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Canada

Proxy Voting Guidelines for Venture-Listed Companies

2016 Benchmark Policy Recommendations

Effective for Meetings on or After February 1, 2016

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1. ROUTINE/MISCELLANEOUS

Audit-Related

Financial Statements/Director and Auditor Reports

Companies are required under their respective Business Corporations Acts (BCAs) to submit their financial statements and the auditor's report, which is included in the company's annual report, to shareholders at every Annual General Meeting (AGM). This routine item is almost always non-voting.

Ratification of Auditors

General Recommendation: Vote for proposals to ratify auditors, unless the following applies:

- Non-audit related fees paid to the auditor exceed audit-related fees.

Rationale: National Instrument 52-110 - *Audit Committees* defines "audit services" to include the professional services rendered by the issuer's external auditor for the audit and review of the issuer's financial statements or services that are normally provided by the external auditor in connection with statutory and regulatory filings or engagements.

In circumstances where "Other" fees include fees related to significant one-time capital restructure events: initial public offerings, emergence from bankruptcy, and spinoffs; and the company makes public disclosure of the amount and nature of those fees which are an exception to the standard "non-audit fee" category, then such fees may be excluded from the non-audit fees considered in determining whether non-audit fees are excessive.

In all Canadian jurisdictions, in conjunction with National Instrument 52-110 - *Audit Committees*, Form 52-110F2 - *Disclosure for Venture Issuers* requires that Venture companies disclose:

- The text of the audit committee's charter;
- The name of each audit committee member and state whether or not that member is (i) independent and (ii) financially literate;
- Each audit committee member's relevant education and experience to the performance of their duties as an audit committee member;
- Any instances during the most recent financial year where a recommendation of the audit committee to compensate or nominate an external auditor was not adopted by the board of directors and why;
- A description of any policies or procedures adopted by the audit committee for the engagement of non-audit services;
- All fees paid to the external audit firm, broken down by category as (i) Audit Fees, (ii) Audit-Related Fees, (iii) Tax Fees, or (iv) Other Fees.

If a Venture issuer does not solicit proxies from security holders, then the required disclosure must appear in its Annual Information Form or annual MD&A.

Other Business

General Recommendation: Vote against all proposals on proxy ballots seeking approval for unspecified "other business" that may be conducted at the shareholder meeting as shareholders cannot know what they are approving.

2. BOARD OF DIRECTORS

Voting on Director Nominees in Uncontested Elections

Fundamental Principles

Four fundamental principles apply when determining votes on director nominees:

Board Accountability: Practices that promote accountability and enhance shareholder trust begin with transparency into a company's governance practices (including risk management practices). These practices include the annual election of all directors by a majority of votes cast by all shareholders, affording shareholders the ability to remove directors, and providing detailed timely disclosure of voting results. Board accountability is facilitated through clearly defined board roles and responsibilities, regular peer performance review, and shareholder engagement.

Board Responsiveness: In addition to facilitating constructive shareholder engagement, boards of directors should be responsive to the wishes of shareholders as indicated by majority supported shareholder proposals or lack of majority support for management proposals including election of directors. In the case of a company controlled through a dual-class share structure, the support of a majority of the minority shareholders should equate to majority support.

Board Independence: Independent oversight of management is a primary responsibility of the board. While true independence of thought and deed is difficult to assess, there are corporate governance practices with regard to board structure and management of conflicts of interest that are meant to promote independent oversight. Such practices include the selection of an independent chair to lead the board, structuring board pay practices to eliminate the potential for self-dealing, reducing risky decision-making, ensuring the alignment of director interests with those of shareholders rather than the interests of management, and structuring separate independent key committees with defined mandates. Complete disclosure of all conflicts of interest and how they are managed is a critical indicator of independent oversight.

Board Capability: The skills, experience and competencies of board members should be a priority in director selection, but consideration should also be given to a board candidate's ability to devote sufficient time and commitment to the increasing responsibilities of a public company director. Directors who are unable to attend board and committee meetings and/or who are overboarded (i.e., serving on too many boards) raise concern regarding the director's ability to effectively serve in shareholders' best interests.

Slate Ballots (Bundled Director Elections)

General Recommendation: Vote withhold for all directors nominated only by slate ballot at the annual/general or annual/special shareholders' meetings. This policy will not apply to contested director elections.

Rationale: On February 24, 2012, the TSX Venture Exchange ("Venture") released a bulletin notice reminding issuers of ongoing corporate governance requirements under Venture exchange listing rules. Among the requirements is a prohibition on any mechanisms that entrench existing management as established in section 19.6 of Policy 3.1 – Directors, Officers, Other Insiders & Personnel and Corporate Governance of the Corporate Finance Manual. Specifically cited is the prohibition on the election of the board of directors as a slate without also providing shareholders with the ability to elect each of the directors on an individual basis.

The policy reflects these regulatory requirements while maintaining flexibility to address specific circumstances that would warrant a case-by-case approach.

2016 ISS Canadian Definition of Independence

1. Inside Director (I)

1.1 Employees of the company or its affiliates[i].
1.2 Non-employee officer of the company or its affiliates[i] if he/she is among the five most highly compensated.
1.3 Current interim CEO or any other current interim executive of the company or its affiliates[i] .
1.4 Beneficial owner of company shares with more than 50 percent of the outstanding voting rights (this may be aggregated if voting power is distributed among more than one member of a group)[ii].

2. Affiliated Outside Director (AO)

Former/Interim CEO[iii]
2.1 Former CEO of the company or its affiliates[i] within the past five years[iv] or of an acquired company within the past five years.
2.2 Former interim CEO of the company or its affiliates[i] within the past five years[iv] if the service was longer than 18 months or if the service was between 12 and 18 months and the compensation was high relative to that of the other directors or in line with a CEO's compensation[v] at that time.
2.3 CEO of a former parent or predecessor firm at the time the company was sold or split off from the parent/predecessor within the past five years[iv].

Non-CEO Executives[iii]
2.4 Former executive of the company, an affiliate, or a firm acquired within the past three years.
2.5 Former interim executive of the company or its affiliates[i] within the past three years if the service was longer than 18 months or if the service was between 12 and 18 months, an assessment of the interim executive's terms of employment including compensation relative to other directors or in line with the top five NEOs at that time.
2.6 Executive of a former parent or predecessor firm at the time the company was sold or split off from parent/predecessor within the past three years.
2.7 Executive, former executive of the company or its affiliates[i] within the last three years, general or limited partner of a joint venture or partnership with the company.

Relatives
2.8 Relative[vi] of current executive officer[vii] of the company or its affiliates[i] .
2.9 Relative[vi] of a person who has served as an executive officer of the company or its affiliates[i] within the last three years.

Transactional, Professional, Financial, and Charitable Relationships
2.10 Currently provides (or a relative[vi] provides) professional services to the company, its affiliates[i] or to its officers.
2.11 Is (or a r elative[vi] is) a partner, controlling shareholder or an employee of, an organization that provides professional services to the company, to an affiliate of the company, or to an individual officer of the company or one of its affiliates.
2.12 Currently employed by (or a relative[vi] is employed by) a significant customer or supplier[viii] of the company or its affiliates[i].
2.13 Is (or a relative[vi] is) a trustee, director or employee of a charitable or non-profit organization that receives material[ix] grants or endowments from the company or its affiliates[i] .
2.14 Has, or is (or a relative[vi] is) a partner, controlling shareholder or an employee of an organization that has a transactional relationship with the company or its affiliates[i], excluding investments in the company through a private placement.

