# Opportunistic Proposals by Union Shareholders

**John G. Matsusaka**
University of Southern California

**Oguzhan Ozbas**
University of Southern California

**Irene Yi**
University of Toronto

This paper investigates whether labor unions use proposals opportunistically to influence contract negotiations. Our empirical strategy relies on the observation that proposals have higher bargaining-chip value in contract expiration years, when a new contract must be negotiated. We find that in contract expiration years compared with nonexpiration years, unions increase their proposal rate by one-fifth, particularly proposals concerning executive compensation. Union proposals made during expiration years are less likely to be supported by other shareholders or a leading proxy advisor; the market reacts negatively to union proposals in expiration years; and withdrawn union proposals are accompanied by higher wage settlements. (*JEL* G30, G32, G34, G38, J51, J52, K22)

Received March 14, 2017; editorial decision July 19, 2018 by Editor Wei Jiang. Authors have furnished an Internet Appendix, which is available on the Oxford University Press Web site next to the link to the final published paper online.

The central question in corporate governance is how to ensure that managers are responsible stewards of corporate resources (Shleifer and Vishny 1997). American law gives shareholders two tools for this purpose: they choose the company's directors and—less well known—they have the right to propose, recommend, and approve company policies through the shareholder proposal

We are grateful for helpful comments from Ashwini Agrawal, Tom Chang, Kenneth Dau-Schmidt, Harry DeAngelo, Ran Duchin, Leonard Kostovetsky, David Primo, Dennis C. Mueller, Paige Ouimet, Sakya Sarkar, Natalia Schnitser, Bernard Sharfman, Randall Thomas, Yanhui Wu, and workshop participants at HEC Paris, Purdue University, University of Southern California (USC), Yale Law School, American Finance Association Meetings, Strategy and the Business Environment Conference at the University of Rochester, University of Washington Summer Finance Conference, and Workshop on Corporate Governance and Investment at Sabancı University. We thank USC and the Katz Research Fellowship for financial support. Supplementary data can be found on *The Review of Financial Studies* Web site. Send correspondence to Oguzhan Ozbas, USC Marshall School of Business, 701 Exposition Blvd, HOH 231, Los Angeles, CA 90089; telephone: (213) 740-0781. E-mail: ozbas@usc.edu.


doi:10.1093/rfs/hhy125 Advance Access publication December 3, 2018

process. While shareholder proposals have been available under state law for more than a century, they were only embraced by reformers in the late 1980s and 1990s. Since 1997 there have been more than 16,000 proposals at large corporations. Recent proposals have pressured companies to cut executive pay, remove staggered boards, replace supermajority with majority voting standards, and disclose their political contributions, among other things.[1] While most proposals are advisory, reformers are pressing for greater rights to make binding proposals, as in the United Kingdom and continental Europe (Cziraki, Renneboog, and Szilagyi 2010).

Yet many policymakers and scholars remain skeptical of shareholder proposals out of concern that activist shareholders might use the process to advance their private interests. In its 2011 *Business Roundtable* decision, the D.C. Circuit Court of Appeals vacated a new Securities and Exchange Commission (SEC) proxy access rule on the grounds that it failed to assess the costs and benefits of the rule, and in particular, neglected to consider the possibility that "union and state pension funds might use [proxy access] as leverage to gain concessions, such as additional benefits for unionized employees, unrelated to shareholder value." However, the concern with "opportunistic proposals" (to borrow a term from the literature) is not universal, and plausible arguments have been advanced why such proposals are unlikely to occur. Schwab and Thomas (1998, 1085) note that union pension funds operate under a web of regulatory requirements that limit their ability to pursue private benefits, notably the Taft-Hartley Act and ERISA ("All of these factors tend to indicate that there is little potential for labor opportunism with Rule 14a-8 corporate-governance proposals"); and Bebchuk (2005, 885) argues that the "concern about potential 'blackmail,' however, does not appear to be significant [because] management would not be particularly worried about a threat to bring a proposal for a change that would likely be value-decreasing."[2]

The purpose of this paper is to provide an empirical assessment of the prevalence of opportunistic proposals by labor unions, the group most often alleged to use the proposal process opportunistically. The main research challenge is distinguishing opportunistic from "regular" proposals. Our empirical strategy relies on the idea that unions have a heightened incentive to make proposals for private reasons during contract negotiations: a union can enhance its bargaining position by initiating a proposal that managers dislike and offering to withdraw the proposal if the company makes concessions.

[1] Examples: "Janus cuts CEO pay 40 percent after shareholder vote," *Reuters* (Kerber 2012). In 2005, only nine of the S&P 100 companies used majority voting for director elections; by January 2014, almost 90% of the S&P 500 had adopted majority voting (Choi et al. 2016). The number of S&P 500 companies with staggered boards declined from 300 in the year 2000 to 60 in 2013 (Harvard Shareholder Rights Project: http://srp.law.harvard.edu/index.shtml). In 2015, shareholders rejected proposals sponsored by labor-affiliated groups to break up Bank of America, Citigroup, JPMorgan Chase, and Wells Fargo.

[2] The countervailing pressures on union pension funds, and concerns about enhancing their power as shareholders, have been much discussed: see Anabtawi (2006), Bainbridge (2006), Bebchuk (2005), Larcker and Tayan (2012), Romano (2001), Schwab and Thomas (1998).

We estimate the change in the number of union proposals in years with contract negotiations compared with non-negotiation years, and interpret heightened proposal activity in negotiation years as evidence of opportunism. This interpretation is based on the observation that negotiations occur when existing contracts expire, and expiration dates are essentially exogenous once established at the initiation of a contract.

Our data combine information on collective bargaining negotiations that has received little attention in this context with hand-matched data on proposals. Our main finding based on 3,501 firm-years of data during the period 1997–2013 is that labor unions increase the number of proposals they make in the months surrounding the expiration of a contract. The magnitude of the increase is material: the probability of a union-sponsored proposal increases by a statistically significant 4.7% during a year with a median-sized contract negotiation from its base level of 22.1%, a jump of about one-fifth in proposal activity. This finding is robust to various controls, including firm and year fixed effects, and financial and governance variables.

An alternative interpretation of the jump in union proposals during negotiation years is that there are more opportunities to increase corporate value through proposals in contract expiration years compared with nonexpiration years. If so, we would expect more proposals from other types of shareholders, such as activist hedge funds, individuals, and religious groups. We examine this possibility and find much smaller and statistically insignificant changes in the number of proposals from nonunion shareholders in the months surrounding an expiring contract—only union proposals surge in contract expiration years.

Our baseline estimates consider every instance of an expiring contract, but we would expect to see opportunistic proposals mainly for the subset of negotiations that are contentious; when the parties reach agreement on terms amicably and quickly, there is no need for threatening proposals. To the extent that unions are making proposals opportunistically, then, we expect to see more proposals during contentious than amicable negotiations. To explore this, we compare proposal rates at companies with a history of labor strife to companies with amicable labor relations. For firms with a history of labor strife, the probability of a union proposal is 21.8% higher in an expiration than nonexpiration year, a difference that is statistically significant at the 1% level, almost double the base rate, and much larger than the 3.8% incremental probability in a firm without a history of labor strife. The pronounced increase in union proposals during contentious negotiations supports the interpretation of these proposals as opportunistic, and the magnitude is substantial.

To shed further light on the nature of union proposals, we provide several other pieces of evidence. Each of these pieces is subject to some limitations that we discuss, but taken together tend to point in a consistent direction:

- *Content of proposals.* From a bargaining perspective, the most effective proposals are those that impose direct costs on managers. Restrictions

on executive compensation are perhaps the most obvious example. We find that 38% of union proposals concern executive compensation, compared with 15% of nonunion proposals, and that the probability of a union making a compensation proposal jumps by 10.7% (statistically significant at the 5% level) in contract expiration years compared with nonexpiration years in firms with previous labor strife. Unions also increase proposals related to director qualifications and elections in expiration years (also statistically significant), but do not increase other types of proposals.

- *Assessments of other investors.* The votes of other shareholders provide another perspective on union proposals. For the subset of proposals that were not withdrawn and went to a vote, we find that union proposals during expiration years are 36% less likely to be approved than union proposals made during nonexpiration years, an economically and statistically significant difference. Similarly, we find that union proposals attract 14% fewer votes in expiration than nonexpiration years, a statistically significant difference.
- *Assessments of a proxy advisor.* We also examine the recommendations of a leading proxy advisory firm, Institutional Shareholder Services (ISS). We find that ISS is 19% less likely to issue a recommendation in favor of a union proposal that was made during expiration than nonexpiration years (statistically significant at the 10% level).
- *Market reaction to SEC no-action letter filings.* If a company wishes to omit a proposal from the proxy, it can file a statement with the Securities and Exchange Commission (SEC) requesting a "no-action letter" from the agency. These filings are immediately made public, and we argue, provide the first public announcement of a proposal. For a small sample of union proposals that became public in no-action letter filings, we calculate the abnormal return on the date of the SEC filing. The mean abnormal return is $-0.99\%$ over a $[-1,1]$ window for proposals during expiration years, significantly different from zero, compared with a statistically insignificant 0.93% during nonexpiration years. This evidence is consistent with the idea that when investors learn about union proposals, they are skeptical of those that are made in the midst of contract negotiations.
- *Wage settlements.* Intuitively, if a union's proposal is intended as a bargaining chip to be withdrawn as part of a compromise with the company, then the employment contract should be better for the union when a proposal is withdrawn than when it goes to a vote. Proposals are often withdrawn: roughly 30% of proposals that are not disqualified by the SEC are withdrawn without a vote. We examine 877 collective bargaining outcomes for firms in our sample. Annual wage increases under a new contract are 0.29% higher following negotiations with a withdrawn proposal than negotiations with a proposal that went to a

vote (compared with a mean of 2.81%), a difference that is statistically significant at the 1% level. We do not find a statistically significant connection for other components of compensation such as health care, pension benefits, and sick leave.

These findings taken together show that union proposals are different during negotiation than non-negotiation years, and suggest that negotiation-year proposals are less likely to enhance firm value.

A natural policy question is how regulations affect the use of opportunistic proposals. We examine three laws. First, the Taft-Hartley Act requires many union pension funds to be managed by boards of trustees that are evenly divided between management and union representatives. It is difficult to imagine that management representatives would acquiesce to proposals that are intended to strengthen the union's hand in contract negotiations (Schwab and Thomas 1998). We manually identify the precise sponsor of each union proposal, and show that only 18% of them originated from so-called Taft-Hartley funds; the rest were sponsored by union general funds (such as the SEIU General Fund) and union-affiliated entities (such as Amalgamated Bank). Labor activism does not appear to be constrained by having joint trustees for many pensions because unions can simply originate their proposals through other entities. Second, many states have laws that place limits on collective bargaining. Restrictions on collective bargaining could make proposals more or less valuable as bargaining chips, depending on whether proposals are substitutes or complements for other bargaining strategies. We find that unions are less likely to make opportunistic proposals in states with right-to-work laws that restrict union power (significant at the 5% level), suggesting that proposals complement union power. Third, the Dodd-Frank Act requires companies to hold say-on-pay votes at least once every three years. By universalizing say-on-pay, the law obviates one of the more popular topics for union proposals. We find that removing this topic from the menu of options has no detectable effect on union proposal activity, suggesting that ample alternative topics are available.

Even if union proposals are intended to be used as bargaining chips to provide the union with a private benefit, many proposals are not withdrawn and end up going to a vote. If these proposals are beneficial to firm value, even opportunistic proposals might produce collateral benefits for the other shareholders. We examine a set of eight governance provisions that some activists and scholars believe are important for corporate performance. Firms are more likely to change these provisions in the "good governance" direction in years with a shareholder proposal, but there is no change in contract expiration years with union proposals, suggesting that opportunistic proposals do not induce better corporate governance as a collateral benefit.

It is difficult to reconcile the various findings of the paper—more than a dozen in all—with the view that union proposals are motivated solely to increase shareholder value. Accordingly, we conclude the paper by discussing what sort

of opportunism story would account for the findings taken as a whole. Without repeating that analysis in detail, in outline form the story we find most plausible is this: Shareholders make "regular" proposals each year based on information they discover about potential opportunities to increase firm value. Managers accept those that accord with their own information of what increases value, and the rest go to a vote. Because the underlying information does not depend on whether it is an expiration year or not, nonunion proposals do not vary in terms of frequency or content in expiration versus nonexpiration years. Unions, in contrast, find it useful to have a bargaining chip during contract negotiations; accordingly, they may sponsor an "opportunistic" proposal in expiration years. Such proposals are designed to be personally costly for managers, and their value implications are worse in expectation than "regular" proposals. Managers grant wage concessions in exchange for withdrawn proposals when they consider the proposal's personal cost and probability of approval if it goes to a vote to be sufficiently high. From this it immediately follows that unions make more proposals in expiration years than nonexpiration years, especially in contentious environments; they make more compensation-related proposals in expiration years; and they originate more proposals from non-Taft-Hartley funds in expiration years. Withdrawn proposals during negotiations indicate a side agreement, explaining why wage settlements are better for the union after withdrawals. Because the quality of opportunistic proposals is lower on average than regular proposals, and managers are more likely to grant concessions to proposals that shareholders would approve, those proposals that go to a vote in expiration years are less likely to pass, less likely to be endorsed by ISS, and produce a negative return when investors learn about them. For similar reasons, union proposals are less likely to trigger corporate governance changes in expiration than nonexpiration years.

This paper contributes to several ongoing discussions. In terms of policy, federal law requires benefit-cost analysis before the SEC adopts reforms, and it was the lack of such analysis that led to the D.C. Circuit Court's *Business Roundtable* decision. Our study provides several new empirical facts to consider in thinking about the benefits and costs of shareholder rights. If our finding that shareholder proposals might have a downside extends beyond unions to other special interest groups, it might help explain why some studies find lower firm values associated with increased shareholder rights (Akyol, Lim, and Verwijmeren 2012; Larcker, Ormazabal, and Taylor 2011; Stratmann and Verret 2012). In terms of shareholder activism, our study adds to evidence that "low-cost activism tools," such as shareholder proposals and vote-no campaigns, can be effective (Del Guercio and Hawkins 1999; Ertimur, Ferri, and Muslu 2011). In terms of union motives, our findings are consistent with evidence that unions may not pursue firm value maximization when acting as investors (Prevost, Rao, and Williams 2012; Agrawal 2012), although they are somewhat at odds with evidence in Ertimur, Ferri, and Muslu (2011), discussed in Section 1. More broadly, our study contributes to the literature on monitoring

by shareholders, which emphasizes that some shareholders may be ineffective because of conflicted interests that lead them to support non-value-maximizing actions.[3]

## 1. Institutional Background and Related Literature

Shareholder proposal rights are rooted in state corporation law and corporate charter documents, but the proposal process is governed by SEC Rule 14a-8. The SEC began regulating the process in 1935 based on Section 14 of the Securities Exchange Act of 1934, which charged the agency to develop proxy regulations "in the public interest and for the protection of investors." Over time, the SEC developed a body of regulations that came to be collected in Rule 14a-8.[4]

The proposal process begins with a proponent submitting a proposal and supporting statement to the company. The resolution can take the form of an amendment of the company's bylaws, or it can be a request for the company to take some action. The company must include the proposal in its proxy materials as long as it meets the conditions specified in Rule 14a-8, such as the proposer having continuously held at least $2,000 in market value or 1% of the company's securities for at least one year by the date of the annual meeting.[5] A company may seek to omit a proposal by notifying the SEC of its intention to do so, and requesting a so-called no-action letter from the SEC indicating that the agency will not take an action against the company. About 17% of all submitted proposals are omitted following a no-action letter.[6]

Proposals to amend bylaws are binding on the firm, but such proposals are uncommon (about 2% of the total); most proposals are advisory in nature so as not to conflict with state laws that prohibit binding proposals. In principle, managers can ignore such "precatory" proposals; however, there is convincing evidence that companies do respond to proposals, even those that receive less than 50% approval, and responsiveness increases with votes in favor (Thomas and Cotter 2007; Ertimur, Ferri, and Stubben 2010). One reason companies feel

---

[3] For evidence on mutual funds, see Davis and Kim (2007) and Cvijanovic, Dasgupta, and Zachariadis (2016). For evidence on public pension funds, see Romano (1993) and Del Guercio and Hawkins (1999) (the latter not finding evidence of conflict).

