

# Guidelines to Navigate Universal Proxy Card

**New Universal Proxy Card (UPC) rules implemented in late 2022 changed how director elections are conducted and have made it easier for activists to win board seats.** Activists were more successful in 2023, winning at least one board seat in approximately 80% of public campaigns compared to the recent average of about 33%. Boards must adapt and change how they communicate about each director on the board and evolve their investor engagement efforts accordingly.

Read below for a guide to navigating UPC dynamics for next proxy season and beyond.



## **Bolster director biographies for this new era.**

Including a director's resume with your proxy is no longer sufficient. Investors are placing greater scrutiny on the skills, qualifications and experience of each individual.

*What to do:* Boards must communicate the strength of each director, not just the board as a whole. Update biographies to clearly demonstrate why each member has the right experience and specific skills for this board at this time, and going forward. Prepare a detailed skills matrix that showcases both hard and soft skills. Investors continue to expect board members will have broad business experience, specifically with strategic and financial expertise.



## **Prepare directors to act as communicators.**

Activist attacks are becoming more personal, and a director's past experiences are increasingly fair game. Shareholders expect to hear from board members, not just management, in the UPC era.

*What to do:* Enhance how you present director skillsets and individual qualifications, such as publishing brief videos of each director to bring his/her experience to life – and engage directors in extensive Q&A and messaging practice to prepare for conversations with the activist, other shareholders and proxy advisory firms.



## **Don't forget digital profiles.**

Digital profiles are an essential tool for communicating with shareholders. Providing investors with access to accurate, comprehensive and real-time information at their fingertips is an asset for boards in today's environment.

*What to do:* Create an individual landing page for each director's online biography to improve the online search results and visibility for each director. Prominently display director headshots – and update Wikipedia pages to ensure accuracy.



**Know your vulnerabilities – and address them.**

Activists do their homework. Expect that by the time an activist approaches the board, they will have done extensive diligence, have a solid understanding about your company and have even surveyed shareholders.

*What to do:* Identify areas of vulnerability that may be ripe for a potential attack and prepare messaging that addresses these themes and demonstrates the progress underway. Boards should also identify opportunities for refreshment – even late refreshment is better than no refreshment.



**Engage board members in activism preparedness.**

Just as directors are expected to engage in shareholder conversations and in dialogue with proxy advisors, so too must directors engage in activism preparedness initiatives. In the UPC era, directors must be well-versed in response protocols and strategy.

*What to do:* Engage directors on an annual basis to receive input and alignment on the shareholder activism response strategy developed by management and external advisors.

Universal Proxy Card regulations have introduced an unpredictable factor to shareholder engagement and activism defense. It has never been more important for companies and boards to have clearly articulated near-term goals and long-term strategy that are well-understood by investors, and to ensure they are fully prepared for a range of potential shareholder activism scenarios.

## Proxy Statement Review

### Review your proxy statement to communicate the following metrics increasingly in demand by investors:

- ✓ How often the board and its committees meet
- ✓ Whether the company has instituted a maximum board policy for its directors
- ✓ How the board performs a self-assessment
- ✓ The duties of a lead independent director if the CEO and Chair roles are combined
- ✓ Stock ownership, including recent purchases, by the CEO and directors, especially if the company's stock is underperforming

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