Other Relationships
2.15 Has a contractual/guaranteed board seat and is party to a voting agreement to vote in line with management on proposals being brought to shareholders.
2.16 Founder[x] of the company but not currently an employee.
2.17 Has any material relationship with the company or with any one or more members of management of the company.

Board Attestation
2.18 Board attestation that an outside director is not independent.

3. Independent Directors (IO)
3.1 No material ties to the company other than board seat.

Footnotes:

i "Affiliate" includes a subsidiary, sibling company, or parent company. ISS uses 50 percent control ownership by the parent company as the standard for applying its affiliate designation.
ii Under this definition, officers of an entity and/or its affiliates holding more than 50 percent of the outstanding voting rights will be considered insiders.
iii When there is a former CEO or other officer of a capital pool company (CPC) or special purpose acquisition company (SPAC) serving on the board of an acquired company, ISS will generally classify such directors as independent unless determined otherwise taking into account the following factors: the applicable listing standards determination of such director's independence; any operating ties to the firm; and the existence of any other conflicting relationships or related party transactions.
iv The determination of a former CEO's classification following the five year cooling-off period will be considered on a case-by-case basis. Factors taken into consideration may include but are not limited to: management/board turnover, current or recent involvement in the company, whether the former CEO is or has been Executive Chairman of the board or a company founder, length of service with the company, any related party transactions, consulting arrangements, and any other factors that may reasonably be deemed to affect the independence of the former CEO.
v ISS will look at the terms of the interim CEO's compensation or employment contract to determine if it contains severance pay, long-term health and pension benefits or other such standard provisions typically contained in contracts of permanent, non-temporary CEOs. ISS will also consider if a formal search process was underway for a full-time CEO.
vi Relative refers to immediate family members including spouse, parents, children, siblings, in-laws and anyone sharing the director's home.
vii Executive Officer will include: the CEO or CFO of the entity; the president of the entity; a vice-president of the entity in charge of a principal business unit, division or function; an officer of the entity or any of its subsidiary entities who performs a policy making function in respect of the entity; any other individual who performs a policy-making function in respect of the entity; or any executive named in the Summary Compensation Table.
viii If the company makes or receives annual payments exceeding the greater of $200,000 or 5 percent of recipient's gross revenues (the recipient is the party receiving proceeds from the transaction).
ix "Material" is defined as a standard of relationship (financial, personal or otherwise) that a reasonable person might conclude could potentially influence one's objectivity in the boardroom in a manner that would have a meaningful impact on an individual's ability to satisfy requisite fiduciary standards on behalf of shareholders.
x The operating involvement of the Founder with the company will be considered. Little or no operating involvement may cause ISS to deem the Founder as an independent outsider.

Vote case-by-case on director nominees, examining the following factors when disclosed:

- Independence of the board and key board committees;
- Attendance at board, and if disclosed, committee meetings;
- Corporate governance provisions and takeover activity;
- Long-term company performance;
- Directors' ownership stake in the company;
- Compensation practices;
- Responsiveness to shareholder proposals;
- Board accountability; and
- Adoption of a Majority Voting (director resignation) policy.

Rationale: Corporate governance disclosure requirements for Venture Issuers are set out in Form 58-101F2 – *Corporate Governance Disclosure*. These requirements include:

- Assessment of the independence of each director and the basis for determination;
- Identification of any other issuer for which the director holds a board seat;
- Description of the director orientation process, if any, and continuing education measures;
- Description of ethical business conduct policies or procedures;
- Disclosure of the nomination process and who is responsible for identifying new candidates;
- Disclosure of the process for determining compensation for the directors and CEO, and who is responsible;
- Description of standing board committees other than the audit, compensation and nominating committees;
- Description of any board assessment procedures.

Insiders on Key Committees

General Recommendation: Vote withhold for individual directors who:

- Are insiders on the audit committee.

Vote withhold for individual directors who:

- Are insiders on the compensation committee or the nominating committee and the committee is not majority independent.

Vote withhold for individual directors who:

- Are insiders and the entire board fulfills the role of a compensation committee or a nominating committee and the board is not majority independent.

Rationale: Given the limitations presented by extremely small boards of directors at many Venture issuers, flexibility may be extended to these companies to permit an insider on the compensation committee (or nominating committee if there is one) as long as the committee is majority independent and thus provides an effective balance of independent directors to ensure an independent perspective to counterbalance the presence of an insider. The same rationale would apply to the board as a whole if the entire board fulfills the role of the compensation committee or nominating committee. Given, however, the importance of independent fiscal oversight to all issuers, this exception does not apply to insiders on an audit committee.

Policy Considerations for Majority Owned Companies[1]

ISS policies support a one-share, one-vote principle. In recognition of the substantial equity stake held by certain shareholders, on a case-by-case basis director nominees who are or who represent a controlling shareholder of a majority owned company and who will be designated as controlling insiders may be supported under ISS' board and committee independence policies if the company meets all of the following independence and governance criteria:

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[1] A majority owned company is defined for the purpose of this policy as a company controlled by a shareholder or group of shareholders who together have an economic ownership interest under a single class common share capital structure that is commensurate with their voting entitlement of 50 percent or more of the outstanding common shares.

- Individually elected directors;
- The number of directors related to the controlling shareholder should not exceed the proportion of common shares controlled by the controlling shareholder. In no event, however, should the number of directors related to the controlling shareholder exceed two-thirds of the board;
- In addition to the above, if the CEO is related to the controlling shareholder then no more than one-third of the board should be related to management (as distinct from the controlling shareholder);
- If the CEO and chair roles are combined or the CEO is or is related to the controlling shareholder, then there should be an independent lead director and the board should have an effective and transparent process to deal with any conflicts of interest between the company, minority shareholders, and the controlling shareholder;
- A majority of the audit and nominating committees should be either independent directors or related directors who are independent of management. All members of the compensation committee should be independent of management. If the CEO is related to the controlling shareholder, no more than one member of the compensation committee should be a related director;
- Prompt disclosure of detailed vote results following each shareholder meeting; and
- Adoption of a majority voting director resignation policy for uncontested elections OR public commitment to adopt a majority voting director resignation policy for uncontested elections if the controlling shareholder ceases to control 50 percent or more of the common shares.

ISS will also consider the following:

- The nominating committee's process to receive and discuss suggestions from shareholders for potential director nominees; and
- If the CEO is related to the Controlling Shareholder, the board's process to evaluate the performance, leadership, compensation, and succession of management should be led by independent directors;

ISS will also take into consideration any other concerns related to the conduct of the subject director(s) and any controversy or questionable actions on the part of the subject director(s) that are deemed not to be in the best interests of all shareholders.

Rationale: Canadian corporate law provides significant shareholder protections. For example, under most BCAs, a shareholder or group of shareholders having a 5 percent ownership stake in a company may requisition a special meeting for the purposes of replacing or removing directors and in most jurisdictions directors may be removed by a simple majority vote. Shareholders also benefit from the ability to bring an oppression action against the board or individual directors of Canadian incorporated public companies.

