U.S. Proxy Voting Research Procedures & Policies

(Excluding Compensation-Related)

Frequently Asked Questions

Updated: April 9, 2018

New or materially-updated questions highlighted in yellow

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Procedural Questions

1. When are ISS' proxy reports issued?

U.S. proxy reports are generally issued to ISS clients 13-30 calendar days before the shareholder meeting. The timing will depend on: how close to the meeting the proxy materials were issued; complexity of the proxy and agenda items; contentiousness of the issues; any engagement required; and the volume of meetings requiring coverage (e.g., at the height of U.S. proxy season in April through June, delivery may be closer to 13-18 days). Proxy contest or contested merger reports are often issued closer to the meeting than these general guidelines. The final materials for SPAC acquisition meetings are usually only filed 10-13 days before the meeting, and these analyses usually take about 5 days, so the ISS reports for SPAC transactions are usually delivered 5-8 days before the meeting.

2. Can a company get a copy of its ISS proxy report?

All companies can access ISS' proxy reports on their own company *without charge*. These are provided through Governance Analytics, a web-based platform hosted by ISS Corporate Solutions (ICS)*. To obtain a login and password to Governance Analytics, please submit your request through the ISS Help Center (https://issgovernance.service-now.com/csp). This is the best way to ensure timely receipt of the report, as an email notification is sent to the company's registered user(s) once a new proxy report on the company is published by ISS. There is no obligation to purchase or use any of the services of ICS to access the ISS report.

These reports are provided to companies free of charge as a courtesy, subject to the following conditions: (i) the reports are only for the company's internal use by employees of the company, and (ii) the company is expressly prohibited from making the report, or any part of it, public, or sharing the reports, profiles or login credentials with any external parties (including but not limited to any external advisors retained by the company such as a law firm, proxy solicitor or compensation consultant).

Please note that this restriction on sharing of published reports with external advisors does not apply to draft reports that are provided for review by the company; the restrictions on sharing of drafts are detailed in the letter accompanying the draft (see below for more information on the draft review process).

**ICS is a wholly-owned subsidiary of Institutional Shareholder Services Inc. (ISS). ICS provides advisory services, analytical tools and information to companies to enable them to improve shareholder value and reduce risk through the adoption of improved corporate governance and executive compensation practices. The ISS Global Research Department, which is separate from ICS, will not give preferential treatment to, and is under no obligation to support, any proxy proposal of a company (whether or not that company has purchased products or services from ICS). No statement from an employee of ICS should be construed as a guarantee that ISS will recommend that its clients vote in favor of any particular proxy proposal.*

3. Can a company send the ISS proxy report to its shareholders or other parties?

No. The information contained in any ISS proxy report or proxy alert may not be republished, broadcast, or redistributed without the prior written consent of ISS. Such requests should be submitted through the ISS Help Center.

4. What happens if the proxy report contains a factual error?

ISS strives to be as accurate as possible in our research and publications. Please check our Policy Guidelines and FAQs concerning the issue; disagreements may be a matter of opinion or of policy application rather than an error of fact. If you do believe a report contains an error, please submit this through the ISS Help Center as soon as possible. If we agree that a change or correction is required, we will issue a proxy alert to our clients.

5. How and when will ISS change a vote recommendation in a proxy alert?

ISS cannot and will not disclose or guarantee a vote recommendation, nor a change of vote recommendation, in advance.

It is not the role of ISS to proactively contact companies to seek action on any problematic governance practices; the onus is on companies to act in the best interests of their business and shareholders. If a company chooses to make changes or provide additional information to shareholders after an ISS proxy report has been published, the information must be publicly-disclosed for ISS to be able to respond, preferably via a relevant regulator's public website rather than the company website. (The latter does not apply to information that is not normally in a filed document and only resides on the company's website, such as Corporate Governance Guidelines or Environmental reports). In order that we can respond as soon as possible, issuers are requested to notify ISS through the ISS Help Center as soon as the new information is filed.

- For U.S. companies that are SEC filers, the filing should be on EDGAR.
- If the U.S. company is not an SEC filer:
  - for FDIC-regulated financial institutions on the Securities Exchange Act Filings System;
  - for OTC companies on the OTC Markets site; or
  - if neither of these is applicable, the information should be made public in a press release or on the company website.

ISS will determine if new or materially-changed publicly-available information warrants an update to our report or voting recommendations consistent with our policy. If the information is determined to be significant and warrants change, material, ISS will issue a proxy alert, which is shown featured at the head of the reissued proxy research report.

Timing: To ensure that our institutional investor clients are able to review any changes in our vote recommendations and act upon this information if they so choose, we generally will only be able to issue an alert and change to a vote recommendation if the new information is provided at least **5** business days ahead of the meeting. This means that if a company is filing additional information on EDGAR, ISS must be informed of the filing at least **5** business days before the meeting. For example, for a Thursday meeting, ISS will need to know of the filing no closer to the meeting than 5 p.m. Eastern the Thursday before (assuming no national holiday during that week). Any new information received closer than 5 business days will be discussed in an informational alert if it is deemed to be material to the analysis even if there is no change to ISS' voting recommendations. Only under extraordinary circumstances will ISS issue a proxy alert to change a vote recommendation for material received closer than 5 business days before the meeting.

Proxy alerts are used to communicate updates, adjournments, corrections and vote recommendation changes to our clients. A proxy alert is structured as an overlay on the original report; the first few pages show the updated information and any related vote recommendation change, and the original report lies underneath, and will continue to reflect the original report and information. This allows our clients to see the original report and the changes in one document. Any subsequent alerts will be layered on top of the previous alert. Proxy alerts are distributed to our institutional investor clients the same way our regular proxy analyses are distributed – through our ProxyExchange platform. The clients who received the original report will automatically receive any subsequent proxy alerts issued for that company.

Engagement with ISS U.S. Research

6. How can a company request an engagement with the U.S. research analysts?

Please send a request for engagement through the ISS Help Center. You will be asked to provide the following:

- A detailed agenda for the engagement;
- A list of the company's participants;
- Your preferred dates/times.

Please ensure that all company participants are aware of the following:

- ISS engages with companies to enhance the accuracy and quality of the research and voting guidance we provide to our investor clients. All discussions are on-the-record, and material non-public information should not be disclosed. ISS analyses are based on publicly-available information: information provided by companies during engagements with ISS should either be already publicly-available to all shareholders or will be disclosed in the filings for the company's upcoming shareholder meeting. ISS will not knowingly use material non-public information disclosed during an engagement and accepts no obligation of confidentiality with respect to matters discussed during engagements.
- Due to the firewall between ISS Research and ISS' subsidiary, ISS Corporate Solutions, Inc. ("ICS"), companies should not: mention any past, present or expected contact with ICS or its personnel; disclose or discuss any information obtained from the purchase of ICS services or products; or identify your company, either directly or indirectly, as an ICS client (or prospective client). Doing so will constitute a breach of the firewall and may result in the immediate termination of discussions.
- ISS research analysts cannot consult or advise in any way.
- No statement made during an engagement should be construed as an indication of how ISS will recommend in a given situation or on a specific proposal.
- During engagements, ISS staff will be focused on hearing about the company's long-term focus and strategy and how it drives decision-making to satisfy shareholder objectives. Accordingly, ISS prefers that one or more board members take part in the discussion. ISS deems it inappropriate to discuss an executive's compensation while s/he is present and we would ask that executive to recuse him/herself for that portion of the discussion.