[4] For histories of the shareholder proposal rules, see Liebeler (1984) and Fisch (1993); for developments over the past two decades, see Bainbridge (2012). Rule 14a-8 has been amended many times over the years, most recently in September 2011, when 14a-8(i) was amended so that a company could no longer exclude proposals facilitating director nominations by shareholders.

[5] Rule 14a-8 allows a company to omit a proposal from the proxy if: the proposer has not owned sufficient shares for one year; the company was not notified at least 120 days before the proxy statement is distributed; the proposal is longer than 500 words; the proponent offers more than one proposal; the company already has substantially implemented the proposal; the proposal conflicts with a management proposal; the proposal is the same as a recently defeated proposal; or the proposal is improper under state law. Shareholders can also make "floor resolutions" directly at annual meetings.

[6] This number is taken from Matsusaka, Ozbas, and Yi (2017), which contains a detailed discussion and analysis of the no-action letter process for shareholder proposals.

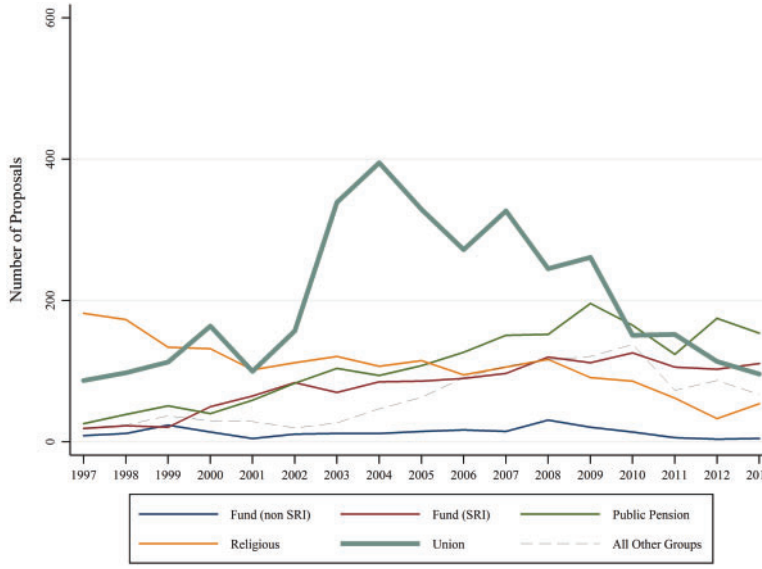


**Figure 1**
**Shareholder proposals by sponsor type**

a need to follow advisory votes is that proxy advisory firms may recommend voting against reappointment of the directors if they fail to implement a successful shareholder proposal. Companies often negotiate with proponents after a proposal is submitted, and if they find a mutually agreeable action, the proposal is withdrawn and does not go to a vote. In this way, many proposals have an impact even without going to a vote.

A troubling feature of the proposal process is its dominance by activists that may not be focused on value maximization. Figure 1 shows the fraction of proposals sponsored by organized groups (individuals, who sponsor the most proposals, are omitted from the figure). Traditional return-focused investors such as hedge funds are bit players in this process—to the extent they are active, they work through other channels such as proxy fights—and the big mutual funds are entirely absent. Unions are the most active organizations, followed by public pensions, religious groups, and socially responsible investment (SRI) funds. Labor unions are a traditional cause of concern because they have conflicting interests when it comes to firm policy (Agrawal 2012): they want high returns on their pension assets for retired members, but they want high wages for current union members.

There are two ways a union might use the proposal process to advance its private agenda. One way is by persuading the other shareholders to support a proposal that helps the union at a cost to shareholders at large. We cannot dismiss this possibility out of hand because of information frictions in the voting environment, but it seems unlikely that other shareholders could be persuaded

to vote against their own interests regularly.[7] The other, more tenable strategy is for a union to use proposals as bargaining chips: the union proposes a policy that managers find disagreeable (such as a cap on executive pay), but offers to withdraw the proposal if the company accommodates the union on some other issue, in effect providing a "side payment." Proposals that appeal to other shareholders would be particularly credible threats, but a proposal does not need to increase value in expectation to make an effective bargaining chip—the only requirement is that managers are willing to pay to avoid a vote, which could happen if management wishes to avoid even a small probability of passage or simply prefers not to have an open discussion of the issue (few managers relish the thought of a public discussion of their compensation, for example).[8] The fact that roughly 30% of all proposals are withdrawn indicates that a fair amount of bargaining and accommodation is taking place.

In this paper, we are interested in side payments that take the form of collective bargaining concessions, specifically, the possibility that a union will initiate a proposal with a company during contract negotiations, and implicitly offer to withdraw the proposal in exchange for wage concessions. Our empirical strategy is to use the fact that once established, the expiration date of a contract is exogenous (typically three to five years down the line). We identify such proposals based on the observation that the private benefit from a proposal rises for unions during contract negotiation years; if unions use proposals opportunistically, we should observe an increase in their proposal activity in negotiation years. Conversely, we should not observe an increase in proposals from other types of sponsors in contract expiration years because other sponsors do not experience a concurrent spike in private benefits.

Several previous studies have investigated union motives in shareholder proposals, with mixed findings. One approach, pioneered by Thomas and Martin (1998), has been to compare the votes received by union proposals compared with other proposals. Thomas and Martin (1998) found that union proposals received more support than others in 1994, but Thomas and Cotter (2007) found lower support for union proposals in 2002–2004, and Ertimur, Ferri, and Muslu (2011) found lower support for union proposals related to compensation during 1997–2007. A limitation of this approach is that it cannot assess proposals that are withdrawn before a vote, and those proposals are particularly suspect as being opportunistic. Another approach has been to estimate the announcement return to union proposals: Cai and Walkling (2011) found a negative return from announcements of union-sponsored say-on-pay proposals during 2006–2008, while Prevost, Rao, and Williams (2012)

[7] The reason for not dismissing this possibility out of hand is that many passive investors follow the recommendations of proxy advisory firms, and there is some question as to whether those recommendations actually lead to value maximization (Larcker, McCall, and Tayan 2013; Larcker, McCall, and Ormazabal 2015).

[8] Matsusaka and Ozbas (2017) show theoretically that the manager's optimal response to a threat is almost always to "pay off" the activist.

found an insignificant abnormal return for union proposals in general during 1988–2002. A limitation of this approach is that researchers typically can only identify announcement dates for a small subset of proposals because they are rarely announced publicly. Closest in spirit to our study, Ertimur, Ferri, and Muslu (2011, hereafter EFM) also examined the sponsorship of compensation-related shareholder proposals, specifically in order to gain insight into union motives. The study estimated regressions explaining whether a given proposal was sponsored by a union versus some other type of shareholder; none of the key explanatory variables—the firm's unionization status, existence of a labor dispute, and concurrent contract negotiations—reliably predicted the type of sponsor. Our study asks a different question: were unions more likely to make proposals in expiration than nonexpiration years?[9] Finally, Prevost, Rao, and Williams (2012) report suggestive evidence on wage effects: the study finds no connection between union proposals and a company's labor expense. It may be difficult to detect wage effects through changes in total labor expense because the company could reduce its nonunion labor expenses at the same time it increases union wages, or conversely.

## 2. Data and Methods

### 2.1 Data sources

This project involves the combination of eight data sets and additional hand-collected data; most had to be cleaned and in some cases manually merged. The details are described in Appendix 28. Here we outline the main features of the data sources.

The main results relate shareholder proposals to contract expirations. Information on shareholder proposals was taken from the Institutional Shareholder Services (ISS) Proposals database (formerly RiskMetrics). This database lists shareholder proposals received by companies in the S&P 1500 index. The ISS Proposals database assigns a type to each sponsor, such as activist fund, individual, or union. Because these classifications are sometimes inconsistent within the database, sometimes ambiguous, sometimes incorrect, and often missing, we created new classification categories.[10] We took care to identify union-affiliated sponsors (such as Amalgamated Bank) as accurately

[9] We also utilize a sample that is broader than EFM; our sample includes all (not only compensation) proposals, six more years, and withdrawn proposals. For the reader interested in a comparison, we replicated the last regression in Table 3, panel C, of EFM, in which contract expiration is the key explanatory variable. Using our full sample, we find that proposals were more likely to be sponsored by unions than other shareholders in expiration versus nonexpiration years, significant at the 1% level. When we reduce our sample so that it is broadly similar to EFM (excluding non-compensation proposals, years after 2007, and withdrawn proposals), we still find that contract expiration predicts whether a proposal was sponsored by a union versus a nonunion shareholder, but statistical significance declines to the 10% level.

[10] Because public-sector unions are unlikely to have a direct interest in collective bargaining outcomes in corporations, we only include privatesector unions in the category of union sponsors. Public employee unions and their pension funds are considered separately.

**Table 1**
**Overview of sponsor types**

| Sponsor type | Description | Leading examples | % Firm-years with at least one proposal | % Proposals in ISS database |
|---|---|---|---|---|
| Fund (non SRI) | Investment funds, mutual funds, private equity funds, financial advisors | TIAA-CREF, Cevian Capital, Miller/Howard Investments, RAM Trust | 1.6 | 1.5 |
| Fund (SRI) | Investment funds with objectives beyond maximizing shareholder return | Calvert, Domini Social Inv., Harrington Inv., Trillium Asset Man. Walden Asset Man | 8.9 | 8.8 |
| Individual | Individual shareholders not representing or affiliated with one of the other organizations | Gerald Armstrong, John Chevedden, Evelyn Davis, Rossi Family, Ken & William Steiner | 32.0 | 37.3 |
| Other | Educational organizations, nonfinancial companies, multiple sponsors | | 0.4 | 3.0 |
| Public Pension or Public Union | Public employee pension funds, public employee unions | CalPERS, New York City pension funds, NYS Common Connecticut Retirement Plans & Trust Funds, AFSCME | 12.5 | 11.9 |
| Religious | Religious groups, pension funds controlled by religious groups | Adrian Dominican Sisters, Capuchin Franciscan Province of St. Joseph, GBOPHB (United Methodist Church), ICCR | 16.6 | 11.7 |
| Special Interest | Groups advancing special interest objectives | Action Fund Management, As You Sow, National Legal and Policy Center, PETA, United for a Fair Economy | 7.3 | 4.1 |
| Union | Private sector labor unions and pension funds, retiree associations, bank controlled by unions, individuals affiliated with union or retiree association | AFL-CIO, Amalgamated Bank/LongView, Carpenters, IBEW, LiUNA, Teamsters, SEIU, Sheet Metal Workers | 22.1 | 21.8 |

The main sample contains 3,501 firm-years. The ISS Proposals database (1997–2013) contains 15,224 observations, excluding observations that do not include sponsor information. Percentages sum to 100.1 in last column due to rounding.

as possible, and corrected obvious misclassifications. The number of proposals by type of organization is presented in Figure 1. Table 1 describes the classifications in detail and reports the most active sponsors in each category.

The ISS Proposals database names the sponsor but does not reliably name the precise fund that holds the shares that are the basis for the proposal. For example, the database may identify the sponsor as "AFL-CIO" without specifying if it was the AFL-CIO Reserve Fund or the AFL-CIO Equity Index Fund. We manually collected this information from proxy statements and no-action letters. Table 2 lists the most active union sponsors, and the funds they use to make their proposals.

Information on expiration of labor contracts was taken from the BNA Labor Plus database maintained by the Bureau of National Affairs. Under the National Labor Relations Act of 1935, firms with union contracts are

**Table 2**
**Union summary information**

| Labor group | Specific funds | # in full ISS database | # in this paper's sample |
|---|---|---|---|
| AFL-CIO | AFL-CIO Equity Index Fund; AFL-CIO Reserve Fund | 358 | 131 |
| Amalgamated Bank | LongView Collective Investment Fund; LongView LargeCap 500 Index Fund; LongView MidCap 400 Index Fund | 346 | 82 |
| Carpenters | Massachusetts Carpenters Pension and Annuity Fund; Massachusetts State Carpenters Pension Fund; United Brotherhood of Carpenters Pension Fund | 851 | 234 |
| Electrical Workers | International Brotherhood of Electrical Workers Pension Benefit Fund; National Electrical Benefit Fund | 269 | 119 |
| Laborers | Central Laborers' Pension, Welfare and Annuity Funds; Laborers Local Union and District Council Pension Fund; Massachusetts Laborers' Pension Fund | 331 | 96 |
| Others | Independent Association of Publishers' Employees; International Brotherhood of DuPont Workers; Trowel Trades S&P 500 Index Fund; UNITE Staff Retirement Plan | 407 | 180 |
| Plumbers | Plumbers & Pipefitters National Pension Fund; United Association S&P 500 Index Fund | 155 | 64 |
| SEIU | SEIU General Fund; SEIU Master Trust | 132 | 37 |
| Sheet Metal Workers | Sheet Metal Workers' Local Unions and Councils Pension Fund; Sheet Metal Workers National Pension Fund | 243 | 85 |
| Teamsters | International Brotherhood of Teamsters General Fund; Teamsters Affiliates Pension Plan (TAPP) | 271 | 102 |

This table reports the labor organizations that submit shareholder proposals, and the number of proposals submitted by each union during the period 1997–2013.

required to file notices of contract expiration with the Federal Mediation and Conciliation Service (FMCS). These filings contain information including employer name, labor union name, contract expiration and notice dates, and the number of employees involved in the collective bargaining. Information on work stoppages was taken from the BNA Work Stoppage database, and information on collective bargaining outcomes was taken from the BNA Settlements database.

Information on proposal passage, voting results, and ISS recommendations came from ISS Voting Analytics, which covers the Russell 3000 companies during the period 2003–13. Information on firm-specific governance provisions was taken from the ISS Governance database (formerly IRRC Takeover Defense database). Information on board independence and the board chair was taken from the ISS Directors database. Both databases cover the S&P 1500 companies. Information on SEC no-action letter filings was collected from PDF files posted on the SEC web site. Finally, we used Compustat as the source for firm financial information.

**Table 3**
**Industry distribution of sample firms**

| | Firms in sample | | Proposals received | |
|---|---|---|---|---|
| Industry group (SIC) | *N* | % | *N* | % |
| Mining (10–14) | 2 | 1 | 13 | 0.2 |
| Manufacturing (20–39) | 137 | 52 | 3,176 | 56 |
| Transportation (40–49) | 79 | 30 | 1,577 | 28 |
| Wholesale and Retail (50–59) | 23 | 9 | 452 | 8 |
| Finance, Insurance, Real Estate (60–67) | 5 | 2 | 95 | 2 |
| Services (70–89) | 13 | 5 | 107 | 2 |
| Conglomerate (9997) | 4 | 2 | 254 | 4 |

This table reports the number of sample firms belonging to each industry group, defined by SIC code, and the number of proposals received by each group. Firms that belong to more than one industry group are counted for each industry.

There were two challenges in combining the databases. First, none of the three BNA databases include firm identifiers such as CUSIP or GVKEY, so firms could be identified only by their names as they appear on the FMCS filings. We manually matched these employer names with company names in the other databases. Second, the BNA databases indicate the enterprise involved in the labor action but often do not indicate if the enterprise was independent or a subsidiary or plant of another company. Because shareholder proposals are received by the parent company, we manually matched subsidiaries to companies. When a subsidiary changed its ownership during the sample period, we linked it to the owner at the time of the contract expiration.

The time period of our study is determined by the ISS Proposals database, which spans 1997–2013, while the coverage of companies is determined by BNA. To make the project manageable and reduce noise, we limit the sample to Compustat companies that had at least one contract involving 500 or more contract employees, which produces a BNA sample of 389 large companies. This filter was needed because there are more than 210,000 unique employer names in the full contract listing database, and each name would have to be matched manually to the other databases. Intersecting the BNA data with the ISS data resulted in a final sample of 256 firms, for a total of 3,501 firm years. These companies received 5,732 proposals during the sample period. Table 3 describes the distribution of sample firms by industry.

