

# Equity Plan Proposal Failures: 2007–2009

Lessons to Consider When Requesting Shares

*EXEQUITY*



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# Equity Plan Proposal Failures: 2007–2009

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## *Lessons to Consider When Requesting Shares*

### **Introduction**

Ever since the exchange listing rules were modified to require shareholder approval of almost all equity compensation plans,<sup>1</sup> there has been an ever-increasing focus on securing shareholder approval for equity plan proposals, both new equity plans and amendments to existing plans. The stakes are higher now that shareholder approval is required. So how did voting on equity plan proposals go during the past three years (2007–2009)?

Overall, there were approximately 2,200 equity plan proposals submitted to shareholders of Russell 3000 index companies for the period 2007 through 2009. Of these proposals, only 38 failed to be approved by shareholders.

The rest of this report looks at the voting on these equity plan proposals and then focuses on the 38 proposals that failed to see what, if any, lessons can be learned. Hopefully these lessons will prove valuable for companies seeking shareholder approval of their own equity plan proposals.

*Of the 2,200 equity plan proposals at Russell 3000 companies from 2007 through 2009, only 38 failed.*

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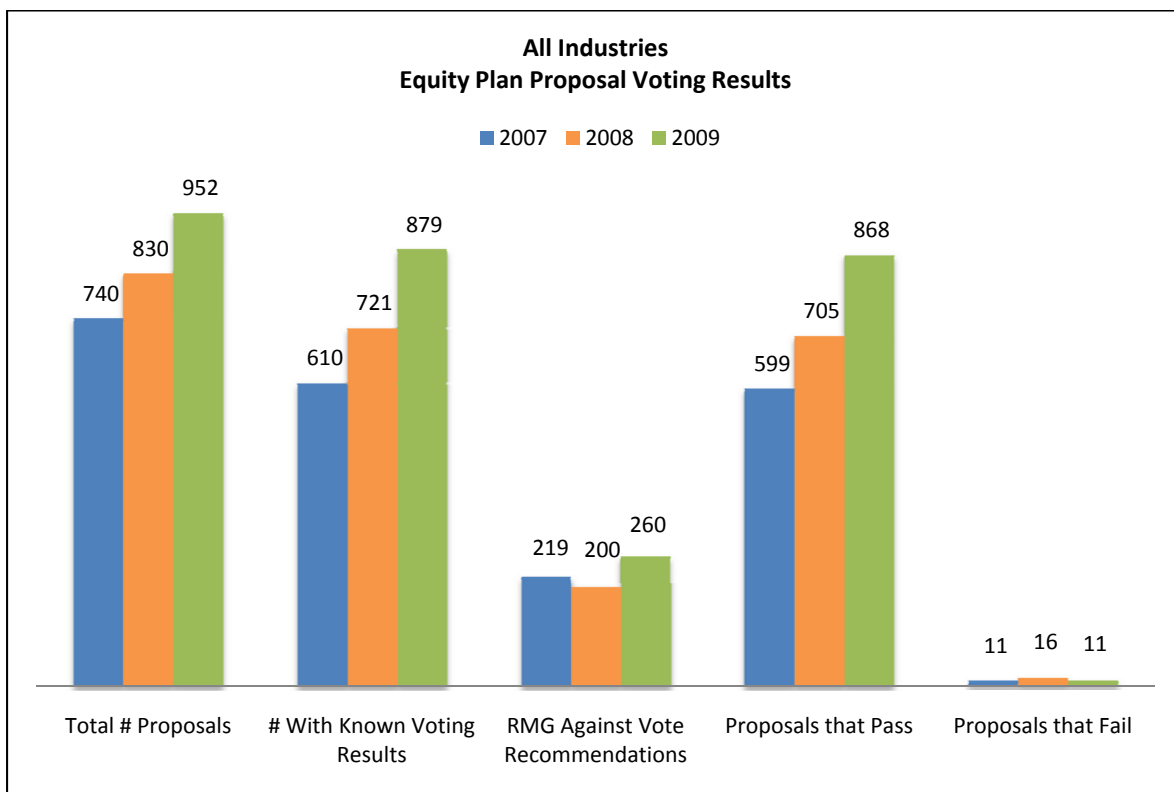
<sup>1</sup> The SEC approved changes to the NYSE and NASDAQ listing requirements to require shareholder approval of most equity compensation plans in June 2003, see SEC Release No. 34-48108 (June 30, 2003), available at <http://www.sec.gov/rules/sro/34-48108.htm>.