Against this legal backdrop, Canadian institutions have taken steps to acknowledge and support the premise that a shareholder who has an equity stake in the common shares of a reporting issuer under a single class common share structure has a significant interest in protecting the value of that equity stake in the company and is therefore deemed to have significant alignment of interests with minority shareholders. This policy firmly supports the one-share, one-vote principle and is intended to recognize the commonality of interests between certain shareholders having a majority equity stake under a single class share structure and minority shareholders in protecting the value of their investment.

This policy will not be considered at dual class companies having common shares with unequal voting rights.

Audit Fee Disclosure

General Recommendation: Vote withhold for individual directors who are members of the audit committee as reported in the most recently filed public documents if:

- No audit fee information is disclosed by the company within 120 days[2] after its fiscal year end. In the event that the shareholders' meeting at which ratification of auditors is a voting item is scheduled prior to the end of the 120 day reporting deadline and the audit fees for the most recently completed fiscal year have not yet been provided, the vote recommendation will be based on the fee disclosure for the prior fiscal year.

Rationale: The disclosure of audit fees by category is a regulatory requirement and this information is of great importance to shareholders due to the concern that audit firms could compromise the independence of a company audit in order to secure lucrative consulting services from the company.

Excessive Non-Audit Fees

General Recommendation: Vote withhold from individual directors who are members of the audit committee as constituted in the most recently completed fiscal year if:

- Non-audit fees (Other Fees) paid to the external audit firm exceed audit and audit-related fees.

Rationale: Part 2 of National Instrument 52-110 - *Audit Committees* states that the audit committee must be directly responsible for overseeing the work of the external auditor and that the audit committee must pre-approve all non-audit services provided to the issuer or its subsidiary entities by the issuer's external auditor. It is therefore appropriate to hold the audit committee accountable for payment of excessive non-audit fees.

Director Attendance

Meeting attendance disclosure is not required for Venture issuers. Therefore, no policy is contemplated in this area.

Voting on Directors for Egregious Actions

General Recommendation: Under extraordinary circumstances, vote withhold for directors individually, one or more committee members, or the entire board, due to:

- Material failures of governance, stewardship, risk oversight[3] or fiduciary responsibilities at the company;
- Failure to replace management as appropriate; or
- Egregious actions related to the director(s)' service on other boards that raise substantial doubt about his or her ability to effectively oversee management and serve the best interests of shareholders at any company.

Rationale: Director accountability and competence have become issues of prime importance given the failings in oversight exposed by the global financial crisis and subsequent events. There is also concern over the environment in the boardrooms of certain markets, where past failures appear to be no impediment to continued or new appointments at major companies and may not be part of the evaluation process at companies in considering whether an individual is, or continues to be, fit for the role and best able to serve shareholders' interests.

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[2] Venture-listed reporting issuers are not required to file Annual Financial Statements (AFS) until up to 120 days after the company's fiscal year end.

[3] Examples of failure of risk oversight include, but are not limited to: bribery, large or serial fines or sanctions from regulatory bodies; significant adverse legal judgments or settlements; or hedging of company stock.

In the event of exceptional circumstances (including circumstances relating to past performance on other boards) that raise substantial doubt about a director's ability to effectively monitor management and serve in the best interests of shareholders, a withhold vote may be recommended.

Board Responsiveness

In keeping with Canadian market expectations and improvements to provide shareholders with the ability to affect board change, a lack of board response to shareholder majority votes or majority withhold votes on directors is unacceptable and would result in one of the following:

General Recommendation: Vote withhold for continuing individual directors, Nominating Committee[4] members, or the continuing members of the entire board of directors, where prior meeting voting results have been disclosed, if:

- At the previous board election, any director received more than 50 percent withhold votes of the votes cast under a majority voting/director resignation policy and the Nominating Committee[4] has not required that the director leave the board after 90 days, or has not provided another form of acceptable response to the shareholder vote, which will be reviewed on a case-by-case basis;
- At the previous board election, any director received more than 50 percent withhold votes of the votes cast under a plurality voting standard and the company has failed to address the issue(s) that caused the majority withheld vote; or
- The board failed to act[5] on a shareholder proposal that received the support of a majority of the votes cast (excluding abstentions) at the previous shareholder meeting.

As indicated at the beginning of the guidelines for Voting on Director Nominees in Uncontested Elections, board responsiveness is a fundamental principle that should apply when determining votes on director nominees.

Rationale: Follow-up action or response by the board is warranted in the instance where a director is not supported by a majority of the votes cast by shareholders but remains on the board at the next election. A reasonable period of time within which the board or nominating committee is expected to deal with a director resignation under these circumstances is indicated in the widely accepted version of Canadian majority-voting director resignation policies endorsed by the CCGG.

Disclosed board response and rationale will be taken into consideration in limited extraordinary circumstances in the event that a director's resignation is not accepted by the board or the concern that caused majority shareholder opposition has not been addressed. The vote recommendation will be determined on a case-by-case basis that is deemed to be in the best interests of shareholders.

Unilateral Adoption of an Advance Notice Provision

General Recommendation: Vote withhold for individual directors, committee members, or the entire board as appropriate in situations where an advance notice policy has been adopted by the board but has not been included on the voting agenda at the next shareholders' meeting.

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[4] Or other board committee charged with the duties of a nominating committee as specified in the company's majority voting director resignation policy.

[5] Responding to the shareholder proposal will generally mean either full implementation of the proposal or, if the matter requires a vote by shareholders, a management proposal on the next annual ballot to implement the proposal. Responses that involve less than full implementation will be considered on a case-by-case basis.

Continued lack of shareholder approval of the advanced notice policy in subsequent years may result in further withhold recommendations.

Rationale: The ability of shareholders to put forward potential nominees for election to the board is a fundamental right and should not be amended by management or the board without shareholders' approval, or, at a minimum, with the intention of receiving shareholder approval at the next annual or annual/special meeting of shareholders. As such, the board of directors, as elected representatives of shareholders' interests and as the individuals primarily responsible for corporate governance matters, should be held accountable for allowing such policies to become effective without further shareholder approval.

Furthermore, disclosures regarding these policies should be made available to shareholders (similar to shareholder proposal deadline disclosures or majority voting policy disclosures) because they are substantive changes that may impact shareholders' ability to nominate director candidates. Failure to provide such disclosure is not in shareholders' best interests.

Externally-Managed Issuers (EMIs)

General Recommendation: Vote case-by-case on say-on-pay resolutions where provided, or on individual directors, committee members, or the entire board as appropriate, when an issuer is externally-managed and has provided minimal or no disclosure about their management services agreements and how senior management is compensated. Factors taken into consideration may include but are not limited to:

- The size and scope of the management services agreement;
- Executive compensation in comparison to issuer peers and/or similarly structured issuers;
- Overall performance;
- Related party transactions;
- Board and committee independence;
- Conflicts of interest and process for managing conflicts effectively;
- Disclosure and independence of the decision-making process involved in the selection of the management services provider;
- Risk mitigating factors included within the management services agreement such as fee recoupment mechanisms;
- Historical compensation concerns;
- Executives' responsibilities; and
- Other factors that may reasonably be deemed appropriate to assess an externally-managed issuer's governance framework.

Rationale:

Externally-managed issuers (EMIs) typically pay fees to outside firms in exchange for management services. In most cases, some or all of the EMI's executives are directly employed and compensated by the external management firm.