7. When is the best time to request an engagement?

While we will make every reasonable effort to accommodate engagement requests, note that accepting engagements is at the sole discretion of ISS. Based on timing and priority, particularly in the lead into and during proxy season, we may not be able to hold an engagement on the day or at the time requested. In addition, whether an engagement is conducted in-person or by phone is also at ISS' discretion. Accordingly, companies are recommended to plan early for any desired engagement scheduling, and further guidance is provided below.

Non-contentious meetings: For engagements regarding non-contentious meetings, the preferred time to schedule engagements is August through February, prior to the start of U.S. proxy season, which begins in March. If companies wish to discuss matters relating to ISS' new policies, they will want to schedule the engagement after the release of the ISS policy updates in November. Also, most engagements take place prior to the filing of the proxy materials. Once the proxy is filed, we will only generally be able to undertake engagement with the company where it is necessary and appropriate, and usually only to clarify points on which we have questions.

Contentious meetings: For proxy fights or contested mergers, ISS will generally engage with both sides once the proxy materials are released. ISS will reach out directly to schedule the engagements and generally offer each side an equal opportunity for engagement. In general, ISS will schedule the engagement with the dissident side first to pinpoint the areas of contention, and to give the company the opportunity to respond to dissident arguments made. Follow-up meetings may also be scheduled at our discretion; and as with the initial engagement, would be offered equally to both sides.

Vote-no campaigns: A vote-no campaign against directors may be considered sufficiently contentious to warrant engagement. ISS will make this determination after reviewing the materials. If ISS determines that further engagement is warranted, ISS will reach out to both sides. The vote-no campaign would need to be via Edgar filings (e.g. an exempt filing), to warrant such consideration; postings on the dissenting shareholders' website would be insufficient.

8. What topics are generally discussed in engagements regarding non-contentious meetings?

For non-contentious meetings, given the volume of engagement requests received, we prioritize engagements with companies with substantive governance issues: for example, companies facing low shareholder support on their say-on-pay or director elections, majority-supported shareholder proposals, ISS recommendations against management proposals at the prior election, or companies undergoing major transitions.

9. Is there a blackout period for engagement with research?

No, the research team is never in "blackout" with respect to contact with companies or other parties. There is a blackout period for ISS Corporate Solutions (ICS) during the period from the filing of the proxy through the date of the shareholder meeting (the period during which Research is analyzing and making voting recommendations) as part of our firewall. Also, Governance QualityScore data verification is closed from the filing of the proxy until the publication of the ISS proxy report.

Review of Draft Proxy Reports

10. Can a company review a draft of the ISS proxy report prior to publication?

In the United States, companies in the S&P 500 index - the U.S. companies most likely to be widely held by our institutional clients - are offered the opportunity to review a draft report. Companies need to register in advance to receive a draft, and drafts are provided only for the reports for annual shareholder meetings, not special meetings, nor for any meeting where the agenda includes a merger or acquisition proposal, proxy fight, or any item that ISS, in its sole discretion, considers to be of a contentious nature, such as a "vote no" campaign. Detailed information on the U.S. draft review process and registration is at: http://www.issgovernance.com/iss-draft-review-process-u-s-issuers/.

Questions on ISS Policies

11. Who should I contact with questions on ISS U.S. voting policies?

If you need more clarification after reviewing the relevant policies and FAQs, please submit your inquiry through the ISS Help Center, or call 301-556-0576, with your questions. The online inquiry submission is preferable, in case the questions need to be referred to ISS analysts.

12. What can ISS tell us and not tell us about policies?

ISS is happy to try to clarify questions on our policies as far as possible. However, we cannot answer questions about hypothetical scenarios, and we cannot give definitive answers on how we will recommend on proxy items before we analyze all relevant facts and circumstances as presented in the proxy. If it is a question we cannot answer, we will let you know.

The order of these FAQs generally follows in the order presented in our U.S. Proxy Voting Guidelines available on our website in the Policy Gateway.

Board of Directors

Voting on Director Nominees in Uncontested Elections

Independence

Determination of Independence

13. In the proxy report, where can one find why ISS classified a director as non-independent?

See the "Director Notes" under the Board Profile section of the proxy analysis. That provides all the affiliations the director has with the company. The material affiliations are shown in our Proxy Voting Guidelines under the Categorization of Directors table.

14. How does ISS determine whether the board of a U.S. issuer considers a director to be non-independent?

In the US, issuers subject to the reporting requirements of Item 407 of Regulation S-K are not required to explicitly identify their non-independent directors as long as they maintain fully independent Audit, Compensation, and Nominating committees. If a board maintains fully independent committees, it is only required to identify its independent directors, including new nominees, in its proxy or annual report.

In situations where a board does not make an identification, ISS will generally conclude that if a board does not identify directors as independent, then it does not consider such director(s) to be independent. Where possible however, ISS will also examine relevant disclosures, including, but not limited to, director bios, related party transactions, committee disclosure, and potentially review the issuer's historical approach to director independence disclosure to determine whether an issuer may have omitted an independent director from its list of independent directors.

It is good practice for boards to be transparent to shareholders regarding its assessment of the independence status of each director. In the context of the US disclosure rules, the failure of a board to identify a director as independent will generally be construed to mean that the board does not consider such director to be independent.

Overall Board Independence

15. When ISS looks at whether a board is majority independent, whose definition of independence are you using?

The determination is based on the ISS classifications of independence.

16. What public commitment can a company make concerning adding an independent director (and thus making the board majority independent)?

Sample language:

“We are conducting a director search in the exercise of due care for a candidate as soon as practicable following our Annual Meeting of Stockholders. Our new director will not only satisfy the independence requirements under the listing requirements, but will have no material connection to our Company (that is, no material financial, personal, business, or other relationship that a reasonable person could conclude could potentially influence boardroom objectivity) prior to being appointed to the Board. We commit to having this new director in place within no more than six months after the upcoming shareholder meeting.”

Committee Independence

17. How are non-voting, “ex-officio” members of board committees considered?

They are considered the same as any regular committee member, with the same expectation of independence.

18. What steps can a company take to change an ISS vote recommendation on a non-independent director serving on a committee?

For ISS to change its vote recommendation, either:

- The director needs to resign from the committee(s), or
- The material relationship causing the affiliation (e.g. professional relations with a firm associated with the director) would need to be terminated.

The resignation from the committee would have to be effective no later than the date of shareholder meeting and would need to be publicly disclosed. For example: "As of [date no later than the upcoming annual meeting date], [Director Name] will resign as a member of the [Committee]."

For terminating a professional relationship, it would need to be effective immediately, and remain in effect as long as the director serves on any of the three committees.

Professional vs. Transactional Relationships

19. How does the definition of affiliation differ in ISS' standards for professional vs. transactional relationships?

Both are derived from the definition of affiliation in NASDAQ Rule 5605—but the affiliation under professional services is stricter: a director (or immediate family member) only has to be an employee of the organization providing the professional service, as opposed to an executive officer in the case of a transactional relationship, for him to be considered non-independent.

20. Which types of related-party services are considered professional under ISS' classification?

Professional services are frequently advisory in nature, may involve access to sensitive company information, and may have a payment structure that could create a conflict of interest. Commissions or fees paid to a director (or to an immediate family member or an entity affiliated with either the director or the immediate family member) are an indication that the relationship is a professional service.

- **Insurance Services:** Generally professional, unless the company explains why such services are not advisory. Transactional where the company has an insurance policy with and pays premiums to an entity with which one of the company's directors is affiliated will be considered a transactional relationship. However, the burden will be on the company to explain why the service is not advisory.

- **Information Technology Services:** Generally professional, except for tech support. Tech support is usually tied to a previous transactional relationship, typically a purchase of hardware or software, and does not involve strategic decision-making or a payment structure which could create a conflict of interest.