## Voting on Plan Proposals

As mentioned in the introduction, there were approximately 2,200 equity plan proposals submitted to shareholders for consideration during the 2007 to 2009 period. The overwhelming majority of these proposals were approved by shareholders. Only a small number of equity plan proposals actually failed to gain shareholder approval (less than 2%).

Given their influence among institutional investors, it is also important to review the voting recommendations against equity plan proposals by RiskMetrics Group (RMG) and how these compared to the actual equity plan proposals that failed. RMG typically “grades on a curve” and strives to recommend against a third of all of equity plan proposals. In recent years, RMG has fallen a bit below that target, recommending against 25 to 30 percent of equity plan proposals.

The natural question to ask is what is the significance of a negative RMG vote recommendation for an equity plan proposal? Does it doom the proposal to failure? Well, as with most things, it depends on the particular facts and circumstances, but generally it looks like a negative RMG vote recommendation in the aggregate has very little bite. However, that may not be true for certain industry groups (see the Industry Voting Information section that follows). In the chart below you can see that while RMG recommended against between 200 and 260 plans each year, on average 13 and a median of 11 actually failed to win approval from shareholders.



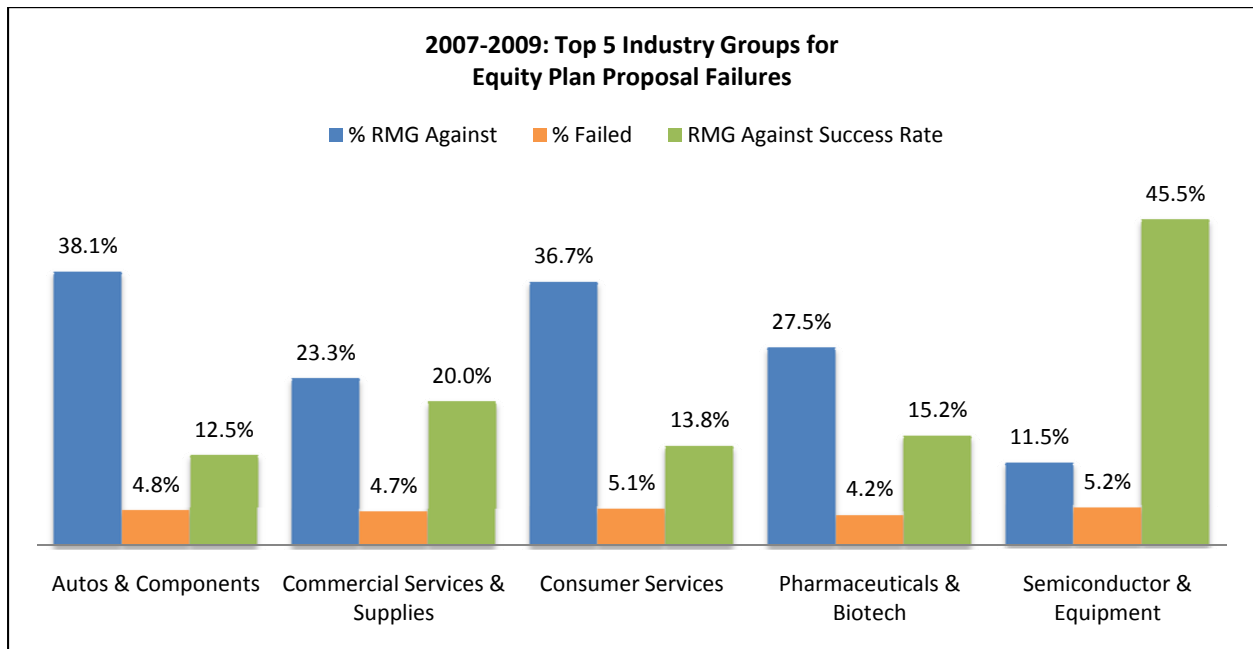
## Industry Voting Information

Given that an RMG negative vote recommendation does not appear to signify any significant risk of an equity plan proposal's failure in the aggregate, we thought it prudent to take a closer look to see if the same holds true for equity plan proposals on an industry basis. Therefore, we cut the data to look at the voting results on an industry basis and were somewhat surprised by the results.