EMIs typically do not disclose details of the management agreement in their proxy statements and only provide disclosure on the aggregate amount of fees paid to the manager, with minimal or incomplete compensation information.

Say-on-pay resolutions are voluntarily adopted in Canada, and none of the currently identified Canadian EMIs had a say-on-pay resolution on ballot this past year. Some investor respondents to ISS' 2015-16 ISS Global Policy Survey indicated that in cases where an externally managed company does not have a say-on-pay proposal (i.e., 'withhold' votes may be recommended for individual directors), factors other than disclosure should be considered, such as performance, compensation and expenses paid in relation to peers, board and committee independence, conflicts of interest, and pay-related issues. Policy outreach sessions conducted with Canadian institutional investors resulted in identical feedback.

Other Board-Related Proposals

Classification/Declassification of the Board

General Recommendation: Vote against proposals to classify the board. Vote for proposals to repeal classified boards and to elect all directors annually.

Independent Chair (Separate Chair/CEO)

General Recommendation: Vote for shareholder proposals seeking separation of the offices of CEO and chair if:

- The company has a single executive occupying both positions; and
- The board is not majority independent.

Rationale: The separation of the positions of chair and CEO is supported as it is viewed as superior to the lead director concept. The positions of chair and CEO are two distinct jobs with different job responsibilities. The chair is the leader of the board of directors, which is responsible for selecting and replacing the CEO, setting executive pay, evaluating managerial and company performance, and representing shareholder interests. The CEO, by contrast, is responsible for maintaining the day-to-day operations of the company and being the company's spokesperson. It therefore follows that one person cannot fulfill both roles without conflict.

At Venture issuers, however, one person typically fulfills both roles due to limited resources and the extremely small size of boards. As noted previously, flexibility is necessary for these small issuers but shareholders expect at a minimum that the board of directors comprised a majority of independent directors in order to provide the requisite independent balance to board oversight.

Majority Vote Standard for the Election of Directors

General Recommendation: Vote for resolutions requesting that: (i) the board adopt a majority voting director resignation policy for director elections or (ii) the company amend its bylaws to provide for majority voting, whereby director nominees are elected by the affirmative vote of the majority of votes cast, unless:

- A majority voting policy director resignation policy is codified in the company's bylaws, corporate governance guidelines, or other governing documents prior to an election to be considered; and
- The company has adopted formal corporate governance principles that provide an adequate response to both new nominees as well as "holdover" nominees (i.e. incumbent nominees who fail to receive 50 percent of votes cast).

Proxy Access

ISS supports proxy access as an important shareholder right, one that is complementary to other best-practice corporate governance features. However, in the absence of a uniform standard, proposals to enact proxy access may vary widely; as such, ISS is not setting forth specific parameters at this time and will take a case-by-case approach in evaluating these proposals.

Proxy Contests - Voting for Director Nominees in Contested Elections

General Recommendation: Vote case-by-case in contested elections taking into account:

- Long-term financial performance of the target company relative to its industry;
- Management's track record;
- Background to the proxy contest;
- Nominee qualifications and any compensatory arrangements;
- Strategic plan of dissident slate and quality of critique against management;
- Likelihood that the proposed goals and objectives can be achieved (both slates); and
- Stock ownership positions

Overall Approach: When analyzing proxy contests, ISS focuses on two central questions:

- Have the dissidents met the burden of proving that board change is warranted? And, if so;
- Will the dissident nominees be more likely to affect positive change (i.e., increase shareholder value) versus the incumbent nominees?

When a dissident seeks a majority of board seats, ISS will require from the dissident a well-reasoned and detailed business plan, including the dissident's strategic initiatives, a transition plan and the identification of a qualified and credible new management team. ISS will then compare the detailed dissident plan against the incumbent plan and the dissident director nominees and management team against the incumbent team in order to arrive at a vote recommendation.

When a dissident seeks a minority of board seats, the burden of proof imposed on the dissident is lower. In such cases, ISS will not require from the dissident a detailed plan of action, nor is the dissident required to prove that its plan is preferable to the incumbent plan. Instead, the dissident will be required to prove that board change is preferable to the status quo and that the dissident director slate will add value to board deliberations including by, among other factors, considering issues from a viewpoint different from that of the current board members.

Reimbursing Proxy Solicitation Expenses

General Recommendation: Vote case-by-case taking into account:

- Whether ISS recommends in favour of the dissidents, in which case we may recommend approving the dissident's out of pocket expenses if they are successfully elected and the expenses are reasonable.

3. SHAREHOLDER RIGHTS & DEFENSES

Advance Notice Requirements

General Recommendation: Vote case-by-case on proposals to adopt or amend an advance notice board policy or to adopt or amend articles or by-laws containing or adding an advance notice requirement. These provisions will be evaluated to ensure that all of the provisions included within the requirement solely support the stated purpose of the requirement. The purpose of advance notice requirements, as generally stated in the market, is:

- To prevent stealth proxy contests;
- To provide a reasonable framework for shareholders to nominate directors by allowing shareholders to submit director nominations within a reasonable timeframe; and
- To provide all shareholders with sufficient information about potential nominees in order for them to make informed voting decisions on such nominees.

Features that may be considered problematic under ISS' evaluation include but are not limited to:

- For annual notice of meeting given not less than 50 days prior to the meeting date, the notification timeframe within the advance notice requirement should allow shareholders the ability to provide notice of director nominations at any time not less than 30 days prior to the shareholders' meeting. The notification timeframe should not be subject to any maximum notice period. If notice of annual meeting is given less than 50 days prior to the meeting date, a provision to require shareholder notice by close of business on the 10th day following first public announcement of the annual meeting is supportable. In the case of a special meeting, a requirement that a nominating shareholder must provide notice by close of business on the 15th day following first public announcement of the special shareholders' meeting is also acceptable;
- The board's inability to waive all sections of the advance notice provision under the policy or bylaw, in its sole discretion;
- A requirement that any proposed nominee deliver a written agreement wherein the proposed nominee acknowledges and agrees, in advance, to comply with all policies and guidelines of the company that are applicable to directors;
- Any provision that restricts the notification period to that established for the originally scheduled meeting in the event that the meeting has been adjourned or postponed;
- Any additional disclosure requests within the advance notice requirement or the company's ability to require additional disclosure that exceeds that required within a dissident proxy circular or that goes beyond that necessary to determine director nominee qualifications, relevant experience, shareholding or voting interest in the company, or independence in the same manner as would be required and disclosed for management nominees; and in any event where there is no indication from the company that such additional disclosure, if requested and received, will be made publicly available to shareholders;
- Stipulations within the provision that the corporation will not be obligated to include any information provided by dissident director nominees or nominating shareholders in any shareholder communications, including the proxy statement; and
- Any other feature or provision determined to have a negative impact on shareholders' interests and deemed outside the purview of the stated purpose of the advance notice requirement.

Rationale: As advance notice requirements continue to evolve and their use is tested by market participants, Canadian institutional investors are voicing concerns about the specific provisions contained therein. Investors have cautioned with respect to the potential for certain provisions included within these requirements to be used to impede the ability of shareholders to nominate director candidates to the board of directors, a fundamental shareholder right under Canada's legal and regulatory framework.

