



# LongView Funds Corporate governance and proxy voting report Executive summary

July 1, 2016 to December 31, 2016

Long-term shareholder value. Everyone is in favor of it — or at least no one will publicly oppose the concept. Yet despite the importance of investing for the future, there are many pressures to focus on the here and now, the short term, the next quarter's earnings, how to achieve a quick return on one's investment.

How can one combat the pressures for short-termism? The LongView Funds work to counter-balance short-term influences by engaging with portfolio companies on governance issues that can shape whether a company is a long-term success. We believe that this type of activism — which may take place in private negotiations with a company or in a public forum such as the annual stockholder meeting — can focus attention on issues that need to be addressed if companies are able to achieve long-term growth.

This report provides an overview of the shareholder activities of the LongView Funds for the period July 1, 2016 to December 31, 2016.

## Engaging companies to promote sustainable long-term value creation.

### Shareholder engagements and resolutions

The LongView Funds remained on the cutting edge of corporate governance activism with several pioneering initiatives and breakthroughs in the second half of 2016.

### Promoting board accountability

The Funds continued their pioneering work to promote diversity on corporate boards of directors by targeting shareholder resolutions at companies that have no women or no minorities serving on their boards of directors. We undertook this initiatives several years ago in response to research that confirmed a strong business case for board diversity. 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.

Other studies have confirmed this research, and since the movement to diversity corporate boards began several years ago, the case for board diversity has gained significant ground. Perhaps the most telling indication of how attitudes have shifted is revealed by a recent report from the Business Roundtable, a membership group of large company executives. In its 2016 *Principles of Corporate Governance*, the Business Roundtable states: "Diverse backgrounds and

experience on corporate boards, including those of directors who represent the broad range of society, strengthen board performance and promote the creation of long-term shareholder value.” Moreover, companies are encouraged to “develop a framework for identifying appropriately diverse candidates that allows the nominating/corporate governance committee to consider women, minorities and others with diverse backgrounds as candidates for each open board seat.” This is a variation of the so-called “Rooney Rule,” which professional football teams adopted when it was pointed out that the NFL had a dearth of head coaches who were African-American; the “Rooney Rule” requires teams to consider at least one African-American candidate whenever a team seeks to hire a new head coach. .

Our strategy has been to file shareholder proposals at LargeCap and large MidCap companies that have no female and/or minority directors, and we have followed up those filings by having a dialogue with individual companies about what they are doing to improve the situation. We were able to withdraw these proposals short of a vote at all but one company in 2016, based either on commitments that these companies would step up their efforts to promote board diversity or else because the companies advised us that they would be adding female and/or minority directors. (The only company that refused to do anything on our proposal was Joy Global; when our proposal was voted at the stockholder meeting in the first half of 2016, our proposal received a majority of the yes/no vote; we did not pursue the issue for a second year because Joy Global is being acquired by another company.)

As it turned out, none of our board diversity proposals was resolved or came to a vote in the second half of 2016, but that does not mean that we have been inactive. In the second half of 2016 we continued our effort by filing shareholder proposals at a number of additional companies with a greater focus on MidCap companies. Although we hope to have successful engagements with all of these companies, we are anticipating that at least one of them — Skechers U.S.A. — will push the matter to a vote. Our resolution points out that the company — with significant insider ownership and an entrenched board — has a poor performance record and, we believe, should be looking to refresh the board, not perpetuate it. The Skechers board opposed a similar resolution last year, arguing that diversity must be balanced against the need to find “qualified” directors. Our proposal asks how in 20 years a footwear company has been unable to find a “qualified” female or director candidate to serve on the board. We anticipate a vote on our proposal in the first half of 2017.

Our other significant effort in this area included our efforts 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. We are working with other funds to spread this important governance reform to all companies in the S&P 500.

Proxy access is quickly becoming an accepted governance practice once we or another investor raise the issue at a given company, and most companies are voluntarily changing their by-laws rather than put the matter to a vote. None of the companies at which we filed proxy access proposals came to a vote in the second half of 2016, but we have filed additional proposals that should be voted in 2017.

The growing acceptance of board diversity and proxy access mirrors growing shareholder support for earlier governance initiatives in which the LongView funds took a leading role, notably, holding annual elections for all corporate directors, rather than staggering elections so that only one-third of directors are chosen each year, as well as electing directors in

uncontested elections using a “majority vote” standard for electing corporate directors, rather than a system where “no” votes do not exist. We are now looking to spread these reforms into MidCap and SmallCap companies.

### Climate Change and the Impact on Long-term Investing

One of the most significant world events in recent years was adoption of the Paris Agreement on climate change by the United States and 195 other parties at the U.N. Climate Change Conference. The Paris Agreement seeks to limit climate change to an average global warming of 2 degrees Celsius above pre-industrial temperatures, with a goal of limiting it to 1.5 degrees Celsius. The Intergovernmental Panel on Climate Change states that to reach this goal, CO2 emissions must fall to zero by 2040 to 2070, and scientists agree that reaching the Paris Agreement’s 1.5 degrees goal means that the world must reach net-zero greenhouse gas (“GHG”) emissions by 2030 to 2050, sooner than is currently planned by most corporations and nations.

