An MSCI Brand

2013 Canadian Proxy Voting Guidelines

Venture Companies

December 19, 2012

Institutional Shareholder Services Inc.

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ISS' 2013 Canadian Proxy Voting Guidelines- Venture Companies

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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 report, which is included in the company's annual report, to shareholders at every AGM. This item is almost always non-voting.

Ratification of Auditors

Generally vote FOR proposals to ratify auditors unless the following applies:

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

RATIONALE: Multilateral Instrument 52-110 relating to 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 structure events: initial public offerings, bankruptcy emergence, 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 the ratio of non-audit to audit/audit-related fees/tax compliance and preparation for purposes of determining whether non-audit fees are excessive.

In all Canadian jurisdictions, in conjunction with Multilateral 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

Generally vote AGAINST all proposals on proxy ballots seeking approval for unspecified “other business” that may be conducted at the shareholder meeting.

2. Board of Directors

Slate Ballots (Bundled director elections)

Generally WITHHOLD votes from all directors nominated by slate ballot at the annual/general or annual/special shareholders' meetings. This policy will not apply to contested director elections.

RATIONALE: On Feb. 24, 2012, the TSX Venture exchange 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 updated policy reflects these regulatory requirements, while maintaining flexibility to address specific circumstances that would warrant a case-by-case approach.

Voting on Director Nominees in Uncontested Elections

The following 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 and provide shareholders with the ability to remove problematic directors, and include the 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 and 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, reduce risky decision-making and ensure the alignment of director interests with those of shareholders rather than management; structure 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 overextended (i.e., serving on too many boards) raise concern regarding the director's ability to effectively serve in shareholders' best interests.

ISS Canadian Definition of Independence

Inside Director (I)

- Employees of the company or its affiliates[1];
- Non-employee officer of the company if he/she is among the five most highly compensated;
- Current interim CEO;
- Beneficial owner of company shares with more than 50 percent of the outstanding voting rights.

Affiliated Outside Director (AO)

- Former executive with the company within the last three years (excluding CEO);
- Former CEO (no cooling-off period);
- Former interim CEO 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 (5x their pay) or in line with a CEO's compensation[2];
- Former executive of the company, an affiliate or a firm acquired within the past three years;
- Executive of a former parent or predecessor firm at the time the company was sold or split off from parent/predecessor (subject to thre- year cooling off other than CEO);
- Executive, former executive with last three years, general or limited partner of a joint venture or partnership with the company;
- Relative[3] of current executive officer[4] of the company;
- Relative of a person who has served as an executive officer of the company within the last three years;
- Currently provides (or a relative provides) professional services to the company or to its officers;
- Currently employed by (or a relative is employed by) a significant customer or supplier[5];
- Is (or a relative is) a trustee, director or employee of a charitable or non-profit organization that receives grants or endowments from the company;
- Has (or a relative has) a transactional relationship with the company excluding investments in the company through a private placement;
- 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;
- Founder[6] of the company but not currently an employee;
- Board attestation that an outside director is not independent.

Independent Directors (IO)

- No material[7] ties to the corporation other than board seat.

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[1] "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.

[2] 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.

[3] Relative refers to immediate family members including spouse, parents, children, siblings, in-laws and anyone sharing the director's home.

[4] Based on the definition of Executive Officer used in Multilateral Instrument 52-110.

[5] 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).

[6] 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.

[7] "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.

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;
- Director's ownership stake in the company;
- Compensation practices;
- Responsiveness to shareholder proposals;
- Board accountability;
- Adoption of a Majority Voting (director resignation) policy.

RATIONALE: Corporate Governance disclosure requirements for Venture Issuers are set out in CSA Form 58-101F2. Disclosure for boards of directors includes:

- 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

Generally vote WITHHOLD from individual directors who:

- Are insiders on the audit committee.

Generally vote WITHHOLD from individual directors who:

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

Generally vote WITHHOLD from 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 Canadian venture issuers, ISS believes that 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.

Meeting Attendance

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

Policy Considerations for Majority Owned Companies[8]

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, who will be designated as controlling insiders, may generally be supported under ISS' board and committee independence policies, if the company meets **all** of the following independence and governance criteria:

- Individually elected directors*;*
- The number of Related Directors should not exceed the proportion of the common shares controlled by the Controlling Shareholder, to a maximum of two-thirds, however if the CEO is related to the Controlling Shareholder, then at least two-thirds of the directors should be independent of management;
- 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; and
- 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 and 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;
- Adoption of a majority vote standard with director resignation policy for uncontested elections OR public commitment to adopt a majority voting standard with 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;
- 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 and any controversy or questionable actions on the part of the subject director that are deemed not to be in the best interests of all shareholders.