The final sample covers a significant fraction of major American companies: 220 firms were included in the Fortune 500 at some point, and 187 were part of the S&P 500 index. The sample firms are not representative of the S&P 1500 firms, as would be expected since they are selected based on having union contracts that must be filed with the FMCS. The Internet Appendix provides summary statistics for our sample and compares them to the S&P 1500 firms. The sample firms are primarily in manufacturing and transportation, and on average, are 4.2 times larger than the mean company in the S&P 1500 index, as measured by total assets. They also have lower cash holdings and higher leverage. Our sample firms do account for a healthy fraction of shareholder

proposals: 37% of proposals in the ISS Proposals database, which covers all firms in the S&P 1500 index, were received by the firms we study.

### 2.2 Variables and methods

The backbone of our analysis is data on contract expirations in a given year, and data on shareholder proposals that were received in the year prior to the expiration. The ISS Proposals database does not provide the date that a proposal was submitted to the company, but rather the date of the annual meeting at which the proposal would be put to a vote. We say that a proposal was initiated during negotiations if the annual meeting for the proposal took place in the year before the contract expiration.

We define a year in terms of the annual meeting, and define shareholder proposals intended for that meeting to be part of that year. Contract expiration information is linked to proposal information for the quarter of the annual meeting and the following three quarters. For example, if a company's annual meeting took place in the second quarter of 2010, then 2010 would be a contract expiration year if there is at least one expiring contract in between the second quarter of 2010 and the first quarter of 2011, and a nonexpiration year otherwise. Many firms have more than one contract expiring in a given year. The number of employees covered by expiring contracts in a given year is defined as the sum of covered employees during the quarter of the annual meeting that year and in the three following quarters. In the example above, the number of covered employees in 2010 is the sum of covered employees in between the second quarter of 2010 and the first quarter of 2011. In the same way, we linked data on work stoppages to the proposal data. Table 4 provides summary statistics for the labor variables used in the analysis.

Our main results seek to explain the frequency of shareholder proposals as a function of contract expirations. Our workhorse is a linear probability

**Table 4**
**BNA summary information**

| | Mean | Median | S.D. | Min | Max | *N* |
|---|---|---|---|---|---|---|
| *Contract Expiration* | | | | | | |
| Dummy =1 if expiring contract | 0.66 | 1 | 0.47 | 0 | 1 | 3,501 |
| #Employees under expiring contract (thousands) | 3.63 | 0.74 | 14.5 | 0.001 | 264.7 | 2,274 |
| *Labor Strife* | | | | | | |
| Dummy = 1 if labor strife (= work stoppage in preceding year) | 0.09 | 0 | 0.28 | 0 | 1 | 3,272 |
| #Employees under work stoppage (thousands) | 5.25 | 1.36 | 15.01 | 0.004 | 162 | 246 |
| *Settlement* | | | | | | |
| Average wage increase over life of contract (%) | 2.81 | 2.92 | 1.21 | -5.00 | 9.97 | 877 |
| #Employees under settlement (thousands) | 0.39 | 0.35 | 0.29 | 0.002 | 1.4 | 371 |

This table summarizes BNA data during the period 1997–2013 for our sample firms. The unit of observation is a firm-year for contract expiration and labor strife environment, and a contract for settlement data. Summary statistics for #Employees exclude observations with a value of zero.

regression of the form:

$$PROP_{it} = \alpha_1 EXPIRE_{it} + \alpha_2 EMPLOY_{it} + \beta X_{it} + \gamma_i + \mu_t + \varepsilon_{it}, \quad (1)$$

where $i$ indexes a firm and $t$ indexes time. In the main specification, $PROP_{it}$ is an indicator variable equal to one if firm $i$ receives one or more shareholder proposals from a union in year $t$, and zero otherwise. The main explanatory variables are $EXPIRE_{it}$, an indicator equal to one if a firm has an expiring contract in a given year, and $EMPLOY_{it}$, the number of workers covered by the expiring contract. $X_{it}$ is a vector of controls. The firm and year fixed effects are $\gamma_i$ and $\mu_t$, respectively, and $\varepsilon_{it}$ is the error term. The key coefficient, $\alpha_1$, indicates the change in probability of receiving a proposal in an expiration year for a given firm, which is to say that the expiration effect is identified based on within-firm variation. In robustness checks, we also run regressions with the number of union shareholder proposals as our dependent variable.

Equation (1) can be used to identify opportunistic behavior under the assumption that a union's private benefit from making a proposal is higher in years with an expiring contract than without an expiring contract, while the general (non-private) benefit from a proposal is the same in expiration and nonexpiration years. Contract expiration dates are plausibly exogenous. A contract typically lasts three to five years, the expiration date is established in the contract, and we observe almost no early renegotiation in our sample. In 52% of the cases, the length of the new contract is the same as the old contract, and in 83% it differs by one year or less.

The employment variable *EMPLOY* allows the impact of a contract expiration to vary with the number of employees. There are reasonable arguments for including employment in levels, as we do, or as a percentage of the workforce. Levels is appropriate if unions seek to maximize the aggregate utility of their members across all firms, causing them to allocate resources based on the absolute number of contracted members in a given firm. A percentage makes sense if unions care about the overall impact on individual firms. The levels specification turns out to fit the data better, but neither specification produces a reliably strong coefficient, economically or statistically.[11]

We estimate Equation (1) with a linear probability model because it is easier to (i) implement fixed effects, (ii) interpret coefficients, and (iii) cluster the standard errors. In robustness checks, we also estimated the regressions with a conditional logit specification and obtained similar results. Although we have a clear directional prediction on the effect of expiring contracts, to be conservative, we report statistics for two-tailed tests throughout.

[11] We also explored logarithmic and quadratic specifications; they were never statistically significant. We also tried winsorizing the number of employees, which reduced significance levels in some cases, but the weak pattern remained.

Controlling for firm-specific effects helps to separate the effect of expiring contracts from unobserved heterogeneity across firms that is fixed over time. We include year fixed effects to account for unobserved heterogeneity across years since we observe time-series variation in the number and the proportion of union proposals, as shown in Figure 1. Year fixed effects also control for any variation due to aggregate or macroeconomic effects. In all regressions, we cluster standard errors at the firm level.

## 3. Evidence from Proposal Activity

### 3.1 Proposals and contract expirations

The main test is whether unions make more proposals in years with an expiring contract than years without an expiring contract. Panel A of Table 5 presents estimates of the probability that a company receives a union proposal, based on linear probability regressions. The unit of observation is a firm-year, and the key

**Table 5**
**Expiring contracts and union proposals**

Panel A. Dependent: Dummy = 1 if company received proposal from union

| | Mean = 22.1% | | | | |
|---|---|---|---|---|---|
| | (1) | (2) | (3) | (4) | (5) |
| Dummy = 1 if firm had an expiring contract | 4.4** | 4.6*** | 3.6** | 3.9** | 5.6*** |
| | (1.8) | (1.8) | (1.8) | (1.9) | (1.9) |
| #Employees under expiring contract (in thousands) | … | 0.089* | 0.080* | 0.081 | 0.067 |
| | | (0.048) | (0.047) | (0.051) | (0.059) |
| Log(assets) | … | … | 9.2*** | 9.6*** | 8.6*** |
| | | | (2.6) | (2.6) | (3.4) |
| Debt/Assets | … | … | … | 0.7 | 3.5 |
| | | | | (8.2) | (14.5) |
| Cash/Assets | … | … | … | 6.8 | 24.8 |
| | | | | (15.7) | (24.9) |
| ROA | … | … | … | 21.1 | −1.6 |
| | | | | (19.0) | (30.3) |
| Annual stock return | … | … | … | 0.8 | 0.4 |
| | | | | (2.5) | (3.4) |
| Log(CEO compensation) | … | … | … | … | 2.6 |
| | | | | | (1.7) |
| CEO tenure | … | … | … | … | −0.3 |
| | | | | | (0.3) |
| Dummy = 1 if CEO was board chair | … | … | … | … | −0.3 |
| | | | | | (2.9) |
| Dummy = 1 if board was classified | … | … | … | … | 1.7 |
| | | | | | (4.9) |
| #Directors | … | … | … | … | 0.9 |
| | | | | | (1.0) |
| % Independent directors | … | … | … | … | −18.1 |
| | | | | | (13.5) |
| Dummy = 1 if firm had poison pill | … | … | … | … | 0.1 |
| | | | | | (3.6) |
| $R^2$ | 0.055 | 0.060 | 0.137 | 0.145 | 0.146 |
| $N$ | 3,501 | 3,456 | 3,348 | 3,198 | 2,214 |
| Expiring dummy + 0.8 × #Employees expiring | … | 4.7*** | 3.7** | 4.0** | 5.6*** |
| | | (1.8) | (1.8) | (1.9) | (1.9) |
| Expiring dummy + 4.0 × #Employees expiring | … | 5.0*** | 3.9** | 4.3** | 5.8*** |
| | | (1.8) | (1.8) | (1.9) | (1.9) |

**Table 5**
**Continued**

Panel B. Dependent: Number of proposals received from unions

| | Mean = 0.355 | | | | |
|---|---|---|---|---|---|
| | (6) | (7) | (8) | (9) | (10) |
| Dummy = 1 if firm had an expiring contract | 0.074** | 0.072** | 0.056* | 0.059* | 0.051* |
| | (0.032) | (0.031) | (0.031) | (0.033) | (0.030) |
| #Employees under expiring contract (in thousands) | … | 0.0038** | 0.0037** | 0.0038** | 0.0032*** |
| | | (0.0015) | (0.0015) | (0.0015) | (0.0011) |
| Log(assets) | … | … | 0.158*** | 0.169*** | 0.150*** |
| | | | (0.048) | (0.050) | (0.057) |
| Debt/Assets | … | … | … | −0.16 | −0.17 |
| | | | | (0.16) | (0.24) |
| Cash/Assets | … | … | … | −0.28 | −0.27 |
| | | | | (0.30) | (0.41) |
| ROA | … | … | … | 0.47 | 0.05 |
| | | | | (0.36) | (0.47) |
| Annual stock return | … | … | … | 0.02 | −0.02 |
| | | | | (0.04) | (0.05) |
| Log(CEO compensation) | … | … | … | … | 0.059* |
| | | | | | (0.031) |
| CEO tenure | … | … | … | … | −0.010* |
| | | | | | (0.006) |
| Dummy = 1 if CEO was board chair | … | … | … | … | −0.05 |
| | | | | | (0.04) |
| Dummy = 1 if board was classified | … | … | … | … | 0.13 |
| | | | | | (0.08) |
| #Directors | … | … | … | … | 0.01 |
| | | | | | (0.02) |
| % Independent directors | … | … | … | … | −0.44* |
| | | | | | (0.25) |
| Dummy = 1 if firm had poison pill | … | … | … | … | −0.06 |
| | | | | | (0.07) |
| $R^2$ | 0.057 | 0.070 | 0.153 | 0.164 | 0.166 |
| $N$ | 3,501 | 3,456 | 3,348 | 3,198 | 2,214 |
| Expiring dummy + 0.8 × #Employees expiring | … | 0.075** | 0.060* | 0.063* | 0.053* |
| | | (0.032) | (0.031) | (0.034) | (0.030) |
| Expiring dummy + 4.0 × #Employees expiring | … | 0.087*** | 0.071** | 0.075** | 0.064** |
| | | (0.033) | (0.033) | (0.035) | (0.030) |

Each column reports estimates from a linear regression; the dependent variable is indicated at the top of each panel. Standard errors clustered by firm are in parentheses beneath coefficient estimates. Coefficients and standard errors in Panel A are scaled by 100 to represent percentages. The unit of observation is a firm-year, and the panel runs 1997–2013. All regressions include firm-specific and year-specific fixed effects. Significance levels are indicated: * = 10%, ** = 5%, *** = 1%.

explanatory variable is a dummy equal to one if a company had a labor contract expiring in a given year. All regressions include firm and year fixed effects, so the key coefficients are based on within-firm variation in contract expiration status. Coefficients are scaled by 100 to be interpreted as percentages. Standard errors clustered by firm are reported in parentheses beneath the coefficients.

Regression (1) of Table 5 indicates that a company was 4.4% more likely to receive a proposal from a union in a year with an expiring contract than a year without an expiring contract, statistically significant at the 5% level. To put this coefficient in perspective, recall from Table 1 that a company's unconditional probability of receiving a union proposal in a given year was 22.1%; an expiring contract increased the probability of a union proposal by about one-fifth.

Regression (2) of Table 5 allows the probability of a union proposal to vary with the number of employees covered by the contract (#Employees). Unions may be more likely to make proposals when the expiring contract covers many rather than few employees. The coefficients on both the expiration dummy and #Employees are positive and different from zero at conventional levels of significance. The net effect of contract expiration in this specification is a linear combination of the coefficients on the dummy variable and #Employees. The bottom two rows of panel A report the effect of contract expiration when #Employees is approximately the median (800) and the mean (4,000). An expiring contract involving 800 workers increased the probability of a union proposal by 4.7%; an expiring contract involving 4,000 workers increased the probability by 5.0%, in both cases compared with a year without an expiring contract.[12] While the coefficient on #Employees is statistically significant at the 10% level in this equation, in other specifications it is not statistically significant, suggesting that it is the occurrence of a contract expiration more than the number of impacted workers that attracts union proposals.

Several studies have found that larger firms receive more proposals (Denes, Karpoff, and McWilliams 2017; Table 3). To allow for the possibility that the number of employees covered by the expiring contract may be a proxy for firm size (although the correlation is only 0.19), regression (3) of Table 5 adds the logarithm of assets as an explanatory variable. Consistent with previous research, larger firms were more likely to receive proposals. Inclusion of firm size reduces the magnitude and significance of the expiration variables, but does not change the main message.

Regression (4) of Table 5 adds several financial variables that are common controls in governance research: leverage ratio, cash as a fraction of assets, return on assets (ROA), and stock return over the previous year (Denes, Karpoff, and McWilliams 2017; Table 3). These variables are endogenous and not strongly motivated theoretically, so the propriety of including them is debatable; we report the regression for comparability with other research. Inclusion of these controls does not materially change the estimated expiration effects, and none of their coefficients are statistically significant.

Regression (5) of Table 5 includes seven corporate governance variables that often are used as control variables: log of CEO compensation; CEO tenure in

[12] Proposals can be sponsored by the union involved in the negotiation or another union or affiliated group. Negotiating unions have an incentive not to initiate proposals themselves because it might allow the company to omit the proposal under Rule 14a-8(i)(4) because it "relates to the redress of a personal claim or grievance" or "is designed to …further a personal interest." The SEC disallowed a proposal from the publisher' employees union against Dow Jones in 1994 on the basis that it was intended to influence the union's ongoing negotiations with the company (no-action letter: *Dow Jones & Company, Inc.*, January 24, 1994).Probably for this reason, many proposals come from affiliated or umbrella groups such as the AFL-CIO and Amalgamated Bank—we suspect it would be more difficult for a company to prove that a proposal personally benefits an affiliated union or entity that sponsors the proposal but is not directly involved in a negotiation (and we have found no instances of such a claim succeeding). While exploring the data, we did discover that AFL-CIO proposals are particularly prevalent in contract expiration years, which would be the case if the AFL-CIO is serving as an umbrella initiator for opportunistic proposals. See Appendix A.8 for detailed cases.

years; dummy = 1 if the CEO also chaired the board; dummy = 1 if the firm had a classified board; number of directors; percentage of independent directors; and dummy = 1 if a firm had a poison pill. Because of missing data, we lose about one-third of the sample when we include these controls. The estimated expiration effects remain positive and statistically significant, and none of the coefficients on the governance variables are statistically significant.

Panel B of Table 5 reports regressions in which the dependent variable is the number of union proposals in a given year.[13] Regression (6) indicates that companies received 0.074 more union proposals during contract expiration years than nonexpiration years; the unconditional mean is 0.355. As in panel A, an expiring contract increased the number of union proposals by about one-fifth. Regressions (7)–(10) mirror the corresponding regressions in panel A, all of them showing statistically significant and quantitatively nontrivial positive effects of expiring contracts on the number of union proposals. For the most part, the control variables remain statistically insignificant. The exception is for CEO compensation and tenure—as in panel A, union proposals are more likely when the CEO is highly paid and when the CEO has a short tenure, but in panel B the coefficients are different from zero at the 10% level. The finding that unions initiate more proposals when CEO pay is high squares with evidence in Ertimur, Ferri, and Muslu (2011) of a positive correlation between compensation proposals and CEO pay; it differs from that paper's finding of no connection between CEO pay and whether a compensation originated from unions versus other sponsors.