A minimum 30-day shareholder notice period supports notice and access provisions and is in keeping with the stated purpose of advance notice requirements which is to prevent last minute or stealth proxy contests. Any maximum threshold for shareholder notice is deemed unacceptable, and the removal of such is expected to facilitate timelier access to the proxy and afford shareholders more time to give complete and informed consideration to dissident concerns and director nominees.

Enhanced and discretionary requirements for additional information that is not then provided to shareholders, provisions that may prohibit nominations based on restricted notice periods for postponed or adjourned meetings and written confirmations from nominee directors in advance of joining the board are all examples of the types of provisions that have the potential to be misused and are outside the intended stated purpose of advance notice requirements.

Recent court cases have provided a clear indication that these provisions are intended to protect shareholders, as well as management, from ambush and that they are not intended to exclude nominations given on ample notice or to buy time to allow management to develop a strategy to defeat dissident shareholders. As well, these rulings have shown that in the case of ambiguous provisions the result should weigh in favour of shareholder voting rights.

For more detail regarding ISS' policy on advance notice requirements, please see the latest version of our Advance Notice Requirement FAQ.

Enhanced Shareholder Meeting Quorum for Contested Director Elections

General Recommendation: Vote against new by-laws or amended by-laws that would establish two different quorum levels which would result in implementing a higher quorum solely for those shareholder meetings where common share investors seek to replace the majority of current board members ("Enhanced Quorum").

Rationale: With Enhanced Quorum, the ability to hold a shareholders' meeting is subject to management's pre-determination that a contested election to replace a majority of directors is the singularly most important corporate issue, thus justifying a significantly higher shareholder (or proxy) presence before the meeting can commence. From a corporate governance perspective, this higher threshold appears to be inconsistent with the view that shareholder votes on any voting item should carry equal importance and should therefore be approved under the same quorum requirement for all items.

Companies have indicated in examples to date that Enhanced Quorum is not designed to block the potential consequence of a majority change in board memberships. In the absence of Enhanced Quorum being met, the affected shareholder meeting will be adjourned for up to 65 days. Notwithstanding the equality of all voting issues, shareholders may question the benefits of a delayed shareholder meeting resulting from a 50 percent quorum requirement for the initial meeting.

Appointment of Additional Directors Between Annual Meetings

General Recommendation: Vote for these resolutions where:

- The company is incorporated under a statute (such as the *Canada Business Corporations Act*) that permits removal of directors by simple majority vote;
- The number of directors to be appointed between meetings does not exceed one-third of the number of directors appointed at the previous annual meeting; and
- Such appointments must be ratified by shareholders at the annual meeting immediately following the date of their appointment.

Articles/By-laws

General Recommendation: Vote for proposals to adopt or amend articles/by-laws unless the resulting document contains any of the following:

- The quorum for a meeting of shareholders is set below two persons holding 25 percent of the eligible vote (this may be reduced to no less than 10 percent in the case of a small company that can demonstrate, based on publicly disclosed voting results, that it is unable to achieve a higher quorum and where there is no controlling shareholder);
- The quorum for a meeting of directors is less than 50 percent of the number of directors;
- The chair of the board has a casting vote in the event of a deadlock at a meeting of directors;
- An alternate director provision that permits a director to appoint another person to serve as an alternate director to attend board or committee meetings in place of the duly elected director;
- An advance notice requirement that includes one or more provisions which could have a negative impact on shareholders' interests and which are deemed outside the purview of the stated purpose of the requirement;
- Authority is granted to the board with regard to altering future capital authorizations or alteration of the capital structure without further shareholder approval;
- Any other provisions that may adversely impact shareholders' rights or diminish independent effective board oversight.

In any event, proposals to adopt or amend articles or bylaws will generally be opposed if the complete article or by-law document is not included in the meeting materials for thorough review or referenced for ease of location on SEDAR, unless the proposed amendment is required by regulation or will simplify share registration.

Rationale: Constating documents such as articles and by-laws (in concert with the legislative framework provided by Canada's various BCAs) establish the rights of shareholders of a company and the procedures through which the board of directors exercises its duties. Given this foundational role, these documents should reflect best practices within the Canadian market wherever possible.

- **Quorum Requirements:** The quorum requirement for meetings of shareholders should encourage wide-ranging participation from all shareholders. Shareholder meeting quorum requirements that allow only one shareholder to constitute quorum could allow a single significant or controlling shareholder to dominate meetings at the expense of minority shareholders. Quorum requirements with lower shareholding thresholds, such as five percent, could provide a significant shareholder or a small group of shareholders with the ability to pass resolutions that may be considered contentious or problematic by other shareholders. Likewise, quorum requirements for meetings of directors should ensure that at least half of shareholders' representatives are present before significant decisions are made. Directors' responsibilities include attending all meetings for which their presence is scheduled and a company's core documents should reflect this duty.

- **Casting Vote for the Chair at Board Meetings:** While the chair is the appointed leader of the board, the authority granted to the chair by shareholders is no greater than that granted to any other director. Providing the chair with a casting or second vote in the event of a tie could result in a power structure which is not conducive to effective governance. Additionally, while boards are increasingly transitioning toward a governance structure involving a separate chair and CEO, many issuers still combine these roles or appoint a recent former CEO as board chair. In cases where the board is divided on an issue, it is inappropriate from the perspective of shareholders for an insider or affiliated outsider to have the final decision in contentious matters which could significantly affect shareholders' interests.

- **Alternate Directors:** A provision allowing for alternate directors, who have been neither elected by shareholders nor ratified by shareholders following board appointment, raises serious concerns regarding whether these individuals may be bound to serve in the best interests of shareholders. Furthermore, directors must be willing to earmark sufficient time and effort toward serving on a board once they have accepted the responsibility entrusted to them by shareholders. The appointment of unelected alternates is inconsistent with this duty.

- **Problematic Advance Notice Requirements:** A number of advance notice requirements have been included on ballots as amendments to company by-laws or articles. Any such requirements are deemed significant additions to the bylaw or articles and therefore are reviewed with respect to whether they negatively affect shareholders' ability to nominate directors to the board. See ISS' policy on Advance Notice Requirements for details.

- **Blanket Authority for Share Capital Structure Alterations:** In recent years, some companies incorporated under the *Business Corporations Act* (British Columbia) ("BCBCA") have sought to amend their constating documents to provide the board with blanket authority to alter the company's share capital structure. These changes include the ability to increase the company's authorized capital and change restrictions on any class of shares. Although permitted under the BCBCA, shareholders would be better served if changes which could affect shareholders' interests required shareholder approval.

- **Other Problematic Provisions:** Other proposals to alter the articles or by-laws will be approached on a case-by-case basis. Where a potential inclusion, deletion, or amendment is deemed contrary to shareholders' interests, ISS will generally, taking into consideration any other problematic factors or mitigating circumstances, recommend against such changes.

Cumulative Voting

General Recommendation: Where such a structure would not be detrimental to shareholder interests, generally vote for proposals to introduce cumulative voting.

Generally vote against proposals to eliminate cumulative voting.

Generally vote for proposals to restore or permit cumulative voting but exceptions may be made depending on the company's other governance provisions such as the adoption of a majority vote standard for the election of directors.