- **Marketing Services:** Generally professional, unless the company explains why such services are not advisory. Market research, market strategy, branding strategy, and advertising strategy are generally considered professional services. Sale of promotional materials or sponsorships, or the purchase of advertising, is considered transactional. However, the burden will be on the company to make the distinction.

- **Educational services**: Generally transactional.

- **Lobbying services:** Professional.

- **Executive search services:** Generally professional. Lower level employment services may be considered transactional, depending on the disclosure.

- **Property management and real estate services**: Generally professional, unless the company explains why such services are not advisory. These services are advisory in nature and have a payment structure that could create a conflict of interest.

21. What happens when the company provides professional services to the director or an entity associated with the director?

In the case of a company providing a professional service to one of its directors or to an entity with which one of its directors is affiliated, the relationship is considered transactional rather than professional. Since neither the director nor the entity with which the director is affiliated is receiving fees for the service, there is no direct financial tie which could compromise that director's independence.

22. How does ISS assess the terms of voting agreements or "standstill" agreements that arise from issuers' settlements with dissenting shareholders?

In addition to the classification of any directors that the dissident shareholder may have placed on the board pursuant to our Director Independence policy and section 2.16 of our Categorization of Directors table, ISS will examine the terms of the standstill agreement and any other conflicting relationships or related-party transactions and, pursuant to our Board Accountability policy, may issue negative recommendations affecting the reelection of Nominating Committee members if we deem any terms of or circumstances surrounding the agreement to be egregious.

Composition

Attendance

23. What are the disclosure requirements on director attendance?

For exchange-listed companies, the SEC requires the following disclosure:

Item 229.407(b) *Board meetings and committees; annual meeting attendance*. (1) State the total number of meetings of the board of directors (including regularly scheduled and special meetings) which were held during the last full fiscal year. Name each incumbent director who during the last full fiscal year attended fewer than 75 percent of the aggregate of:

i. The total number of meetings of the board of directors (held during the period for which he has been a director); and
ii. The total number of meetings held by all committees of the board on which he served (during the periods that he served).

For non-listed companies, institutional investors generally expect similar the same attendance disclosure as that required for listed companies.

24. What if there is no attendance disclosure by the company?

Under the regulations, disclosure is only needed if a director attended less than 75 percent of the aggregate of his/her board and committee meetings for the period he/she served. Therefore, no disclosure would mean that all directors met the attendance threshold. However, many companies will include in their proxies an affirmative statement that all directors met the threshold, but it is not required. This affirmative disclosure is particularly helpful when a company provides additional details on attendance, but it is unclear if this disclosure is in addition to, or in lieu of, the required disclosure.

25. How is the exception regarding "missing only one meeting" applied?

If the total of all the director's meetings was three or fewer, and he/she missed just one, then, mathematically, the attendance would be below the 75% reporting threshold. That is why an exception is made - missing one meeting alone should not trigger the policy. This exception only applies when the aggregate of all the director's board and committee meetings is three or fewer. It does not apply when there were only three board meetings, or only three committee meetings, and the total of the director's board and committee meetings is four or more.

26. What exceptions to the attendance policy apply in the case of a newly-appointed director?

Companies generally schedule their board and committee meetings a year or more in advance. The expectation is that directors plan their schedules accordingly. However, newly-appointed directors (those appointed during the fiscal year under consideration) will not have had the benefit of this advance notification. Therefore, newly-appointed directors are generally exempted if they attended fewer than 75% of the aggregate of the board and committee meetings for the period for which they served, or if the disclosure is unclear as to whether they attended 75% of their meetings.

27. What is ISS' policy on unclear attendance disclosure?

If the proxy disclosure is unclear and insufficient to determine whether a director attended at least 75 percent of the aggregate of his/her board and committee meetings during his/her period of service, ISS will recommend a vote against or withhold from the director(s) in question.

Investors expect directors to attend their board and committee meetings; poor attendance is a primary reason why directors receive majority withhold or against votes.

Examples of deviations from the required disclosure include, but are not limited to:

- Not naming the director(s) who failed to meet the threshold attendance;
- Using a threshold of less than 75 percent;
- Using a threshold greater than 75 percent and reporting that a director did not achieve that threshold;
- Excluding special meetings from total meetings;
- Reporting attendance separately for regular vs. special meetings;

- Boosting the attendance records by including actions by written consents in total meetings;
- Reporting average attendance instead of threshold attainment;
- Reporting attendance per meeting or per committee rather than per director; or
- Reporting aggregate board and aggregate committee attendance instead of the overall aggregate.

Oftentimes, the unclear disclosure results from a company's attempt to provide additional disclosure to its investors, not to obfuscate poor attendance. However, sometimes it is not clear whether the disclosure provided is supposed to be in addition to the standard disclosure, or in lieu of the required disclosure. In that case, the addition of a positive sentence to the effect that "during the fiscal year, all directors attended at least 75% of their board and committee for the period for which they served" clarifies that the additional details provided are supplemental.

Overboarding of Directors

28. What boards does ISS count when considering if a director may be overboarded?

We include: public companies (we use S&P Capital IQ company type for the determination of whether a company is public), and mutual fund families. We do not include: non-profit organizations, universities, advisory boards, and private companies. Mutual funds are rolled up to mutual fund families, with one family counting as one board. Also, if service on another board is a required duty of the officer (e.g., as part of a joint marketing agreement), that board will not be counted.

29. How are subsidiaries of a publicly-traded company treated for overboarding?

All subsidiaries with publicly-traded stock are counted as separate boards. Subsidiaries that only issue debt are not counted.

Special consideration is given where the CEO of a parent company also serves on the boards of the company's publicly traded subsidiaries. ISS will not recommend withhold/against votes for overboarding on the parent company's CEO at the parent company, nor at any subsidiary board with over 50 ownership by the parent. At outside boards and at subsidiaries owned 50 percent or less by the parent, ISS will consider whether withhold/against votes are warranted on a case-by-case basis, considering among other factors:

- Structure of the parent subsidiary relationship (for example, holding company structure);
- Similarity of business lines between the parent and subsidiary;
- Percentage of subsidiary held by the parent company; and
- The total number of boards on which he/she serves.

30. Which CEOs are subject to the policy on overboarded CEOs?

The policy is applied only to CEOs of publicly-traded companies, not to CEOs of private companies. It also is not applied to interim CEOs: there is no expectation that a director who steps in as interim CEO to fill the gap should drop his or her other boards for this short-term obligation.

31. Will ISS consider whether a director is transitioning off a board?

Yes. It is preferable for a director to step down from a board at the annual meeting to ensure orderly transitions, which may result in a director temporarily overboarded (e.g. joining a new board in March, but stepping off another board in June). ISS will generally not count a board when it is publicly-disclosed that the director will be stepping off the board at its next annual meeting. This disclosure may be included in the director's biography in the proxy for one of his/her other companies' shareholder meeting.

Responsiveness

32. Definition of "majority of shares cast":

The ISS policies regarding board responsiveness generally use "shares cast" as the measurement. ISS uses: For/ (For + Against). Abstentions are not counted. The base the issuer uses to determine if a proposal passed is not used, as doing so would result in an inconsistent basis for looking at voting outcomes across companies.

Majority-supported Shareholder Proposals

33. What does ISS look at when considering if a board has been "responsive" to a majority-supported shareholder proposal?

Acting on a 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, based on the factors listed in the policy.

