

LongView Funds: First Half of 2017 Corporate Governance and Proxy Voting Report Executive Summary

The LongView Funds turned 25 years old in 2017, and they marked that milestone by continuing to take a leadership role in pressing portfolio companies to assure long-term gains for investors by adopting best practices on a range of environmental, social and corporate governance topics. This activism is in furtherance of our asset management philosophy, namely, that constructive engagement with companies can yield positive investment returns and can protect our investors from the downside risks of bad governance practices.

This report provides an overview of the shareholder activities of the LongView Funds for the period January 1, 2017 to June 30, 2017.

SHAREHOLDER ENGAGEMENTS AND RESOLUTIONS

The LongView Funds remained on the cutting edge of corporate governance activism with several pioneering initiatives and breakthroughs in the first half of 2017.



Taking a Long-Term Approach to Climate Change

Amalgamated Bank has made a public commitment to operate with net-zero greenhouse gas emissions by the end of 2017, making it the second largest net-zero bank in the country. Achieving the goal of net-zero emissions means essentially reducing the level of an entity's greenhouse gases to roughly equal the amount of renewable energy created by an individual entity. We believe that achieving this goal is important for companies generally to achieve long-term shareholder value. Scientists believe that meeting the goals of the 2015 Paris Agreement will require achieving net-zero greenhouse gas emissions by 2030 to 2050, which is sooner than is currently planned by most corporations and nations.

Faced with this sobering reality, not to mention the shift in political support for the Paris Agreement, we believe that it is more important than ever for companies to take a leadership role in addressing the problem. We thus filed shareholder proposals at several companies requesting a study and report to shareholders on the feasibility of achieving the goal of net-zero emissions from all aspects of the company's business by 2030.

Three companies — **CarMax**, **GameStop** and **Amazon** — responded favorably, and we were able to withdraw the proposals without going to a vote. In particular, CarMax announced it will conduct a greenhouse gas emissions inventory and prepare a feasibility report on the company's ability to achieve net-zero operations, and will publish the executive summary of the report online for the public to view. GameStop updated its website to disclose some significant carbon reduction activities, adding: "Our progress to date in this area has given us the confidence to explore the possibility of whether, in line with the global shift to a low carbon economy, GameStop could be a carbon neutral company by the mid-century." Amazon will be undertaking greater shareholder outreach and dialogue.

Unfortunately, not every company was as receptive. We were unable to have a productive dialogue at either **PayPal** or **Netflix**, and so our proposals were voted at those companies' annual meetings, and they received "yes" votes of 23.8% and 15.8%, respectively. That is a high result for the topic.

Our focus on this issue reflects our longstanding strategy of using the shareholder engagement process not only to change practices as individual companies, but to change the larger corporate culture on issues of long-term importance to shareholders. Individual companies may be taking steps to reduce greenhouse gas emissions as part of a cost-reduction strategy, but it is often not clear whether such reductions are viewed as an "operations" issue best left to the operations staff, or whether those efforts reflect a commitment by the Board of Directors to move a company forward on this issue. By engaging companies on this topic, we are working to achieve greater recognition of its importance at the Board level of companies generally.



Promoting Board Diversity

In a continued effort to advance diversity in all of its forms, Amalgamated Bank expanded its definition of corporate Board diversity to include LGBTQ individuals in its proxy guidelines. It is our belief that differing viewpoints lead to increased value for companies and shareholders, and including LGBTQ perspectives is a necessary step in accurately representing the broad spectrum of voices in leadership today. The updated proxy guidelines for Board diversity explicitly lists “...sexual orientation and gender diversity...” as possible considerations, which is representative of what Amalgamated Bank has done in the past and is committed to do in the future for greater representation of minority groups on corporate Boards.

We continued our pioneering work to promote diversity on corporate Boards of Directors by filing shareholder resolutions at companies that have no women or no minorities on their Boards. This initiative, which we started three years ago, is not only the right thing to do, but also promotes performance. A 2012 report from Credit Suisse linked Board diversity to better stock market and financial performance, including 26% higher share performance over a six-year period, higher return on equity, lower leverage, higher price/book ratios and improved growth prospects. Their research suggests several explanations for this better performance, including, among other factors, a stronger mix of leadership skills, improved understanding of consumer preferences, a larger pool from which to pick top talent and more attention to risk.