To summarize, Table 5 shows that companies were more likely to receive union-sponsored proposals in a year in which a contract expired. The evidence is consistent with the hypothesis that unions use shareholder proposals as bargaining chips in contract negotiations. Yet it is conceivable that when a contract expires, opportunities emerge to increase firm value by changing corporate strategy, and unions are simply exploiting the new opportunities as good investors should.[14] If expirations create proposal value in general, nonunion shareholders should also increase their proposals in expiration years. We consider this possibility next by examining proposal activity by nonunion shareholders.

Table 6 reports linear probability regressions of nonunion proposals on contract expiration. As before, the regressions include firm and year fixed effects, and the coefficients are scaled by 100 to be interpreted as percentages.

---

[13] The sample maximum is seven proposals. Given that the dependent variable is a count variable, the most compelling approach statistically is to estimate a negative binomial or Poisson regression. We estimated all regressions in panel B of Table 5 using negative binomial and Poisson regressions; the signs and significance levels of the coefficients of interest were essentially the same as in the linear regressions.

[14] Alternative explanations include: the process of negotiation allows unions to discover a value-enhancing opportunity that is not apparent to other shareholders (Schwab and Thomas 1998); and unions care more about firm value during contract negotiations because making the corporate pie bigger will allow them to claim a larger slice. The finding in Section 3.2 that union proposals increase even more in contentious environments is easier to square with the bargaining chip story than these alternatives.

**Table 6**
**Expiring contracts and nonunion proposals**

| | Mean = 48.4% | | | | |
|---|---|---|---|---|---|
| | (1) | (2) | (3) | (4) | (5) |
| Dummy = 1 if firm had an expiring contract | 2.2 | 1.8 | 0.5 | 0.4 | −1.4 |
| | (2.1) | (2.2) | (2.2) | (2.2) | (2.6) |
| #Employees under expiring contract (in thousands) | … | 0.061* | 0.044 | 0.065 | 0.053 |
| | | (0.036) | (0.041) | (0.058) | (0.044) |
| Log(assets) | … | … | 14.8*** | 16.1*** | 8.4* |
| | | | (3.0) | (3.3) | (4.7) |
| Finance control variables | … | … | … | Yes | Yes |
| Governance control variables | … | … | … | … | Yes |
| $R^2$ | 0.012 | 0.015 | 0.177 | 0.185 | 0.109 |
| $N$ | 3,501 | 3,456 | 3,348 | 3,198 | 2,214 |
| Expiring dummy + 0.8 × #Employees expiring | … | 1.8 | 0.5 | 0.5 | −1.3 |
| | | (2.1) | (2.2) | (2.2) | (2.6) |
| Expiring dummy + 4.0 × #Employees expiring | … | 2.0 | 0.6 | 0.7 | −1.1 |
| | | (2.1) | (2.2) | (2.2) | (2.6) |

Each column reports estimates from a linear probability regression; the dependent variable is a dummy equal to one if the firm received a proposal from a nonunion group or individual. Standard errors clustered by firm are in parentheses beneath coefficient estimates. Coefficients and standard errors are scaled by 100 to represent percentages. The unit of observation is a firm-year, and the panel runs from 1997 to 2013. All regressions include firm-specific and year-specific fixed effects. The financial controls are: debt/assets, cash/assets, ROA, and annual stock return. The governance controls are: log of CEO compensation; CEO tenure in years; dummy = 1 if the CEO was chair of the board, dummy = 1 if the board was classified; number of directors; percentage of independent directors; and dummy = 1 if the firm had a poison pill. Significance levels are indicated: * = 10%, ** = 5%, *** = 1%.

The dependent variable is a dummy equal to one if the firm received a proposal from a nonunion shareholder in a given year. The coefficient in Regression (1) indicates that companies were 2.2% more likely to receive a proposal from a nonunion shareholder in a year with an expiring contract compared with a year without an expiring contract. This point estimate is half of the corresponding coefficient in Table 5, small compared with the unconditional mean of 48.4%, and not distinguishable from zero at conventional levels of statistical significance.

Regression (2) of Table 6 adds the number of employees covered by a contract as an explanatory variable. The coefficients again are much smaller than in the Table 5 regressions, especially related to the benchmark proposal probability of 48.4%, as are the net effects reported in the bottom two rows, and no net effects are statistically different from zero at the 10% level. Regressions (3)–(5) of Table 6 introduce additional control variables. Regression (3) shows that once firm size is included, the magnitude of the expiration effect drops to almost zero. The pattern is similar in Regressions (4) and (5), which add financial and governance controls, respectively.

While these estimates do not reject the possibility that nonunion proposals increase in expiration years—a positive effect is within the confidence intervals—they give little reason to believe that expiration years produce opportunities for shareholder proposals in general. The point estimates are small compared with the benchmark probability and never close to statistical significance.

We also estimated but do not report regressions that distinguish by type of nonunion proponent: non-SRI funds, SRI funds, individuals, public pensions, religious groups, and special interests. The coefficients on contract expiration years are small and statistically insignificant, except for special interest groups, which are positive and statistically different from zero at the 10% level. The implied effect of 1.9% for a median number of employees is perhaps material compared with the unconditional mean of 7.3%. Some special interest groups have social justice goals that coincide with union goals; they may be coordinating with each other.

### 3.2 Labor strife

Not all contract negotiations are contentious. There may be situations in which the parties quickly reach agreement on the main points, for example, if the contract follows a pattern contract negotiated at another company. Because shareholder proposals are useful as bargaining chips only in contentious negotiations, our previous results, which consider both friendly and contentious negotiations, are likely to understate the opportunistic use of proposals. To produce an arguably cleaner estimate of the prevalence of opportunism, we next examine union proposal activity in contentious negotiations. We define a negotiation to take place in a "contentious environment" if the company experienced a labor-related work stoppage (typically a strike, but sometimes a lockout) in the previous year. One can think of this variable as proxying for latent animosity or mistrust between management and workers. In our sample, 45% of firms experienced at least one work stoppage.

Table 7 reports linear regressions explaining the probability of receiving a proposal. Regression (1) includes three explanatory variables, a dummy for expiring contracts in a contentious environment (i.e., that were preceded by a work stoppage), a dummy for expiring contracts that were not in a contentious environment, and a dummy for a contentious environment.[15] In a contentious environment, union proposals were 21.8% more likely in expiration than nonexpiration years, different from zero at the 1% level. Compared with the baseline probability of 22.1, this is almost a doubling in the probability of a union proposal in a contentious expiration year. The coefficient on expiring contracts in noncontentious environments, 3.8, is also positive and statistically different from zero, but much smaller than the estimate for expiring contracts in contentious environments.

Regression (2) of Table 7 allows the expiration effect to vary with the number of employees by introducing two variables for the number of employees covered by the expiring contract, and also controls for firm size. Both coefficients on #Employees are positive, and the one for contentious environments is

[15] Because the three dummy variables represent three of the four cases from combinations of contract expiration status (expiring year or not) and work environment status (contentious or not), the omitted case is a noncontentious, nonexpiration year.

**Table 7**
**Union proposals and contentious negotiations**

| | Union proposals | | Nonunion proposals | |
|---|---|---|---|---|
| | (1) | (2) | (3) | (4) |
| Dummy = 1 if expiring contract & contentious environment | 21.8*** | 19.0*** | −13.3* | −14.6** |
| | (6.4) | (6.7) | (6.9) | (7.1) |
| Dummy = 1 if expiring contract & not contentious environment | 3.8** | 3.3* | 3.0 | 1.3 |
| | (1.8) | (1.8) | (2.2) | (2.3) |
| Dummy = 1 if contentious environment | −2.9 | −3.4 | 17.2*** | 15.4** |
| | (5.6) | (5.8) | (6.3) | (6.5) |
| #Employees under expiring contract, contentious environment | … | 0.408*** | … | −0.033 |
| | | (0.084) | | (0.086) |
| #Employees under expiring contract, not contentious environment | … | 0.052 | … | 0.081 |
| | | (0.050) | | (0.057) |
| Log(assets) | … | 7.9*** | … | 13.5*** |
| | | (2.7) | | (3.3) |
| $R^2$ | 0.074 | 0.150 | 0.014 | 0.181 |
| $N$ | 3,272 | 3,135 | 3,272 | 3,135 |
| Dummy (expiring & contentious) + 0.8 × #Employees | … | 19.4*** | … | −14.6** |
| | | (6.7) | | (7.1) |
| Dummy (expiring & contentious) + 4 × #Employees | … | 20.7*** | … | −14.7** |
| | | (6.6) | | (7.1) |
| Dummy (expiring & not contentious) + 0.8 × #Employees | … | 3.4* | … | 1.4 |
| | | (1.8) | | (2.3) |
| Dummy (expiring & not contentious) + 4 × #Employees | … | 3.5* | … | 1.7 |
| | | (1.8) | | (2.2) |

Each column reports estimates from a linear regression; the dependent variable is a dummy equal to one if the firm received a proposal from a union or nonunion, as indicated at the top of each column. Standard errors clustered by firm are in parentheses beneath coefficient estimates. Coefficients and standard errors are scaled by 100 to represent percentages. The unit of observation is a firm-year, and the panel runs from 1997 to 2013. All regressions include firm-specific and year-specific fixed effects. #Employees is expressed in thousands. The environment is defined to be contentious if the company experienced a work stoppage (strike or lockout) in the preceding year. Significance levels are indicated: * = 10%, ** = 5%, *** = 1%.

statistically significant. The rows beneath the regression coefficients show that in contentious environments, the probability of a union proposal was 19.4% and 20.7% higher in expiration than nonexpiration years for contracts of median and mean size, respectively; in noncontentious environments, the probability of a union proposal was 3.4 and 3.5% higher in expiration than nonexpiration years for contracts of median and mean size, respectively.

Regressions (3) and (4) of Table 7 repeat the analysis for proposals from nonunion shareholders. There is no evidence that contract expirations lead to more proposals by nonunion sponsors. In fact, nonunion proposals actually decline in contentious expiration years, and the effect is statistically different from zero. It could be that the union proposals are crowding out nonunion shareholders because SEC Rule 14a-8(i)(11) prohibits more than one proposal on the same topic in a given year.

### 3.3 Proposal topics

Intuitively, the best bargaining chips are proposals that impose high personal costs on managers and directors. Compensation is the topic that imposes the most obvious direct costs on managers and directors; such proposals aim to

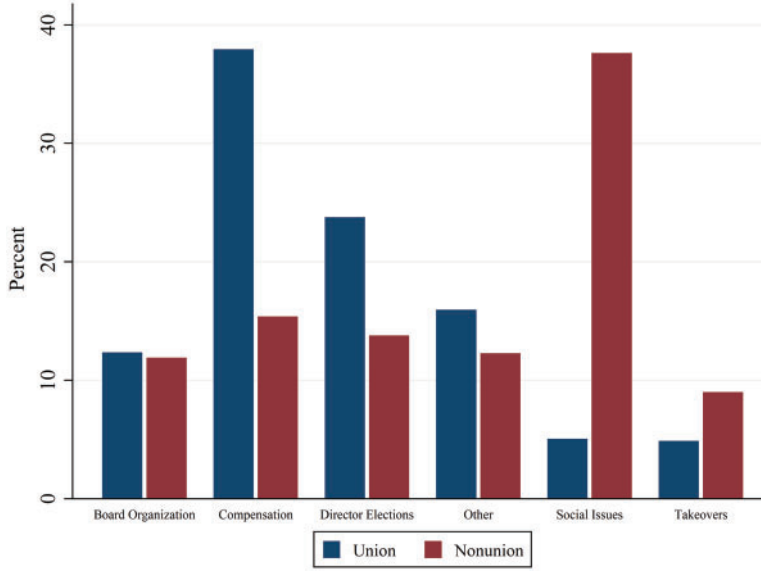


**Figure 2**
**Distribution of proposal topics**

curtail executive pay, link pay to performance, and give shareholders a vote on compensation decisions. Another topic that directly and personally impacts managers and directors is board selection; such proposals seek to make elections more competitive, open up the nomination process, establish term limits on directors, and otherwise threaten director job security. If unions are making proposals for opportunistic reasons, we would expect to see compensation and director selection proposals surge in expiration years.

We investigate this by grouping proposal topics into six broad categories based on issue codes that ISS assigned to each proposal. The six categories are (i) board organization and processes; (ii) compensation of executives and directors; (iii) direct elections and qualifications; (iv) social issues; (v) takeovers, mergers, and divestitures; and (vi) miscellaneous. To facilitate replication and future research, in the Internet Appendix we provide a detailed breakdown of the topics in each category and a mapping between our categories and the ISS issue codes. Our classifications are similar to others used in the literature, such as Prevost, Rao, and Williams (2012).

Figure 2 shows the distribution of topics in our sample—columns with the same color sum to 100%. For unions, compensation proposals are by far the most common (38%), followed by proposals related to director elections and qualifications (24%). In contrast, nonunion shareholders are much less likely to make compensation-related proposals. Their most common topic is social issues (38%); compensation is a distant second (15%).

Table 8 explores what topics unions increased in expiration years. Each column is a regression in which the dependent variable is a dummy equal to 1 if the union initiated a proposal on the topic indicated at the top of each column. The regressions allow the expiration effect to vary according to whether negotiations were contentious or not, as measured by work stoppages in the previous year. Interactions terms with #Employees are not included because they are generally insignificant and have no material effect on the estimates of interest. As before, the regressions include firm and year fixed effects.

Regression (2) of Table 8 shows that unions increased the number of compensation-related proposals by 10.7% in years with an expiring contract compared with years without an expiring contract, when the environment was contentious. This effect is statistically different from zero at the 5% level. Regression (3) shows an even larger 13.9% increase for director selection and qualification proposals in expiration versus nonexpiration years, when the environment was contentious. These two coefficients are the largest of any of the topics (leaving aside the comparable coefficient for miscellaneous), both in absolute terms and in relation to the unconditional mean.[16]

For the other topics, the effects are small, often negative, and never statistically distinguishable from zero (again, leaving aside the miscellaneous category that is difficult to interpret). The effects are not reliably connected to labor strife. Again, the finding of an insignificant coefficient does not imply that the true value is zero or small—the standard errors allow for the possibility of nontrivial effects in some cases. However, the finding of large, statistically significant effects for compensation and director selection proposals, and the absence of similar evidence for other types of proposals, points in the direction of unions using proposals that impose high personal costs on managers and directors more often amidst contentious negotiations.

### 3.4 Reactions of other shareholders and a proxy advisor

The reaction of third parties to union proposals provides perspective on their potential consequences. If a union expects to discard its bargaining-chip proposal during contract negotiations as part of a side deal, it has less incentive to invest effort and money in crafting a course of action that would increase firm value. To the extent that union proposals are opportunistic, then, we might expect them to be less appealing to other investors. We explore this idea by examining the votes of fellow shareholders and the recommendations of ISS, a leading proxy advisor, on union proposals in contract expiration versus nonexpiration years. Because votes and recommendations are observed only for proposals that are not withdrawn, the sample of proposals is selective, and

[16] One might wonder if threatening the compensation of directors would be useful since negotiations are run by managers. We also estimated (but do not report) the regressions with a dependent variable that includes only managerial compensation proposals (i.e., excluding director compensation proposals), and found even larger expiration year effects.