These factors are further described below:

Disclosed outreach efforts by the board to shareholders in the wake of the vote:

Key to any partial implementation of a majority supported shareholder proposal is outreach by the board to their significant shareholders who supported the proposal to understand why they supported it and what they are looking for the board to do in response. The "ask" of the proposal may not directly reflect shareholders' concerns but instead may have been the vehicle most readily-available for them to express their concerns. For example, shareholders may be more interested in a stronger right to a special meeting than the written consent right proposed. Or, they may want a more empowered lead independent director position in lieu of an independent chair.

While outreach to the proponent is important, it was the majority of voted shares that supported the proposal. Therefore, the company should reach out beyond the proponent to its large shareholders to understand their goals in the support of the proposal.

Rationale provided in the proxy for the level of implementation:

The vast majority of shareholder proposals are precatory, not binding, and the board exercises its discretion to respond in a manner that it believes is in the best interest of shareholders and the company. When a majority of shares, or a substantial minority, are cast in support of a proposal, the company should clearly disclose its response and explain the board's rationale for the actions it has taken in the following year's proxy statement.

The subject matter of the proposal:

Some matters are straightforward, almost binary decisions, and garner a strong consensus among institutional investors, such as:

Declassification proposals— either a board is classified, or it is annually elected. While shareholders may defer to the board's discretion as to timing of the declassification, there is generally no other action acceptable.

Majority vote standard—either a board has a plurality or a majority vote standard in uncontested elections. There is a consensus that a true majority vote standard is the board response required, and not just the adoption of a director resignation policy while maintaining a plurality vote standard.

Other items are more nuanced and allow for a broader range of implementation, such as the shareholders' right to call a special meeting, to act by written consent, or to nominate directors via proxy access, or proposals seeking an independent board chair. Please see FAQs below on these items for more details.

34. What would constitute a clearly insufficient response to a majority-supported shareholder proposal?

Clear examples of non-responsiveness by the board would include: no acknowledgement at all in the proxy statement that shareholders supported the proposal; dismissal of the proposal with no reasons given; or actions taken to prevent future shareholder input on the matter altogether.

35. Does the board's recommendation on a management proposal in response to a majority-supported shareholder proposal matter?

In general, the proposal should have a board recommendation of FOR. A recommendation other than a FOR, (e.g." None" or "Against") will generally not be considered as sufficient action taken. The level of support necessary to implement the proposal (e.g., a supermajority of shares outstanding) will be a consideration in evaluating the role of the board's recommendation.

36. Proxy access proposals: How will ISS evaluate a board's implementation of proxy access in response to a majority-supported shareholder proposal?

ISS will evaluate a board's response to a majority- supported shareholder proposal for proxy access by examining whether the major points of the shareholder proposal are being implemented. Further, ISS will examine additional provisions that were not included in the shareholder proposal in order to assess whether such provisions unnecessarily restrict the use of a proxy access right. Any vote recommendations driven by a board's implementation of proxy access may pertain to individual directors, nominating/governance committee members, or the entire board, as appropriate.

ISS may issue an adverse recommendation if a proxy access policy implemented or proposed by management contains material restrictions more stringent than those included in a majority-supported proxy access shareholder proposal with respect to the following, at a minimum:

- **Ownership thresholds** above three percent;
- **Ownership duration** longer than three years;
- **Aggregation limits** below 20 shareholders;
- **Cap** on nominees below 20 percent of the board.

In instances where the cap or aggregation limit differs from what was specifically stated in the shareholder proposal, lack of disclosure by the company regarding shareholder outreach efforts and engagement may also warrant negative vote recommendations.

If an implemented proxy access policy or management proxy access proposal contains restrictions or conditions on proxy access nominees, ISS will review the implementation and restrictions on a case-by-case basis. Certain restrictions viewed as potentially problematic especially when used in combination include, but are not limited to:

- Prohibitions on resubmission of failed nominees in subsequent years;
- Restrictions on third-party compensation of proxy access nominees;
- Restrictions on the use of proxy access and proxy contest procedures for the same meeting;
- How long and under what terms an elected shareholder nominee will count towards the maximum number of proxy access nominees; and
- When the right will be fully implemented and accessible to qualifying shareholders.

Two types of restrictions will be considered especially problematic because they are so restrictive as to effectively nullify the proxy access right:

- Counting individual funds within a mutual fund family as separate shareholders for purposes of an aggregation limit; or
- The imposition of post-meeting shareholding requirements for nominating shareholders.

Providing the board with broad and binding authority to interpret the provision, while problematic, may not void the right on its own but would be considered in connection with other problematic provisions.

37. Declassify the board proposals: Phased-in vs. immediate declassification:

Although a proponent may request immediate declassification, our institutional investor clients have indicated that a phased-in declassification that allows for directors to fulfill their full elected terms is generally acceptable. However, delays to the start of the phase-in of declassification beyond the year after the management proposal has passed (e.g. Ryder Systems' 2013 delay of the phase-in to 2016-2018) are generally not acceptable. The delay should be vetted with shareholders and the rationale for the long delay included in the proxy statement.

38. Independent Chair Proposals: is there any action short of appointing an independent chair that would be considered sufficient?

Full implementation would consist of separating the chair and CEO positions, with an independent director filling the role of chair. A policy that the company will adopt this structure upon the resignation of the current CEO would also be considered responsive.

Partial responses will be evaluated on a case-by-case basis, depending on the disclosure of shareholder input obtained through the company's outreach, the board's rationale, and the facts and circumstances of the case. There are many factors that can cause investors to support such proposals, without necessarily demanding an independent chair immediately. For example, through their outreach, a company may learn that shareholders are concerned about the lack of a lead director, weaknesses in the lead director's responsibilities, or the choice of lead director. In such a case, creating or strengthening a robust lead director position may be considered a sufficient response, assuming no other factors are involved. If the company already has a robust lead director position, then the company's outreach to shareholders to discover the causes of the majority vote and subsequent actions to address the issue will be reviewed accordingly.

39. Shareholder proposals on majority vote standards: Is adoption of a "majority vote policy" considered sufficient?

In general, adoption of a director resignation policy (sometimes called a majority vote policy) in lieu of a true majority vote standard is not considered a sufficient response. The "vote standard" is the standard which determines whether the director is an elected director: under a plurality vote standard, a director need only receive one vote to be "elected." A majority vote standard requires a director to receive support from a majority of the shares cast to be elected: if not achieved, and a new nominee would not be able to join the board; if the nominee is a continuing director, his or her legal status is a "holdover" director, not an elected director. The vote standard is usually embedded in the company's charter or bylaws, and is included in the proxy statement. A "majority vote policy" is a confusing term sometimes used to describe a director resignation policy, which is the post-election process to be followed if a director does not receive a majority of votes cast. Such resignation policies are usually found in a company's corporate governance guidelines, and can accompany either a majority or a plurality vote standard. Such a policy alone is not the same as a true majority vote standard.

40. Right for shareholders to call special meetings: Implementation of an ownership threshold higher than the specified in the shareholder proposal:

According to our 2010 policy survey, 56 percent of institutional clients did not accept a higher threshold as a sufficient response. However, if the company's outreach to its shareholders finds a different threshold acceptable to them, and the company disclosed these results in its proxy statement, along with the board's rationale for the threshold chosen, this will be fully considered on a case-by-case basis. The ownership structure of the company will also be a factor in ISS' consideration.

41. Right for shareholders to call special meetings: What types of parameters set on the right are generally considered acceptable?

Restrictions on agenda items are generally seen as negating the right to call a special meeting; 71 percent of institutional investor respondents to our 2010 policy survey said this was not sufficient implementation. The more common type of agenda restriction seen is to exclude any agenda items that were on the previous annual meeting agenda, or will be on the upcoming annual meeting agenda. Such a prohibition would prevent shareholders from calling a special meeting to elect a dissident slate, as the annual meeting agendas would include election of directors on the ballot.