Confidential Voting

General Recommendation: Vote for shareholder proposals requesting that corporations adopt confidential voting, use independent vote tabulators, and use independent inspectors of election, as long as:

- The proposal includes a provision for proxy contests as follows: In the case of a contested election, management should be permitted to request that the dissident group honor its confidential voting policy. If the dissidents agree, the policy remains in place. If the dissidents will not agree, the confidential voting policy is waived for that particular vote.

Generally vote for management proposals to adopt confidential voting.

Poison Pills (Shareholder Rights Plans)

General Recommendation: Vote case-by-case on management proposals to ratify a shareholder rights plan (poison pill) taking into account whether it conforms to 'new generation' rights plan best practice guidelines and its scope is limited to the following two specific purposes:

- To give the board more time to find an alternative value enhancing transaction; and
- To ensure the equal treatment of all shareholders.

Vote against plans that go beyond these purposes if:

- **The plan gives discretion to the board to either:**
  - Determine whether actions by shareholders constitute a change in control;
  - Amend material provisions without shareholder approval;
  - Interpret other provisions;
  - Redeem the rights or waive the plan's application without a shareholder vote; or
  - Prevent a bid from going to shareholders.
- **The plan has any of the following characteristics:**
  - Unacceptable key definitions;
  - Reference to Derivatives Contracts within the definition of Beneficial Owner;
  - Flip over provision;
  - Permitted bid minimum period greater than 60 days;
  - Maximum triggering threshold set at less than 20 percent of outstanding shares;
  - Does not permit partial bids;
  - Includes a Shareholder Endorsed Insider Bid (SEIB) provision;
  - Bidder must frequently update holdings;
  - Requirement for a shareholder meeting to approve a bid; and
  - Requirement that the bidder provide evidence of financing.
- **The plan does not:**
  - Include an exemption for a "permitted lock up agreement";
  - Include clear exemptions for money managers, pension funds, mutual funds, trustees, and custodians who are not making a takeover bid; and
  - Exclude reference to voting agreements among shareholders.

Rationale: The evolution of "new generation" shareholder rights plans in Canada has been the result of reshaping the early antitakeover provision known as a "poison pill" into a shareholder protection rights plan that serves only two legitimate purposes: (i) to increase the minimum time period during which a Permitted Bid may remain outstanding to 60 days in order to the give the board of directors of a target company sufficient time (over and above the current statutory 35 day limit) to find an alternative to a takeover bid that would increase shareholder value; and (ii) to ensure that all shareholders are treated equally in the event of a bid for their company.

Elimination of board discretion to interpret the key elements of the plan was critical to this evolution. Definitions of Acquiring Person, Beneficial Ownership, Affiliates, Associates and Acting Jointly or in Concert are the terms that set out the who, how, and when of a triggering event. These definitions in early poison pills contained repetitive, circular, and duplicative layering of similar terms which created confusion and made interpretation difficult. Directors were given broad discretion to interpret the terms of a rights plan to determine when it was triggered, or in other words, whether a takeover bid could proceed. This, in turn, created enough uncertainty for bidders or potential purchasers to effectively discourage non-board negotiated transactions. It can be seen how the early poison pill became synonymous with board and management entrenchment.

“New generation” rights plans have therefore been drafted to remove repetitive and duplicative elements along with language that gives the board discretion to interpret the terms of the plan. Also absent from “new generation” plans are references to similar definitions in regulation. Definitions found in various regulations often contain repetitive elements, but more importantly they cross-reference other definitions in regulation that are unacceptable to and not intended to serve the same purpose as those found in a "new generation" rights plan.

A number of other definitions are relevant to the key definitions mentioned above and are therefore equally scrutinized. Exemptions under the definition of Acquiring Person, for example, such as Exempt Acquisitions and Pro Rata Acquisitions, are sometimes inappropriately drafted to permit acquisitions that should trigger a rights plan. In order for an acquisition to be pro rata, the definition must ensure that a person may not, by any means, acquire a greater percentage of the shares outstanding than the percentage owned immediately prior to the acquisition. It should also be noted that "new generation" rights plans are premised on the acquisition of common shares and ownership at law or in equity. Therefore references to the voting of securities (a.k.a. "voting pills") which may have a chilling effect on shareholder initiatives relating to the voting of shares on corporate governance matters, or the extension of beneficial ownership to encompass derivative securities that may result in deemed beneficial ownership of securities that a person has no right to acquire goes beyond the acceptable purpose of a rights plan.

Equally important to the acceptability of a shareholder rights plan is the treatment of institutional investors who have a fiduciary duty to carry out corporate governance activities in the best interests of the beneficial owners of the investments that they oversee. These institutional investors should not trigger a rights plan through their investment and corporate governance activities, including the voting of shares, for the accounts of others. The definition of Independent Shareholders should make absolutely clear these institutional investors acting in a fiduciary capacity for the accounts of others are independent for purposes of approving a takeover bid or other similar transaction, as well as approving future amendments to the rights plan.

Probably one of the most important and most contentious definitions in a shareholder rights plan is that of a Permitted Bid. ISS guidelines provide that an acceptable Permitted Bid definition must permit partial bids. Canadian takeover bid legislation is premised on the ability of shareholders to make the determination of the acceptability of any bid for their shares, partial or otherwise, provided that it complies with regulatory requirements. In the event that a partial bid is accepted by shareholders, regulation requires that their shares be taken up on a pro rata basis. Shareholders of a company may welcome the addition of a significant new shareholder for a number of reasons.

Also unacceptable to the purpose of a rights plan is the inclusion of a "Shareholder Endorsed Insider Bid" (SEIB) provision which would allow an "Insider" and parties acting jointly or in concert with an Insider an additional less rigorous avenue to proceed with a take-over bid without triggering the rights plan, in addition to making a Permitted Bid or proceeding with board approval. The SEIB provision allows Insiders the ability to take advantage of a less stringent bid provision that is not offered to other bidders who must make a Permitted Bid or negotiate with the board for support.

Finally, a "new generation” rights plan must contain an exemption for lockup agreements and the definition of a permitted lockup agreement must strike the proper balance so as not to discourage either (i) the potential for a bidder to lock up a significant shareholder and thus give some comfort of a certain degree of success, or (ii) the potential for competitive bids offering a greater consideration and which would also necessitate a locked up person be able to withdraw the locked up shares from the first bid in order to support the higher competing bid.

New generation rights plans are limited to achieving the two purposes identified here. They ensure that shareholders are treated equally in a control transaction by precluding creeping acquisitions or the acquisition of a control block through private agreements between a few large shareholders; and they provide a reasonable time period to allow a corporation’s directors and management to develop an alternative to maximize shareholder value.

Reincorporation Proposals

General Recommendation: Vote case-by-case on proposals to change a company's jurisdiction of incorporation taking into account:

- Financial and corporate governance concerns, including: the reasons for reincorporating, a comparison of the governance provisions, and a comparison of the jurisdictional laws.

Generally vote for reincorporation when:

- Positive financial factors outweigh negative governance implications; or
- Governance implications are positive.

Generally vote against reincorporation if business implications are secondary to negative governance implications.

Supermajority Vote Requirements

General Recommendation: Vote against proposals to require a supermajority shareholder vote at a level above that required by statute.

Generally vote for proposals to lower supermajority vote requirements.