While the aggregate, average failure rate for equity plan proposals over the past three years was less than 2 percent, there are quite a few industries where the risk is significantly less and several where the risk of proposal failure is significantly higher. Ten of the 24 industry groups had no equity plan proposal failures at all, eight had one or two failures, while six industries had three or more equity plan proposal failures.

The top five industry groups for equity plan proposal failures for 2007–2009 had equity plan proposal failure rates of about 5 percent. These industry groups are as follows, on a percentage of total proposals basis, in descending order of failure percentage rate:

- Semiconductor & Equipment
- Consumer Services
- Autos & Components
- Commercial Services & Supplies
- Pharmaceuticals & Biotech



The equity plan proposal failure rate for proposals in these five industries was more than double the average failure rate for all industry groups. These five industries also represent the industries where RMG's vote recommendations had the highest level of success, as measured by the number of proposals RMG recommended against compared to the number that ultimately failed. RMG's success rate for its negative vote recommendations was as high as about 46 percent (45.5%) for the Semiconductor & Equipment industry, and tapered down to about 14 percent (13.8%) for the Consumer Services industry group.

A summary of the voting on equity plan proposals by industry group appears below. We have also indicated, by industry group, the RMG Against vote recommendation and the proposals as failed. Finally, we calculated the RMG Against Success Rate to illustrate how often the RMG Against vote recommendations for each industry resulted in equity plan proposals failing.

### Industry Voting Information: 2007-2009

Industry	# Proposals	# RMG Against	% RMG Against	# Failed	% Failed	RMG Against Success Rate
Autos & Components	21	8	38.1%	1	4.8%	12.5%
Banks	141	59	41.8%	1	0.7%	1.7%
Capital Goods	172	46	26.7%	0	0.0%	0.0%
Commercial Services & Supplies	86	20	23.3%	4	4.7%	20.0%
Consumer Durables & Apparel	77	33	42.9%	1	1.3%	3.0%
Consumer Services	79	29	36.7%	4	5.1%	13.8%
Diversified Financials	83	48	57.8%	0	0.0%	0.0%
Energy	154	60	39.0%	3	1.9%	5.0%
Food Beverage & Tobacco	56	21	37.5%	0	0.0%	0.0%
Food Staples & Retailing	25	4	16.0%	0	0.0%	0.0%
Health Care Equipment & Services	192	52	27.1%	1	0.5%	1.9%
Household & Personal Products	15	6	40.0%	0	0.0%	0.0%
Insurance	60	27	45.0%	0	0.0%	0.0%
Materials	79	17	21.5%	0	0.0%	0.0%
Media	52	17	32.7%	1	1.9%	5.9%
Pharmaceuticals & Biotech	167	46	27.5%	7	4.2%	15.2%
Real Estate	88	24	27.3%	2	2.3%	8.3%
Retailing	110	35	31.8%	2	1.8%	5.7%
Semiconductor & Equipment	96	11	11.5%	5	5.2%	45.5%
Software & Services	190	56	29.5%	4	2.1%	7.1%
Tech Hardware & Equipment	145	31	21.4%	2	1.4%	6.5%
Telecom Services	26	12	46.2%	0	0.0%	0.0%
Transportation	45	8	17.8%	0	0.0%	0.0%
Utilities	51	9	17.6%	0	0.0%	0.0%
<b>All Industries</b>	<b>2,210</b>	<b>679</b>	<b>30.7%</b>	<b>38</b>	<b>1.7%</b>	<b>5.6%</b>

RMG Against Success Rate = # Failed / # RMG Against

**Note:** The shaded industries represent the top five industries for plan proposal failures, and the top five for RMG's Against Success Rate.

## Proposals That Failed

The devil is typically in the details. So, we dug into the 38 equity plan proposals that actually failed during 2007–2009 to see what we could learn that might shed some light on *why* these particular proposals failed.

