

How Three Years of the Universal Proxy Card Rules Have Changed Proxy Contests

September 9, 2025

On September 1, 2022, the SEC universal proxy card (UPC) rules took effect, allowing shareholders to freely “mix and match” from among management and dissident nominees in contested director elections. Before the rules’ adoption, their impact on shareholder activism was hotly debated, including in a comment letter to the SEC from [our practice](#). Since they went into effect, judgments (even by [us](#)) have too often been anecdotal or based on limited data.

To replace conjecture with facts, we have conducted a comprehensive analysis of all late-stage director contests at Russell 3000 companies in the five years before the UPC rules and three years since.¹

While only a small minority of activism campaigns end in contested elections and most board change results from settlements, all activist engagements occur in the shadow of how a vote might play out. An activist with a credible path to electoral success (let alone sweeping victory) has leverage to push for changes without proceeding to a proxy contest, and vice versa. Whether the UPC altered voting outcomes — and if so, in whose favor — affects all companies’ perceived ability to resist activist demands.

Our study shows that management continues to sweep most proxy contests, activists’ electoral floor has risen while their ceiling has collapsed, support for activist principals has softened, and vote margins have become tighter. Below we present these novel findings, which we hope will be of interest to our current and prospective clients concerned with possible activism and to the activism ecosystem writ large.

1. Boards face less downside risk taking an activist campaign to a vote.

We often hear that the UPC has made it easier for activists to win board seats at the ballot box. Our data show more nuance. Activists have had more success winning *single* board seats in contested votes. But they are seating nominees in only a minority of elections, and their ability to achieve sweeping board change has been sharply diminished.

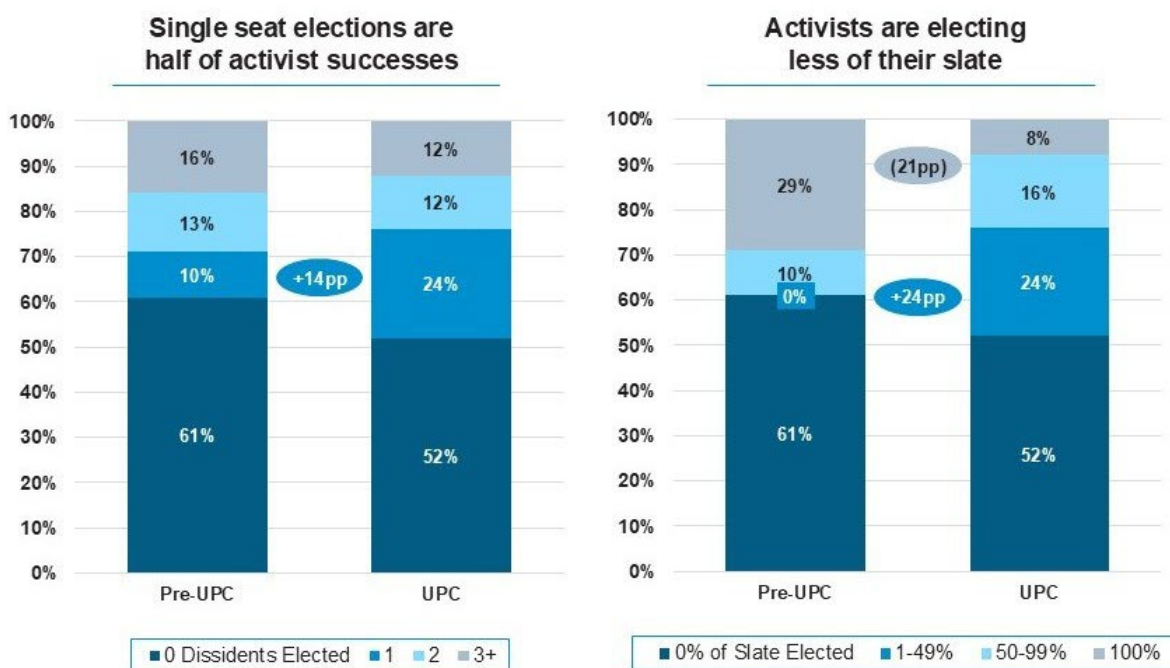
Management success has ticked down while remaining typical. “Clean sweeps” (full-slate elections) by management continue to be a majority of contested elections under the UPC (52%, down from 61%). On top of these, activists are more often withdrawing their slates after ISS and Glass Lewis back management (13% of late-stage proxy contests under the UPC withdrew after proxy advisor recommendations, up from 9%). Combined, management sweeps and late-stage activist withdrawals are *more common* under the UPC, rising from 51% of late-stage contests to 55%.