2030 may sound like a long time from now, but it is not, and the LongView Funds have launched an initiative to ask portfolio companies whether — and how — they will be ready.

Specifically, in the second half of 2016, the Funds filed shareholder proposals asking some leading companies in the “new economy” to assess the feasibility of achieving “net-zero” energy efficiency by 2030. Achieving net-zero emissions essentially means a reduction in the level of greenhouse gases emitted on an annual basis to a level roughly equal to the amount of renewable energy created by an individual entity.

We have undertaken negotiations with these companies about what they are doing in this area, and this is an example of practicing what we preach. Amalgamated Bank recently conducted its own assessment of its carbon footprint and determined the level of its “carbon inventory,” i.e., the level of greenhouse gases emitted from the Bank’s operations. The Bank has since undertaken to achieve net-zero energy emissions in its own operations in the near future.

Our focus on this topic is an example of how we are looking beyond the next quarter’s results or the next year’s projections to ask where our portfolio companies will be in the not so distant future. 2030 may seem like a long way off, and there may be a tendency to wait until that date is a lot closer in time. We believe that if portfolio companies defer action on climate change, that could have significant negative effects on their long-term economic health and the value of investments in those companies.

### Human capital management

Apart from using shareholder proposals and negotiations to enhance long-term shareholder value, we have continued our work to try and define a methodology whereby companies and investors to view and assess a company’s human capital.

A growing body of evidence, mostly from the retail sector, shows that there is a correlation between employee and customer satisfaction, on the one hand, and shareholder return, on the other. We are working with a coalition of institutional investors to identify data and metrics that, if published and made available on a uniform basis, would allow investors to undertake comparisons of companies in the same sector.

### Shareholder litigation update

In 2016, Amalgamated Bank continued its practice of pursuing litigation to advance good corporate governance goals. There were developments in several ongoing cases, as well as a number of cases filed in 2016.

### Pending litigation

Most notably in 2016, the parties negotiated and the court approved a settlement in the *Lumber Liquidators* matter. That litigation involved a shareholders derivative claim based on multiple violations of numerous environmental laws and regulations. The settlement was approved

by the court in December. It calls for changes in a number of areas of corporate structure for Lumber Liquidators, including board membership, executive compensation, steps to ensure corporate compliance with laws and regulations, and protection for whistleblowers. Implementation of the terms of the settlement have begun, including participation by the Bank in the selection of a new board member for the company.

Also in 2016, the Bank concluded litigation begun against *Walmart* regarding the treatment of workers in overseas factories that make the goods Walmart sells. The litigation began as a request for books and records concerning 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 documents did not provide sufficient grounds for pursuing shareholder derivative litigation in connection with those practices.

Similarly, in 2015, the Bank had begun "books and records" litigation against *Yahoo!* to see if grounds exist to file a shareholder derivative complaint against the company for paying excessive compensation and severance to a former COO. As a next step, a demand to file suit has been made on the Board of Directors as required in this kind of litigation but no response has been obtained yet.

### New litigation

Further, 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 sought in three cases; in two of the cases, the court awarded the Bank lead plaintiff status, and in the third, determination of lead plaintiff status has not yet been ruled upon.

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. Most of the second half of 2016, and the beginning of 2017 has been taken up with discovery. Trial is expected sometime in 2017.

Also, a class action was brought in October 2016 by the Bank against *Corrections Corporations of America*, alleging securities fraud by the company in connection with statements regarding safety and security violations and the resulting false statements regarding the financial condition of the company. The Bank was awarded lead plaintiff status in November.

In December 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. The court in that action has not yet ruled on our application to be lead plaintiffs, although as of this update, no opposition to our motion seeking that status has been filed.

Finally, in May of 2016, the Bank joined with other co-plaintiffs to commence securities litigation against *Volkswagen* in Germany in connection with the manipulating of test results that was widely noted and the subject of separate litigation in the United States. In the German justice system, class actions are not permitted, 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 follow upon what happens in the litigation involving the model case. We are still waiting for the court in Germany to select the model case.

### 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 2016 proxy season.

The following chart highlights several statistics of how LongView Funds voted on major proxy items appearing on proxies in the second half of 2016

### Longview Funds' votes on select proxy items, July to December 2016

	For	Against	Abstain
<b>Board of directors issues</b>			
Election of individual directors	67%	33%	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 proposals	100%	0%	0%
<b>Executive compensation issues</b>			
Approve "say on pay" executive compensation report	56%	44%	1%
Approve omnibus stock plan proposal	0%	100%	2%
<b>Other issues</b>			
Disclose political contributions and lobbying expenditures	100%	0%	0%
Improve human rights reporting, risk assessment	100%	0%	0%
Proposals on renewable energy	100%	0%	0%
Promote renewable energy	100%	0%	0%

