November 10, 2016

Global Policy Board
Institutional Shareholder Services Inc.
702 King Farm Boulevard
Suite 400
Rockville, MD 20850

Re: 2017 Proxy Voting Policies – Cross-Market Companies

Dear Members of the Policy Board:

Ensco plc ("Ensco") is among the world's largest offshore drilling contractors. Ensco is organized under the laws of England and Wales and is listed on the NYSE. A majority of Ensco's shareholders are U.S. holders, and Ensco is not listed on any other exchange. We appreciate the opportunity to participate in the Institutional Shareholder Services Inc. ("ISS") policy review process, including the opportunity to comment on the ISS proposed voting policies in respect of General Share Issuance Mandates for Cross-Market Companies and Executive Pay Assessments (Cross-Market Companies). For the reasons described below, we have concerns regarding ISS's proposed voting policy standards and believe that (i) ISS's proposed policy for cross-market companies seeking general share issuance mandates should recommend in favor of proposals not exceeding 100% of existing outstanding share capital, which would be aligned with ISS's policy for U.S. domestic corporations that generally recommends in favor of proposals not exceeding 100% of existing authorized share capital; and (ii) ISS's proposed executive pay policy should be clarified to provide that, for cross-market companies, ISS recommendations on local law mandated director remuneration proposals be aligned with the corresponding ISS recommendations on U.S. say-on-pay proposals.

General Share Issuance Mandates for Cross-Market Companies (U.S.-listed, non-U.S.-incorporated companies)

ISS's proposed policy update would generally recommend in favor of general share issuance mandates of cross-market companies up to 20% of currently issued capital, as long as the duration of the authority is clearly disclosed and reasonable. The proposal effectively imports the NYSE and NASDAQ shareholder approval requirements for *specific* share issuances of more than 20% of currently outstanding shares into the consideration of *general* share issuance mandates. As an alternative, we propose that ISS adopt its conceptually similar policy in respect of U.S. domestic corporations seeking shareholder approval of increases in authorized share capital, under which ISS generally recommends in favor of proposals not exceeding 100% of existing authorized share capital. Adopting a more stringent ISS policy for cross-market companies – *i.e.*, recommending in favor of only up to 20% – would place an undue burden on such companies relative to their U.S.-incorporated counterparts. This could result in cross-market companies having to incur additional costs and could result in a competitive disadvantage. We can see no justifiable policy grounds for differentiating between U.S.-incorporated companies and cross-market companies in this way.

Ensco is organized under the laws of England and Wales and is subject to the UK Companies Act 2006 and related regulations (the "Companies Act"). Under Section 551 of the

Companies Act, directors of a UK company must have authorization from the company's shareholders to issue and allot *any* shares of the company. The authorization of shareholders may be contained in the company's organizational documents or may be obtained by special resolution of the company's shareholders, but in each case the Companies Act requires that such authorization must expire no later than five years after shareholder authorization is obtained. Notwithstanding the legal requirements under the Companies Act, the U.K. Pre-Emption Group has published guidelines that apply to companies with a premium listing on the main market in London; they do not apply to Ensco. Those guidelines place a limit on the number of shares to which the share issuance and disapplication resolutions can apply, and impose a requirement to renew those authorities annually rather than every five years, as permitted under the Companies Act. The Pre-Emption Group guidelines reflect particular concerns that U.K. institutional investors have historically had about controlling share issuance, concerns that apparently have not been shared to the same extent by U.S. investors. Historically, these guidelines have been applied by ISS to Ensco (inappropriately, we believe), despite Ensco being listed only on the NYSE.

Ensco welcomes ISS's effort to harmonize the policies applicable to cross-market companies because we believe that, as Ensco is listed only in the U.S., market practices in the U.S. should apply to ISS recommendations in respect of Ensco's proposals. However, we believe it is inappropriate to align the voting standards for cross-market companies with the 20% rules of the NYSE and NASDAQ. Instead, we believe the current ISS policy relating to increases in authorized share capital for U.S. domestic corporations is more analogous. Market practice for U.S. domestic corporations is to include in the company's charter a significant amount of authorized but unissued share capital to provide the Board with the flexibility to issue shares opportunistically without the requirement to call special meetings or have annual approval of authorizations, subject to applicable stock exchange rules. A U.S. domestic corporation's authorized share capital remains effective in perpetuity without the need for further shareholder approval. Only when the corporation has issued all of its authorized share capital, and therefor needs to amend its charter, does it trigger the need for shareholder approval. UK companies do not have a similar concept of authorized but unissued share capital, and must seek regular shareholder approval of *any* share issuance, with such authorization remaining effective only until such time as set forth in the authorization, but in no event longer than five years.