**Table 8**
**Regression by topic of proposal**

| | Board organization & processes Mean = 3.7% (1) | Compensation of directors & executives Mean = 10.1% (2) | Director elections & qualifications Mean = 7.4% (3) | Miscellaneous Mean = 4.7% (4) | Social issues Mean = 1.6% (5) | Takeovers, mergers, and divestitures Mean = 1.6% (6) |
|---|---|---|---|---|---|---|
| Dummy = 1 if expiring contract & contentious environment | −2.9 | 10.7** | 13.9*** | 9.1*** | −2.3 | −0.6 |
| | (3.9) | (5.1) | (3.7) | (2.7) | (2.5) | (3.3) |
| Dummy = 1 if expiring contract & not contentious environment | 0.8 | 1.7 | 2.2* | −0.05 | 0.8 | −0.2 |
| | (0.8) | (1.3) | (1.1) | (0.9) | (0.4) | (0.3) |
| Dummy = 1 if contentious environment | 4.1 | 1.5 | −7.9*** | −5.7*** | 2.7 | 1.4 |
| | (3.5) | (4.3) | (2.4) | (1.8) | (2.4) | (2.9) |
| $R^2$ | 0.016 | 0.068 | 0.051 | 0.058 | 0.028 | 0.012 |

Each column reports estimates from a linear probability regression; the dependent variable is a dummy equal to one if the firm received a proposal from a union on the topic indicated at the top of the column. Standard errors clustered by firm are in parentheses beneath coefficient estimates. Coefficients and standard errors are scaled by 100 to represent percentages. The unit of observation is a firm-year, and the panel runs from 1997 to 2013. All regressions include firm-specific and year-specific fixed effects and include 3,272 observations. Topic categories are defined in the Internet Appendix. The environment is defined to be contentious if the company experienced a work stoppage (strike or lockout) in the preceding year. Significance levels are indicated: * = 10%, ** = 5%, *** = 1%.

**Table 9**
**Voting outcomes and ISS recommendations on union proposals**

| Panel A. Dummy = 1 if proposal passed | (1) | (2) | (3) |
|---|---|---|---|
| Dummy = 1 if firm had expiring contract | −36.1*** | −33.3*** | −43.5*** |
| | (8.6) | (8.1) | (9.6) |
| Log(assets) | 1.9 | 8.3 | −0.01 |
| | (10.1) | (11.8) | (20.2) |
| Topic Dummies | No | Yes | Yes |
| Only compensation & director selection proposals | No | No | Yes |
| $R^2$ | 0.191 | 0.243 | 0.256 |
| $N$ | 311 | 311 | 192 |
| Panel B. % vote in favor | (4) | (5) | (6) |
| Dummy = 1 if firm had expiring contract | −13.7** | −11.3** | −16.6*** |
| | (5.8) | (5.2) | (4.9) |
| Log(assets) | 3.2 | 5.4 | 8.9 |
| | (7.4) | (8.9) | (12.0) |
| Topic Dummies | No | Yes | Yes |
| Only compensation + director selection proposals | No | No | Yes |
| $R^2$ | 0.191 | 0.386 | 0.163 |
| $N$ | 302 | 302 | 188 |
| Panel C. Dummy = 1 if ISS supported proposal | (7) | (8) | (9) |
| Dummy = 1 if firm had expiring contract | −18.8* | −15.0** | −14.1* |
| | (9.5) | (7.4) | (8.3) |
| Log(assets) | −5.2 | 6.3 | 6.3 |
| | (15.6) | (16.5) | (19.4) |
| Topic Dummies | No | Yes | Yes |
| Only compensation & director selection proposals | No | No | Yes |
| $R^2$ | 0.172 | 0.322 | 0.148 |
| $N$ | 315 | 315 | 194 |

Each column in each panel is a regression. The dependent variable is indicated in the panel title. The unit of observation is a proposal. The sample period is 2003–2013. Standard errors clustered at the firm level are in parentheses beneath the coefficient estimates. Coefficients and standard errors are multiplied by 100 to represent percentages. All regressions include firm performance, governance controls, firm dummies, and year dummies. Firm performance controls are ROA and annual stock return. Governance controls are log of CEO compensation; CEO tenure in years; dummy = 1 if the CEO was chair of the board, dummy = 1 if the board was classified; number of directors; percentage of independent directors; dummy = 1 if the firm had a poison pill; percentage of institutional ownership; and dummy=1 indicating blockholder presence. Topic dummies are the six topics shown in Figure 2. Significance levels are indicated: * = 10%, ** = 5%, *** = 1%.

by omitting proposals that are withdrawn, there is some danger of excluding the "most opportunistic" proposals.

Table 9 reports the findings. Each column reports estimates from a regression, with the dependent variable indicated in the panel title. The unit of observation is a proposal. The key explanatory variable is an indicator equal to one if the proposal occurred during a wage negotiation. The regressions control for firm size because large firms attract more proposals, some of which might be of different quality than a typical proposal, and include firm and year dummies, the latter to allow for the possibility that investor sentiment about shareholder activism changes over time. We also control for firm performance, institutional ownership, blockholder presence, and other standard firm governance variables. Data on voting outcomes and ISS recommendations are unavailable for about one-third of our sample, so the sample size drops commensurately.

The dependent variable in panel A of Table 9 is an indicator variable equal to one if the proposal "passed"; in most cases this means that more than 50% of the votes were in favor, but some companies have supermajority provisions, such as requiring 60% approval to pass. Overall, 16.4% of union proposals passed. Regression (1) does not control for the topic; it shows that union proposals were 36.1% less likely to pass in expiration than nonexpiration years, statistically significant at the 1% level. Regression (2) controls for the six topics in Figure 2 to assess if union proposals were unpopular simply because their topics were unpopular. The coefficient on the expiration dummy is similar, −33.3%, and remains statistically significant. Regression (3) includes only proposals related to managerial compensation and director selection, which we suggested above were promising subjects for opportunistic proposals. The passage rate of these proposals was 43.5% lower in expiration than nonexpiration years, again statistically significant. In short, union proposals were much less likely to pass in expiration than nonexpiration years.

The dependent variable in panel B of Table 9 is votes in favor as a percentage of the sum of votes in favor and votes against. This variable captures the sentiment of voters without adjusting for whether the company required a supermajority or not to pass. Regression (4) shows that union proposals received 13.7% fewer votes in favor during expiration than nonexpiration years, statistically significant at the 5% level; and Regression (5), which controls for the topic, shows this is not simply because more unpopular topics were selected in expiration years. Regression (6) shows that proposals relating to compensation and director selection experienced a particularly large drop in support during expiration years compared with nonexpiration years. Panels A and B show that shareholders are more skeptical of union proposals in expiration than nonexpiration years.[17]

Panel C of Table 9 explores the recommendations of ISS. The dependent variable is an indicator variable equal to one if ISS recommended in favor of the proposal. ISS's recommendation can be seen as another indicator of the quality of a proposal, although some have questioned whether the recommendations actually increase firm value (Larcker et al. 2013; Larcker et al. 2015). For the sample, ISS supported union proposals 72.8% of the time. Regression (7) implies that ISS was 18.8% less likely to recommend in favor of a union proposal in expiration than nonexpiration years, statistically significant at the 10% level. Regression (8), which controls for proposal topic, indicates a 15.0% lower probability of ISS support in expiration than nonexpiration years, implying that the drop in ISS support was not due to a choice of different topics in expiration years. Regression (9), which considers only compensation and director selection proposals, indicates that such proposals were 14.1% less likely to receive ISS support in expiration than nonexpiration years. The ISS

[17] We do not consider abstentions and broker non-votes in panel B because their treatment varies from proposal to proposal and is reflected in the indicator variable "pass" in panel A.

evidence points in the same direction as the voting evidence: union proposals are viewed more skeptically when they are made in expiration than nonexpiration years.

### 3.5 SEC no-action letter requests

To gain further perspective on how market participants view union proposals, we consider no-action letter requests submitted to the SEC. According to SEC Rule 14a-8, a company may omit a proposal from its proxy if the proposal violates specific conditions, such as: the proponent does not own enough stock; or the proposal is "false and misleading" or "vague and indefinite", pertains to a personal grievance, or attempts to manage "ordinary business" decisions that are properly the concern of management. If a company wishes to omit a proposal, it submits a letter to the SEC indicating its grounds for omission and requesting a response stating that the agency will not take action against the company (hence "no-action letter") if it omits the proposal. Management has discretion whether to seek omission or not, and because the conditions for exclusion are somewhat subjective, the SEC's decision is not mechanical; the SEC grants the requested relief in about two-thirds of the cases.[18]

We hand-collected information on no-action letter requests using PDF files posted on the SEC website. The SEC files contain the date on which the company submitted its no-action letter request and the identity of the sponsors, among other things. According to the SEC, the website is updated daily. For the overlapping period with both BNA and no-action letter data, 2008–13, there were 308 union proposals, 73 of which were challenged by the company. Companies were slightly more likely to seek SEC relief in expiration years (24% of 263 proposals) than nonexpiration years (20% of 45 proposals).

We are interested in the market's reaction to news that a company filed a no-action letter request. As with all event studies, interpretation of the market reaction depends on what is assumed to have been known at the time of the news. Our working assumption is that the market was unaware of the existence of proposal until it was posted on the SEC site. Although the company and sponsor know about a proposal as soon as the company receives it, neither the company nor the sponsor typically publicize proposal submissions and media coverage is scant (with rare exceptions, such as recent public campaigns by the New York City pension funds). The posting of a no-action letter request on the SEC website then is often the first public disclosure of the existence of a proposal. The assumption that the market does not learn about a proposal until disclosed by the company follows a large body of empirical research that assumes the market first learns of a proposal's existence when the proxy statement is mailed, and measures its value consequences by the abnormal return on that date (Denes, Karpoff, and McWilliams 2017).

[18] For a detailed discussion of the no-action letter process, and estimates of the economic impact of SEC decisions, see Matsusaka, Ozbas, and Yi (2017).

**Table 10**
**Market reaction to no-action letter requests for union proposals**

| | Expiration year | Nonexpiration year | Difference |
|---|---|---|---|
| Panel A. Market-Adjusted | | | |
| Mean CAR [−1, 1] % | −0.99*** | 0.92 | −1.91* |
| | (0.27) | (0.94) | [$p$ = .07] |
| # positive \| negative | 22 \| 42 | 5 \| 4 | |
| | | | |
| Panel B. Fama-French Four-Factor Model Adjusted | | | |
| Mean CAR [−1, 1] % | −0.72*** | 0.41 | −1.13 |
| | (0.23) | (1.07) | [$p$ = .29] |
| # positive \| negative | 22\|42 | 6 \| 3 | |
| *N* | 64 | 9 | |

The sample includes union proposals for which the company filed a no-action letter request during the period 2008–2013. Abnormal returns are calculated as indicated in the panel title. The announcement date is the day that the company filed its request with the SEC. Significant levels are indicated: * = 10%, ** = 5%, *** = 1%.

Since most research finds that shareholder proposals are value-neutral on average, we expect that news of a proposal in nonexpiration years will have no effect on average. A proposal in expiration years, on the other hand, would be interpreted (with some probability) as opportunistic; in expectation this is bad news (managers might grant wage concessions if the SEC rejects the request, for example) and should be met with a negative market reaction.

Table 10 reports the abnormal stock return associated with submission of no-action letter requests for union proposals. We calculate the return over a [−1,1] window, computing abnormal returns in two ways, market-adjusted and using the Fama-French four-factor model. In panel A, the mean abnormal return associated with no-action letter requests during expiration years is −0.99%, statistically significant at the 1% level. The mean abnormal return associated with no-action requests during nonexpiration years is 0.92%, statistically insignificant. The difference between the two means, −1.91%, is statistically significant at the 10% level. In panel B, the mean abnormal return is also statistically negative for proposals during expiration years and positive yet insignificant for proposals during nonexpiration years. The difference is not statistically significant. Consistent with the voting evidence, these event return findings suggest that investors view union proposals during expiration years as damaging to firm value, but do not have the same view of union proposals made during nonexpiration years.[19] This evidence is based on a small sample, so it should be viewed with caution, but the findings are consistent with the idea that union proposals during expiration years may not be value-enhancing.

Another reason to be cautious about drawing a strong conclusion from this evidence is that, as mentioned, our interpretation depends on the assumption

[19] The SEC files also contain the initial correspondence in which the sponsor submits the proposal to the company. For the sample of union proposals with SEC no-action letter filings, we estimated the market reaction on the date of proposal submission to the company, and found no evidence of significant market reaction in either expiration or nonexpiration years, consistent with lack of public news or media coverage at the time of proposal submission. We also examined the abnormal return surrounding the SEC's decision, ended up with few observations, and none of the estimates could be distinguished from zero statistically.

that the SEC filing date is the first time that the market learns of a proposal's existence. While we believe the assumption is plausible and generally consistent with previous research on shareholder proposals, it is worthwhile to consider an alternative assumption. If the market was already aware of a proposal at the time of the SEC filing, then the event return would compound two effects: (i) the reduced probability that the proposal will be implemented, and (ii) the signaling value of the fact that management chose to challenge it. A negative announcement return during expiration years could then mean that the market actually likes the proposal (effect (i)); and/or that management's opposition reveals negative private information about the proposal or firm. Intuition suggests that managers are more likely to oppose a value-reducing than value-increasing proposal, all else equal, so management's opposition likely signals bad news about the value of the proposal, and perhaps more so during a contract expiration year. Under the assumption that the proposal is known before the SEC filing, then, a negative market reaction could be consistent with the proposal being value-increasing (effect (i)) or value-decreasing (effect (ii)).

### 3.6 Wage settlements

If unions use shareholder proposals as bargaining chips in contract negotiations, the proposals should enable unions to gain better bargaining outcomes. While we are unable to provide causal evidence for this hypothesis, the bargaining logic implies better outcomes for the union following a withdrawn proposal because a withdrawal suggests that a side deal was struck. We next offer some evidence on this correlation.

We searched the BNA database for all settlement outcomes among our sample firms and their subsidiaries during the period 1997–2013. Settlement outcomes are described in text format (so they had to be converted to numbers by hand), and are multidimensional, with information on wage levels or wage increases, bonuses, lump sum payments, retirement benefits, health care benefits and copayments, cost of living adjustments, duration of contract, and so forth. To make the task manageable, we focused on a core element of the contract, the annual wage increase. We standardized the wage information into an annual percentage increase over the life of the contract, ignoring bonuses, one-time payments, and so forth. We were able to collect this information for 877 contracts involving 183 firms, summarized in Table 4.[20] The average annual wage increase was 2.81% for the contracts we study.

We linked information on proposal withdrawals to the settlement data. Proposals that were omitted following a no-action letter (17% of the total) were treated as if they did not occur. The remaining proposals were either voted on or voluntarily withdrawn by the sponsor. Union proposals were withdrawn more often than nonunion proposals, 38% compared with 25%. Union withdrawal

[20] We continue to include only firms that had at least one contract expiration involving more than 500 employees; among those firms we include contracts involving any number of workers.

**Table 11**
**Contractual outcomes from collective bargaining**

Panel A. Regressions

| | % wage increase | | Benefit index increase |
|---|---|---|---|
| | (1) | (2) | (3) |
| Dummy = 1 if union made a proposal | 0.05 | … | … |
| | (0.10) | | |
| Dummy = 1 if union made a proposal, proposal later withdrawn | … | 0.23* | −0.08 |
| | | (0.13) | (0.13) |
| Dummy = 1 if union made a proposal, proposal later voted | … | −0.07 | −0.07 |
| | | (0.11) | (0.12) |
| $R^2$ | 0.076 | 0.077 | 0.112 |
| Test: [Dummy, withdrawn] – [Dummy, voted] = 0 | … | 0.30*** | −0.01 |
| | | (0.10) | (0.14) |

Panel B. Correlation ($\rho$) between probit equation for withdrawn proposals and probit equation for contractual outcomes

| | Wage increase (4) | Benefit increase (5) |
|---|---|---|
| Model with firm and year fixed effects | $\rho$=0.34** | $\rho$=−0.07 |
| | (0.17) | (0.13) |
| Model with year fixed effects | $\rho$=0.26** | $\rho$=0.11 |
| | (0.11) | (0.10) |

In Panel A, each column is a regression, with the dependent variable listed at the top of each column. The unit of observation is a contract. "% wage increase" is the annual percentage wage increase under the new collective bargaining agreement. "Benefit index increase" was constructed by assigning a score of −1, 0, +1 to each of five non-wage benefits (pension, health care, leave, life insurance, and disability), according to whether the benefit decreased, stayed the same, or increased, respectively, and summing the scores. If a union made multiple proposals in a year, the proposal is classified as "withdrawn" if at least one of the proposals was withdrawn. All regressions are based on the sample of 877 contracts, control for firm performance, and include firm and year fixed effects. Panel B reports the correlation of error terms from joint maximum-likelihood estimation of two probit equations: abnormal contractual outcome and withdrawn union proposal. "Wage increase" is an indicator variable for an above-median wage increase. "Benefit increase" is an indicator variable for an above-median benefit increase. All models are based on the subsample of 325 contracts with one or more concurrent union proposals, and control for firm performance. In both panels, firm performance controls are ROA and annual stock return. Standard errors clustered at the firm level are reported in parentheses, and significance levels are indicated: * = 10%, ** = 5%, *** = 1%.

rates were lower in expiration than nonexpiration years (37% versus 47%), but nonunion withdrawal rates were essentially the same in expiration and nonexpiration years (25% versus 26%).[21]

Panel A of Table 11 reports the connection between wage settlements and withdrawals. Columns (1) and (2) are regressions in which the dependent variable is the mean annual percentage increase in wages over the duration of the new contract. The unit of observation is a contract. The regressions include firm and year fixed effects, and standard errors are clustered at the firm level. We also control for firm performance. Regression (1), reported for descriptive purposes, shows the difference in wage outcomes between contracts with a concurrent union proposal and contracts without a union proposal.