¹ Review was based on board representation campaigns at annual meetings from January 1, 2018 to August 31, 2025 for companies included in the Russell 3000 index at the time of the campaign where at least one of ISS or Glass Lewis issued recommendations. Final data include 76 campaigns, with 45 pre-UPC (31 of which went to a vote) and 31 post-UPC (25 of which went to a vote). We excluded gadfly nominations, contests where no dissidents were opposed by a management nominee at the time of the vote, contests where the dissident did not file a contested proxy statement, and one split board contest. Data on votes include one campaign where the dissident nominations were not presented for a vote but the company reported what the vote outcomes would have been. Data were collected from FactSet, ISS Voting Analytics, Diligent, and SEC filings.

The “floor” on activists’ electoral success has risen. At least one activist nominee was elected in 48% of UPC elections, up from 39%. Half of these successes have been limited to a *single* seat, an increase from 10% to 24% of total elections.

In turn, the “ceiling” on activist success has collapsed. Shareholders have supported at least half of the dissident slate in only 24% of UPC elections, down from 39%. Activist clean sweeps have effectively vanished, falling from 29% of pre-UPC contested elections to none aside from the proxy contests at Masimo ([where fundamental corporate failures were at issue](#)).² No proxy contest for board control has prevailed under the UPC, with activists going 0-for-4 not counting the two successive proxy fights at Masimo) after prevailing in half of attempts before the UPC.

The net effect is that activist victories have increased in frequency but compressed toward single-seat outcomes. The average number of activist candidates elected under the UPC is down 22% (1.1 to 0.9 seats), and the average when a dissident wins at least one seat is down 37% (from 2.9 to 1.8 seats). Shareholders appear to be continuing to pick continuity by default, and where change is supported, most often the least amount possible.



In addition to less sweeping change, activists’ odds of seating their own funds’ principals have declined. While activists continue to nominate principals at a high rate (near-flat at 58% of UPC contests), they are receiving less support and being elected less often under the UPC. Average support³ for principals is down from 44% to 39% in the average contest, and a principal was elected in only 33% of proxy contests where one was nominated (down from 42%).

