings in 100 years and many coffee producing countries, usually developing countries, have seen a severe drop in their export revenues. In order to help the farmers in these countries gain better payment for their products and also promote sustainability in developing countries; proponents have filed proposals asking companies to set policy and goals to eventually have all their coffee and coffee products Fair Trade certified. **Vote for** shareholder proposals asking for reports on company policies related to the coffee crisis.

### ***10i-4. Anti-Social Proposals***

A number of 'anti-social' shareholder proposals have been filed at companies requesting increased disclosure. While these proposals' requests are very similar to those submitted by shareholder advocates

within traditional socially responsible investor circles, the underlying motives for filing the proposals appear to be very different. In addition to charitable contribution proposals, anti-social proposals addressing climate change, sustainability, and conflicts of interest may be seen at shareholder meetings. Despite implicitly different motivations in some of these proposals, the underlying requests for increased disclosure, in some cases, may be worth shareholder support.

- Vote **against** shareholder proposals that do not seek to ultimately advance the goals of the social investment community.
- Vote **case-by-case** on anti-social shareholder proposals seeking a review or report on the company's charitable contributions.

### *10i-5. Violence and Adult Themes in Video Games*

Perceptions of increased sex and violence in video games have led certain shareholders to question the availability of adult-themed content to children and teens. The Entertainment Software Ratings Board, which provides ratings for video games, has classified approximately 34 percent of the total games it reviews as either Teen, Mature, or Adults Only.

- Vote **for** shareholder proposals asking for reports on company policies related to the sale of mature-rated video games to children and teens.