[21] At first glance, it might seem inconsistent with bargaining that unions are less likely to withdraw their proposals in expiration than nonexpiration years. In Section 6, we explain why this conclusion does not necessarily follow, and why the relation between withdrawals and expiration years is ambiguous.

The coefficient on the union proposal dummy implies that contracts in which there was a union proposal during negotiations featured 0.05% more wage growth, not statistically significant.

Regression (2) allows the outcome to depend on whether a union proposal was withdrawn or not. A firm was defined to have had a withdrawn union proposal if one or more union proposals in a given year were withdrawn. Compared with a contract in which there was not a union proposal, contracts with a withdrawn proposal featured 0.23% higher wage growth (statistically significant at the 10% level), and contracts with a voted proposal featured 0.07% lower wage growth. The key prediction of the bargaining chip view, tested in the bottom row, is that wage outcomes are higher when a union proposal is withdrawn than when it goes to a vote. The difference of 0.30% is statistically different from zero at the 1% level, in support of the bargaining chip view, although the magnitude of the difference is modest.

A possible explanation for the modest wage gain is that proposals are mainly intended to enable union leaders to signal their commitment to rank-and-file members, that is, there is an element of posturing to them. Another possibility is that union gains show up in the form of nonwage benefits, such as health care copayments or leave policies, rather than wages. Our data do not allow quantification of the value of nonwage benefits, but we can determine the direction of the change. For each of five benefits—pension, health care, leave, life insurance, and disability—we assigned a value of +1 if the benefit increased, −1 if it decreased, and zero if it did not change, and then summed the values to produce an index ranging from −5 to +5. Column (3) reports a regression of this index on the union proposal variables. The individual coefficients and their difference are small and statistically insignificant. Our index is coarse, but it provides no evidence of a connection between opportunistic proposals and nonwage benefits.

Panel B of Table 11 provides complementary evidence by simultaneously modeling the contract outcome and the union's decision to withdraw a proposal as bivariate probit regressions (two-equation probit model). Joint maximum-likelihood estimation allows the error terms between the two probit equations to be correlated and estimated. The estimated correlation parameter $\rho$ can be positive or negative. A positive $\rho$ would be consistent with the presence of "deals" in which the union withdraws a proposal in return for a wage or benefit concession in a contract negotiation; a negative $\rho$ would be evidence against the bargaining chip view. The analysis is restricted to 325 contract settlements with at least one concurrent union proposal.[22] For robustness, we estimate one set of bivariate probit regressions with firm and year fixed effects, and another set without the firm effects (to address a potential incidental parameter problem

[22] The excluded settlements do not have concurrent proposals, and so by definition, the union's withdrawal decision is unobserved. Including the excluded settlements would then require bivariate probit regressions with partial observability, which have convergence problems.

with a large number of fixed effects). We transform contract outcomes into above-median wage and benefit increases as measures of abnormal settlement outcomes.

The correlations for the wage models are reported in Column (4) of Table 11. Both models show a positive and statistically significant correlation, 0.34 with firm and year fixed effects and 0.26 with only year fixed effects, indicating that unusually large wage increases occur together with proposal withdrawals. The correlations for benefits are reported in Column (5). They are relatively small in both models (−0.07 and 0.11) and statistically insignificant. This evidence points in the same direction as panel A by showing that wage settlements are more favorable to the union when accompanied with a withdrawn union proposal.

### 3.7 Summary

This section provides a collection of evidence related to shareholder proposals sponsored by unions. We find robust evidence that unions make more proposals in years when they are engaged in collective bargaining than in non-bargaining years, particularly in companies with a history of labor conflict. Nonunion shareholders, in contrast, do not increase their proposal activity in contract expiration years or at firms with contentious labor environments. We also find that in negotiation years, unions make more proposals related to executive compensation, precisely the sort of proposals that make good bargaining chips. Other evidence shows that shareholders are less inclined to approve union proposals that are made during contract negotiations than those made outside of negotiations, and ISS is less likely to recommend in favor of union proposals that are made during contract negotiations than those made outside of negotiations. Finally, the market responds negatively to no-action letter requests that reveal the existence of a union proposal in expiration but not nonexpiration years. Some of these findings are based on small samples, but they all point in the same direction, that unions use the proposal process opportunistically during contract expiration years in order to influence wage negotiations, and not necessarily to increase firm value.

## 4. Evidence from Regulations

If unions are using the proposal process opportunistically, a natural question is whether regulations can be designed to control opportunism. Here we provide some evidence on three policies with potential implications for opportunistic proposals.

### 4.1 Taft-Hartley Act

One potentially important constraint on opportunism arises from Section 302 of the Taft-Hartley Act of 1947, which applies to union pension plans that are funded by direct contributions from employers. These funds collectively

manage in excess of $479 billion in assets.[23] Examples include the Central Laborers' Pension, Welfare and Annuity Funds; Central Pension Fund of the International Union of Operating Engineers; National Electric Benefit Fund; Plumbers & Pipefitters National Pension Fund; SEIU National Industry Pension Fund; and Sheet Metal Workers National Pension Fund. Under the Taft-Hartley Act, these funds are required to have an equal number of management and union members as trustees. It seems unlikely that management trustees would support the use of proposals as bargaining chips in wage negotiations.[24] Indeed, the finding of opportunistic behavior by unions would be puzzling if it originated from pension plans in light of their fiduciary responsibilities.

While so-called Taft-Hartley funds may be constrained by management trustees, there are other funds that unions fully control or are outside the control of management. These funds hold the assets of the unions themselves, such as the AFL-CIO Reserve Fund and SEIU General Fund, or are collective investment trusts open to union members, such as the Trowel Trades S&P 500 Index Fund and the LongView funds operated by labor-controlled Amalgamated Bank. Unions have a relatively free hand to initiate proposals from these non-Taft-Hartley funds.

To evaluate whether unions avoid the Taft-Hartley constraints by channeling opportunistic proposals through other entities that they control, we classified each union proposal in our sample according to whether it came from a Taft-Hartley fund or not. This information is not available in the original data, and had to be collected manually by examining proxy statements, no-action letters, and other miscellaneous sources to identify the precise entity holding the shares used to make a proposal. We were able to classify 86% of the union proposals in our sample.

Only 18% of union proposals were proposed by Taft-Hartley funds. The remaining 82% of union proposals came from entities that did not have joint union-management trustees. Figure 3 presents the probability that a company received a union proposal from a Taft-Hartley fund versus another type of union entity, in expiration and nonexpiration years. The probability of receiving a proposal from a Taft-Hartley fund was 2% higher in expiration than nonexpiration years, a fairly small difference. In contrast, the probability of receiving a proposal from a non-Taft-Hartley entity jumped by 11% in expiration years, a much larger difference. This pattern suggests that there may be material constraints on Taft-Hartley funds, but that unions evade these constraints simply by shifting their proposal activity to controlled entities that are not subject to the Taft-Hartley constraints. The pattern also cautions against

[23] As of June 30, 2015 (Milliman Multiemployer Pension Funding Study: http://us.milliman.com/mpfs/).

[24] Union pension funds are also subject to the Employee Retirement Income Security Act (ERISA) of 1974 (29 U.S. Code §1104 (Fiduciary Duties)) that established a fiduciary duty of trustees to manage pension assets "solely in the interest of the participants and beneficiaries." Larcker and Tayan (2012), based in part on a Department of Labor report, argue that ERISA is not enforced when it comes to shareholder voting.

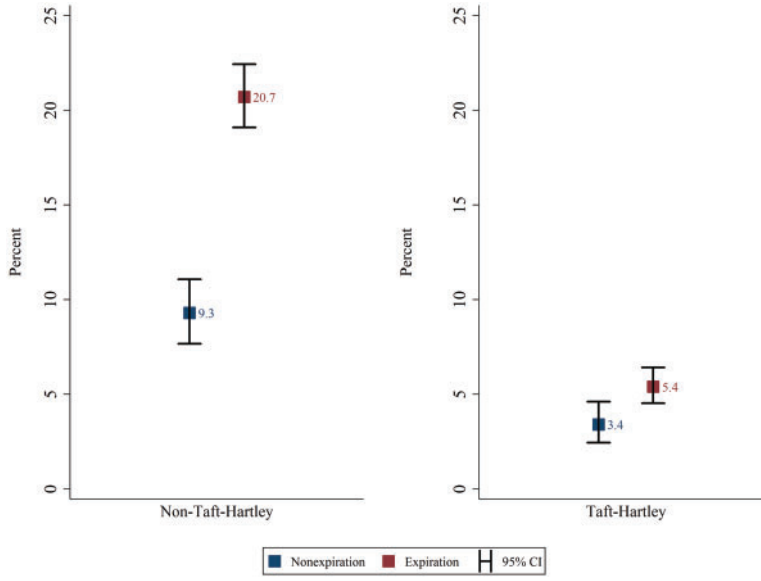


**Figure 3**
**Proposals by Taft-Hartley funds versus other funds**

the literature's tendency to assume that labor union proposals come from union pension funds, and suggest that concerns with union pension funds might be misplaced.

### 4.2 Right-to-Work Laws

About half of the states have adopted so-called right-to-work laws that prohibit requiring membership in a union as a condition of employment. The labor laws in these states tend to provide unions with fewer collective bargaining rights in other respects as well. Granting unions strong collective bargaining rights could increase or decrease the number of opportunistic proposals, depending on whether such proposals are complements or substitutes for other bargaining strategies.

To assess the relation between collective bargaining rights and opportunistic proposals, we collected data on which states had right-to-work laws. Then, using worker location data for employees covered by an expiring contract, we constructed variables for the number of employees who worked in a right-to-work state and the number who worked in a non-right-to-work state (these employee counts apply only to workers covered by the expiring contract.)

Table 12 reports linear probability regressions of a dummy for receiving a proposal on variables related to expiring contracts. The regression in Column (1), where the dependent variable is a dummy for a union proposal, shows that proposals are more likely in expiration years when there are more

**Table 12**
**Proposals, right-to-work, and Dodd-Frank**

| | Union proposals (1) | Nonunion proposals (2) | Union proposals (3) | Nonunion proposals (4) |
|---|---|---|---|---|
| Dummy = 1 if expiring contract | 3.6** | 0.5 | 3.7* | −0.5 |
| | (1.8) | (2.2) | (1.9) | (2.2) |
| #Employees in right-to-work states (in thousands) | −0.107 | 0.160* | … | … |
| | (0.111) | (0.095) | | |
| #Employees in non-right-to-work states (in thousands) | 0.274** | −0.002 | … | … |
| | (0.108) | (0.092) | | |
| Dummy = 1 if expiring contract and year 2011-2013 | … | … | −0.4 | 5.8 |
| | | | (3.3) | (4.8) |
| #Employees under expiring contract (in thousands) | … | … | 0.124** | 0.031 |
| | | | (0.054) | (0.035) |
| #Employees under expiring contract (in thousands) and year 2011-2013 | … | … | −0.176 | 0.050 |
| | | | (0.116) | (0.120) |
| Log(assets) | 9.5*** | 14.3*** | 9.1*** | 14.8*** |
| | (2.5) | (3.0) | (2.6) | (3.0) |
| $R^2$ | 0.140 | 0.183 | 0.138 | 0.178 |
| $N$ | 3,127 | 3,127 | 3,348 | 3,348 |

Each column reports estimates from a linear regression; the dependent variable is a dummy equal to one if the firm received a proposal from a union or nonunion, as indicated at the top of each column. Standard errors clustered by firm are in parentheses beneath coefficient estimates. Coefficients and standard errors are scaled by 100 to represent percentages. The unit of observation is a firm-year, and the panel runs from 1997 to 2013. All regressions include firm-specific and year-specific fixed effects. #Employees is expressed in thousands, and applies only to expiring contracts. In Columns (1) and (2), a firm-year is dropped if state information is missing for more than 1% of the number of employees under an expiring contract. Significance levels are indicated: * = 10%, ** = 5%, *** = 1%.

impacted workers in non-right-to-work than right-to-work states. The two coefficients are statistically different ($p = .025$). This suggests that unions view opportunistic proposals as more effective in states where they have strong collective bargaining rights, that is, they treat proposals as complementary to other bargaining strategies. Column (2) reports the same regression, except the dependent variable is a dummy for a nonunion proposal. The difference between the two employee coefficients is smaller and not statistically significant ($p = .239$).[25]

### 4.3 Dodd-Frank Act

Section 951 of the Dodd-Frank Act of 2010 requires companies to hold say-on-pay votes at least once every three years. Prior to passage of Dodd-Frank, proposals requiring say-on-pay votes were a staple for unions, which could mean that unions viewed them as effective bargaining chips. If regulators wish to decrease opportunistic proposals by unions, they might consider restricting activists from making certain types of proposals that are favored as bargaining chips. Whether such a restriction would curtail opportunism depends on how easy it is for activists to find attractive substitute topics. To provide a rough sense of how easily unions can find effective substitutes for say-on-pay proposals, we

[25] If employment is specified as a logarithm, the difference remains statistically significant for union proposals and insignificant for nonunion proposals.

estimate regressions that compare union proposal activity before (1997–2010) and after (2011–2013) Dodd-Frank was adopted.

The regressions in Table 12 allow the effect of an expiring contract to vary pre- and post-Dodd-Frank. In Column (3), the dependent variable is a dummy if a company received a union proposal. The estimates on the time interaction terms reveal a small and statistically insignificant decline in union proposals after Dodd-Frank. In Column (4), the dependent variable is a dummy if a company received a proposal from a nonunion sponsor. Again, the estimates do not indicate significant changes over time. This suggests that unions did not find it difficult to find substitute topics for say-on-pay proposals.

## 5. Proposals and Governance Change

Even if unions use the proposal process opportunistically, and even if doing so allows them to achieve better collective bargaining outcomes, it is still possible that union proposals benefit the other shareholders. A union proposal might prod a company into adopting better governance practices at the same time that it allows the union to secure higher wages. Here we offer some suggestive evidence. Our approach is to focus on union proposals targeted at specific corporate governance provisions, and estimate how often firms adjust these provisions following a union proposal. Because of endogeneity in the proposal decision, these estimates are correlations more than causal estimates, but they give an indication of how often proposals are followed by governance changes.

We focus on the eight governance provisions listed in Table 13. We include a provision if it was tracked in the ISS Governance database and if our sample firms collectively received more than 25 proposals on the provision during the sample period.[26] There is disagreement among both academics and practitioners whether these provisions actually capture "good governance" (Gompers, Ishii, and Metrick 2003; Romano, Bhagat, and Bolton 2008; Larcker, Ormazabal, and Taylor 2011), but many reformers believe them to be effective, and proxy advisory firms often endorse them.

For each firm, year, and provision, we create a dummy variable equal to one if the firm changed its position on the provision to the position supported by "good governance" reformers. For the full sample, the probability of a governance change so defined in any given year was 5.3%. We also created a dummy variable equal to one if the firm received a shareholder proposal on the topic of the provision in the preceding year. We then estimated how often "good governance" changes were preceded by shareholder proposals.

Table 14 presents linear probability regressions, with year-provision fixed effects to allow for the possibility that issues gain attention in waves, and firm

[26] We excluded board independence because it is a continuous variable (e.g., the percentage of outside directors on the board), while the other provisions are recorded as dichotomous.