The chart below details the company plan proposals by year that failed to secure shareholder approval. The chart also indicates the percent of the common shares outstanding represented by the plan proposal, the fully diluted dilution represented by the plan proposal, and RMG’s Shareholder Value Transfer (SVT) for the proposal as well as the SVT cap for the company at the time.

### Proposals That Failed: 2007–2009

Company	Year	% of CSO	Dilution	SVT	SVT Cap
Advanced Analogic Technologies Incorporated*	2009	24.1%	<b>33%</b>	42%	20%
Exelixis, Inc	2009	3.8%	<b>20%</b>	25%	16%
Harvest Natural Resource, Inc	2009	2.1%	17%	15%	8%
Hot Topic, Inc.	2009	4.5%	19%	16%	11%
Huron Consulting Group, Inc.	2009	11.6%	15%	18%	11%
Palomar Medical Technologies, Inc.	2009	11.1%	<b>26%</b>	24%	14%
Perma-Fix Environmental Services, Inc.	2009	1.8%	9%	6%	17%
Pharmasset, Inc.	2009	2.1%	11%	11%	15%
Sequenom, Inc.	2009	2.5%	14%	14%	17%
Ultratech Inc.	2009	0.0%	<b>23%</b>	17%	20%
VIVUS, Inc.	2009	1.4%	13%	12%	20%
American Axle & Manufacturing Holdings, Inc.	2008	9.4%	<b>23%</b>	23%	7%
Arqule, Inc.	2008	5.5%	17%	17%	13%
Cracker Barrel Old Country Store, Inc.	2008	4.5%	<b>21%</b>	19%	11%
Emulex Corporation	2008	2.4%	17%	9%	15%
FTI Consulting, Inc.	2008	2.0%	16%	17%	11%
Iconix Brand Group, Inc.	2008	2.6%	16%	22%	12%
IXYS Corp.*	2008	11.1%	<b>22%</b>	20%	20%
NIC Inc.	2008	15.8%	17%	20%	18%
Outdoor Channel Holdings, Inc.	2008	2.9%	14%	13%	17%
Pain Therapeutics, Inc.	2008	19.0%	<b>30%</b>	32%	19%
Radiant Systems, Inc.	2008	10.8%	<b>24%</b>	25%	17%
Salesforce.com, Inc.	2008	6.2%	<b>29%</b>	38%	13%
Sigma Designs, Inc.*	2008	16.0%	<b>28%</b>	37%	20%
T-3 Energy Services Inc	2008	8.0%	17%	18%	9%
The Cheesecake Factory, Inc.	2008	0.0%	<b>20%</b>	17%	9%
Wilmington Trust Corp.	2008	6.0%	16%	10%	6%
Arena Resources, Inc.	2007	2.9%	14%	12%	9%
Corporate Office Properties Trust, Inc.	2007	15.2%	<b>20%</b>	23%	6%
Cracker Barrel Old Country Store, Inc.	2007	8.4%	<b>22%</b>	20%	9%
Electro Scientific Industries, Inc.	2007	0.0%	<b>25%</b>	23%	15%

Company	Year	% of CSO	Dilution	SVT	SVT Cap
Illumina, Inc.*	2007	9.0%	<b>21%</b>	29%	13%
J2 Global Communications, Inc.	2007	20.3%	<b>20%</b>	22%	19%
LTC Properties, Inc.	2007	2.5%	3%	3%	6%
Microtune, Inc.	2007	3.7%	<b>20%</b>	20%	18%
Penn National Gaming, Inc.	2007	7.0%	18%	18%	9%
Resources Connection, Inc.	2007	4.1%	<b>21%</b>	18%	10%
Tuesday Morning Corp.	2007	1.5%	9%	5%	10%

\* Company's equity plan proposal involved a plan with an evergreen provision. % of CSO takes into account an estimate of the total number of shares that could be added to a plan during the remaining plan term under the evergreen provision.

Bolded dilution figures indicate that dilution from the equity plan proposal would result in dilution of 20 percent or greater.

% of CSO is the number of shares represented by the equity plan proposal expressed as a percent of the company's common shares outstanding as of the record date for the applicable proxy.