Our focus in 2017 was on large companies in the S&P MidCap index, given that virtually every S&P 500 LargeCap company has at least one female director, and most have at least one minority director. At MidCap companies, however, the statistics are worse. We were able to withdraw proposals at most of the companies we engaged following commitments to upgrade the company’s Board diversity policy and to take additional recruitment steps. These companies included **HollyFrontier Corp.**, **Life Storage**, **Eagle Materials** and **Manhattan Associates**. We began a dialogue with **The Ultimate Software Group**, but withdrew our proposal after the company elected a minority director to the Board. The only company where our proposal came to a vote was **Skechers U.S.A., Inc.**, which has aggressively resisted shareholder calls for greater diversity. Because two-thirds of the shares are held by insiders, we did not expect to receive a high vote, but nonetheless managed to win a “yes” vote of 51.5% of the non-insider shareholders. Our efforts with regard to Skechers and other MidCap companies were highlighted in a *Bloomberg* story in early 2017.

Our engagements with the companies we have targeted in recent years revealed that the companies are well aware that they are laggards on diversity. However, there may be no impetus for directors to do anything about the issue — unless

they hear from a shareholder, for example, or face the prospect of having their record raised at the annual shareholder meeting. Looking ahead, we expect to target other companies in 2018 and to monitor progress at the companies with which we engaged in 2017.



Corporate Governance Topics

Independent chair of the Board

A growing number of companies have an independent Board chair rather than assigning that responsibility to the CEO, and we have long championed that separation of the two roles as a means of assuring more independent Board oversight over management.

We filed a proposal asking **Chipotle Mexican Grill** to make this reform, which we thought was important in light of the company’s unsuccessful attempts to put the 2015 food safety crisis behind it. The company’s slow and ineffective response resulted in several years of shareholder gains being wiped off the books.

After filing this proposal, we learned that Pershing Square, a hedge fund, had become Chipotle’s largest shareholder and was pressing the company to refresh the Board with new directors. Given Pershing Square’s efforts, which resulted in a turnover of four directors, we decided not to press for a vote on our proposal, but we managed instead to negotiate for a strengthened role for the company’s lead independent director.

Proxy access

We continued our work to persuade companies to adopt a “proxy access” bylaw, under which long-term investors who hold at least three percent of a company’s stock will be able to nominate candidates for the Board of Directors and have shareholders vote on these candidates — along with the management nominees — on the company’s proxy card. Proxy access is viewed by many institutional investors as an effective way to add one or two new directors who can offer an outside perspective and to do so without the need for a full-blown proxy contest. The LongView Funds have been a leader in this area, for example, by negotiating the first proxy access bylaw with an S&P 500 company (Hewlett Packard) several years ago. Working with the UAW Retiree Medical Benefits Trust, we negotiated with two S&P 500 companies — **Mead Johnson Nutrition** and **Thermo Fisher** — to amend their bylaws to adopt this reform.

Executive compensation

We asked **T-Mobile** to adopt a policy to recoup or “claw back” compensation from executives when situations occur that can cause reputational or other damage to a company. Many companies have a clawback policy covering situations where

financial results have to be restated — as a restatement can mean that executives did not “hit their numbers” and thus did not earn bonuses or stock awards. Our proposal would take the clawback concept to the next level, i.e., to situations where a company is enmeshed in a scandal that has an adverse effect on investors or where the company finds itself paying out significant sums to regulators to settle claims of illegal behavior. At T-Mobile, we did not expect a large “yes” vote, given that T-Mobile’s corporate parent owns 65% of the outstanding shares; however, our proposal was supported by approximately 25% of the non-insider shares.

Supermajority voting requirements

Some companies require that important decisions be approved by a “supermajority” vote of the shareholders instead of a simple majority of the shares voted. Although a supermajority requirement may make sense on some topics, some companies — including **Service Corporation International**, a MidCap company — require approval by 80% of outstanding shares even on topics that are now widely accepted as “best practice” in corporate governance, i.e., electing all directors annually. Our proposal to end such high thresholds was supported by a 75% “yes” vote of shareholders, and we hope to engage with the company on what steps it will take to respond to this vote.

