



Asia Pacific

Proxy Voting Guidelines Updates

2017 Benchmark Policy Recommendations

Effective for Meetings on or after February 1, 2017

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ARTICLE AMENDMENTS- JAPAN

Creation of Advisory Positions (Sodanyaku or Komon)

▶ **Current General Recommendation:** None.

Key Changes:

- › Create a policy on the establishment of advisory positions by Japanese companies through amendments to the articles of incorporation. This would apply to all public companies in Japan.

▶ **New General Recommendation:** Generally vote against amendments to articles of incorporation to create new advisory positions such as "sodanyaku" or "komon," unless the advisors will serve on the board of directors and thus be accountable to shareholders.

Rationale for Update:

Many Japanese companies employ former senior executives in an advisory capacity, often for many years after they retire from their executive posts. The advisors typically receive compensation and benefits from the company, and continue to maintain an office there; however, unless the advisors remain on the board of directors, there is rarely any disclosure of their activities or their compensation, and they have no fiduciary duties to shareholders. The influence and lack of accountability of corporate advisors have attracted considerable attention in recent years, in particular in connection with the accounting scandal at Toshiba Corp., which employed three former presidents in advisory capacities. Commentators have noted that the presence of former senior executives makes it difficult for their successors to reverse course on their predecessors' strategic decisions, even when doing so would be good for the company. Furthermore, the continued employment of former executives by their "home companies" reduces the pool of available candidates to serve as outside directors at other firms, contributing to Japan's low level of board independence.

Although about 30 percent of companies' articles authorize the appointment of advisors, most such provisions have been in place for many years, and in any given year relatively few companies seek shareholder approval to add such authorization to their articles. However, while few companies would be directly impacted by the new ISS policy, the policy is intended to signal to the market that investors are concerned about the lack of accountability of corporate advisors and would like to see companies reconsider an outdated practice with little or no benefit to shareholders.

BOARD OF DIRECTORS

Election of Directors and Supervisors- Taiwan

- ▶ **Current General Recommendation:** Vote against all directors and supervisors where the company employs the non-nomination system for election. When the company employs the nomination system, generally vote for the candidates.

Under extraordinary circumstances, vote against directors or supervisors, members of a committee, 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 a director's or supervisor'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.

Key Changes:

- › New guidelines on director elections are being introduced, taking legal requirements and market best practices into account while harmonizing Taiwan's guidelines with those of regional peers. Clearly defined guidelines on independence, attendance and overboarding will be applied to independent director candidates.
- › Introduce guidelines for contested director elections.

- ▶ **New General Recommendation:** Vote against all directors and supervisors where the company employs the non-nomination system for election.

When the company employs the nomination system, generally vote for all non-independent director and supervisor candidates. Generally vote for the independent director nominees, unless:

- › The nominee is deemed non-independent under ISS classification;
- › The nominee is a legal entity or a representative of a legal entity¹;
- › The nominee has attended less than 75 percent of board and key committee meetings over the most recent fiscal year, without a satisfactory explanation. The calculation of director attendance (or that of the representatives appointed by a legal entity which serves as a corporate director in the company) will not include meetings attended by alternate directors (or the proxy of those representatives). Acceptable reasons for director absences are generally limited to the following:
 - › Medical issues/illness;
 - › Family emergencies;
 - › The director (or the representative) has served on the board for less than a year; and
 - › Missing only one meeting (when the total of all meetings is three or fewer);

¹ Pursuant to Regulations Governing Appointment of Independent Directors and Compliance Matters for Public Companies under the Securities and Exchange Act, a legal entity can only serve as non-independent director in a company.

- › The nominee sits on more than six² public company board³; or
- › The nominee has been a partner of the company's auditor within the last three years⁴, and serves in the audit committee.

Under extraordinary circumstances, vote against directors or supervisors, members of a committee, 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 a director's or supervisor'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.

In making any of the above recommendations on the election of directors, ISS generally will not recommend against the election of a CEO, managing director, executive chairman, or founder whose removal from the board would be expected to have a material negative impact on shareholder value.