**Table 13**
**Description of governance provisions favored by reformers**

| | ISS issue code | #Proposals | #Changes |
|---|---|---|---|
| **Require Independent Board Chair**<br>Require chair of board of directors to be an independent member of board; prohibit CEO and other managers from serving as chair of the board. | 2214 | 227 | 135 |
| **Declassify Board**<br>Eliminate classification of directors; require all directors to be elected annually. | 2300 | 332 | 76 |
| **Allow Cumulative Voting for Directors**<br>Allow a shareholder to cast a number of votes per share equal to the number of directors to be elected; votes may be applied to a single nominee or distributed over multiple nominees. | 2220 | 153 | 5 |
| **Limit Golden Parachutes**<br>Limit compensation arrangements that provide top executives with compensation based on a merger, acquisition, or other control transaction. | 2414 | 115 | 91 |
| **Require Majority Vote for Directors**<br>Require nominee for director to receive votes from a majority instead of a plurality of shareholders in order to be elected. | 2111 | 181 | 34 |
| **Rescind Poison Pill**<br>Rescind shareholder rights plan that allows existing shareholders to acquire stock at a discounted price in the event of a merger or acquisition. | 2310 | 228 | 86 |
| **Allow Special Meetings**<br>Allow shareholders to call a special meeting of shareholders, subject to ownership and other conditions. | 2325 | 133 | 160 |
| **Reduce Supermajority Vote Requirement for Corporate Decisions**<br>Reduce supermajority requirement for shareholder votes to approve certain actions, such as removing a director, amending bylaws, and takeovers. | 2320, 2321 | 146 | 49 |

This table reports the governance provisions tracked in the ISS Governance database that attracted at least 25 shareholder proposals among our sample firms over the period 1997–2013. Each provision is described with the change desired by "good governance" reformers. #Changes is the number of firm-years in which the indicated governance provision changed in the direction recommended by reformers.

fixed effects to allow for the possibility that some firms are more amenable to change than others. Regression (1) indicates that a governance change was 7.3% more likely in a year with a shareholder proposal than a year without a shareholder proposal; the coefficient is statistically significant at the 1% level, and the magnitude is material compared with the unconditional probability of 5.3%.

Regression (2) of Table 14 shows the connection between governance change and shareholder proposals separately for union and nonunion proposals. Union proposals were 3.9% less likely to be followed by a governance change than nonunion proposals; the coefficient is not different from zero at conventional levels of significance. Nonunion proposals show a reliable connection with subsequent governance change.

The critical Regression (3) of Table 14 distinguishes proposals that occurred in expiration and nonexpiration years. As discussed above, to the extent that

**Table 14**
**Corporate governance changes and shareholder proposals**

| | Full sample | | | Excluding firms that already adopted provision |
|---|---|---|---|---|
| | (1) | (2) | (3) | (4) |
| Dummy = 1 if there was a proposal on a given topic | 7.3*** | 8.3*** | 8.2*** | 4.9 |
| | (1.2) | (1.4) | (2.5) | (3.4) |
| Dummy = 1 if there was a proposal by union | … | −3.9 | 6.4 | 7.1 |
| | | (2.7) | (8.6) | (9.5) |
| Dummy = 1 if expiring contract | … | … | 0.4 | 0.6 |
| | | | (0.6) | (0.8) |
| Dummy = 1 if proposal & expiring contract | … | … | 0.03 | 2.0 |
| | | | (3.0) | (3.9) |
| Dummy =1 if union proposal & expiring contract | … | … | −12.4 | −15.8 |
| | | | (9.1) | (9.9) |
| $R^2$ | 0.163 | 0.163 | 0.164 | 0.315 |
| $N$ | 11,988 | 11,988 | 11,988 | 7,043 |

Each column reports estimates from a linear probability regression in which the unit of observation is a firm-year-provision. The dependent variable is a dummy equal to one if a company changed a given provision in the direction favored by "good governance" reformers in a given year. The proposal dummies indicate whether the firm received a shareholder proposal on a particular provision in the preceding year. All regressions include year-provision and firm fixed effects. Standard errors clustered at the firm level are reported in parentheses beneath the coefficients. Coefficients and standard errors are scaled by 100 to represent percentages. Significance levels are indicated: * = 10%, ** = 5%, *** = 1%.

union proposals in expiration years are opportunistic, one might expect them to be less effective because the union has less incentive to invest time and energy in developing a strong proposal if it expects to bargain the proposal away. The coefficient on union proposals in expiration years is consistent with this idea: union proposals were 12.4% less likely to be followed by governance change in expiration than nonexpiration years. While the magnitude is nontrivial, the coefficient is not precisely estimated and cannot be distinguished from zero statistically.[27] In expiration years, the probability of change following a union proposal was 6.0% less than following a nonunion proposal, although not statistically different from zero.

Even with almost 12,000 observations, the regression coefficients are not precisely estimated. One reason may be measurement error in the governance provisions. The sample contains many cases in which a firm received a shareholder proposal on a provision even though the ISS Governance database indicates that the company already had adopted it. Some of these proposals may represent deterrence (e.g., forbidding a firm that does not have a poison pill from adopting one in the future) or may represent fine-tuning of a provision (e.g., lowering the ownership necessary to call a special meeting), and others may simply be errors.

Regression (4) of Table 14 reports a regression based on a subsample that may be cleaner. In this regression, observations in which the ISS Governance database indicates that a firm had already adopted the "good governance"

[27] The coefficient is statistically different from zero at the 10% level in a conditional logit regression.

provision are excluded. Taken at face value, there is no reason to offer proposals at such firms because they have already made the decision that reformers want. The sample size drops by almost half, but the coefficients remain qualitatively similar, and the key coefficient on the union-expiration dummy increases in magnitude. The relevant coefficients remain statistically indistinguishable from zero.

## 6. Tying Together the Findings

This paper assembles a variety of evidence—more than a dozen distinct facts—that is difficult to reconcile with the view that union proposals are motivated solely to increase shareholder value. We argue that the evidence fits more naturally with the view that unions use proposals opportunistically. However, the strategic dynamics of opportunism can take several forms. We next sketch a theory of opportunism that ties together the various findings. We present this as a "story" that can account for the findings [cited in square brackets]—developing a complete theory would be beyond the scope of this study.

Every year, potential sponsors including the union receive a noisy signal about the quality of potential proposals, and they make "regular" proposals if the signal is positive. The manager and other (voting but not sponsoring) shareholders also receive signals about the quality of proposals. The manager adopts the submitted proposal if he or she agrees on its merits; otherwise it goes to a vote of shareholders. The other shareholders approve it if their signals are sufficiently better than the manager or sponsor's signal. Because the quality of regular proposals does not drastically change between expiration and nonexpiration years, nonunion shareholder proposal rates do not vary between expiration and nonexpiration years [Section 3.1].

In expiration years, the union can also make an "opportunistic" proposal that imposes a personal cost on the manager and is less likely to increase firm value than regular proposals. The union intends this as a bargaining chip that can be withdrawn in exchange for wage concessions, so the union has less incentive to invest the time and energy necessary to develop a value-increasing proposal. In deciding whether to grant concessions to the union, the manager compares the personal cost of the proposal as well as its value implications weighted by the probability of its approval, against the cost of concessions. All else equal, the manager is more likely to grant concessions to a proposal that the other shareholders would approve, that is, value-increasing proposals; and the manager is more likely to reject concessions for value-decreasing proposals.

In this setup, unions are more likely to make proposals during contract negotiation years [Section 3.1], our main result. Opportunistic proposals are more likely in contentious environments where the expiration of a contract leads to serious negotiations [Section 3.2]. In order to create valuable bargaining chips that impose personal costs on managers, opportunistic proposals pertain

to compensation matters more than regular proposals [Section 3.3]. Because of the dubious motives behind opportunistic proposals and the presence of management trustees at Taft-Hartley funds, unions initiate their opportunistic proposals through non-Taft-Hartley funds, causing a spike in union proposals from non-Taft-Hartley funds in expiration but not nonexpiration years [Section 4.1].

If a proposal goes to a vote, the proxy advisory firm consults its own information signal, and the other shareholders consult their own signals and the recommendation of the proxy advisory firm. The proxy advisory firm is less likely to support opportunistic than regular proposals [Section 3.4] for two reasons. First, the union is more likely to advance a value-reducing proposal when creating a bargaining chip, and second, at the margin the manager is more likely to offer concessions to remove opportunistic proposals. Put differently, in expiration years the manager continues to accept proposals that he or she judges to be sufficiently good using the previous standards for regular proposals, but now also accepts more marginal proposals to avoid the personal cost; the resulting distribution that goes to a vote contains worse proposals. For the same reason, the other shareholders are less likely to approve opportunistic than regular proposals [Section 3.4].

The likelihood of withdrawing a regular versus opportunistic proposal is ambiguous because of offsetting effects. On the one hand, the manager is more likely to make a concession in order to avoid the personal cost of an opportunistic proposal; on the other hand, opportunistic proposals are more likely to be value-reducing, and the manager can rely on the other shareholders to reject them. Because of the offsetting effects, withdrawal rates of union proposals can be higher or lower in expiration than nonexpiration years, and the evidence of lower withdrawal rates in expiration years [Section 3.6] does not contradict the story.

The manager is more likely to use the no-action letter process to exclude opportunistic than regular proposals because, as mentioned, they are more likely to be harmful and the manager would like to avoid the personal costs. If the market observes a no-action letter in expiration years, it concludes that the company with some probability has received an opportunistic proposal, which could trigger a wage concession if no-action relief is denied. The enhanced probability of a wage concession reduces firm value when the market learns of the proposal [Section 3.5]. Conversely, news of a no-action letter request in nonexpiration years only indicates a regular proposal that is bad in the eyes of management, and unlikely to be implemented even if no-action relief is not granted, on net having little effect on firm value.

In terms of wage outcomes, a withdrawn proposal in negotiation years indicates a wage concession. Unions thus earn higher wages following a withdrawn proposal than a proposal that goes to a vote [Section 3.6].

In terms of governance changes, for regular proposals, the manager adopts those that are sufficiently good, based on his or her own information. For

opportunistic proposals, the manager is more likely to grant a concession to a good proposal, resulting in its removal, and unions are less likely to sponsor good proposals, resulting in lower shareholder adoption rates. Therefore, union proposals are less likely to lead to governance improvements in expiration than nonexpiration years [Section 5].

## 7. Discussion and Conclusion

Shareholders qua owners have the right to propose changes in corporate governance and policy, to be decided by a vote of the shareholders at large. This right is described in a company's organizational documents and is elemental under state law. In principle, the right could be unrestricted, with shareholders of any type allowed to bring proposals of any type, under the assumption that shareholders can be relied upon to police themselves and vote down proposals that would hurt the company. In the United States, however, proposal rights are regulated and restricted by the SEC, which claims authority to do so under the Securities Exchange Act of 1934. The SEC's restrictions flow from the premise that some shareholder proposals can be harmful—not so much because shareholders need protection from harming themselves through adoption of value-destroying proposals—but in recognition of the possibility that the process of making a proposal can be damaging. The two primary concerns in this regard are that corporate officers may be distracted by frivolous proposals that take them away from more valuable activities, and that activist shareholders may use proposals as bargaining chips to extract concessions ("side payments") from managers in exchange for withdrawing their proposals. In both cases, proposals may damage firm value, even if they never come to a vote and are never approved.

The purpose of our study is to provide evidence on whether labor unions—the shareholder group that attracts the most concern—use the proposal process opportunistically. Our strategy is to assemble an array of evidence, some plausibly causal and other more correlational, that speaks to the nature of union proposals. Our tests revolve around the idea that unions have a heightened incentive to use proposals as bargaining chips when engaged in wage negotiations—so that increased proposal activity during contract negotiations can be interpreted as (at least prima facie) evidence of opportunism. We find that union proposal activity increases by one-fifth in years in which a company is negotiating a labor contract compared with non-negotiation years, and union proposals almost double in probability in companies with a history of labor strife.[28] We also find that unions especially increase proposals pertaining to executive pay, the sort of proposals that seem well suited for use as bargaining

[28] While these effects appear to be nontrivial, one might ask why we do not see even more opportunistic proposals, given that a proposal only requires ownership of $2,000 of stock for one year. Part of the reason, we suspect, is that there are other costs to making a proposal. The negotiating union typically needs to identify and persuade an affiliate to bring the proposal on its behalf; it needs a legal team to respond to the company's attempts to omit

chips, during contract negotiation years compared with non-negotiation years. In contrast, we find no evidence that nonunion shareholders increase their proposals during years in which a company is involved in collective bargaining. We also provide a collection of more suggestive evidence on the downstream reactions to union proposals. Other shareholders are less likely to support union proposals during negotiation than non-negotiation years, and ISS, a leading proxy advisor, is less likely to support union proposals during negotiation years. Wage settlements are better for workers following negotiations in which the union made and then withdrew a proposal, consistent with the idea that the proposal was withdrawn in exchange for concessions. While many of these pieces of evidence can be explained in more than one way when viewed in isolation, they all point to opportunistic behavior to varying degrees, and collectively build a broad case that unions may be using proposals as bargaining chips.

Supplementing this statistical evidence with a body of specific examples would be ideal, but neither party in this type of side agreement would wish to disclose it. A union is unlikely to admit that its proposal is being advanced for opportunistic reasons, and management is unlikely to admit that it paid off the union in order to avoid a vote on an uncomfortable proposal. A few cases that have come to light based on SEC no-action letter requests are summarized in Appendix A.8.

While our study focuses on union proposals, one could imagine opportunistic proposals by other groups. For example, Romano (1993) suggests that public pensions might put pressure on a company not to shut down a plant in their home state. As another example, there is evidence that unions and public pensions make proposals calling for disclosure of campaign contributions most often at companies that contribute to Republican campaigns, presumably to pressure them to reduce their contributions (Min and You 2016).

We would hesitate to draw specific policy conclusions from this evidence about the shareholder proposal process or shareholder rights more generally. Our evidence suggests that giving shareholders the right to bring pressure to bear on managers can have the unintended effect of opening a window of influence for activists to bargain with management and possibly extract side payments, and this might help explain evidence in other studies that investors do not gain from enhanced shareholder rights (Larcker, Ormazabal, and Taylor 2011; Stratmann and Verret 2012) or from shareholder proposals themselves (Denes, Karpoff, and McWilliams 2017; Matsusaka, Ozbas, and Yi 2017). Perhaps the main policy lesson that emerges is that when thinking about shareholder rights, it is important to balance the potential cost of proposals against the more obvious benefit of providing shareholders a tool to counteract managerial agency problems.

---

the proposal from the proxy via the no-action letter process; and it needs to reach out to other shareholders and launch a convincing campaign to credibilize the threat.

## Appendix A. Description of Data

### A.1 Shareholder Proposals, Sponsors, Withdrawals, Outcomes

Most information related to shareholder proposals was taken from the ISS Proposals database (formerly RiskMetrics). This database reports information on shareholder meeting date, sponsor of the proposal, type of sponsor (e.g., individual, labor union, religious group), topic of proposal, and outcome (e.g., withdrawn, voted, not in proxy). The database covers firms included in the S&P 1500 index and contains 15,562 proposals from 1997 to 2013. The ISS Proposals database is the standard data source for research on shareholder proposals and is believed to be fairly comprehensive, although it appears to omit some proposals that were initiated but voluntarily withdrawn by the proponent.

Because of inconsistencies, errors, and omissions in the database's sponsor information, we created new sponsor categories, defined in Table 1. Proponents were assigned to categories based on categorizations in the original database, and if that failed (because of an error, ambiguity, or omission), we manually assigned a sponsor category based on investigation of the sponsor. We paid special attention to union proposals, and assigned individuals to the union category if they were officials or otherwise affiliated with a union. If a proposal had multiple sponsors, we chose the primary sponsor.

For our analysis of Taft-Hartley funds, we identified the specific entities that sponsored each union proposal. In some cases, the sponsor listed in ISS Proposals was unambiguous. In the remaining cases, we consulted proxy statements and SEC no-action letters files. We classified an entity as a "Taft-Hartley fund" if it was required to have joint management-union trustees.

For our analysis of right-to-work laws, information on each state's status and date of adopting right-to-work was taken from the website of the National Right to Work Committee: https://nrtwc.org/facts/state-right-to-work-timeline-2016/. When assigning workers to right-to-work versus other states, if location data were missing for more than 1% of the workers covered by an expiring contract, we dropped the observation.