UNPRI

We continued our participation with an international group of investors through the United Nations Principles of Responsible Investment, to which we are a founding signatory. UNPRI seeks to develop guidelines for investors and companies to incorporate environmental, social and governance considerations into incentive pay and promote sustainable, long-term performance for investors. The final report, *Integrating ESG Issues into Executive Pay*, was published by UNPRI in June 2012.

Human capital management

How do corporate managements and investors view a company’s human capital? As a liability on the company’s books? A cost center where costs should be tightly controlled? Or as an asset in which the company should invest to improve its competitive position and produce an improved return for shareholders?

There is a growing body of evidence, thus far focused in the retail sector, indicating that a correlation exists between employee and customer satisfaction, on the one hand, and shareholder return, on the other. Working with a coalition of like-minded investors with nearly \$3 trillion in assets under management, we are petitioning the Securities and Exchange Commission to amend its rules to require greater disclosure of information and metrics on how individual companies stack up on key indicators of human capital management.



SHAREHOLDER LITIGATION UPDATE

In the first half of 2017, Amalgamated Bank continued its practice of pursuing litigation to advance good corporate governance goals. There were developments in a couple of cases begun in years past, as well as a number of cases filed and other matters pursued in 2017.

Pending Litigation

In 2016, the Bank pursued a number of new cases to further the goals of improved corporate governance. Litigation was commenced and lead plaintiff status was successfully sought in the three cases.

One such litigation was a class action lawsuit against Facebook, challenging a plan by the company to issue a new class of non-voting shares that would have the effect of strengthening the control power of the lead minority shareholder but diluting the power of all other shareholders. The Bank teamed with other co-plaintiffs and together were named as lead plaintiffs in the class action litigation. The first half of 2017 has been taken up with discovery, including some motion practice surrounding the discovery.

Also, a class action was brought by the Bank against Corrections Corporation of America (CCA) in October of 2016, alleging securities fraud by the company in connection with statements made by the company regarding its contracts with various government entities and the impact of those statements to present a false picture of the financial condition of the company. The Bank was awarded lead plaintiff status in November. Since that ruling, Cognizant has filed a motion to dismiss the Complaint, and we have filed a response to that motion. The court has not yet ruled on the motion.

In December of 2016, the Bank again teamed with other co-plaintiffs to file a class action lawsuit against Cognizant Technology in a securities fraud suit, alleging that statements that the company made about its operations in India were false and misleading, painting too rosy a picture of the company and failing to disclose improper payments made by at least one member of Cognizant senior management to government officials as part of a process to open new facilities in India. In February of this year, the court awarded the Bank and its co-plaintiffs lead plaintiff status. As in the CCA case, since that ruling, Cognizant has filed a motion to dismiss the Complaint, and the co-plaintiffs have filed a response to that motion. The court has not yet ruled on the motion, although a decision is expected shortly.

Finally, in May of 2016, the Bank joined with other co-plaintiffs to commence litigation against Volkswagen in Germany in connection with the manipulation of test results that was widely noted and the subject of separate litigation in the

United States. The claims in those cases are based in German law, some claims similar to claims that might be made in the United States, as well as other claims unique to German law. In the German justice system, class actions are not pursued, but a court selects among all of the parties who have filed litigation raising similar claims and appoints one of the cases to be the “model case”. All other claimants then follow upon what happens in the litigation involving the model case. The German court has awarded model case status to a different plaintiff and the Bank now awaits resolution of that case to pursue its own claims.

There were developments in two other matters started in earlier years. In 2016, litigation begun against Walmart regarding the treatment of workers in overseas factories that make the goods Walmart sells concluded. The litigation, potentially the start of a longer process, began as a request for books and records reflecting company practices regarding the monitoring of its suppliers and the working conditions for workers at those suppliers’ factories. The “books and records” lawsuit was successful in allowing the Bank to obtain all the necessary books and records it needed to determine how effectively Walmart monitors the labor practices of its off-shore suppliers, but ultimately those books and records did not provide sufficient grounds for pursuing shareholder derivative litigation in connection with those practices. The Bank agreed to dismiss the case and not formally pursue the matter further.