When a U.S.-incorporated company has issued all of its authorized share capital and must seek shareholder approval to amend its charter to increase its authorized share capital, ISS's U.S. policies generally provide for a recommendation in favor of any increase that does not exceed 100% of the existing authorized share capital. We view such shareholder approvals as functionally equivalent to the shareholder approvals required by the Companies Act in that they constitute general shareholder approval authorizing the board of directors to issue new shares up to a specified amount. As a result, we believe that using the same ISS criteria to determine whether or not to recommend in favor of cross-market companies seeking general share issuance mandates would more closely achieve ISS's stated goal of bringing conceptually similar votes under the same criteria for both U.S. domestic and cross-market companies. Thus, we believe that ISS should generally provide a recommendation in favor of approval for general share mandates for cross-market companies not exceeding 100% of existing outstanding share capital. In fact, if such policy were adopted for cross-market companies, shareholders of cross-market companies would continue to have heightened protections compared to their U.S. domestic counterparts, because such approvals would (i) in the case of U.K. companies, be required at least every five years (as opposed to no obligation to seek further authorization of previously authorized share capital for U.S.-incorporated companies); and (ii) be limited to 100% of shares *outstanding* (as opposed to 100% of shares currently *authorized* for U.S.-incorporated companies). In addition, shareholders of cross-market companies would remain protected under applicable NYSE and NASDAQ regulations that require shareholder approval for certain significant share issuances.

With regard to duration of the authorization, we believe that a five-year authorization is reasonable. As noted, U.S. domestic corporations are not required to seek additional authority to issue shares once authorized capital has been approved by shareholders. Under the Companies Act, UK companies are required to seek authorization not less frequently than every five years. Given that domestic companies do not have an analogous requirement for regular shareholder approval for share issuances, requiring a vote more often than what is required under UK law would place an additional burden on UK companies not shared by their U.S.-incorporated counterparts and we can see no proper basis for doing that.

We also believe that it is inappropriate to align the voting standards for cross-market companies for general share mandates with the 20% rules of the NYSE and NASDAQ because such rules are not intended by the exchanges to apply to *general* share issuance mandates – instead, such rules are designed to apply *transaction-specific* approvals involving a single or series of related transactions (*e.g.*, a single significant offering or a merger transaction involving the issuance of shares). For U.S.-incorporated companies, the maximum authorized share capital – which is approved by shareholders and set forth in a U.S. company's charter – may be used over multiple, unrelated transactions extending over a long period of time. U.S. investors are not accustomed to approving, and have not expressed a desire to approve, general share issuance authority on a more frequent or restrictive basis. Furthermore, the 20% rules are subject to various exceptions, including, for example, public offerings for cash and bona fide private financings. The ISS standards as proposed do not include such exceptions and would subject cross-market companies to requirements that are not shared by their U.S.-incorporated counterparts. These guidelines would effectively extend the scope of the exchange rules to apply in circumstances where they were never intended, and apply such extension only to cross-market companies.

In addition, we request that ISS extend its general share mandate policy to cross-market company proposals in respect of statutory pre-emption rights. Pursuant to Section 561 of the Companies Act, a UK company issuing shares for cash to new shareholders is required, unless otherwise authorized by its shareholders, to first offer those shares on the same or more favorable terms to existing shareholders on a pro-rata basis. This right is commonly referred to as the statutory pre-emption right. That right can be, and is routinely, disapplied with shareholder approval under Section 571 of the Companies Act. Under the Companies Act such approval remains effective for up to five years. However, due to UK market expectations and the U.K. Pre-Emption Group guidelines, the customary and routine solution for UK listed companies seeking approval of general share mandates pursuant to Section 551 of the Companies Act (as discussed above) is to seek concurrently on an annual basis shareholder approval of disapplication of the statutory pre-emption right for a portion of such shares pursuant to Section 571 of the Companies Act. Similar to the general share mandates, ISS's UK Pre-Emption Group has adopted UK exchange and UK market guidelines, limiting the number of shares that can be covered by such approvals and requiring an annual vote. We believe it is inappropriate to apply the Pre-Emption Group guidelines or any other set of guidelines meant to apply to UK markets and UK listed companies to Ensco given that Ensco is not listed in the UK. Applying such guidelines to Ensco puts it at a competitive disadvantage, hindering its ability to access the U.S. capital markets relative to its U.S.-incorporated counterparts.