4. CAPITAL/RESTRUCTURING

Mergers and Corporate Restructurings

General Recommendation: For mergers and acquisitions, review and evaluate the merits and drawbacks of the proposed transaction, balancing the various and sometimes countervailing factors including:

Valuation: Is the value to be received by the target shareholders (or paid by the acquirer) reasonable? While the fairness opinion may provide an initial starting point for assessing valuation reasonableness, emphasis is placed on the offer premium, market reaction and strategic rationale.

Market Reaction: How has the market responded to the proposed deal? A negative market reaction should cause closer scrutiny of a deal.

Strategic Rationale: Does the deal make sense strategically? From where is value derived? Cost and revenue synergies should not be overly aggressive or optimistic, but reasonably achievable. Management should also have a favourable track record of successful integration of historical acquisitions.

Negotiations and Process: Were the terms of the transaction negotiated at arms-length? Was the process fair and equitable? A fair process helps to ensure the best price for shareholders. Significant negotiation “wins” can also signify the deal makers’ competency. The comprehensiveness of the sales process (e.g., full auction, partial auction, no auction) can also affect shareholder value.

Conflicts of Interest: Are insiders benefiting from the transaction disproportionately and inappropriately as compared to non-insider shareholders? As the result of potential conflicts, the directors and officers of the company may be more likely to vote to approve a merger than if they did not hold these interests. Consider whether these interests may have influenced these directors and officers to support or recommend the merger. The CIC figure presented in the “ISS Transaction Summary” section of this report is an aggregate figure that can in certain cases be a misleading indicator of the true value transfer from shareholders to insiders. Where such figure appears to be excessive, analyze the underlying assumptions to determine whether a potential conflict exists.

Governance: Will the combined company have a better or worse governance profile than the current governance profiles of the respective parties to the transaction? If the governance profile is to change for the worse, the burden is on the company to prove that other issues (such as valuation) outweigh any deterioration in governance.

Capital Structure

Increases in Authorized Capital

General Recommendation: Vote case-by-case on proposals to increase the number of shares of common stock authorized for issuance. Generally vote for proposals to approve increased authorized capital if:

- A company's shares are in danger of being de-listed; or
- A company's ability to continue to operate as a going concern is uncertain.

Generally vote against proposals to approve unlimited capital authorization.

Rationale: Canadian jurisdictions generally, and most recently the *Business Corporations Act (British Columbia)*, permit companies to have an unlimited authorized capital. ISS prefers to see companies with a fixed maximum limit on authorized capital, with at least 30 percent of the authorized stock issued and outstanding. Limited capital structures protect against excessive dilution and can be increased when needed with shareholder approval.

Private Placement Issuances

General Recommendation: Vote case-by-case on private placement issuances taking into account:

- Whether other resolutions are bundled with the issuance;
- Whether the rationale for the private placement issuance is disclosed;
- Dilution to existing shareholders' position:
- issuance that represents no more than 30 percent of the company’s outstanding shares on a non-diluted basis is considered generally acceptable;
- Discount/premium in issuance price to the unaffected share price before the announcement of the private placement;
- Market reaction: The market's response to the proposed private placement since announcement; and
- Other applicable factors, including conflict of interest, change in control/management, evaluation of other alternatives.

Generally vote for the private placement issuance if it is expected that the company will file for bankruptcy if the transaction is not approved or the company's auditor/management has indicated that the company has going concern issues.

Rationale: The TSX-V requires shareholder approval for private placements where:

- The issuance of the private placement shares would result in or be part of a transaction which would result in the creation of a new control person; or
- The issuance of the private placement shares constitutes a related party transaction in the contect of Policy 5.9. In this case, disinterested shareholder approval would be required.

In addition, the TSX-V may require shareholder approval where the private placement appears to be undertaken as a defensive tactic to a takeover bid.

Allowable discounts for private placements not requiring shareholder approval are as follows:

Market Price	Maximum Discount
$0.50 or less	25%
$0.51 to $2.00	20%
Above $2.00	15%

In instances where a company will file for bankruptcy if the transaction is not approved or where a company has going concern issues, the urgent need for financing will generally override the other criteria under examination. In instances where the transaction is required for other financing purposes, the other criteria will be examined on a case-by-case basis.

Blank Cheque Preferred Stock

General Recommendation: Vote against proposals to create unlimited blank cheque preferred shares or increase blank cheque preferred shares where:

- The shares carry unspecified rights, restrictions, and terms; or
- The company does not specify the purpose for the creation or increase of such shares;

Generally vote for proposals to create a reasonably limited[6] number of preferred shares where both of the following apply:

- The company has stated in writing and publicly disclosed that the shares will not be used for antitakeover purposes; and
- The voting, conversion, and other rights, restrictions and terms of such stock where specified in the articles and are reasonable.

Dual-class Stock

General Recommendation: Vote against proposals to create a new class of common stock that will create a class of common shareholders with diminished or superior voting rights.

The following is an exceptional set of circumstances under which we would generally support a dual class capital structure. Such a structure must meet all of the following criteria:

- It is required due to foreign ownership restrictions and financing is required to be done out of country;
- It is not designed to preserve the voting power of an insider or significant shareholder;
- The subordinate class may elect some board nominees;

[6] Institutional investors have indicated low tolerance for dilutive preferred share issuances. Therefore, if the authorized preferreds may be assigned conversion rights or voting rights when issued, the authorization should be limited to no more than 20 percent of the outstanding common shares as of record date. If the preferred share authorization proposal prohibits the assignment of conversion, voting or any other right attached which could dilute or negatively impact the common shares or the rights of common shareholders when such preferred shares are issued, a maximum authorization limit of 50 percent of the outstanding common shares as of record date may be supported taking into account the stated purpose for the authorization and other details of the proposal.

- There is a sunset provision; and
- There is a coattail provision that places a prohibition on any change in control transaction without approval of the subordinate class shareholders.

Escrow Agreements

General Recommendation: Vote against an amendment to an existing escrow agreement where the company is proposing to delete all performance-based release requirements in favour of time-driven release requirements.

Rationale: On going public, certain insiders of smaller issuers must place a portion of their shares in escrow. The primary objective of holding shares in escrow is to ensure that the key principals of a company continue their interest and involvement in the company for a reasonable period after public listing.

5. COMPENSATION

Equity Compensation Plans

General Recommendation: Vote on a case-by-case basis on share-based compensation plans. Generally vote against an equity compensation plan proposal if:

- The basic dilution (i.e. not including warrants or shares reserved for equity compensation) represented by all equity compensation plans is greater than 10 percent;
- The average annual option burn rate is no more than 5 percent per year (generally averaged over most recent three-year period);
- The plan expressly permits the repricing of options without shareholder approval and the company has repriced options within the past three years.

Plan Amendment Provisions

General Recommendation: Vote against a proposal to adopt or amend plan amendment provisions where shareholder approval is not required for the following types of amendments under any share-based compensation arrangement, whether or not such approval is required under current regulatory rules:

- Any increase in the number of shares reserved for issuance under a plan or plan maximum;
- Any reduction in exercise price or cancellation and reissue of options or other entitlements;
- Any amendment that extends the term of options beyond the original expiry;
- Any amendment which would permit options granted under the Plan to be transferable or assignable other than for normal estate settlement purposes; and
- Amendments to the plan amendment provisions.