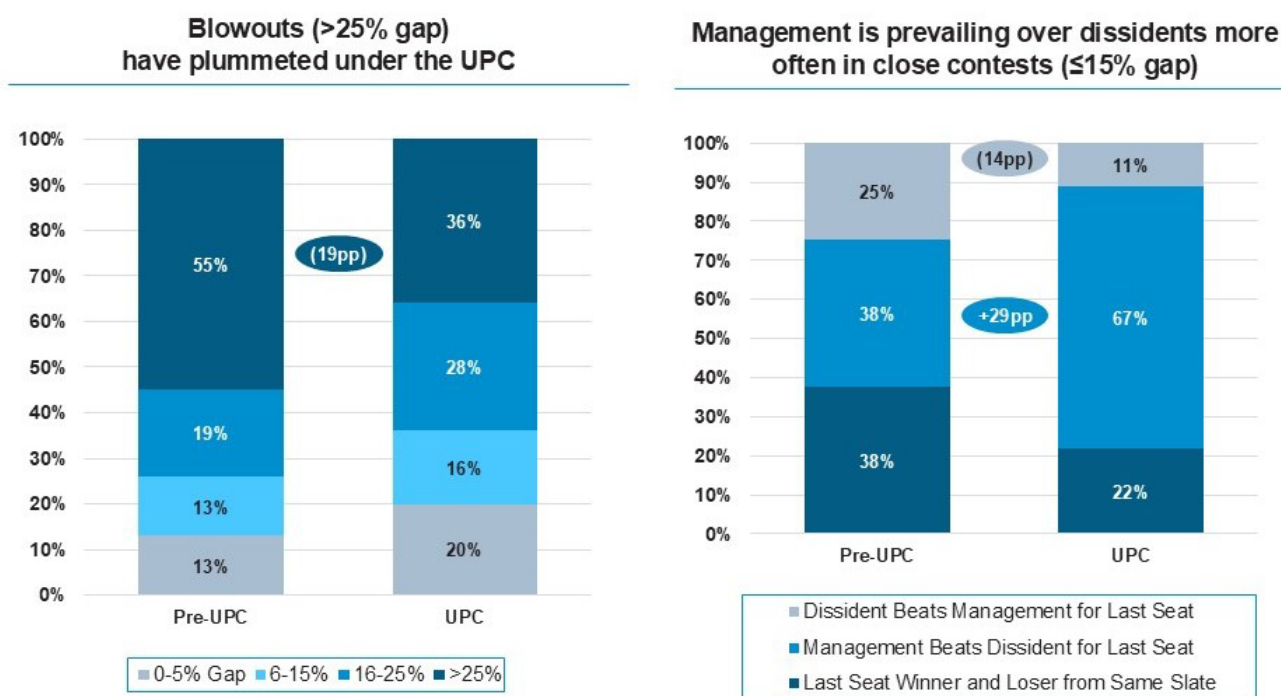
² Activist “clean sweeps” do not include elections where no activist nominees were opposed by management nominees, which were not included in the study.

³ Support is calculated as votes “for” a nominee as a percentage of the aggregate of “for,” “against,” and “abstain” votes on the say-on-pay proposal (or auditor ratification, if none) at the meeting, which equates to the total instructed votes at the meeting.

2. Elections have become closer at the margins, with the battle for the last elected seat often outcome determinative.

The contest for the last elected seat has tightened under the UPC, with the highest-supported losing nominee coming closer to being elected. The average gap in support between the winner and loser of the last elected seat has fallen from 33% to 25%, and the rate of blowouts with a gap of at least 25% down from 55% to 36% of total votes.

At the same time, these closer elections have mattered more. UPC elections with a gap of 15% or less have tended to involve a management nominee prevailing over an activist nominee for the last elected seat. In fact, one-third (31%) of management clean sweeps under the UPC have fallen within 15% of electing a single activist nominee.



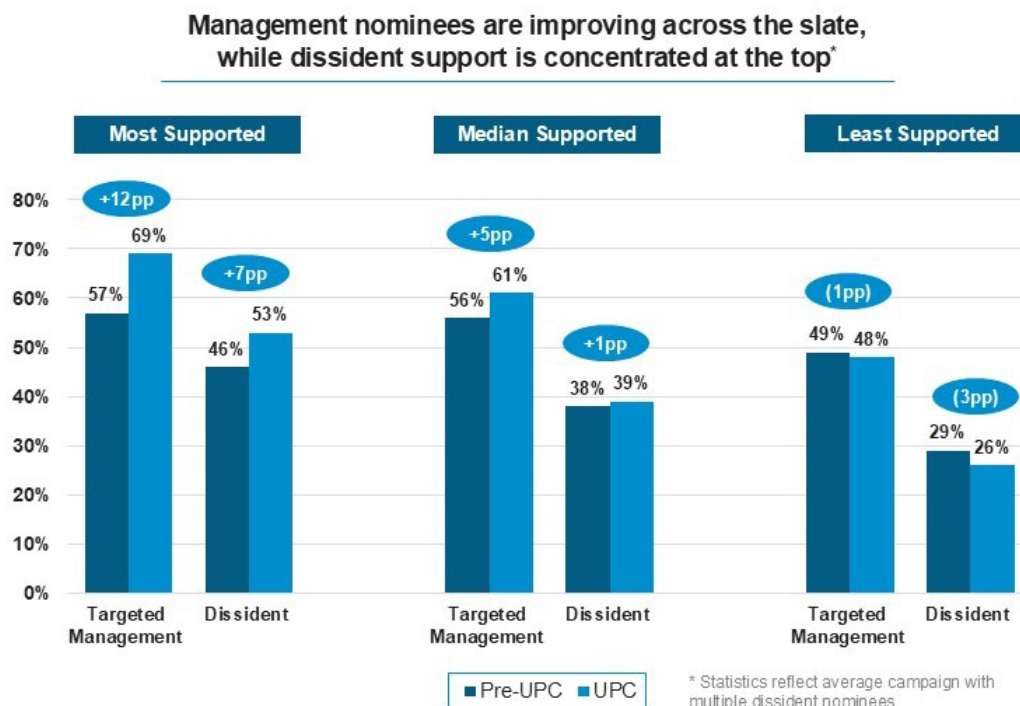
Taken together, this means that management's success under the UPC has often turned on winning the last elected seat in close elections. Much of that success is owed to the management-friendly "Big Three" index funds, whose significant stakes can make them decisive in close elections.

