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New York Common files its first cyber risk shareholder proposal

The \$209bn pension fund failed to receive a majority of votes at a recent Express Scripts shareholder meeting.

Dietrich Knauth | 15 May 2018

The \$209bn **New York State Common Retirement Fund** filed its first shareholder proposal dealing with cybersecurity, calling on **Express Scripts** to publicly detail its cyber risk and security efforts. While the proposal failed to gain the support of a majority of shareholders, the state pension system said that cyber risks will be an increasing concern for shareholders in the future.

The New York fund, which holds about \$130m in the pharmacy benefits management company, requested that the Express Scripts board annually review and publicly report on its cyber risk, including risks related to outsourced business functions, a description of material cyber incidents, risks related to undetected cyber intrusions, and a description of relevant insurance coverage. The company disclosed in 2008 that a data breach affected the personal and medical information of more than 700,000

customers, and State Comptroller **Thomas DiNapoli** filed the shareholder proposal shortly after the **Equifax** data breach exposed the personal information of as many as 145 million Americans.

The proposal failed to gain majority support, and the “no” votes outnumbered the votes in favor by more than two to one.

“A significant number of shareholders spoke loudly at Express Scripts’ annual meeting supporting our call for the company to publicly detail its cyber risk and actions taken to ensure cyber security,” DiNapoli said in a statement. “Cyber security is one of the most critical issues facing businesses today and breaches can affect millions of people, but Express Scripts has provided shareholders with little reassurance or information on what actions it has taken to mitigate cyber risk in its operations. Company executives should reassure investors that they have taken solid steps to mitigate the risk of a computer breach.”

This is the first time the fund filed a shareholder proposal exclusively dealing with cyber security, spokesman **Mark Johnson** said.

Express Scripts had sought to prevent DiNapoli’s proposal from going to a shareholders’ vote, but the Securities and Exchange Commission rejected the company’s request in March, according to the Comptroller’s office.

In supporting its proposal, the Common Retirement Fund said that cybersecurity is a significant policy issue and a topic of legitimate concern among investors, especially for the healthcare industry, which faces strict requirements for the protections of patient information. The proposal cited SEC Chairman **Jay Clayton**’s September 2017 testimony before the U.S. Senate Banking Committee, in which Clayton said “I still am not confident that the Main Street investor has received a sufficient package of information from issuers, intermediaries and other market participants to understand the substantial risks resulting from cybersecurity and related issues.”

Shareholders also voted down a proposal that would require Express Scripts to report annually on the gender pay gap among the company’s employees, with that initiative receiving about half as much support as the

cyber risk reporting proposal.

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New York State Common Retirement Fund

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