Reasonable limitations on the timing and number per year of special meetings are generally acceptable.

42. Right for shareholders to act by written consent: What limitations are generally acceptable?

Reasonable restrictions to ensure that the right to act by written consent could not potentially be abused are acceptable. In general, restrictions considered reasonable include:

- An ownership threshold of no greater than 10 percent;
- No restrictions on agenda items;
- A total review and solicitation period of no more than 90 days (to include the period of time for the company to set a record date after receiving a shareholder request to do so, and no more than 60 days from the record date for the solicitation process);
- Limits on when written consent may be used of no more than 30 days after a meeting already held or 90 days before a meeting already scheduled to occur; and
- A solicitation requirement that the solicitor must use best efforts to solicit consents from all shareholders.

Restrictions that go beyond these levels are examined in light of the disclosure by the company about its outreach to shareholders, the board's rationale, etc. An example was Amgen, which received majority support on a written consent proposal. It sought feedback from its shareholders, and in 2012 put on the ballot a management proposal discussing the shareholder feedback obtained and the procedural safeguards implemented in response to the feedback. Among these was a 15 percent ownership threshold, the same as their threshold to call special meetings.

43. Reducing supermajority vote requirements on charter/bylaw amendments: selective implementation on some, but not all, charter and bylaw provisions:

In general, shareholders would look for all provisions to be reduced to the majority of shares cast. However, exceptions may occur. An example is where the supermajority applies only to a provision that would be antithetical to shareholders' rights, such as the ability to reclassify the board. Disclosure on which provisions were not reduced, and why, is a key consideration.

44. Reducing supermajority vote requirements: reducing threshold to a majority of shares outstanding instead of the called-for majority of votes cast:

In general, reducing to the majority of cast is preferable among institutional investors. However, state law may mandate a threshold no lower than the majority of shares outstanding. The board's rationale and the disclosed outcome of the company's outreach to shareholders are key considerations.

In general, a reduction from a supermajority to a slightly lower supermajority (e.g. 75 percent to 66.7 percent), would not be considered a sufficient response, according to 71 percent of our institutional clients surveyed. However, the company's outreach to shareholders and board's rationale are also considerations.

45. What if a shareholder proposal is antithetical to the rights of shareholders?

Arguing that a proposal that received a majority of shareholder votes is antithetical to shareholders' interests, particularly at a widely held company, is a difficult proposition – it implies that shareholders are not acting in their own best interests. However, there are cases where majority-supported proposals go against the interests of minority shareholders, e.g. at controlled company AMERCO year after year. ISS obviously does not expect that companies will "act" on proposals contrary to the interest of all shareholders, particularly minority shareholders.

Likewise, ISS does not expect a company to act on a proposal invalidated by court rulings or state law. For example, there were majority-supported shareholder proposals on certain bylaw changes at Airgas in 2010 during their proxy fight with Air Products. The Delaware Supreme Court invalidated the bylaw changes; ISS would expect the company to act in accordance with the court rulings.

Director(s) receiving less than 50 percent of Shares Cast

46. What happens if a director received less than a majority (50 percent) of votes cast in the previous year?

If a director receives less than majority support, ISS considers whether the company has addressed the underlying issues that led to the high level of opposition. Disclosed outreach to shareholders and disclosure of the steps taken in response to their findings, are key considerations. ISS may recommend withhold/against individual directors, a committee, or the entire board the following year if all the underlying issue(s) causing the high level of opposition are not addressed.

47. What is considered a sufficient response if a director receives less than majority support due to attendance issues?

If the director's attendance the following year is above the reporting threshold (75% of the aggregate of his/her board and committee meetings), that is generally considered sufficiently responsive. Chronic or widespread attendance issues may cause further consideration.

Accountability

Problematic Takeover Defenses/Governance Structure

Poison Pills

48. How will ISS apply the new 2018 policy on boards whose previously-grandfathered poison pills will be expiring shortly?

With the two previous poison pill policy updates, (Dec 7, 2004 and Nov 19, 2009), pills adopted prior to those dates were grandfathered, and the new policy only applied to pills that were adopted, extended, or renewed after that date. Prior to adopting the new policy for 2018- to recommend against director nominees at companies holding non-shareholder approved pills, ISS asked for comments from our institutional investor clients whether to continue to exempt pills adopted/renewed prior to Nov 2009, and the answer was no.

Generally, if the pill is in effect as of the date of the shareholder meeting, ISS will recommend against the nominees.

49. How do companies terminate poison pills prior to the expiration date?

Most companies are able to accelerate the pill's expiration date, which does not involve the costs of redemption. One example of a company whose pill did not allow acceleration and who redeemed the pill was Alliant Energy Corporation on Jan 15, 2018.

50. Does ISS still consider deadhand or slowhand provisions problematic?

Yes. For 2018, ISS updated its policy to recommend against the boards of any company holding a long-term pill that has not been ratified by its public shareholders. None of the remaining pills with such features that ISS is tracking:

Company	Expiration
Alanco Technologies, Inc.	6-30-2024
Bexil Corporation	11-21-2025
Taylor Devices, Inc.	10-5-2018
Tuxis Corporation	11-3-2025
Urstadt Biddle Properties Inc.	11-11-2018

have been ratified by their public shareholders, so ISS was able to remove that particular provision of the pill, they are covered under ISS' new policy.

51. What if a company adopts a poison pill before the company goes public?

If the pill is not put to a binding shareholder vote at the first shareholder meeting, ISS will recommend a withhold or against vote on all nominees.

52. Classified Board structure policy: When is it applied?

This policy is generally not applied if the director in question has a governance issue related only to his or herself, (e.g., poor attendance, overboarded, or is a non-independent director serving on the audit, nominating, or compensation committee, unless the issue is considered egregious. It is typically applied when ISS would normally recommend withhold on all the members of a committee – e.g., the compensation committee for problematic pay practices or a pay for performance disconnect, or the audit committee for continued material weaknesses in internal controls – and no one on the committee is a nominee on the ballot. The rationale is that a classified board further entrenches management and prevents shareholders from holding the responsible individuals accountable.

53. Removal of Shareholder Discretion on Classified Boards

Under the Governance Failures policy, ISS has been recommending against the boards of the Indiana-incorporated companies who have yet to opt out of the state's 2009 law that requires a classified board.

ISS has also been recommending against one Iowa company: Casey's General Stores, Inc.[1] that has a state law-mandated classified board. Shareholders have minimal ability to address these staggered board term structures, as shareholder proposals that contradict state laws can be challenged at the SEC and kept off from the ballot. For 2018, ISS separated out as a standalone policy. For QualityScore purposes, the companies impacted by this policy do trigger the "Governance Failure" data point.

Unilateral Bylaws/Charter Amendments

54. When did the unilateral bylaw/charter amendment policy start for newly-public companies?

The policy was adopted for shareholder meetings on or after Feb. 1, 2015, so newly-public companies that held their first public shareholder AGM on or after this date are impacted by this policy.

55. Which types of unilateral bylaw/charter amendments are likely to be considered by ISS to materially diminish shareholders' rights?

If a unilaterally adopted amendment is deemed materially adverse to shareholder rights, ISS will recommend a vote against the board.

