Shareholder Activism

Small Investors Liven Up Meetings

QUITE APART FROM the arbitrageurs and institutional heavyweights who occasionally weigh in against company managements are the perennial mavericks, single-issue activists, and self-proclaimed gadflies who swarm around each year at annual shareholder meeting time.

Typically holding a small stub of equity, they exercise their legal right to get proposals on proxy statements, then show up at the meetings to advance their agendas, often with no chance of having their resolutions pass. Still, they are a breed found only in the U.S., where shareholder rights followed a long, uphill battle. The rebellion started during the Great Depression, when confidence in corporate leadership was at its ebb.

"When I went to my first DuPont meeting in 1939, I was the only stockholder there," recounts John Gilbert, an 82-year-old pioneer of shareholder activism. Gilbert, who is president of Lewis D. & John J. Gilbert Corporate Democracy (New York), plans to attend 25 shareholder meetings this year. He used to go to 80.

Gilbert has been known to dress in motley fashion at such affairs, an affectation prompted, he says, by a corporate lawyer who interrupted him at a Mattel meeting to berate him, "You ought to be a clown in a circus."

This year, Gilbert has a proposal before DuPont's equity investors, asking them—as he does every year—to adopt the practice of cumulative voting. That would allow him to multiply his 1,708 shares by the number of board members—now 13—and cast all 22,204 votes for one board member. Ingersoll-Rand and a handful of other companies have adopted cumulative voting, but the vast majority follow the familiar vote-the-slate procedure.

With cumulative voting, "we can get independent directors on the board," says Gilbert. "We want to keep these companies honest."

Alfred R. Bader, who had been president of Aldrich Corp., is now the largest individual shareholder of its successor, Sigma-Aldrich (St. Louis). Bader's proposal on this year's proxy statement calls for docking the pay of Sigma executives to make up for $480,000 in fines the company paid to settle Department of Commerce allegations of exporting toxics illegally.

Gilbert: Pioneer of the movement.

Although Sigma claims that its board "isn't aware of any other public company [that has] a similar compensation policy," Bader counters that Wisconsin Energy (Milwaukee) has. A spokesperson for the utility confirms that top managers "took a hit" to their 1996 bonuses to cover regulatory penalties.

Another colorful activist, Evelyn Y. Davis, wants DuPont to disclose all its contributions to political candidates and causes. "I've [submitted] this proposal at 50-60 companies over the years—it's not directed at DuPont," Davis says.

Gilbert considers his 1946 stand against insurance company Transamerica a defining moment for outside shareholders. He says he proposed to the directors at that sparsely attended meeting that the location be moved the following year from Delaware, the state of incorporation, to California, where the operations were. He further proposed that shareholders should approve management's choice of auditors rather than just the directors, and that those who could not attend the meeting be provided with its minutes. As uncontroversial as these matters seem today, the investor's right to make such proposals was not so well defined in the 1940s, according to Gilbert. Transamerica management challenged them. "The Transamerica case is the Magna Carta of the rights of shareholders," Gilbert proclaims.

Other investors with ethical or environmental imperatives often get their messages onto their companies' proxy statements just to raise the issues. Several religious orders and commercial enterprises affiliated with the Roman Catholic Church have chided chemical companies that serve as suppliers to the tobacco industry. Three groups in Pennsylvania—Franciscan Health Systems, Neumann College, and Our Lady of Angels Convent—combined their 3,900 shares to urge Eastman Chemical to stop selling acetate filter tow to cigarette makers. Similarly, Catholic Healthcare West led the charge to stop H.B. Fuller (St. Paul, MN) from selling adhesives to that market.

None of these proposals, which were perennials at these companies, made it onto the most recent proxy statements. Still, one Fuller shareholder—The Domini Social Equity Fund (Boston)—took up the cause and filed a similar proposal at Fuller. "We believe [Fuller's] strong reputation [for social responsibility] is undermined by [its] involvement in the tobacco industry," reads the proposal, which would require the company to report sales and potential liabilities from this source.

According to the Investor Responsibility Research Center (IRRC; Washington), executive compensation issues, such as Bader's, prompt the most shareholder proposals. IRRC director/social issues Meg Vorhees says the most popular nonpocketbook issue to come to a shareholder vote is the tobacco connection, but the most commonly submitted for board consideration is adoption of an environmental code of conduct. Vorhees estimates that two-thirds of shareholder proposals submitted to the board never make it to a proxy vote. Some of them are blocked on legal or regulatory grounds. Others are parried by an inside director who is willing to lend an ear to small shareholders with strong opinions.

"Sometimes they just want to talk it out," Vorhees says. —WILLIAM FREEDMAN