The database assigns each proposal a four-digit topic code ("issue code"). We grouped the various topics into the six broad categories shown in Figure 2 based on issue codes. To facilitate replication and future research, we also provide in the Internet Appendix a detailed breakdown of the topics in each category and a mapping between our categories and the ISS issue codes.

The database assigns an "outcome" to each proposal, such as voted, withdrawn, or omitted. Classifications are often missing. We classify a proposal as withdrawn if its status was indicated as not filed, not in proxy, not presented, not proposed, not revised, omitted, or withdrawn. The rest of the proposals were categorized as not withdrawn, except for the cases of bankruptcy, invalidated by court, meeting canceled or postponed, merger, no-action letter, not available, not applicable, or not disclosed; we excluded these cases from the analysis of

withdrawals. Outcomes without an explicit statement were assumed to have gone to a vote, which is the case in 100% of the observations we checked individually.

The database does not provide the date that a proposal was initiated, but includes the date of the annual meeting at which the proposal would be put to a vote. In the 20% of observations where the meeting date is missing, we added the information based on company annual reports.

We filled in missing entries on firm identifiers, meeting dates, sponsors, and proposal outcomes based on SEC form DEF 14A, requests for SEC no-action letters, and other online resources. We excluded proposals related to proxy contests throughout our analysis, as they are different in nature from other shareholder proposals.

Information on whether a proposal passed or failed was taken from ISS Voting Analytics database, which covers Russell 3000 firms during the period 2003–13. The variable for the percentage of votes in favor, defined as yes/(yes+no), was constructed using information on votes in favor and votes against from the ISS Voting Analytics database. That database also provided ISS recommendations on each proposal.

### A.2 SEC No-Action Letters

PDF files containing the various documents pertaining to SEC no-action letters were downloaded from the SEC website: https://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml. The filing date for the request in most cases is noted in the cover letter. Information on the proponent is noted in the cover letter, or in other parts of the file. We calculated announcement returns using CRSP data, and used the market-adjusted and the Fama-French four-factor model to compute abnormal returns.

### A.3 Contract Expirations

Information on labor contract expirations was taken from the BNA Labor Plus database maintained by the Bureau of National Affairs. Under the National Labor Relations Act, firms with labor union contracts are required to file notices of contract expiration with the Federal Mediation and Conciliation Service. These filings include information on employer names, labor union names, contract expiration and notice dates, and the number of employees involved in the collective bargaining. Expiration dates were converted to expiration quarters.

The database does not have firm identifiers such as CUSIP or GVKEY, so firms had to be identified by their names as they appear on the BNA filings. We manually matched these employer names with the company names in Compustat. The names in the BNA database are often at a plant or a subsidiary level, in which cases we identified and matched with the ultimate parent. When a division or plant changed its ownership during the sample period, we identified the owner at the point of contract expiration.

To make the project manageable and reduce noise, we limited the sample to contracts that involve 500 or more contract employees. This filter is needed because there are more than 210,000 unique names in the full contract listing database, and the only way to confirm a match is to check if each employer name can be matched with a firm in the Compustat universe. Once a firm passed this filter, we included all contracts involving these firms using company-specific keywords and manually corrected wrong matches. For example, the keywords we use for TJX Companies Inc. are TJ MAXX, T J MAXX, TJX, T.J. MAXX, MARSHALLS, MARMAXX, where the latter two are subsidiaries of the company.

### A.4 Work Stoppages

The BNA Work Stoppage database reports employer name, work stoppage start and end dates, union, and the number of employees under work stoppage. Work stoppages include strikes and lockouts. As with the BNA Labor Plus database, only firm names were available, not firm identifiers, so companies had to be matched to the other databases manually. We include only firms that had at least one contract expiration involving more than 500 employees; among those firms, we include work stoppages involving any number of workers. Stoppage dates were assigned to the year in which the stoppage occurred.

### A.5 Collective Bargaining Outcomes

The BNA Settlement database includes employer, union, settlement effective date, contract expiration date, contract term, wage increase, original wage, and a description of other contractual terms. Most of the information is in text format (e.g., "3.66% 1st yr, 2nd yr, 3rd yr, 4th yr, 5th yr" and "$30 (was $22) per hr for tutors over term"), and outcomes are multidimensional: they include information on wage levels or wage increases, bonuses, lump sum payments, retirement benefits, health care benefits and copayments, cost of living adjustments, duration of contract, and so forth. We standardized the wage increase information into an annual percentage increase over the life of the contract, ignoring bonuses, one-time payments, and so forth. Because our unit of observation is a settlement outcome, we treated multiple observations with identical employer, union, effective date, expiration date, and wage increase rate as one observation. We included all settlement observations for our sample firms and their subsidiaries. As with the other BNA databases, there were no firm identifiers, so companies had to be matched to the other databases manually.

### A.6 Governance Provisions

Information on firm-specific corporate governance provisions and board structure was taken from the ISS Governance database (formerly known as the IRRC Takeover Defense database) and the ISS Directors database, respectively. Both databases cover the S&P 1500 companies. The ISS Governance database

contains information on corporate governance provisions and state takeover laws. The ISS Directors database includes information related to individual directors (name, age, tenure, gender, committee memberships, independence classification, etc.).

Our analysis focuses on the eight governance provisions listed in Table 12. We included a provision if it was tracked in the ISS Governance database—we need this information to determine if a firm changed its governance structure—and if our sample firms collectively received more than 25 proposals concerning the provision during the sample period. We excluded board independence because it is a continuous variable (e.g., the percentage of outside directors on the board), while the other provisions are recorded as dichotomous.

Until 2006, the observations in the ISS Governance data set are either biannual or triannual, which results in significant shrinkage of the sample when governance provisions are used as controls. In order to minimize the loss, if the observation for year $t$ is missing and the observations for year $t-1$ and $t+1$ are the same, we assign the year $t-1$ classification to year $t$. Governance provisions are known to be sticky, so we believe our imputation has little cost. When we study changes in governance provisions, we do not impute missing values.

Information on CEO tenure and compensation came from Execucomp. For compensation, we use the variable *tdc2*, which is realized pay.

### A.7 Financial Information

Firm financial information came from Compustat using GVKEY as a firm identifier. Our control variables are: logarithm of book value of assets, total debt divided by total assets, cash and short-term investments divided by total assets, ROA (operating income before depreciation divided by total assets), and annual stock return at the fiscal year close. If a company exited the database due to merger, we collected financial information from the surviving firm, where available. For example, Bell Atlantic merged with GTE to form Verizon Communications in 2000. Bell Atlantic does not exist in the Compustat database, but Verizon Communications' financial information goes back to 1984.

### A.8 Combining the Databases

After manually matching the firms in the BNA databases with Compustat using company names, we merged the data on contract expiration with the data on shareholder proposals using six-digit CUSIPs as the primary identifier. Six-digit CUSIPs are often missing in the ISS Proposals database, and some firms used multiple six-digit CUSIPs during the sample period. In such cases, we used the ticker as our secondary identifier and manually verify that each match with the ticker is correct.

## Appendix B. Examples from SEC No-Action Letter Requests

### B.1 Dow Jones / International Association of Publishers' Employees

This example is from a much-cited no-action letter from 1994 (No-action letter: Dow Jones & Company, January 24, 1994). This case established the precedent that a proposal intended to directly influence an ongoing contract negotiation could be omitted.

On September 8, 1993, Dow Jones & Company, Inc. received a proposal from a stockholder named Andy Zipser. The proposal called on the directors to limit the CEO's compensation to no more than twenty times the average wage of non-officer employees of the firm.

Dow Jones is a media company whose most prominent products were the *Wall Street Journal* and the Dow Jones Industrial Average. At the time of the proposal, the company was engaged in the tenth month of negotiations with the International Association of Publishers' Employees (IAPE), a union that was the collective bargaining representative of 2,000 of its employees.

The company requested a no-action letter from the SEC on the grounds that the IAPE, not Zipser, was the actual proponent and that the proposal arose "from IAPE's goals in collective bargaining to put pressure on Dow Jones to improve its labor contract to the benefit IAPE and its members." In support of this argument, the company noted that Zipser was a member of IAPE's board of directors and a member of the IAPE bargaining committee. In addition, on the day of submission, the IAPE held a press conference to publicize the proposal and issued a press release; two days after the proposal was submitted, the union sent a message to its officers stating that the proposal was part of its campaign to "put public pressure on Dow Jones to negotiate fair contracts with its workers;" and published a Bargaining Bulletin stating that the proposal was designed to "turn up the heat" on the company in the pending negotiations.

This proposal would have directly influenced the bargaining outcome because the CEO's compensation at the time was well above twenty times the average salary. Assuming the board did not wish to cut the CEO's pay, applying the principle would have required increasing the average compensation for non-officer employees.

### B.2 Maguire Properties / SEIU

This example shows a union proposal that was intended to support a union organizing campaign, not a contract negotiation (No-action letter: Maguire Properties, Inc., March 2, 2005).

In 2002, the Service Employees International Union (SEIU) began a methodical campaign to organize security guards in Los Angeles County. In 2000, the SEIU had been successful in a similar campaign to organize janitors. That earlier effort had been championed by Maguire Properties, the largest landlord in Los Angeles's central business district, but the company resisted

the SEIU's efforts to organize the security guards, believing that they should be represented by a different union.

On December 22, 2004, a stockholder named Richard W. Clayton III submitted a proposal for inclusion on the 2005 proxy statement. The proposal called for the separation of the position of board chairman and CEO, both of which were held at the time by company founder Robert F. Maguire III. Clayton, whose letter stated that he had "no 'material interest' other than that I believe to be shared by stockholders of the company generally," was in fact a senior research analyst for the SEIU who was on record as having spoken on behalf of the SEIU in public relations campaigns related to previous labor disputes.

In its request for a no-action letter, the company claimed that Clayton was essentially acting as a proxy for the SEIU, and that the proposal was not in fact "a proposal to benefit the company's stockholders generally, but [was] intended to further the particular agenda of the SEIU (of which the proponent has been an outspoken representative), to apply pressure on the company in the hopes of influencing the company to modify its position with respect to the current labor dispute." As evidence that the proposal was part of a broader campaign to put pressure on the company, the company noted that the SEIU had organized protests at various company properties, had launched a website that featured negative stories about the company, and had even gone so far as to lobby the Los Angeles Unified School District not to renew a $38.7 million lease at a company-owned property.

Clayton did not submit a response to the company's request for a no-action letter. Instead, on February 28, 2005, he withdrew his proposal, stating that he had sold his stock. The reasons were not made public.

In January 2006, the SEIU launched a formal campaign to collect pro-union signatures from security guards in Los Angeles County. The campaign was kicked off by an event on the steps of Los Angeles City Hall with union officials, Mayor Antonio Villaraigosa, and Robert F. Maguire III, who spoke out strongly in its favor. A final settlement was reached in April 2006, based on a pact with Maguire Properties.

**References**

Agrawal, A. K. 2012. Corporate governance objectives of labor union shareholders: Evidence from proxy voting. *Review of Financial Studies* 25(1):187–226.

Akyol, A. C., W. F. Lim, and P. Verwijmeren. 2012. Shareholders in the boardroom: Wealth effects of the SEC's proposal to facilitate director nominations. *Journal of Financial and Quantitative Analysis* 47(5):1029–57.

Anabtawi, I. 2006. Some skepticism about increasing shareholder power. *UCLA Law Review* 53:561–99.

Bainbridge, S. M. 2006. Director primacy and shareholder disempowerment. *Harvard Law Review* 119:1735–58.

———. 2012. *Corporate governance after the financial crisis*. New York: Oxford University Press.

Bebchuk, L. 2005. The case for increasing shareholder power. *Harvard Law Review* 118:833–917.

Cai, J., and R. A. Walkling. 2011. Shareholders' say on pay: Does it create value? *Journal of Financial and Quantitative Analysis* 46(2):299–339.

Choi, S. J., J. E. Fisch, M. Kahan, and E. B. Rock. 2016. Does majority voting improve board accountability? Working Paper, New York University and University of Pennsylvania.

Cvijanovic, D., A. Dasgupta, and K. E. Zachariadis. 2016. Ties that bind: How business connections affect mutual fund activism. *Journal of Finance* 71(6):2933–66.

Cziraki, P., L. Renneboog, and P. G. Szilagyi. 2010. Shareholder activism through proxy proposals: The European perspective. *European Financial Management* 16(5):738–77.

Davis, G. F. and E. H. Kim. 2007. Business ties and proxy voting by mutual funds. *Journal of Financial Economics* 85(2):552–70

Del Guercio, D. and J. Hawkins. 1999. The motivation and impact of pension fund activism. *Journal of Financial Economics* 52(3):293–340.

Denes, M. R., J. M. Karpoff, and V. B. McWilliams. 2017. Thirty years of shareholder activism: A survey of empirical research. *Journal of Corporate Finance* 44:405–24.

Ertimur, Y., F. Ferri, and V. Muslu. 2011. Shareholder activism and CEO pay. *Review of Financial Studies* 24(2):535–92.

Ertimur, Y., F. Ferri, and S. R. Stubben. 2010. Board of directors' responsiveness to shareholders: Evidence from shareholder proposals. *Journal of Corporate Finance* 16:53–72.

Fisch, J. E. 1993. From legitimacy to logic: Reconstructing proxy regulation. *Vanderbilt Law Review* 46(5):1129–1200.

Gompers, P., J. Ishii, and A. Metrick. 2003. Corporate governance and equity prices. *Quarterly Journal of Economics* 118(1):107–56.

Kerber, R. 2012. Janus cuts CEO pay 40 percent after shareholder vote. *Reuters*, March 1.

Larcker, D. F., A. L. McCall, and G. Ormazabal. 2015. Outsourcing shareholder voting to proxy advisory firms. *Journal of Law and Economics* 58(1):173–204.

Larcker, D. F., A. L. McCall, and B. Tayan. 2013. And then a miracle happens. *Stanford Closer Look Series*, February 25.

Larcker, D. F., G. Ormazabal, and D. J. Taylor. 2011. The market reaction to corporate governance regulation. *Journal of Financial Economics* 101(2):431–48.

Larcker, D. F. and B. Tayan. 2012. Union activism: Do union pension funds act solely in the interest of beneficiaries? *Stanford Closer Look Series*, December 11.

Liebeler, S. W. 1984. A proposal to rescind the shareholder proposal rule. *Georgia Law Review* 18(3):425–68.

Matsusaka, J. G. and O. Ozbas. 2017. A theory of shareholder approval and proposal rights. *Journal of Law, Economics, and Organization* 33(2):377–411.

Matsusaka, J. G., O. Ozbas, and I. Yi. 2017. Why do managers fight shareholder proposals? Evidence from SEC no-Action letter decisions. Working Paper, University of Southern California.

Min, G. and H. Y. You. 2016. Political origins of shareholder activism: Corporate political spending and shareholder proposals. Working Paper, University of Virginia and Vanderbilt University.

Prevost, A. K., R. P. Rao, and M. A. Williams. 2012. Labor unions as shareholder activists: Champions or detractors? *The Financial Review* 47:327–49.

Romano, R. 1993. Public pension fund activism in corporate governance reconsidered. *Columbia Law Review* 93(4):795–853.

———. 2001. Less is more: Making institutional investor activism a valuable mechanism of corporate governance. *Yale Journal of Regulation* 18:174–252.

Romano, R., S. Bhagat, and B. Bolton. 2008. The promise and peril of corporate governance indices. *Columbia Law Review* 108(8):1803–82.

Schwab, S. J. and R. S. Thomas. 1998. Realigning corporate governance: Shareholder activism by labor unions. *Michigan Law Review* 96(4):1018–94.

Shleifer, A. and R. W. Vishny. 1997. A survey of corporate governance. *Journal of Finance* 52(2):737–83.

Stratmann, T. and J. W. Verret. 2012. Does shareholder proxy access damage share value in small publicly traded companies? *Stanford Law Review* 64(6):1431–68.

Thomas, R. S. and J. F. Cotter. 2007. Shareholder proposals in the new millennium: Shareholder support, board response, and market reaction. *Journal of Corporate Finance* 13:368–91.

Thomas, R. S. and K. J. Martin. 1998. Should labor be allowed to make shareholder proposals? *Washington Law Review* 73(1):41–80.