Discussion

The election of directors and supervisors in Taiwan is unique. One notable characteristic is that legal entities such as governmental organizations and corporations, not just natural person, can serve as non-independent directors and supervisors. Legal entities can either appoint individuals as candidates or run for election themselves and then appoint representatives to perform the fiduciary duties. As a result, it is not uncommon in Taiwan to see only the name of the legal entity being nominated for a board seat and not the identity of the actual individual who will serve on the board to represent that entity's interest.

Another notable characteristic in Taiwan is that, only the independent directors is elected by the standard nomination system. The election of non-independent directors and supervisors, on the other hand, may use a traditional election system which is commonly referred to as the "non-nomination system". Under this non-nomination system, any shareholder can nominate any person of legal age to the board. Companies are not obliged to provide a roster of candidates and their profiles before the meeting, and many firms disclose candidate names and profiles at the meeting or only a few days beforehand. Further, whether the candidates are supported by management or not is often not disclosed.

Election by the non-nomination system poses a great challenge to investors, particularly overseas investors voting by proxy who must cast their votes well in advance of the meeting. The non-nomination system disenfranchises minority shareholders and greatly limits their ability to cast an informed vote. In contrast, under the nomination system, the board of directors reviews the qualifications of each candidate nominated by either the board itself or any shareholder holding one percent or more of the company's outstanding shares, and then provides the final roster of candidates together with their profiles to shareholders prior to the meeting.

Taking into consideration that the nomination system for non-independent director election is yet to be made mandatory by law, most of the assessment criteria, such as attendance and public boards held, among others, which are applicable to peer markets in the Asia-Pacific Region, will only be applied to independent director candidates who

² A commitment to reduce the number of boards to six or fewer by the next annual meeting will be considered. The commitment would need to be disclosed prior to the AGM in the relevant meeting materials, such as the meeting notice, circular, or annual report.

³ Any independent directors shall not sit on more than three public boards as independent director, according to Regulations Governing Appointment of Independent Directors and Compliance Matters for Public Companies under the Securities and Exchange Act.

⁴ Pursuant to Securities and Exchange Act, all independent directors will automatically become the members of the company's audit committee, if any, which should be 100-percent independent.

must be elected via the nomination system. In order to better evaluate non-independent director nominees' suitability in the long run, such assessment criteria could be phasing in and adopted in the review of non-independent director nominees in the near future.

Voting for Director Nominees in Contested Elections- Taiwan

- ▶ **New General Recommendation:** Vote case-by-case on the election of directors in contested elections, including election of shareholder nominees or the dismissal of incumbent directors. For shareholder nominees, ISS places the persuasive burden on the nominee or the proposing shareholder to prove that they are better suited to serve on the board than management's nominees. Serious consideration of shareholder nominees will be given only if there are clear and compelling reasons for the nominee to join the board. These nominees must also demonstrate a clear ability to contribute positively to board deliberations; some nominees may have hidden or narrow agendas and may unnecessarily contribute to divisiveness among directors.

The major decision factors are:

- › Company performance relative to its peers;
- › Strategy of the incumbents versus the dissidents;
- › Independence of directors/nominees;
- › Experience and skills of board candidates;
- › Governance profile of the company;
- › Evidence of management entrenchment;
- › Responsiveness to shareholders;
- › Whether a takeover offer has been rebuffed.

Rationale for Update:

Taiwanese companies were not required to have independent directors on the board until recent years. A minimum requirement of 20-percent board independence and two independent directors to be elected via a nomination system will be fully effective in 2017. The update of the policy for the election of directors is aimed to incorporate the legal requirement in ISS' voting guidelines and to better align the guidelines applied to Taiwanese companies with those of their peers in the Asia Pacific Region.