Rationale: Although the changes affected by the TSX related to Plan Amendment Provisions do not apply to Venture issuers, some such issuers continue to submit Plan Amendment Provisions for shareholder approval. In the event that shareholders are asked to vote on such a proposal, ISS uses substantially the same basic guidelines as those developed for TSX issuers which can be found with a more complete explanation in the ISS Canadian Proxy Voting Guidelines for TSX-listed issuers. Because Venture issuers are not required to adopt detailed plan amendment provisions, these guidelines will not result in a vote against an equity-based compensation plan if the plan meets our dilution and burn rate guidelines noted above.

Any proposal to increase the maximum number of shares reserved under a plan requires specific shareholder approval for the increase even if the plan includes a shareholder-approved general amendment procedure permitting increases to such maximum numbers.

From a corporate governance viewpoint, the practice of repricing any outstanding options is unacceptable and this view is not limited to only those options held by insiders. ISS has for many years recommended against any repricing of outstanding options. The rationale for these recommendations is based on the original purpose of stock options as at-risk, incentive compensation that is meant to align the interests of option-holders with those of shareholders. Options have, however, come to be viewed as a sort of substitute currency that may be used to compensate service providers and consultants. It may be questionable to expect that outsiders, who have no direct impact on the business operations of a company, can, through their relationships with the company, contribute in any meaningful way to an increase in shareholder value. The use of stock options may be viewed as inappropriate for this purpose and not an acceptable justification for repricing any outstanding options when shareholders must suffer the consequences of a downturn in share price.

The ability of plan participants to assign options by means of Option Transfer Programs or any other similar program which results in option holders receiving value for underwater options when shareholders must suffer the consequences of declining share prices does not align the interests of option holders with those of shareholders and removes the intended incentive to increase share price which was originally approved by shareholders.

Repricing Proposals

General Recommendation: Vote against management proposals to reprice outstanding options. The following and any other adjustments that can be reasonably considered repricing will generally not be supported: reduction in exercise price or purchase price, extension of term for outstanding options, cancellation and reissuance of options, substitution of outstanding options with other awards or cash.

Rationale: Canadian institutional investors have long opposed option repricing. Market deterioration is not an acceptable reason for companies to reprice stock options.

The extension of option terms is also unacceptable. Options are not meant to be a no-risk proposition and may lose their incentive value if the term can be extended when the share price dips below the exercise price. Shareholders approve option grants on the basis that recipients have a finite period during which to increase shareholder value, typically five to ten years. As a company would not shorten the term of an option to rein in compensation during, for example, a profitable bull market run, it is not expected to extend the term during a market downturn when shareholders suffer a decrease in shareholder value.

Other Compensation Plans

Venture issuers tend to rely heavily on stock option plans as an alternative to cash compensation. In the event that a Venture issuer has an Employee Stock Purchase Plan or Deferred Share Unit Plan, we have included the following guidelines which are substantially similar to those for TSX listed issuers.

Employee Stock Purchase Plans (ESPPs, ESOPs)

Venture companies do not usually implement these kinds of plans. In the event that shareholders are asked to approve a share purchase plan, votes should be determined on a case-by-case basis.

General Recommendation: Vote for broadly based (preferably all employees of the company with the exclusion of individuals with 5 percent or more beneficial ownership of the company) employee stock purchase plans where all of the following apply:

- Reasonable limit on employee contribution (may be expressed as a fixed dollar amount or as a percentage of base salary excluding bonus, commissions and special compensation);
- Employer contribution of up to 25 percent of employee contribution and no purchase price discount;
- Purchase price is at least 80 percent of fair market value with no employer contribution;
- Potential dilution together with all other equity-based plans is ten percent of outstanding common shares or less; and
- The Plan Amendment Provision requires shareholder approval for amendments to:
    - The number of shares reserved for the plan;
    - The allowable purchase price discount;
    - The employer matching contribution amount.

Treasury funded ESPPs, as well as market purchase funded ESPPs requesting shareholder approval, will be considered to be incentive based compensation if the employer match is greater than 25 percent of the employee contribution.

ESPPs that require the authorization of treasury shares for issuance in payment of the deferred units would be evaluated on a dilution, eligibility and administration basis.

Deferred Share Unit (DSU) Plans

General Recommendation: Vote for deferred compensation plans if:

- Potential dilution together with all other equity-based compensation is 10 percent of the outstanding common shares or less.

Other elements of director compensation to evaluate in conjunction with DSU plan proposals include:

- The mix of remuneration between cash and equity;
- Other forms of equity-based compensation, i.e. stock options, restricted stock; and
- Vesting schedule or mandatory deferral period.

Rationale: Deferred compensation arrangements generally encourage a sense of ownership in the company and are usually designed to compensate outside directors by allowing them the opportunity to take all or a portion of their annual retainer in the form of deferred units, the payment of which is postponed to some future time, typically retirement or termination of directorship and may be in cash and/or stock.

Although a DSU plan only requires shareholder approval if it reserves treasury shares, a number of companies continue to request shareholder approval for DSU plans funded by shares purchased in the open market.

Open Market Share Purchase Funded Plans

Eligibility and administration are key factors in determining the acceptability of such plans. In the event that a plan can be funded by either open market share purchases or treasury shares, it will be evaluated on a potential dilution basis.

Treasury Funded Plans

Deferred share units awarded under any equity compensation plan that requires the authorization of treasury shares for issuance in payment of the deferred units would be evaluated on a dilution, eligibility, and administration basis.

Shareholder Proposals on Compensation

General Recommendation: Vote on a case-by-case basis for shareholder proposals targeting executive and director pay, taking into account:

- The target company's performance, absolute and relative pay levels as well as the wording of the proposal itself.

Vote for shareholder proposals requesting that the exercise of some, but not all stock options be tied to the achievement of performance hurdles.

6. SOCIAL/ENVIRONMENTAL ISSUES

Global Approach

Issues covered under the policy include a wide range of topics, including consumer and product safety, environment and energy, labor standards and human rights, workplace and board diversity, and corporate political issues. While a variety of factors goes into each analysis, the overall principle guiding all vote recommendations focuses on how the proposal may enhance or protect shareholder value in either the short term or long term.

General Recommendation: Vote case-by-case, taking into consideration whether implementation of the proposal is likely to enhance or protect shareholder value, and in addition the following will be considered:

- If the issues presented in the proposal are more appropriately or effectively dealt with through legislation or government regulation;
- If the company has already responded in an appropriate and sufficient manner to the issue(s) raised in the proposal;
- Whether the proposal's request is unduly burdensome (scope, timeframe, or cost) or overly prescriptive;
- The company's approach compared with any industry standard practices for addressing the issue(s) raised by the proposal;
- If the proposal requests increased disclosure or greater transparency, whether or not reasonable and sufficient information is currently available to shareholders from the company or from other publicly available sources; and
- If the proposal requests increased disclosure or greater transparency, whether or not implementation would reveal proprietary or confidential information that could place the company at a competitive disadvantage.

Rationale: This policy update codifies the overarching principles that are applied to all markets, globally, and clarifies the factors that ISS considers in its case-by-case evaluation of environmental and social shareholder proposals. In markets where shareholder proposals on specific environment and social issues are routinely or frequently observed on company ballots, ISS has more nuanced policies that stem from these principles to address those issues.

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