

Vanguard Investment Stewardship Insights

Voting insight: Proxy contest at Kohl's over company strategy and board oversight

June 2022



Company: Kohl's Corporation (Kohl's)

Meeting date: May 11, 2022

Proposal: Items 1.1 through 1.13—Director Elections

How the funds voted

At a contested meeting for Kohl's, a U.S.-based retail company, the Vanguard funds¹ voted on the management proxy card and supported the reelection of all the company's director nominees. The funds considered but did not support the director nominees on the dissident proxy card.

Vanguard's principles and policies

Vanguard evaluates contested director elections objectively and with an assessment of shareholders' long-term value as the main driver of our vote. We evaluate these contests case by case and apply a governance-centric approach that takes into consideration inputs from various sources, such as third-party research, company engagements, discussions with the dissident shareholder and/or the nominees put forward by the dissident, public materials, and in select cases other Vanguard investment professionals.

Our evaluation of proxy contests focuses on three key areas:

Case for change. Does the dissident make a compelling case for change in the target company's boardroom or its policies? When engaging with the dissident, we seek to understand their perspective on the company's current state and future trajectory and what recommended changes they believe would benefit the company and be in the best interest of long-term shareholder value.

Company's approach to governance. Has the company demonstrated good governance and engagement practices? A company's ability to illustrate ongoing engagement with shareholders helps Vanguard's Investment Stewardship team understand how the company views shareholder feedback and responds to shareholders.

Quality of directors. Do current directors bring the appropriate capabilities to the company's board? Assessing a board's composition starts with learning the company's short-, medium-, and long-term strategy and how the board's skills align with the strategy. We believe that the alignment of company strategy and board members' skills and experience can positively influence long-term shareholder returns. Vanguard's Investment Stewardship team also assesses the dissident's nominees to understand how their skills align with the company's strategy and/or the case for change. Once we understand the qualifications and perspectives of both sets of nominees, we can make an informed decision on those who represent the best chance of investment success for shareholders.

¹ Vanguard's Investment Stewardship team is responsible for engagement with portfolio companies and proxy voting at the direction of the boards of our internally managed global equity holdings, including Vanguard index funds. Investment stewardship activities, including proxy voting, for Vanguard's externally managed active funds are supported by those funds' external advisors. See the back page for additional context.

Analysis and voting rationale

Kohl's offers branded apparel, footwear, accessories, beauty products, and home products through its stores and website. Macellum Advisors, an investment firm that owns approximately 5% of outstanding shares, was seeking 10 seats on what will be a 13-member board after this annual meeting.

Last year Macellum, along with three other investors, launched a proxy fight at Kohl's, which was settled with Kohl's appointment of two of the dissident's nominees plus a third, mutually agreed-upon nominee to the company's board. In January 2022, Macellum launched another proxy fight stating that Kohl's continued to underperform, which in Macellum's estimation signaled a need for more board changes. Several days later, media reports emerged that the company had received an unsolicited takeover bid from Acacia Research at \$64 per share in cash. Kohl's has since launched a formal sale process and received several bids. The board has also issued a poison pill to protect the company's interests during the sale process.

Ahead of the annual meeting, Vanguard's Investment Stewardship team engaged with Macellum leaders and met with seven of Macellum's 10 director nominees. The leaders raised concerns about Kohl's historical performance and its strategy, capital allocation, board independence, board effectiveness, and governance practices. Macellum characterized Kohl's sale process as insincere but acknowledged that several purchase offers were reasonable. Macellum highlighted its successful 2021 proxy contest in which it settled with Kohl's appointing two nominees to the board, and it argued that additional board members, beyond its initial two, were required to effect meaningful change.

Vanguard's Investment Stewardship team engaged as well with Kohl's independent directors and executive team. Kohl's leaders described the board's oversight of the sale process and evaluation of bids. Kohl's directors highlighted the company's improved financial performance and three 2021 board appointments

as evidence of its responsiveness to shareholders. Company leaders shared Kohl's transformation plan that focused on growing market share, improving capital management, and introducing new brands at its stores.

After engaging with the company and with Macellum, the Vanguard funds voted, for several reasons, to support the directors put forth by the company. First, the 2021 settlement with Macellum illustrated Kohl's responsiveness to shareholder feedback and openness to board refreshment. Second, although we assessed Macellum's nominees as having appropriate skills and experience, our evaluation of Kohl's board nominees and Macellum's did not reveal a skills gap sufficient for the Vanguard funds to believe that a full board turnover was warranted. Third, our engagement with Kohl's company leaders gave us confidence in the board's commitment to focusing on long-term shareholder value. Our analysis led us to conclude that, in this case, a complete board turnover amid a large-scale transformation was not in the best interest of long-term shareholder value and that the board was appropriately overseeing potential mergers-and-acquisitions activity.

What we expect from companies on this matter

On behalf of the Vanguard funds, we expect boards to represent the interests of all shareholders and to make independent decisions about a company's leadership, strategy, and risks to long-term value. We also expect boards to evidence oversight of company strategy and risks that support positive long-term performance. If a board lacks the appropriate composition to independently oversee areas of material risk and company strategy, we expect the company to conduct a thorough search to identify qualified directors who will bring the necessary skills to the boardroom.

Vanguard publishes Investment Stewardship Policy and Voting Insights to promote good corporate governance practices and to provide public companies and investors with our perspectives on important governance topics and key votes. This is part of our growing effort to enhance disclosure of Vanguard's investment stewardship voting and engagement activities. We aim to provide additional clarity on Vanguard's stance on governance matters beyond what a policy document or a single vote can do. Insights should be viewed in conjunction with the most recent region- and country-specific voting policies.

The funds for which Vanguard acts as investment advisor (Vanguard-advised funds) retain the authority to vote proxies that the funds receive. To facilitate the funds' proxy voting, the boards of the Vanguard-advised funds have adopted Proxy Voting Procedures and Policies that reflect the fund boards' instructions governing proxy voting. The boards of the funds that are advised by managers not affiliated with Vanguard (external managers) have delegated the authority to vote proxies related to the funds' portfolio securities to their respective investment advisor(s). Each external manager votes such proxies in accordance with its own proxy voting policies and procedures, which are reviewed and approved by the fund board annually. The Vanguard Group, Inc., has not been delegated proxy voting authority on behalf of the Vanguard-advised funds.