The non-nomination system is widely adopted in Taiwan's director election. A non-nomination system allows any person to be nominated by any shareholder at any time, even at the meeting, without provision of a roster or profile for shareholders to cast an informed vote as opposed to a nomination system. Such non-disclosure practice limits ISS' capability to conduct any meaningful analysis. All independent directors must be conducted via nomination system, which however is not mandatory for non-independent director elections. Assessment of independent director candidates' suitability is possible and become necessary considering the minimum independence requirement, and that they are critical for the check and balance in company boards, especially in view of the unsatisfactory disclosure of non-independent director elections under non-nomination system in Taiwan.

Election of Directors- Overboarding- India, Hong Kong, and Singapore

▶ **Current General Recommendation:** None for India. For the other markets: Generally vote for the re/election of directors, unless:

- › The nominee sits on a total of more than six public company boards (ISS will accept a commitment by an overboarded director to step down from one or more boards at the next annual meeting of the company or companies in question, if that will bring the total number of boards to no more than six).

Key Changes:

- › Adopt an overboarding policy for India.
- › Clarify the disclosure necessary for a commitment to reduce the number of boards to be considered.

▶ **New General Recommendation:** Generally vote for the re/election of directors, unless:

- › The nominee sits on more than six⁵ public company boards.

Rationale for Update:

In 2014, the Companies Act, 2013 was enacted which includes a provision limiting directorships to 10 listed companies (including private companies that are holding or subsidiary companies of listed companies). In addition, Clause 49 of the Listing Agreement was also amended which includes the following provisions on the limit on number of directorships:

- › A person shall not serve as an independent director in more than seven listed companies; or
- › Any person who is serving as an executive director in any listed company shall serve as an independent director in not more than three listed companies.

In view of the changes in the regulations, it is deemed timely to introduce an overboarding policy for India. The new policy limiting directorships to six listed companies is in line with ISS overboarding policies applied to regional peers such as Hong Kong and Singapore.

In addition, for all Asia-Pacific markets where an overboarding policy is applied, we are clarifying the disclosure needed for ISS to be able to take into consideration commitments by directors to reduce the number of boards on which they sit.

⁵ A commitment to reduce the number of boards to six or fewer by the next annual meeting will be considered. The commitment would need to be disclosed prior to the AGM in the relevant meeting materials, such as the meeting notice, circular, or annual report.

Election of Directors- Singapore- Independence and Lead Independent Directors

▶ **Current General Recommendation:** Generally vote for the re/election of directors, unless:

Independence Considerations

Board Independence

- › The nominee has been a partner of the company's auditor within the last three years, and serves on the audit committee;
- › Any non-independent director nominees where the board is less than one-third independent under ISS classification of directors.

Key Changes:

- › ISS will recommend a vote against members of the nomination committee if the company has not appointed a lead/senior independent director and/or has a board independence level of less than 50 percent in certain circumstances.

▶ **New General Recommendation:** Generally vote for the re/election of directors, unless:

Independence Considerations

Board Independence

- › The nominee has been a partner of the company's auditor within the last three years, and serves on the audit committee;
- › Any non-independent director nominees where the board is less than one-third independent under ISS classification of directors;
- › The nominee is a member of the nomination committee and the board does not have a lead/senior independent director and/or the board is not at least one-half independent⁶ under the following scenarios:
 - › The chairman and the CEO is the same person;
 - › The chairman and the CEO are immediate family members⁷;
 - › The chairman is part of the management team; or
 - › The chairman is not an independent director.

Rationale for Update:

In 2012, the Monetary Authority of Singapore (MAS) upgraded the provisions regarding the appointment of a lead independent director in certain circumstances from a recommended best practice to a guideline, which should be followed by listed companies on a "comply-or-explain basis." The Singapore Code of Corporate Governance requires issuers to appoint a lead/senior independent director in any of the following circumstances:

- › The chairman and the CEO is the same person;
- › The chairman and the CEO are immediate family members;
- › The chairman is part of the management team; or

⁶ The requirements for the board to have a lead/senior independent director and be at least one-half independent under the aforesaid circumstances would only be applicable to AGMs after the financial years commencing from May 1, 2016, which are those to be held on Oct. 1, 2017 onwards, to coincide with the transition schedule of the relevant requirements of one-half board independence.