We believe proposals seeking disapplication of statutory pre-emption rights raise the same issues faced by cross-market companies seeking general share mandates, and request that ISS harmonize such policies, recommending, in each case, in favor of proposals not exceeding 100% of outstanding shares and on the basis that such proposals would be put to shareholders every five years rather than annually. Like general share mandates, UK companies seek regular shareholder waivers of statutory pre-emption rights for the purpose of providing the board with the flexibility to raise equity capital opportunistically without the requirement to call shareholder meetings. As with general share mandates, the requirement to seek disapplication of statutory pre-emption rights is not faced by U.S.-incorporated companies – neither U.S. law nor U.S. practice requires general pre-emption rights in favor of existing shareholders. Having a different ISS policy apply in respect of statutory pre-emption rights would undercut ISS's policy for general share mandates, and would place an additional burden on UK companies not shared by their U.S.-incorporated counterparts. Again, we can see no policy grounds for applying different treatment in this area.

Executive Pay Assessments (Cross-Market Companies)

ISS's proposed policy update provides that, for cross-market companies, if a ballot contains multiple compensation proposals pertaining to the same pay program, such proposals will be assessed on a "case-by-case" basis using the following guiding principles: (i) aligning voting recommendations so as to not have inconsistent recommendations on the same pay program; and (ii) using the policy perspective of the country in which the company is listed (e.g. U.S. say-on-pay policy for proposals relating to executive pay). The update further provides that, if a compensation proposal on the ballot has no applicable U.S. policy, the policy of the country that requires such proposal to be on ballot would apply.

As a U.S. listed company with U.S. federal securities law reporting requirements, Ensco is required to hold say-on-pay votes, and we understand ISS's proposed policy to mean that, in connection with Ensco's say-on-pay proposals, ISS will continue to apply its U.S. say-on-pay policy. As a UK incorporated company, however, the Companies Act also requires Ensco to seek annual, non-binding shareholder approval of director remuneration, as well as binding shareholder approval of a director remuneration policy at least every three years. The content of such proposals is driven by UK law requirements, and we are unaware of any directly comparable U.S. practice or directly applicable ISS U.S. policy. We request that ISS clarify that it will apply U.S. say-on-pay standards when evaluating annual director remuneration and tri-annual director remuneration policy proposals for cross-market companies similar to Ensco, while recognizing that Ensco will still have to comply with mandatory UK law requirements relating to remuneration policies and reports.

Ensco agrees with ISS's desire to align voting recommendations for cross-market companies so as not to have inconsistent recommendations on the same pay program and to focus on the policy perspective of the country in which the company is *listed* in making voting recommendations. To that end, we believe that it would be inappropriate to apply UK exchange and UK market practices to Ensco's director remuneration proposals. While Ensco is required by UK law to seek shareholder approval of its remuneration policy and director remuneration, as a U.S.-listed company with a majority U.S. investor base, Ensco's compensation practices – for its officers *and directors* – are primarily driven by U.S. practices and concerns expressed by U.S. investors. We believe that UK director remuneration proposals are encapsulated in ISS's U.S. policy on say-on-pay proposals, and that, for cross-market companies, ISS should align voting recommendations for director remuneration proposals with its voting recommendations for say-on-pay proposals. As stated in ISS's United States Summary Proxy Voting Guidelines:

> "Underlying all executive pay evaluations are … global principles that most investors expect corporations to adhere to in designing and administering executive and director compensation programs, including … [avoiding] inappropriate pay to non-executive directors: This principle recognizes the interests of shareholders in ensuring that compensation to outside directors does not compromise their independence and ability to make appropriate judgments in overseeing managers' pay and performance."

Similarly, ISS has adopted non-employee director equity compensation policies that are based, in part, on a company's equity burn rate, annual director cash retainers, director equity vesting schedules, the mix of cash and equity awards to directors and director retirement benefits. When determining director compensation – and, importantly, when setting executive compensation policies – Ensco adheres to the global principals set forth in ISS's U.S. say-on-pay policies as well as its policies in respect of the elements of director compensation listed above, as it operates with a U.S. market practice point of view and with a focus on U.S. investor concerns. We believe that Ensco's shareholders, of which a majority are U.S.-based, are similarly focused on U.S. best practices. As a result, Ensco requests that ISS's proposed policy be clarified such that, for cross-market companies similar to Ensco (*i.e.*, foreign incorporated companies that are listed only in the U.S.), ISS recommendations on director remuneration and director remuneration policy proposals be aligned with the corresponding ISS recommendation on such companies' U.S. say-on-pay proposals.

In the event ISS disagrees with any of the positions expressed herein, or should any information in support or explanation of Ensco's positions be required, we appreciate an opportunity to confer with ISS before issuance of final policy guidelines. If ISS has any questions regarding this letter or requires additional information, please contact Michael McGuinty at 44-20-7659-4690.

Sincerely,

Michael T. McGuinty
Senior Vice President, General Counsel and Secretary
Ensco plc