Dilution is the fully diluted dilution represented by the equity plan proposal, all outstanding equity awards, and all shares available for grant under equity plans that will continue to be available if the proposal is approved, divided by the company's common shares outstanding as of the record date plus everything in the numerator.

SVT is Shareholder Value Transfer, a term from RMG used to describe the percent of market value of the company (generally 200-day [400-day for 2009] stock price multiplied by common shares outstanding as of the record date), represented by the value calculated by RMG for the equity awards available to be granted under the equity plan proposal, any continuing plans, and for any outstanding equity awards.

SVT Cap, or allowable cap, is the company-specific maximum amount of SVT that RMG permits each company to have after utilizing a black-box regression formula that takes into account the equity award usage at top-quartile performing companies within the same industry group (the performance metrics change from group to group, but tend to include total shareholder return as a significant factor).



## RiskMetrics Group's Observations

The reasons RMG recommended against the equity plan proposal that failed are indicated below and span the seven key policies that RMG applies to equity plan proposals:

- Excessive cost to shareholders, i.e., SVT Cost
- Excessive burn rate, i.e., Burn Rate above the industry-specific cap
- Specifically permitting repricing or cashouts without shareholder approval or remaining silent on repricings after a company has conducted a repricing or exchange without shareholder approval, i.e., Repricing Policy
- Misalignment of pay and performance, i.e., PFP
- Problematic/poor pay practices
- A definition of change in control (CIC) that could be triggered absent consummation of the deal, i.e., Liberal CIC
- Any other egregious compensation practice or action that RMG finds objectionable (typically applied to large, well-known companies that make good poster children), i.e., Other

## Reason(s) for RiskMetrics/ISS Opposition to Equity Plan Proposals: 2007-2009

Company	Year	SVT Cost	Burn Rate	Repricing Policy	Fail PFP	Problematic/Poor Pay Practices	Liberal CIC	Other
Advanced Analogic Technologies Incorporated	2009	•	•	•		•		
Exelixis, Inc	2009	•	•					
Harvest Natural Resource, Inc	2009	•				•		
Hot Topic, Inc.	2009	•						
Huron Consulting Group, Inc.	2009	•	•					
Palomar Medical Technologies, Inc.	2009	•						
Perma-Fix Environmental Services, Inc.	2009			•				
Pharmasset, Inc.	2009			•				
Sequenom, Inc.	2009		•					
Ultratech Inc.	2009			•				
VIVUS, Inc.	2009			•				
American Axle & Manufacturing Holdings, Inc.	2008	•	•					
Arqule, Inc.	2008	•						
Cracker Barrel Old Country Store, Inc.*	2008	•					○	
Emulex Corporation	2008							•
FTI Consulting, Inc.	2008	•	•					
Iconix Brand Group, Inc.	2008	•	•					
IXYS Corp.	2008				•			
NIC Inc.	2008	•						
Outdoor Channel Holdings, Inc.	2008			•				
Pain Therapeutics, Inc.	2008	•						
Radiant Systems, Inc.	2008	•						
Salesforce.com, Inc.	2008	•						
Sigma Designs, Inc.	2008	•						
T-3 Energy Services Inc	2008	•	•	•		•		
The Cheesecake Factory, Inc.	2008	•		•				
Wilmington Trust Corp.	2008	•						
Arena Resources, Inc.	2007	•						

Company	Year	SVT Cost	Burn Rate	Repricing Policy	Fail PFP	Problematic/ Poor Pay Practices	Liberal CIC	Other
Corporate Office Properties Trust, Inc.	2007	•	•	•				
Cracker Barrel Old Country Store, Inc.	2007	•	•					
Electro Scientific Industries, Inc.	2007	•						
Illumina, Inc.	2007	•	•					
J2 Global Communications, Inc.	2007	•		•				
LTC Properties, Inc.	2007			•				
Microtune, Inc.	2007	•		•				
Penn National Gaming, Inc.	2007	•						•
Resources Connection, Inc.	2007	•	•					
Tuesday Morning Corp.	2007			•				

\*RMG noted that the CBRL proposed plan had a liberal CIC definition. However, this vote occurred prior to the time when RMG changed its policies to recommend AGAINST plans that had liberal CIC definitions.

