For impact investors looking to shake up corporate America, 2020 has already been a barnburner year. Shareholders filed and passed a record number of resolutions on environmental, social and governance matters, and expectations are for an even hotter 2021.

Financial institutions are already warning corporate clients that investors — many inspired by problems exacerbated by the COVID-19 pandemic — are even more likely to use shareholder proposals to battle climate change, inequities and social justice matters.

Resolutions are going to become more frequent and more ambitious as time goes by.
“Resolutions are going to become more frequent and more ambitious as time goes by,” says April Williamson, an environmental lawyer for the U.K.-based nonprofit Client Earth, which helped investors file climate-related resolutions this year at the French oil-giant Total SA, “especially as it’s seen as a way to be able to get incremental change.”

### U.S. Shareholder Proposals on ESG Issues
Proposal breakdown by topics as of May 4, 2020.

- **Environmental Issues**
- **Social Issues**
- **Governance Issues**

Source: Sustainable Investments Institute
If a company doesn’t have a robust plan, it’s not going to survive in the lower-carbon economy that’s coming.

Though shareholder proposals have been a tool for change since the Civil Rights Era, in recent years, they have gained new momentum. In 2020 so far, 16 investor petitions concerning ESG matters have gotten more than half of shareholder votes at various companies’ annual meetings, up from 14 last year, says Morningstar.

“We’re seeing more, higher votes, particularly on climate resolutions because there’s a recognition by the investors that these issues are becoming sharp risks to companies,” Kirsten Spalding, the senior director of the investor network for CERES, whose members hold about $29 trillion in assets, told Karma. “If a company doesn’t have a robust plan, it’s not going to survive in the lower-carbon economy that’s coming.”

Overall, U.S. investors filed about 429 such resolutions for the 2020 proxy season, an uptick from 366 last year, according to As You Sow, a Berkeley, Calif.-based nonprofit that partners with investors to file shareholder resolutions.
Shareholders Fights

You want a company to address an issue

You file a shareholder proposal

Company reviews proposal

Company petitions SEC to rule on validity

You sue to have proposal considered

Proposal excluded

Court or SEC rules against you

Shareholders reject it

Proposal proceeds, all shareholders vote on it

Enough votes to pass the proposal

You can push for the removal of board members

Company didn’t act on the issue

Company acts on the issue

Issue addressed

NOTE: Each company has its own rules governing when and how a proposal must be filed, whether it is binding, and how many votes it needs to pass. Some state laws can also affect a proposal’s timing and passage. Most U.S. proposals are non-binding.
Andrew Behar, As You Sow’s chief executive officer says the numbers aren’t as important as the engagement with companies. “There is no such thing as pass or fail — there is just a number that represents shareholder support,” he said. “We only count a win when a company changes its policies and practices.”

When the organization got 11% of shareholders to vote in favor of a climate change-related resolution at Sanderson Farms, the agricultural company agreed to implement As You Sow’s proposal in full. In contrast, it got 79% of shareholders to vote in favor of a pay-equity disclosure proposal at car parts company Genuine Parts, but investors aren’t sure the company will comply with the resolution.

“We count Sanderson as a win and Genuine as a work-in-progress,” said Behar.
Headwinds in the U.S.

Investors worldwide are writing more proposals amid a push to use the financial system to pressure companies and address societal ills. Groups see big differences between U.S. and European activism, with some seeing greater headwinds blowing in the U.S. system.

- U.S companies often reject proposals they say are too numerous and costly to review and do not fall within the purview of their business activities.
- In the U.S. most shareholder resolutions are non-binding.
- If a proposal gets a majority of votes and a company fails to act on it, shareholders can pushing for the removal of board members.
- The Securities and Exchange Commission is currently reviewing a proposal that would add difficulties to influencing corporate behavior.

- U.K. investors can take non-compliant companies to court because European law permits so-called special resolutions.
- These are designed to garner 75% of the vote which makes them legally binding.
- European companies are more inclined to engage in dialogue with investors and are less likely to reject proposals on ESG matters.
- Netherlands-based activist Follow This says it has had more success getting resolutions passed with EU-based energy companies than North American peers.
Though European investors face higher stock-holding thresholds for filing resolutions than American investors and therefore file a lower number of proposals, European companies are more inclined to engage in dialogue with investors and are less likely to reject proposals on ESG matters.

The only key difference is that in Europe, they can't block resolutions.
A group of over 5,000 shareholders working under the umbrella of the Netherlands-based group Follow This, in the last five years, have urged energy companies such as Royal Dutch Shell PLC, BP, and Exxon Mobil to reduce carbon emissions in line with the 2015 Paris Climate Accord.

Mark van Baal, a Follow This founder, said the group submitted nearly identical climate change resolutions at several oil majors this year. U.S.-based Exxon and Chevron Mobil successfully blocked and prevented the proposals from being voted upon at their annual shareholder’s meetings. In Europe, the proposals were voted on and received significant support from shareholders at the Anglo-Dutch company Shell, Norway’s Equinor ASA and France’s Total S.A.

“They actually don’t like shareholder democracy — and the U.S. oil companies don’t like it as much as the Europeans don’t like it,” van Baal told Karma. “The only key difference is that in Europe, they can’t block resolutions. But this won’t go away because investors realize that we are at the 11th hour to do something about it and that they really want action instead of vague promises.”
Fighting For ‘A Better World’

People want to invest in good things. They want their children to live in a better world than the one we have today.

James McRitchie, a veteran activist investor, says the climate for shareholder activism has always been tough and that the ESG matters many fight for today have always been important. He’s even been personally sued in regular court by companies seeking to exclude his proposals from their annual meetings.

McRitchie says an investor concerned with ESG issues, you should:

- Closely vet offerings by large asset managers
- Ask regulators to require companies to clearly disclose their ESG voting record
- Follow their beliefs

“There's a lot of greenwashing out there,” McRitchie told Karma. “People want to invest in good things. They want their children to live in a better world than the one we have today… They want to do away with racism, sexism, environmental pollution and then they put their money in funds that are still voting against all the [ESG] proposals.”