Materially adverse unilateral amendments include, but are not limited to:

- Authorized capital increases that do not meet ISS' Capital Structure Framework;
- Board classification to establish staggered director elections;
- Director qualification bylaws that disqualify shareholders' nominees or directors who could receive third-party compensation;
- Fee-shifting bylaws that require a suing shareholder to bear all costs of a legal action that is not 100 percent successful;
- Increasing the vote requirement for shareholders to amend charter/bylaws;
- Adopting a plurality vote standard in uncontested director elections, or a majority vote standard in contested director elections;
- Removing or restricting the right of shareholders to call a special meeting (raising thresholds, restricting agenda items); and
- Removing or materially restricting the shareholder's right to act in lieu of a meeting via written consent.

Unilaterally adopted bylaw amendments that are considered on a case-by-case basis, but generally are not considered materially adverse:

- Advance notice bylaws that set customary and reasonable deadlines;
- Director qualification bylaws that require disclosure of third-party compensation arrangements;
- Exclusive Venue/Forum (when the venue is the company's state of incorporation).

[1] http://coolice.legis.iowa.gov/linc/84/external/sf325_Enrolled.pdf; https://lawreviewdrake.files.wordpress.com/2015/01/dore-final-revised-9-17-formatted.pdf

56. Which types of charter/bylaw adoptions are likely to result in continued adverse voting recommendations?

For newly-public companies, the adoption of a multi-class structure, classified board, and/or supermajority vote requirements will generally result in the continued withhold/against recommendations by ISS. Fee-shifting provisions also result in continued withhold recommendations.

57. Why does ISS oppose unilaterally-adopted bylaws that disqualify any director nominee who receives third-party compensation ("director qualification bylaw")?

The adoption of restrictive director qualification bylaws without shareholder approval may be considered a material failure of governance because the ability to elect directors is a fundamental shareholder right. Bylaws that preclude shareholders from voting on otherwise qualified candidates unnecessarily infringe on this core franchise right.

However, ISS has not recommended voting against directors and boards at companies which have adopted bylaws precluding from board service those director nominees who fail to disclose third-party compensatory payments. Such provisions may provide greater transparency for shareholders, and allow for better-informed voting decisions.

Restricting Binding Shareholder Proposals

58. What is the rationale for the policy?

Shareholders' ability to amend the bylaws is a fundamental right. Under SEC Rule 14a-8, shareholders who have held shares valued at least $2,000 for one year are permitted to submit shareholder proposals, both precatory and binding, to amend bylaws. However, some states allow for companies to restrict this right in their charters.

ISS has identified fewer than 300 U.S. companies that prohibit shareholders from submitting a binding shareholder proposal. Further, a majority of US companies also maintain a majority vote standard for amendments to their charter or bylaws.

Over the last several years, shareholders have launched several campaigns at companies that do not provide this right and have specifically submitted precatory proposals on this issue. These campaigns have often been contentious and have generated interest in the wider investor community on prohibitions of binding shareholder proposals. Until recently, such prohibitions had gone largely unnoticed and the shareholder campaigns to remove the prohibition have shone a light on the issue.

59. What companies are not impacted by this policy?

The policy does not apply to open- or closed-end funds, nor to companies incorporated outside of the United States, even if they are U.S. Domestic Issuers. Although closed-end funds are not currently impacted by the ISS policy, this exemption does not extend to business development companies.

60. Will substitution of supermajority vote requirements on binding shareholder bylaw amendments in lieu of a prohibition be viewed as sufficient?

Substituting a supermajority vote requirement in lieu of the prohibition will be viewed as an insufficient restoration of a fundamental right. Similarly, in lieu of the prohibition, any holding level or time requirements for shareholders submitting bylaw amendments that are in excess of SEC Rule 14a-8 will be viewed as an insufficient restoration of shareholders' rights.

61. How will ISS evaluate commitments to remove the prohibition within a given period of time?

ISS will generally not view commitments as sufficient to mitigate concerns. However, ISS will also evaluate each company on a case-by-case basis based on such factors as shareholder outreach, complete disclosure, board views, planned actions, etc.

Problematic Pledging of Company Stock

62. How does ISS define a significant level of pledging of company stock?

ISS' view is that <u>any</u> amount of pledged stock is not a responsible use of company equity. A sudden forced sale of significant company stock may negatively impact the company's stock price and may also violate insider trading policies. In addition, share pledging may be utilized as part of hedging or monetization strategies that would potentially immunize an executive against economic exposure to the company's stock, even while maintaining voting rights. A significant level of pledged company stock is determined on a case-by-case basis by measuring the aggregate pledged shares in terms of common shares outstanding or market value or trading volume.

63. Should an executive or director who has pledged a significant amount of company stock immediately dispose or unwind the position in order to potentially mitigate a negative vote recommendation?

An executive or director who has pledged a significant amount of company stock should act responsibly and not jeopardize shareholders' interests. The aggregate pledged shares should be reduced over time, and the company should adopt a policy that prohibits future pledging activity, and disclose that in its proxy statement. Note that if the individual's aggregate pledged shares were to increase over time, a negative vote recommendation may be warranted despite the company's adoption of an anti-pledging policy.

64. An executive has hedged company stock. How does ISS view such practice?

Hedging is a strategy to offset or reduce the risk of price fluctuations for an asset or equity. Stock-based compensation or open market purchases of company stock should serve to align executives' or directors' interests with shareholders. Therefore, hedging of company stock through covered call, collar or other derivative transactions sever the ultimate alignment with shareholders' interests. Any amount of hedging will be considered a problematic practice warranting a negative vote recommendation against appropriate board members.

Governance Failures

65. What is the purpose of the Governance Failures Policy?

The Governance Failures policy is designed to catch the one-off egregious actions that are not covered under other policies. If a type of action applies to a large number of companies, or persists year after year, ISS will generally break this out as its own, standalone policy.

The actions that most commonly fell under the Governance Failures policy were: unilateral bylaw amendments that diminish shareholders' rights; excessive pledging, and failure to opt out of state statutes requiring a classified board (Indiana and Iowa). A sharp increase in the incidence of unilateral bylaw amendments and the related issue of companies going public with poor governance structure) caused ISS to separate this out as a standalone policy for 2015. For 2018, ISS further separated out as standalone policies: 1) excessive pledging and 2) the failure to opt out of state statutes requiring a classified board, as these withhold recommendations recur year after year.

Failure to Include Shareholder Proposals on the Ballot

In 2015, the SEC's decision to express no view on Rule 14a-8(i)(9) exclusions brought into sharper focus the possibility of companies' excluding shareholder proposals from their ballots without no-action relief.

66. What are ISS' expectations regarding whether a company includes a shareholder proposal on its ballot?

The ability of qualifying shareholders to include their properly presented proposals in a company's proxy materials is a fundamental right of share ownership, which is deeply rooted in state law and the federal securities statutes. Shareholder proposals promote engagement and debate in an efficient and cost-effective fashion.

Over the course of the past several decades, the SEC has played the role of referee in resolving disputes raised by corporate challenges to the inclusion of shareholder proposals in company proxy materials. While federal courts provide an additional level of review, the vast majority of shareholder proposal challenges have been resolved without the need to resort to costly and cumbersome litigation. While individual proponents and issuers often disagree with the SEC's determinations in these adversarial proceedings, the governance community recognizes the Commission's important role as an impartial arbiter of these disputes.

In early 2015, when the SEC suspended no-action relief for "conflicting" shareholder proposals, some companies were contemplating unilaterally excluding shareholder proposals. The SEC had announced that it was reviewing Rule 14a-8(i)(9), which allows companies to exclude a shareholder proposal that "directly conflicts" with a board-sponsored proposal. Additionally, SEC Chair Mary Jo White indicated that for proxy season 2015, the Commission's Division of Corporation Finance would express no view on the application of Rule 14a-8(i)(9). As a result, companies that intended to seek no-action relief on that basis were contemplating simply not including proposals. ISS provided the following guidance:

For companies that present both a board and shareholder proposal on the ballot on a similar topic, ISS will review each of them under the applicable policy.