## Lessons Learned

While the number of equity plan proposals that failed during 2007–2009 was not large, there are a few key takeaways that should help companies when putting forward an equity plan proposal of their own.

### Dilution

First and foremost, if the dilution caused by the equity plan proposal equals or exceeds 20 percent, it is much more likely to fail. One of the main reasons for this is because institutional investors that do not follow RMG vote recommendations use dilution as a primary vote driver. Of the 38 proposals that failed, 19 had dilution that equaled or exceeded 20 percent. But, a review of the failed proposals indicates that thirty (30) had dilution equal to or greater than 15 percent, which is a common threshold used by a number of institutional shareholders.<sup>2</sup>

So, all things being equal, an equity plan proposal that results in dilution above 15 or 20 percent will have an increased chance of failing. That's not to suggest that gaining shareholder approval for such a proposal is impossible; it will just take additional work to counteract the increased opposition to such equity plan proposals and, in some cases, the dilution level alone will be sufficient to defeat the proposal.

*An equity plan proposal that results in dilution above 15 percent will have an increased chance of failing.*

### SVT Cost

Closely related to the notion of dilution is RMG's SVT cost metric. This metric looks at the economic dilution to shareholders caused by an equity plan proposal. SVT cost looks at the economic value assigned to the equity plan proposal and all shares available under continuing plans and all outstanding equity awards as a percent of a company's market value. The interesting thing is that RMG uses publicly available information to determine how the top-quartile performers in an industry group use equity. With this information, RMG is then able to establish a regression formula that it uses to determine the maximum allowed SVT cost that it will support for every company in that particular industry group, based on each company's relative performance against those top-quartile performers (the actual performance metrics are part of the RMG "black box" and typically not revealed, but we have found that there is typically a strong correlation with a company's relative total shareholder returns). The SVT caps set using the regression formula are RMG's assessment of what size and style of share request would be "reasonable" and could be supported.

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<sup>2</sup> Fifteen percent dilution is used as a proxy voting guideline for Fidelity (for non-Russell 1000 companies), Vanguard, The California State Teachers' Retirement System (CalSTRS), and MFS Funds.

The vast majority of equity plan proposals that failed (approximately 75%) had SVT costs that exceeded their SVT caps. Thus, if an equity plan proposal's SVT cost exceeds a company's SVT cap, it looks like there is an increased risk that the proposal will fail. Again, this risk can be addressed by going directly to shareholders and explaining the rationale for the equity plan proposal, but not all shareholders are open to such arguments and companies would be wise to understand the risks presented by such a situation and plan accordingly.

*Three-quarters of equity plan proposals that failed had "excessive" SVT costs, i.e., their SVT cost exceeded their company-specific SVT cap.*

### **Burn Rate**

While burn rate was not cited by RMG for recommending against a majority of the equity plan proposals that failed, it nevertheless was cited for about one-third (31.6%) of the failed proposals. Even then, in all but one of the failed proposals where excessive burn rate was cited, RMG also cited SVT cost being above the company's SVT cap. Additionally, even if an equity plan proposal were to face an increased failure risk due to potentially excessive burn rate under RMG's policies, a company could commit to maintain its burn rate at a specified rate over the next three years and RMG would likely give the company a pass on the burn rate policy, i.e., RMG would not recommend against the proposal if excessive burn rate was the only issue it found with the proposal. There is no such "out" for companies that fail RMG's SVT cost policy.

### **Repricing, Cash Buyouts, or Exchanges of Underwater Stock Options**

Another risk factor for failure of an equity plan proposal relates to repricing, cash buyouts, or exchanges of underwater stock options or stock appreciation rights (SARs) without shareholder approval.

First, if a plan specifically permits repricing, cash buyouts, or exchanges of underwater stock options or SARs without shareholder approval, RMG will recommend against the equity plan proposal.

Second, even if the plan is silent on repricing, cash buyouts, or exchanges without shareholder approval, if a company has engaged in any of those actions without shareholder approval, RMG will recommend against the equity plan proposal and the company's incumbent directors. If a company had engaged in such actions without shareholder approval, it can avoid application of RMG's repricing policy by simply including a prohibition against repricing, cash buyouts, or exchanges of underwater stock options or SARs without shareholder approval in the proposed plan document.