RATIONALE: Canadian corporate law provides significant shareholder protections, for example 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. 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.

[8] 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% or more of the outstanding common shares.

Audit Fee Disclosure

Generally vote WITHHOLD from 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 a reasonable period of time prior to a shareholders' meeting at which ratification of auditors is a voting item.

RATIONALE: In addition to audit fee disclosure by category being a regulatory requirement, such information is of great importance because of 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

Generally WITHHOLD votes 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 exceeds audit and audit-related fees.

RATIONALE: Part 2 of Multilateral Instrument 52-110 Audit Committees states that the audit committee must be directly responsible for overseeing the work of the external auditor and 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.

Voting on Directors for Egregious Actions

Under extraordinary circumstances, vote WITHHOLD from directors individually, one or more committee members, or the entire board, due to:

- Material failures of governance, stewardship, risk oversight, 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. 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.

Under exceptional circumstances that raise substantial doubt on a director's ability to serve as an effective monitor of management and in the best interests of shareholders including past performance on other boards, we may consider a negative recommendation on directors.

Other Board-Related Proposals

Classification/Declassification of the Board

Vote AGAINST proposals to classify the board.

Vote FOR proposals to repeal classified boards and to elect all directors annually.

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Independent Chairman (Separate Chairman/CEO)

Generally vote FOR shareholder proposals seeking separation of the offices of CEO and chair if:

- The company has a single executive occupying this position;
- The board is not majority independent.

RATIONALE: We support the separation of the positions of chair and CEO and view it as superior to the lead director concept because of the inherent conflicts that arise if the same person 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; and the CEO, who 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. However, one person typically fulfills both roles at venture issuers due, again, to limited resources and extremely small boards. As noted previously, we believe flexibility is necessary for these small issuers but expect at a minimum that the board of directors be comprised of a majority of independent directors in order to provide the requisite independent balance to board oversight.

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Majority Vote Standard for the Election of Directors

Vote FOR resolutions requesting that: (i) the board adopt a majority vote standard and 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 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).

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Proxy Contests - Voting for Director Nominees in Contested Elections

Generally vote CASE-BY-CASE in contested elections taking into account:

- Long-term financial performance;
- Board performance;
- Management's track record and compensation;
- Qualifications of director nominees (both slates); and
- Evaluation of what each side is offering shareholders.

Overall Approach

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

1. Have the dissidents met the burden of proving that board change is warranted? And, if so;
2. 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 our 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 different viewpoint than the current board members.

Reimbursing Proxy Solicitation Expenses

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 Requirement

Vote CASE-BY-CASE on proposals to adopt an Advance Notice Board Policy or to adopt or amend bylaws containing or adding an advance notice requirement, giving support to those proposals which provide a reasonable framework for shareholders to nominate directors by allowing shareholders to submit director nominations as close to the meeting date as reasonably possible and within the broadest window possible, recognizing the need to allow sufficient notice for company, regulatory, and shareholder review.

To be reasonable, the company's deadline for notice of shareholders' director nominations must not be more than 65 days and not less than 30 days prior to the meeting date. 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 10^{th} 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 15^{th} day following first public announcement of the special shareholders' meeting is also acceptable.

In general, support additional efforts by companies to ensure full disclosure of a dissident shareholder's economic and voting position in the company so long as the informational requirements are reasonable and aimed at providing shareholders with the necessary information to review any proposed director nominees.

RATIONALE**:** All shareholders should be provided with sufficient disclosure and time to make appropriate decisions on the election of their board representatives. Advance Notice Requirement Policies typically provide a transparent, structured, and fair director nomination process, whereby all shareholders, irrespective of whether they are voting by proxy or attending the meeting, are made aware of potential proxy contests in advance of the meeting. Shareholders are also provided with important information pertaining to proposed dissident director nominees within a specified time frame, allowing shareholders to fully participate in the director election process in an informed and effective manner.

Appointment of Additional Directors Between Annual Meetings

Generally vote FOR these resolutions where:

- The company is incorporated under a statute (such as the CBCA) 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 approved by shareholders at the annual meeting immediately following the date of their appointment.

Bylaw Amendments

Generally vote FOR proposals to adopt or amend Articles/Bylaws 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;
- Other corporate governance concerns, such as granting blanket authority to the board with regard to future capital authorizations or alteration of capital structure without further shareholder approval.