ISS will view attempts to circumvent the normal avenues of dispute resolution and appeal with a high degree of skepticism[2]. Omitting shareholder proposals without obtaining regulatory or judicial relief risks litigation against the company. Presenting only a management proposal on the ballot also limits governance discourse by preventing shareholders from considering an opposing viewpoint, and only allowing them to consider and opine on the view of management.

Thus, under our governance failures policy, ISS will generally recommend a vote against one or more directors (individual directors, certain committee members, or the entire board based on case-specific facts and circumstances), if a company omits from its ballot a properly submitted shareholder proposal when it has not obtained:

1) voluntary withdrawal of the proposal by the proponent;
2) no-action relief from the SEC; or
3) a U.S. District Court ruling that it can exclude the proposal from its ballot.

The recommendation against directors in this circumstance is regardless of whether there is a board-sponsored proposal on the same topic on the ballot. If the company has taken unilateral steps to implement the proposal, however, the degree to which the proposal is implemented, and any material restrictions added to it, will factor into the assessment.

Contested Elections: Proxy Contests and Proxy Access

67. How will ISS evaluate proxy access nominees?

ISS has a policy for evaluating director nominees in contested elections, which currently applies to proxy contests as well as proxy access nominations. However, the circumstances and motivations of a proxy contest and a proxy access nomination may differ significantly. In some cases, the nominating shareholder's views on the current leadership or company strategy may be opposed to the existing board's views. Alternatively, a shareholder nominator may generally agree with the company's strategy or have no specific critiques of incumbent directors, but wishes to propose an alternative candidate to address a specific concern, such as diversity, lack of refreshment or a perceived skills gap on the board. It is also possible that a proxy access election would occur when there are available seats on the board for all the nominees.

Given this range of possible nominating circumstances, ISS has created additional analytical latitude for evaluating candidates nominated through proxy access. The clarified approach is informed by related policies in international markets such as the UK & Ireland, Europe, Japan, and Australia, but is also tailored to unique aspects of proxy access in the US. When evaluating candidates nominated pursuant to proxy access, ISS will take into account any relevant factors including, but not limited to, the following:

- Nominee/Nominator specific factors:
  - Nominators' rationale;
  - Nominators' critique of management/incumbent directors; and
  - Nominee's qualifications, independence, and overall fitness for directorship.

[2] As precedent, ISS recommended against the board of directors at Kinetic Concepts in 2011 for omitting a shareholder proposal when the SEC had denied the firm's request for no-action relief. ISS changed the vote recommendation when the board implemented the proposal.

- Company specific factors:
  - Company performance relative to its peers;
  - Background to the contested situation (if applicable);
  - Board's track record and responsiveness;
  - Independence of directors/nominees;
  - Governance profile of the company;
  - Evidence of board entrenchment;
  - Current board composition (skill sets, tenure, diversity, etc.); and
  - Ongoing controversies, if any.

- Election specific factors:
  - Whether the number of nominees exceeds the number of board seats; and
  - Vote standard for the election of directors.

68. How would ISS evaluate director nominees with third-party compensatory arrangements in a proxy contest?

Compensation arrangements with director nominees are among the factors ISS considers in our case-by-case analysis of proxy contests. Further discussion of ISS' analytic framework for contested elections is available in the U.S. and Canadian Summary Guidelines.

Independent Chair Shareholder Proposals

69. How does the new approach differ from the previous approach?

Under ISS' previous approach, the policy is to generally recommend for independent chair shareholder proposals unless the company satisfies all the criteria listed in the policy. Under the new approach, any single factor that may have previously resulted in a "For" or "Against" recommendation may be mitigated by other positive or negative aspects, respectively. Thus a holistic review of all of the factors related to company's board leadership structure, governance practices, and performance will be conducted under the new approach.

For example, under ISS' previous approach, if the lead director of the company did not meet each one of the duties listed under the policy, ISS would issue a For recommendation, regardless of the company's board independence, performance, or otherwise good governance practices.

Under the new approach, , in the example listed above, the company's performance and other governance factors could mitigate concerns about the less-than-robust lead director role. Conversely, a robust lead director role may not mitigate concerns raised by other factors.

70. What additional factors will ISS assess under the Independent Chair policy?

ISS will consider: the presence of an executive or non-independent chair in addition to the CEO; a recent recombination of the role of CEO and chair; and/or departure from a structure with an independent chair. ISS will also consider any recent transitions in board leadership and the effect such transitions may have on independent board leadership as well as the designation of a lead director role.

71. What does ISS consider a strong lead director role?

ISS will generally consider a lead director role to be robust if the lead independent director is elected by and from the independent members of the board (the role may alternatively reside with a presiding director, vice chairman, or rotating lead director; however, the director must serve a minimum of one year in order to qualify as a lead director). The lead director should also have clearly delineated and comprehensive duties, which should include, but are not limited to the following:

- serves as liaison between the chairman and the independent directors;
- approves information sent to the board;
- approves meeting agendas for the board;
- approves meeting schedules to assure that there is sufficient time for discussion of all agenda items;
- has the authority to call meetings of the independent directors;
- if requested by major shareholders, ensures that he or she is available for consultation and direct communication.

72. How will ISS consider board tenure?

Board tenure will not be a primary factor in determining a vote recommendation for independent chair shareholder proposals, but will be considered in aggregate with other factors. Concurrence of director/CEO tenure, lenghty directorships, or high average director tenure, may be considered. These concerns will be considered in the context of the overall leadership structure in determining whether the proposal presents the best leadership structure at the company.

73. How does ISS consider company performance?

ISS will consider one-, three-, and five-year TSR when evaluating company performance. Performance over the long-term will be weighed more heavily than short-term performance. Performance will be considered a significant factor in the holistic analysis of independent chair proposals.

74. How will the scope of a proposal impact ISS' analysis?

ISS will consider the exact language of the resolved clause submitted in the proposal. Depending on company-specific circumstances, a resolved clause that seeks a policy to adopt an independent chairman so as not to violate any existing agreements or that seeks an independent chairman at the next leadership transition may be viewed more favorably than a proposal seeking an immediate change. For instance, if a company is performing well under its current board leadership structure, an immediate change may be unnecessarily disruptive.

75. What problematic governance practices will be considered negatively?

Governance practices that will be viewed negatively in the holistic review for independent chair proposals include, but are not limited to:

- Problematic compensation practices;
- Multiple related-party transactions or other issues putting director independence at risk;
- Failures of risk oversight;
- Adoption of shareholder-unfriendly bylaws without seeking shareholder approval;
- Failure of a board to adequately respond to majority-supported shareholder proposals or directors who do not receive majority support; and

- Flagrant actions by management or the board with potential or realized negative impacts on shareholders.

76. Will ISS consider a company's rationale for maintaining a non-independent chair?

Yes. ISS will consider the company's rationale as a factor that may be applicable in the holistic review. A "compelling" rationale will be subject to a case-by-case evaluation. For example, ISS will consider how the board's current leadership structure benefits shareholders and/or specific factors that may preclude the company from appointing an independent chair, if such disclosure by the company is provided.