3. What is driving these changes?

Both substance and mechanics play a role.

As we have [previously written](#), proxy advisors and shareholders continue to require activists to prove a compelling case for change before they will back any activist nominees. We are seeing companies adapt to the UPC by narrowing the case for change (when it cannot be refuted entirely) and contesting it on a nominee-by-nominee basis. Companies have also been more successful in arguing that activist principals can be more disruptive and self-interested than independent nominees.

In addition, the UPC's mix-and-match mechanic has right-sized voting outcomes with voter preferences, as shareholders can support the least possible change while still voting for the remainder of the management slate. Our data show that support for management candidates targeted by the activist has increased under the UPC (thanks to the end of "wasted" votes on partial dissident slates under the previous two-card system) except at the bottom of the slate, while activist nominees are garnering more support only at the top of their tickets.



4. What does this mean for public companies?

While contested votes are rare, they cast a long shadow on shareholder activism and the types of companies vulnerable to it. Public companies concerned about activism should consider the following lessons from our study:

- **Lower risks of sweeping change or an activist principal avoid the most disruptive outcomes of a contested election.** The number of activist nominees elected — and whether any are activist principals — has a significant effect on companies' trajectories, both in terms of activists' influence in the boardroom and the mandate to change. While no company prefers a proxy contest, our data indicate that they now face less downside risk taking one to a vote if an activist makes unreasonable demands that cannot be resolved in a settlement.
- **Compressed activist victories equal a new settlement calculus.** Given that the most frequent outcomes of a contested vote are management winning every seat or, failing that, losing a single seat (and infrequently any seats to an activist principal), companies may reasonably question the logic of granting an activist two or more seats in a settlement, particularly any to a principal.
- **In their continual refreshment efforts, boards should review director qualifications in light of their strategic and operational priorities, not formulaic vulnerabilities.** While we are seeing director qualifications play a larger role in proxy contests, our data do not show that the UPC has penalized check-the-box vulnerabilities (such as a lack of gender diversity or advanced age). Instead, boards should consider how each director's skills and experiences contribute to effective oversight of the company's priorities, especially areas of underperformance that could be criticized by an activist.

- **If an activist proves a compelling case for change, the most vulnerable director will be put under the spotlight.** Our data suggest that UPC contests (once the activist has proven a compelling case for change) tend to come down to a battle between the most vulnerable incumbent and the strongest activist nominee. It is always appropriate for directors to regularly reflect on whether they are still the right person to serve on the board — and they should not hesitate to raise a hand when the answer could be no.
- **Tactical decisions from the first moment an activist approaches matter more under the UPC; companies are advised to choose experienced advisors.** Closer elections under the UPC elevate the salience of every tactical decision made by companies, since a smaller number of shareholders can flip the last elected seat to the other side. Proxy contests where any wrong move can alienate enough shareholders to lose a seat remain no place for “training on the job.”

If you found this update informative, we encourage you to reach out to us or your regular Sidley contact to discuss your activism preparedness in light of these and other novel findings from our study.

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