

Americas Regional Policy (Argentina, Chile, Colombia, Mexico, Peru) - Board Independence

Background and Overview

ISS' Americas Regional Policy for director elections is currently based solely on timely disclosure of the names of board nominees and does not reference a minimum independence level. However, the majority of the markets covered in the Latin America region now have in place some minimum independence requirements or recommendations, either through hard or soft laws, as illustrated below:

Summary of Board Independence Requirements:

Country	Best Practice/Code	Regulatory/Listing Standard
Argentina	Majority independent	Sufficient number
Chile	None	At least one independent
Colombia	Majority independent	25%
Mexico	25%	25%
Peru	One-third	None

Key Changes Under Consideration

ISS proposes to include a minimum independence level among the attributes to be considered to determine the vote recommendation for board elections in Latin America. According to the revised policy, companies will be required to comply with the countries' regulatory standards or have at least one independent director, whichever is higher. ISS policy will include the following reference:

"Vote against the election of directors at all companies if the name(s) of the nominee(s) is not disclosed in a timely manner prior to the meeting, and if the company does not comply with market legal requirements of a minimum level of board independence or does not have at least one independent board member, whichever is higher."

Intent and Impact

As mentioned above, ISS' current policy for Latin America board elections is based on timely disclosure of the candidates. The number of companies that present the names of their board nominees in a timely manner is still low, due to the lack of regulatory requirements. Nevertheless, these markets have been showing improvement in their levels of disclosure, and Latin American companies have been somewhat

responsive to ISS inquiries and engagements, as the 2015/2016 proxy season comparison below indicates:

Summary of Board Nominees Disclosure:

Country	2015	2016
Argentina	7.14%	26.67%
Chile	10%	12.20%
Colombia	22.22%	28.57%
Mexico	19.81%	23.15%
Peru	3.71%	8.33%

Moreover, a specific number or percentage of independent directors is already required or recommended in Chile, Colombia, and Mexico. In Argentina, regulatory standards mention an unspecified 'sufficient' number of independent directors; however, public companies are required to have an Audit Committee with a minimum of two independent directors. In the case of Peru, its regulatory standard does not require independent board members, but its best practice corporate governance code recommends one-third board independence (preliminary data from the 2016 AGM proxy season indicate that Peruvian companies already have an average of 28 percent board independence).

Therefore, ISS does not anticipate a significant increase in AGAINST vote recommendations as a result of the proposed update. The policy amendment will, however, provide a policy and a threshold to analyze the board independence in the election of a board nominee(s), and has the potential of contributing to gradual improvements in market practice, as appears to be the case with the already-existing timely disclosure policy requirement.

Request for Comment

- Should ISS include a minimum-independence level threshold in its policy guidelines even for markets that do not have a clear minimum regulatory requirement?