RATIONALE: Alternate directors have neither been elected nor has their appointment been ratified by shareholders. As such, the use of a director substitute or replacement to fill in for a duly elected board representative raises serious concerns, including whether an alternate may be bound to serve in the best interests of shareholders. Also, regular directors must be willing to earmark sufficient time and effort to serving on the board, once they have accepted the responsibility entrusted to them by shareholders.

Article or bylaw provisions permitting alternate directors generally indicate that the alternate director will be counted for quorum purposes, may attend and vote on matters raised at board meetings, and act on behalf of the regular elected director in all respects, and may act as alternate for more than one director in some cases. As well, this provision may also provide that there is no limit to the number of alternates that may be appointed for any meeting.

Allowing shareholders the opportunity to elect directors is a fundamental shareholder right. As shareholders continue to push for increased rights such as majority voting with a director resignation policy to ensure that they have a meaningful voice in the election of their board representatives, the inclusion of an alternate director provision in a reporting issuer's articles or bylaws runs counter to the higher director accountability being sought by these shareholder rights improvements. Furthermore, based on discussions with several institutional investors, the majority of them raised concerns with alternate director provisions.

Confidential Voting

Generally 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.

Cumulative Voting

In general, support cumulative voting. However there may be situations where such a structure may be detrimental to shareholder interests.

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.

Poison Pills (Shareholder Rights Plans)

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 plans 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 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 time period during which a Permitted Bid may remain outstanding to a maximum of 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, 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. These definitions found in various regulations often contain repetitive elements and references to other definitions in regulation that are unacceptable 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 acquire a greater percentage of the shares outstanding that the percentage owned immediately prior to the acquisition, by any means. 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 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 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

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

Generally 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

Overall Approach

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.

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Capital Structure

Increases in Authorized Capital

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;
- 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 British Columbia Corporations Act (BCCA), 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

Vote on these resolutions on a CASE-BY-CASE basis taking into account:

- Whether other resolutions are combined with the issuance; and
- The financial consequences for the company if the issuance is not approved.

Generally vote FOR private placement proposals if:

- The issuance represents no more than 30 percent of the company's outstanding shares; and
- The use of proceeds from the issuance is disclosed.

Blank Cheque Preferred Stock

Generally 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,
- The company does not specify the purpose for the creation or increase of such shares.

Generally vote FOR proposals to create a reasonably limited[9] number of preferred shares where both of the following apply:

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

Dual-class Stock

Generally 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;
- 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.

[9] 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% 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 to the that 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% 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.

Escrow Agreements

Generally 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

Vote on a CASE-BY-CASE basis on share-based compensation plans.

Generally vote AGAINST an equity compensation plan proposal if:

- The basic dilution (not including warrants, 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

Generally 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 TSXV issuers, some venture 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 TSX 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, ISS finds the practice of repricing any outstanding options unacceptable and does not limit this view to only those held by insiders. ISS has for many years recommended against any repricing of outstanding options. Our reasons are 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 come to be viewed as a sort of substitute currency however, that may be used to compensate service providers and consultants. It is questionable, in our view, 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. We would therefore view the use of stock options as inappropriate for this purpose and see no justification for repricing any outstanding options when shareholders must suffer the consequences of a downturn in share price.

ISS takes the position that 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.

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Repricing Proposals

Generally vote AGAINST management proposals to reprice outstanding options, unless:

Repricing is part of a broader plan amendment that improves the plan and provided that the following conditions are met:

- A value-for-value exchange is proposed;
- The five top paid officers and all non-employee directors are excluded; and
- Options exercised do not go back into the plan OR the company commits to an annual burn rate cap.

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 profitable bull market runs, it is not expected to extend the term during a market downturn when shareholders must suffer a decrease in shareholder value.

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Other Compensation Plans

Canadian Venture issuers tend to rely heavily on stock option plans as an alternative to cash compensation, however 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)

Canadian venture companies do not usually implement these kinds of plans, however, in the event that shareholders are asked to approve a share purchase plan, votes should be determined on a CASE-BY-CASE basis.

Generally 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.

ISS will also take into account other compensation and benefit programs, in particular pensions.

Deferred Share Unit (DSU) Plans

Generally 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 deferred share units (DSU) 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: These types of deferred compensation arrangements 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.

A DSU plan only requires shareholder approval if it reserves treasury shares. However, 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 Share 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

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.

Generally 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.

Generally 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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