Similarly, in 2015, the Bank had begun “books and records” litigation against Yahoo! to see if grounds exist to file a shareholder derivatives complaint against the company for paying excessive compensation and severance to a former COO. Over the course of 2016, Yahoo! made a number of changes to the Board of Directors, such that most of the directors on the current Board of Yahoo! are not the people who participated in the compensation practices at issue. A demand was made on the Board of Directors as required in this kind of litigation. In the first half of 2017, the Board responded and, based on its own internal investigation, rejected the Bank’s demand that the company take action against certain current and former officers and directors. The Bank is currently considering its options going forward.

New Litigation

In the first half of 2017, the Bank has begun a few new matters that may turn into corporate governance litigation.

The first involves UnitedHealthcare, a company that allegedly overbilled the federal government in connection with Medicare payments. We have retained counsel to conduct a “books and records” demand under Delaware law to learn more about the company’s alleged practices. The demand has just been submitted to the Company and we are still in the process of trying to obtain documents.

The Bank has also begun another “books and records” demand against Universal Health Services (UHS), a Pennsylvania corporation that provides in-patient care for people suffering

from mental illnesses. According to outside accounts, including a whistle-blower lawsuit, UHS has allegedly manipulated patient diagnoses to keep patients in treatment longer than the initial diagnoses suggested was appropriate, and then forced the patients out of their facilities once the patients’ insurance payments were exhausted. There are other allegations of misconduct as well. In this case, the “books and records” demand successfully produced a number of significant documents reflecting what the UHS Board of Directors knew of the various allegations of misconduct. After we served our initial demand, another UHS stockholder filed suit based on the misconduct that our “books and records” demand is investigating, and, with the court hearing that case indicating that it was going to decide lead plaintiff status, the Bank similarly filed suit on the merits in the same court, along with a motion seeking to be named lead plaintiff. That motion has not yet been decided.

The Bank also filed two other pieces of litigation in the first half of 2017, but neither is likely to result in the Bank’s pursuing the litigation. The first was a securities fraud class action involving a company called Allergen, which is alleged to have colluded with others to fix prices of generic drugs to artificially inflate prices for one of its drugs, and then made false statements to customers and investors to cover up the bad practices. After filing suit, however, another group of plaintiffs filed suit on the same grounds and had much greater losses attributable to the alleged misstatements, earning those companies lead plaintiff status in the case.

The Bank has also filed suit against Mallinckrodt LLC. Mallinckrodt is another pharmaceutical company that is alleged to have engaged in monopolistic practices (in this case, taking steps to ensure that other drugs that compete with one of its main products are not presented to the FDA for approval for sale in this country) and then made material misstatements to investors. The Bank has filed suit against Mallinckrodt, as has another plaintiff with, again, greater losses attributable to the misconduct. However, we have moved to be named lead plaintiff and challenged that other plaintiff’s status as lead plaintiff on grounds of unsuitability. The court has yet to rule on our motion.



PROXY VOTING

Amalgamated Bank's LongView Funds vote each and every proxy according to comprehensive proxy voting guidelines. Upon careful consideration of which vote would be in the best interests of shareholders and in adherence to the guidelines as laid out in LongView's proxy voting guidelines, all LongView shares were cast in support of each item highlighted by the AFL-CIO's Key Votes Survey for the 2017 proxy season.

The following chart highlights several statistics of how LongView Funds voted on major proxy items appearing on proxies in the first half of 2017.

LONGVIEW FUNDS' VOTES ON SELECT PROXY ITEMS, JANUARY TO JULY 2017

	FOR	AGAINST	ABSTAIN
BOARD OF DIRECTORS ISSUES			
Election of individual directors	83%	17%	0%
Declassify Board of Directors	100%	0%	0%
Adopt majority voting standard to elect directors	100%	0%	0%
Adopt "proxy access" bylaw for electing directors	100%	0%	0%
Promote Board diversity proposal	100%	0%	0%
EXECUTIVE COMPENSATION ISSUES			
Approve "say on pay" executive compensation report	55%	45%	0%
Approve omnibus stock plan proposal	0%	100%	0%
OTHER ISSUES			
Disclose political contributions and lobbying expenditures	100%	0%	0%
Improve human rights reporting, risk assessment	75%	25%	0%
Reduction of greenhouse gas emissions	100%	0%	0%