⁷ Immediate family members" refer to the person's spouse, child, adopted child, step-child, sibling and parent.

- › The chairman is not an independent director.

The lead/senior independent director (if appointed) should be available to shareholders where they have concerns and for which contact through the normal channels of the chairman, the CEO or the CFO has failed to resolve the concerns or is inappropriate.

The Singapore Code of Corporate Governance also requires issuers that the board should be at least 50-percent independent in any of the four aforesaid circumstances. However, MAS provided a transition period of five years for compliance to this requirement. Listed companies are expected to follow this guideline on a "comply-or-explain basis" at the AGMs following the end of the financial year commencing from May 1, 2016 onwards. Given the scheduled end of the transition period, this requirement would impact the AGMs that will be held on Oct. 1, 2017 onwards. In 2015, there were 59 out of 396 AGMs that were covered by ISS for the months of October to December. In view of this, the policy update regarding the requirements for the board to have a lead/senior independent director and an independence level of at least 50 percent in any of the four aforesaid circumstances will become effective at the same time and will be applicable to the AGMs for the financial years commencing from May 1, 2016 onwards.

The nomination committee of a company is responsible for making recommendations to the board on the development of a process for evaluation of the performance of the board, its board committees and directors, as well as the appointment and re-appointment of directors, among other things. Important issues should be considered for the appointment and re-appointment of directors such as board composition to ensure that the board is of an adequate size with the right mix of skills and experience that facilitates effective decision making. Given that it is the duty of the nomination committee to monitor the balance and diversity of the board to maximize its effectiveness, if the board does not have a lead/senior independent director and/or at least one-half of the board is not independent under the aforesaid circumstances, a vote against recommendation for the nominee who is a member of the nomination committee will be made.

Election of Directors- Director Attendance- Bangladesh, Pakistan, Sri Lanka

- ▶ **Current General Recommendation:** None for Sri Lanka. For Bangladesh and Pakistan: Vote against a director election if the director has attended less than 75 percent of board meetings over the most recent two years, without a satisfactory explanation.

Key Changes:

- › Apply one-year look back period for director attendance;
 - › Exempt first-year on the board from the policy; and
 - › Clarify what ISS would consider as "acceptable reasons", including missing one out of three or fewer meetings.
- ▶ **New General Recommendation:** Generally vote for the election of directors unless the nominee has attended less than 75 percent of board meetings over the most recent fiscal year, without a satisfactory explanation. Acceptable reasons for director absences are generally limited to the following:
 - › Medical issues/illness;
 - › Family emergencies;
 - › The director has served on the board for less than a year; and
 - › Missing only one meeting (when the total of all meetings is three or fewer).

Rationale for Update:

This policy strengthens the attendance requirement for directors for Bangladesh and Pakistan while introducing an attendance requirement for Sri Lanka for the first time. This update harmonizes ISS policies on director attendance across various Asian markets. In addition, acceptable reasons for absences are clarified.

This policy takes into consideration attendance on board meetings only – attendance on board committee meetings is not consistently disclosed in Bangladesh, Pakistan, and Sri Lanka. Also, disclosure will vary for newly-appointed directors: some companies will report their attendance based on the full fiscal year; others on the period for which the director actually served. Therefore, directors who have served on the board less than 1 year are exempt from this policy.