Of the 38 equity plan proposals that failed, RMG recommend against a little over one-third (34.2%) because they violated RMG's repricing policy. Unlike with RMG's burn rate policy, the number of proposals cited for violation of RMG's repricing policy alone and with a violation of RMG's SVT cost policy was about evenly split (7 vs. 6).

## Pay for Performance

While RMG keeps revising and strengthening its pay-for-performance policy, it does not appear that shareholders have yet embraced it as a significant reason to oppose an equity plan proposal. Of the 38 equity plan proposals that failed, RMG only cited violation of its pay-for-performance policy for one proposal.

## Problematic Pay Practices

Similarly, RMG's problematic pay practices (previously referred to as "poor pay practices" by RMG prior to 2010) policy was cited for only three of the 38 equity plan proposals that failed. However, RMG did revamp this policy for 2010, identifying "major" and "minor" problematic pay practices.<sup>3</sup> Having just a single "major" problematic pay practice could be enough to cause RMG to apply this policy and recommend against an equity plan proposal and, possibly, the directors on the compensation committee, the CEO, or the entire board of directors. Additionally, if there are a sufficient number of "minor" problematic pay practices, RMG could also apply this policy.

While the problematic pay practices policy applies to equity plan proposals, it also applies to the election of directors. Generally, if the policy is violated, RMG can recommend against all the compensation committee members that were on the committee when the problematic pay practice was adopted, but, if egregious enough, RMG could recommend against the CEO as a director and/or the entire slate of directors.

*RMG's problematic pay practices policy applies to equity plan proposals, incumbent director elections (particularly members of the compensation committee), and management proposals seeking an advisory shareholder vote on compensation, i.e., management say-on-pay proposals.*

## Liberal Change-in-Control Definition

The liberal CIC definition policy is relatively new for RMG, having been adopted for the 2009 proxy season. It has not yet been cited as the rationale for RMG's against vote recommendation for an equity plan proposal that failed. Of the 38 equity plan proposals that failed, only one cited the liberal CIC definition policy, but this was done prior to the policy being effective, so RMG raised it in a cautionary manner.

Thus, the lesson with the liberal CIC definition policy is to ensure you review your plan to ensure that if it contains CIC control protection, that the definition of CIC is written so that consummation of the CIC deal is required.

<sup>3</sup> See Appendix for a list of RMG's "major" and "minor" problematic pay practices.

## Other

Other reasons were cited by RMG only twice among the 38 equity plan proposals that failed. In one case, RMG recommended against an equity plan proposal because it supported an alternative proposal seeking shareholder approval for an option exchange program for underwater stock options. In that case, RMG did note that if a shareholder opposed the option exchange, it should support the equity plan proposal.

In the other case, RMG cited an “other” reason in addition to an excessive SVT cost for the equity plan proposal. Specifically, RMG indicated that it opposed the proposal because the non-employee director plan had retainers that were heavily weighted towards equity, but vesting for director equity awards was only three years instead of five years.

So, there probably aren’t too many lessons that can be drawn from the “other” category except that if there are extenuating circumstances, be sure to vet them with individuals familiar with RMG policies and guidelines to ensure they won’t present an issue to the approval of the equity plan proposal.

## Conclusion

If your dilution will be over 15 percent with your equity plan proposal, and you are not a small cap company or in an industry that permits a higher level of dilution, you should be a little nervous and your level of nervousness should grow right along with the dilution as it exceeds that level. If your dilution would be above 20 percent, you should likely be quite concerned and perhaps seek out your top shareholders to ask their opinion about dilution levels before even submitting an equity plan proposal to shareholders. To the extent your company's dilution would be out of step with its peers and/or industry group, you should be even more concerned.

Much of the success or failure of an equity plan proposal depends on the composition of a company's shareholders, so a detailed analysis of the shareholder base must be undertaken. Some of the questions that need to be asked include:

- What is the level of influence of RMG among my shareholders?
- What are the voting guidelines of my non-RMG influenced shareholders?
- What is the "message" for my equity plan proposal?
- Can I leverage my retail shareholders to help the equity plan proposal pass?

