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## How to File a Resolution



## Why file a shareholder resolution?

- **Management's attention:** use a resolution to begin a conversation with a company about an issue that matters to your institution.
- **Educate others:** Let other shareholders know about your issue.



## Who can file a shareholder resolution?

**Have \$2,000 worth of stock:** The filer of a resolution must continuously hold \$2,000 worth of a company's stock for one year before filing a shareholder resolution (specifically, one year from the date listed at the top of the filing letter). **A group of filers can 'aggregate' their shares to meet the \$2,000 minimum requirement.**

**Hold onto it through the AGM:** You must also continuously hold at least \$2,000 worth of stock through the date of your company's annual general meeting.

**1 resolution per company:** You can file resolutions with as many companies as you like; however, you can only file *one resolution per company* in a year.



## A word about the Corporate Calendar

Most corporations require you to file your resolutions by the fall or winter preceding their annual shareholder meetings (where they'll be voted on by all shareholders).

Your filing packet must reach the company by the close of business on its '**filing deadline**': Make sure you have enough time.

## Next steps

**Contact the 'lead' filer:** those Members who lead an action are called the 'lead' or 'primary' filer. Lead filers should also proactively contact those people who have joined their actions.

**Get the resolution:** the 'lead' filer will give you and your fellow co-filers the final version of the resolution.

**File your resolution:** The 'lead' filer files first, then you follow.

## The Filing Packet – What to send the company

By the close of business on or before the company's filing date, mail or overnight to the Corporate Secretary:

- **Your cover letter**
- **The resolution**
- **Verification of your stock ownership**

It's best to **send your letter via FedEx, UPS or other sign-upon-receipt delivery**, so that you can have a record of who at the company signed to receive your letter. You should retain this receipt in the rare case the company argues your letter didn't arrive.



## Your Cover Letter: phrases to include

- State that you are “**co-filing with** [Name of lead institution];” otherwise the company can treat your filing as a separate resolution, and exclude it.
- Likewise, **lead institutions should list their co-filers**, when possible.
- Say that you “submit this resolution for inclusion in the proxy statement in accordance with **Rule 14a-8** of the general rules and regulations of the Securities Exchange Act of 1934,” and that:
- “A **representative** of the filers will attend the annual meeting to move the resolution as required by SEC rules.”



## Your Cover Letter, continued

- Say also that your institution “is the **beneficial owner** of at X shares of X Corporation common stock,” and that:
- You “have held the requisite amount of stock for over a year and **intend to maintain ownership** through the annual meeting in 201X.”



## A note about verifying stock ownership:

Your custodian can separately send verification of your stock ownership to the company, or you can enclose it with your filing letter. Note: the custodian's letter must state that your institution has *continuously* owned its shares for at least one year prior to *the date at the top of your filing letter*.



## Your Cover Letter: phrases to include

- Name your institution's **authorized contact person** on the issue and provide contact details.
- You can also make a **statement of concern** about your issue.



## Resolutions: Tips on Content

- The text of a resolution must be **500 words or less**, including any accompanying statements of support.
- A resolution may **not** contain any false or **misleading statements**



## What Happens After I File?

**The company sends a copy of your resolution to the SEC**

**Then, you wait for the company to respond.** A company might:

- Do nothing.
- Ask you and the other filers to withdraw your resolution.
- Challenge the resolution at the SEC.



## What's an SEC Challenge?

The Company may write to the SEC asking to exclude your resolution from its annual proxy statement. (It will send you a copy of its letter.) The lead filer can, but is not required to defend his/her resolution in writing. One of 2 things will happen to your resolution:

- **It's Omitted:** If the SEC agrees with the company after both parties make their cases, your resolution will be omitted from the company's proxy materials. Also, the resolution cannot be re-filed for the next 3 years.
- **It Wins:** If the SEC agrees with the lead filer's arguments, the Company must print the resolution in its proxy materials.



## What if the company doesn't challenge?

**Withdraw:** after receiving your resolution, the company may approach filers and offer to strike a deal before the resolution appears on its proxy statement. It may agree to issue the report you've asked for. It may offer to start a dialogue about the issue that concerns you. If its concessions are substantial, withdrawing may be a good option. The 'lead' filer will make the call. Once withdrawn, your resolution will not appear in the proxy.

**Vote:** If the company takes no action, or loses its SEC challenge, then your resolution will be voted on by all shareholders at the Annual General Meeting (**AGM**).



## What Happens After I File? The AGM

**The AGM:** one of the filers, or a representative, must attend the company's AGM to formally 'move' your resolution by reading a prepared statement – ask in advance for how much time you'll have (3 minutes is common). Also ask whether you'll need to bring someone along to 'second' your resolution.

**Note:** If no one appears at the AGM to present your resolution, it will be thrown out and filers will be barred from resubmitting it for the next 2 years.



## What Happens After I File? The AGM

**Note:** Each company has different requirements for entry into an AGM. Some ask you to have verification of stock ownership and proxy letters in hand. Check with the Corporate Secretary/Legal Counsel well in advance of an AGM for details.

**If you are unable to attend at the last moment:** call the Corporate Secretary or Legal Counsel. They may move the resolution for you, if you have a good reason for not making the AGM (i.e., your flight is canceled).