To better understand the differences between ISS' attendance policies in this region (e.g. attendance at board meetings only vs. attendance at both board and committee meetings; treatment of partial year service), here are some guidelines on the disclosures in the various markets:

	Do companies disclose director attendance at committee meetings, or only at meetings of the full board?	When a director joins the board in the middle of a year, does the company disclose attendance based on the full year, or only based on the period that the director was on the board?	Is there any other relevant information about attendance disclosure?
China	Board only	Based on the period that the director was on the board	<ul style="list-style-type: none"> › Director attendance can be traced by looking at the minutes of each board meeting which are required to be published on a designated disclosure platform. › Only disclosure of the independent directors' attendance is mandatory in the annual report. Therefore, attendance of non-independent director is not always disclosed.
Hong Kong	Board and committees	It varies, some based on the full year and some based on the period that the director was on the board	Attendance by alternate directors is disclosed separately
Singapore	Board and committees	It varies, some based on the full year and some based on the period that the director was on the board	Attendance by alternate directors is disclosed separately
Taiwan	Board and committees	Based on the period that the director was on the board	<ul style="list-style-type: none"> › Attendance by alternate director, a representative sent by the absent directors, is disclosed separately › Attendance is updated on MOPS, the official disclosure platform for companies listed in Taiwan, on a monthly basis. Such disclosure is based on a three-year tenure, which is a common length of a director's tenure in Taiwan. Annual breakdown can be accessed in the annual reports.

South Korea	Board only	It varies, some based on the full year and some based on the period that the director was on the board	Attendance of only outside directors is disclosed.
Bangladesh	Board only	It varies, some based on the full year and some based on the period that the director was on the board	
India	Board and committees	It varies, some based on the full year and some based on the period that the director was on the board	<ul style="list-style-type: none"> › Dates of board and committee meetings are disclosed › Attendance by alternate directors is disclosed separately
Malaysia	Board and committees	Based on the period that the director was on the board	<ul style="list-style-type: none"> › In some cases for nomination and/or remuneration committees, only the number of meetings held is disclosed (not including individual director attendance) › Attendance by alternate directors is disclosed separately
Pakistan	Board and committees	It varies, some based on the full year and some based on the period that the director was on the board	
Philippines	Board and committees	Based on the period that the director was on the board	
Sri Lanka	Board only	It varies, some based on the full year and some based on the period that the director was on the board	
Thailand	Board and committees	Based on the period that the director was on the board	

AUDIT- HONG KONG AND SINGAPORE

▶ **Current General Recommendation:** Vote for the appointment of auditors and authorizing the board to fix their remuneration, unless:

- › There are serious concerns about the accounts presented or the audit procedures used;
- › The auditor is being changed without explanation; or
- › The non-audit fees exceed half the total fees paid to the external auditor in the latest fiscal year without satisfactory explanation.

Whilst ISS will consider the nature and scope of non-audit fees when assessing their magnitude, where non-audit fees have constituted more than 50 percent of total auditor compensation during the most recent fiscal year, ISS will ordinarily not recommend support for the reappointment of the audit firm. ISS will make an exception to this policy if excessive non-audit fees are in relation to special projects or due to unusual circumstance, and are not recurring in nature and are unlikely to create conflicts of interest. An example of acceptable "non-audit" fees would be fees for a special audit in connection with an IPO.

Key Changes: To clarify the policy regarding the exclusion of one-time transactional fees.

▶ **New General Recommendation:** Vote for the appointment of auditors and authorizing the board to fix their remuneration, unless:

- › There are serious concerns about the accounts presented or the audit procedures used;
- › The auditor is being changed without explanation; or
- › The non-audit fees exceed half the total fees paid to the external auditor in the latest fiscal year without satisfactory explanation.

Whilst ISS will consider the nature and scope of non-audit fees when assessing their magnitude, where non-audit fees have constituted more than 50 percent of total auditor compensation during the most recent fiscal year, ISS will ordinarily not recommend support for the reappointment of the audit firm. In circumstances where non-audit fees include fees related to significant one-time transactional fees that were accrued due to special projects or capital structure events (such as initial public offerings, bankruptcy emergence, and spin-offs) and the company makes public disclosure of the amount and nature of those fees that 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 for purposes of determining whether non-audit fees are excessive.

Rationale for Update:

The updated policy provides a carve-out for certain transactional fees such as fees in connection with IPOs, spinoffs, and emergence from bankruptcy; in line with the treatment of such one-time capital events in other markets.

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