As with most things, it is often easier to ask and receive when times are good, i.e., when the company stock has performed well and shareholders have experienced some gains. In recent proxy seasons that hasn't always been the case. But, it isn't an absolute necessity. Most institutional shareholders understand that company equity programs are necessary in today's compensation arrangements. For many investors, so long as they have faith in management, and management can demonstrate that it has been a responsible steward of the company, they will support reasonable share requests. What is reasonable? It depends on the investor, but generally it will take into account the company's dilution level, how equity has been used in the past, and how long the shares requested might last (ideally, somewhere between 3 to 5 years for most investors).

## Authors

For more information about this Special Report or how The Altman Group or Exequity LLP can assist with equity plan proposals, please contact the authors:

**Edward A. Hauder** | Senior Executive Compensation Advisor  
**Exequity LLP** | [Independent Board and Management Advisors](#)  
1870 W. Winchester Rd., Ste. 141 | Libertyville, IL 60048 | [www.exqty.com](http://www.exqty.com)  
Direct: 847-996-3990 | Cell: 847-406-8150 | Fax: 847-996-3961 | [edward.hauder@exqty.com](mailto:edward.hauder@exqty.com)  
Ed's Equity Compensation Blog: <http://www.edwardhauder.com>  
Follow Ed on Twitter: <http://www.twitter.com/ExeCompAdvisor>

**Reid Pearson** | Managing Director  
**The Altman Group, Inc.**  
5524 Wedgewood Ct | Lilburn, GA 30047 | [www.altmangroup.com](http://www.altmangroup.com)  
Direct: 678-919-7189 | Cell: 770-262-7677 | [rpearson@altmangroup.com](mailto:rpearson@altmangroup.com)

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# Appendix

## Problematic Pay Practices

“Major”	“Minor”
<ul style="list-style-type: none"><li>• Multi-year guarantees for salary increases, non-performance-based bonuses, and equity compensation</li><li>• Including additional years of service that result in significant additional benefits, without sufficient justification, or including long-term equity awards in the pension calculation</li><li>• Perquisites for former and/or retired executives, and extraordinary relocation benefits (including home buyouts) for current executives</li><li>• CIC payments exceeding three times base salary and target bonus</li><li>• CIC payments without job loss or substantial diminution of duties (“single triggers”)</li><li>• New or materially amended agreements that provide for “modified single triggers”</li><li>• New or materially amended agreements that provide for an excise tax gross-up (including “modified gross-ups”)</li><li>• Tax reimbursements related to executive perquisites or other payments such as personal use of corporate aircraft, executive life insurance, bonus, etc.</li><li>• Dividends or dividend equivalents paid on unvested performance shares or units</li><li>• Executives using company stock in hedging activities, such as “cashless” collars, forward sales, equity swaps, or other similar arrangements</li><li>• Repricing or replacing of underwater stock options/stock appreciation rights without prior shareholder approval (including cash buyouts and voluntary surrender/subsequent regrant of underwater options)</li></ul>	<ul style="list-style-type: none"><li>• Excessive severance and/or CIC provisions<ul style="list-style-type: none"><li>— Payments upon an executive’s termination in connection with performance failure</li><li>— Liberal CIC definition in individual contracts or equity plans which could result in payments to executives without an actual CIC occurring</li></ul></li><li>• Overly generous perquisites, which may include, but are not limited to, the following:<ul style="list-style-type: none"><li>— Personal use of corporate aircraft</li><li>— Personal security system maintenance and/or installation</li><li>— Car allowances</li><li>— Executive life insurance</li></ul></li><li>• Internal pay disparity/excessive differential between CEO total pay and that of next highest-paid executive officer</li><li>• Voluntary surrender of underwater stock options by executive officers<ul style="list-style-type: none"><li>— May be viewed as an indirect repricing/exchange program especially if those cancelled options are returned to the equity plan, as they can be regranted to executive officers at a lower exercise price, and/or executives subsequently receive unscheduled grants in the future</li></ul></li><li>• Other pay practices deemed problematic but not covered in any of the above categories</li></ul>