Audit-Related

77. Why did ISS include the "Tax Fees" under "Other Fees"?

ISS recognizes that certain tax-related services, e.g. tax compliance and preparation, are most economically provided by the audit firm. Tax compliance and preparation include the preparation of original and amended tax returns, refund claims, and tax payment planning. However, other services in the tax category, e.g. tax advice, planning, or consulting fall more into a consulting category. Therefore, these fees are separated from the tax compliance/preparation category and are added to the Non-audit fees. If the breakout of tax compliance/preparation fees cannot be determined, all tax fees are added to "Other" fees. ISS' benchmark policy is to compare the sum of Audit, Audit-Related, and Tax/Compliance Fees to Other Fees, and if Other Fees is greater, ISS will recommend against the Ratification of Auditors and the election of Audit committee members.

If the company provides a footnote to the audit fees table showing a breakout of the tax fees: those related to tax compliance and preparation fees, (i.e. the preparation of original and amended tax returns, refund claims, and tax payment planning), vs. those related to all other services in the tax category, such as tax advice, planning, or consulting, then ISS will use this information in application of our policy. This information can also be filed within the appropriate time frame after our analysis is released for a potential vote recommendation change. (See Question #5)

Shareholder Rights & Defenses

78. Poison pills: What features of a qualifying offer clause are considered to strengthen its effectiveness and what features are considered to weaken its effectiveness?

Attributes of a qualifying offer clause that strengthen its effectiveness as a tool for shareholders include:

- Provision of a material adverse effect/condition ("MAE") clause;
- Reasonable requirements with respect to the length of time an offer is outstanding:
  - Offeror is not required to keep the offer open longer than 60 business days in the absence of an MAE clause or 90 business days if there is an MAE clause, and
  - No more than 15 business days following a price increase or an alternative bid or tender offer);

- Reasonable overall timing requirements with respect to the mechanics of calling a special meeting to vote on redemption of the pill (no longer than 150 business days from the time an offer is made until the time a special meeting is held).

Attributes of a qualifying offer clause that weaken its effectiveness and potentially discourage offers from being made include:

- A requirement that the offer be cash only;
- A provision allowing the company to declare an offer to not be a qualifying offer if the company procures an inadequacy opinion;
- A reverse due diligence requirement; and
- A requirement specifying the level of premium.

Capital/Restructuring

79. Are my company's one- and three-year TSRs in the bottom 10 percent of the U.S. market?

The reduced allowable increase applies to companies whose one- and three-year TSRs are both below the applicable threshold. The thresholds, updated quarterly, are available in our Policy Gateway under: TSR Information for U.S. Performance Related Policies.

80. When does ISS deem a risk of non-approval to be "specific and severe"?

Issuers should disclose any risks associated with shareholders' failure to approve a capitalization proposal in the proxy statement. The types of risks that may influence vote recommendations by virtue of being "specific and severe," if disclosed in the proxy statement, are as follows:

- In, or subsequent to, the company's most recent 10-K filing, the company's auditor raised substantial doubts about the company's ability to continue as a going concern;
- The company states that there is a risk of imminent bankruptcy or imminent liquidation if shareholders do not approve the increase in authorized capital; or
- A government body has in the past year required the company to increase its capital ratios.

81. When will an issuer's past use of shares drive vote recommendations?

If, within the past three years, the board adopted a poison pill without shareholder approval, repriced or exchanged underwater stock options without shareholder approval, or placed a substantial amount of stock with insiders at prices substantially below market value without shareholder approval, ISS will typically recommend that shareholders vote against the requested increase in authorized capital on the basis of imprudent past use of shares.

82. What disclosure is required to "declaw" preferred stock?

Sample Language:

"The board represents that it will not, without prior stockholder approval, issue or use the preferred stock for any defensive or anti-takeover purpose or for the purpose of implementing any stockholder rights plan."

Social/Environmental Issues

Lobbying Proposals

83. What does ISS look for when reviewing disclosure of a company's lobbying activity board oversight?

ISS reviews company materials to determine if the full board is primarily responsible for exercising oversight of a company's lobbying activities or if a committee of the board has been assigned responsibility for such oversight. The frequency of lobbying activity review is also considered, that is, whether just a general reference of responsibility is made or if a specific frequency of review (such as annually, biannually, or quarterly) is disclosed. ISS also looks for additional details regarding the scope of the board's (or delegated committee's) oversight responsibilities for both direct and indirect lobbying activity; such as reviewing compliance with existing company policies, or ensuring consistency with company values and public policy priorities.

84. What does ISS look for when reviewing a company's indirect lobbying expenditures?

When reviewing company disclosures of indirect lobbying expenditures, which are typically payments to trade associations and other groups, including membership dues used for lobbying purposes, a number of factors are considered. These factors include: (1) whether the company's reported lobbying expenditures are aggregated and provided as a single figure or if the company provides an itemized listing by recipient of its lobbying expenditures; and (2) whether the company comprehensively reports its lobbying expenditures or if information is only provided for the company's "significant" trade association relationships. With respect to the first factor, ISS also notes if the company provides information on the portion of trade association dues that were not tax deductible due to their use for lobbying purposes, and evaluates the level of disclosure on non-dues lobbying expenditures that were provided explicitly to support a trade association's lobbying activities.

85. What else does ISS consider when reviewing lobbying-related proposals?

In addition to the questions above, other factors are taken into consideration when preparing a lobbying-related proposal analysis and determining a vote recommendation. These include a company's disclosure and discussion of relevant lobbying policies and related management roles and oversight. ISS also considers whether the company has been associated with any recent lobbying-related controversies, fines, or litigation. Finally, ISS may also review and incorporate in our analysis and vote recommendation other relevant information per the ISS Global Approach.

Climate Change/Greenhouse Gas (GHG) Emissions

86. How does ISS evaluate a company's GHG emissions performance?

A company's GHG emissions performance indicates to shareholders whether the company's climate change policies and initiatives effectively manage its emissions and mitigate potential risks related to climate change. In recent years, a number of developments have indicated that government actions to cap and eventually reduce global GHG emissions are on the horizon, with some regulations already in place. Most prominent is the 2015 Paris Agreement, where 195 nations committed to limit global temperature rise to less than 2 degrees Celsius, with a more ambitious plan of limiting temperature rise to 1.5 degrees Celsius. As part of this agreement, the United States announced that it would reduce its emissions to 26-28 percent below 2005 levels by 2025. Resulting laws and regulations will have a greater impact on companies that are larger GHG emitters. As such, these companies may be exposed to a higher level of risk, particularly if they are lacking robust GHG emissions-reduction policies and initiatives.

As such, ISS takes into account the nature of the company's operations and its GHG emissions when reviewing emissions performance. Furthermore, ISS considers whether the company's emissions have increased or decreased over the period disclosed. When reviewing the emissions trend, ISS considers whether the emissions are disclosed in absolute terms (the company's overall emissions, typically measured in terms of total metric tonnes of carbon dioxide equivalent), or normalized terms (the company's absolute emissions divided by a normalizing factor, such as full-time employees or manufacturing output). If disclosed as absolute emissions, ISS looks to see if the company has made any recent acquisitions or sales of assets, or if there are other events that would impact the company's emissions.

As outlined in ISS' policy, GHG emissions performance is one factor that ISS considers when evaluating resolutions asking for the adoption of GHG emissions reduction goals. ISS also takes into account the disclosure of the company's GHG emissions-related management structure, including policies, board- and management-level oversight, and other climate change and emissions reduction initiatives.

The questions and answers in this FAQ document are intended to provide high-level guidance regarding the way in which ISS' Global Research Department will generally analyze certain issues in the context of preparing proxy analyses and vote recommendations for U.S. companies. However, these responses should not be construed as a guarantee as to how ISS' Global Research Department will apply its benchmark policy in any particular situation.

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