

November 9, 2015



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Via E-mail (policy@issgovernance.com)  
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**Re: Request for Comment on U.S. Director Overboarding Policy**

Ladies and Gentlemen:

Varian Medical Systems, Inc. (the “**Company**” or “**we**”) notes that ISS has requested public comment from market constituents on its U.S. voting policy with respect to director overboarding. In particular, ISS has asked:

1. Do you consider that lowering the limit for CEOs to be considered overboarded as proposed is appropriate? If not, please explain.
2. Do you consider that lowering the limit for non-CEOs to be considered overboarded as proposed is appropriate? If so, would you favour a limit of either five total directorships (option a.) or four total directorship (option b.)? If not, please explain?

We appreciate the opportunity to comment on ISS’s proposed policy changes. For the reasons stated below, the Company believes strongly: (1) that the limit for CEO directorships should not be lowered from two public companies besides their own to one; and (2) that the limit for non-CEO directorships should not be lowered from six to either five or four. Our comments address both questions together because the same underlying rationales support our positions on both issues.

Changing the ISS Overboarding Policy Micromanages Directors

We believe that the proposed changes to the current overboarding policy would have the effect of micromanaging directors and assumes that directors are not sufficiently responsible to effectively manage their own time. ISS’ argument for changing the current overboarding policy is premised on the fact that directors need sufficient time and energy to be effective representatives of shareholder interests and to drive company value, and presumes that an increase in these hours and responsibilities is adversely affecting directors and, in turn, companies and shareholders. We agree with the premise, but disagree with the presumption, which overlooks each director’s ability to judge his or her own time management skills, to balance other commitments and each director’s individual work ethic. Companies and directors should be allowed to determine, on a case by case basis, what appropriate limits should be. Each company, and each board of directors, requires a different level of commitment for a director to adequately carry out his or her duties. Similarly, each individual director has a different capacity for taking on responsibilities. Assigning a one-size-fits-all approach does not allow for individual differences and abilities. A director should be afforded the discretion to weigh



whether he or she can adequately execute his or her fiduciary duties and board responsibilities against other commitments and personal preferences. ISS should not substitute its own categorical judgment on the number of directorships for what should be a tailored decision for each individual director and a board's assessment of director capabilities.

#### No Evidence of Negative Effect of Directors' Hours

ISS has not produced any evidence that an increase in the number of hours a director commits to board-related matters adversely affects shareholders' interest, company value or a director's commitments. ISS relies in part on the NACD survey, which shows an increase in the number of hours directors have committed annually, to conclude that it should change its director overboarding policy on the basis that directors could not have sufficient time and energy to protect shareholders' interest and company value in light of the increase. The results of the NACD survey, which we comment on below, are based on the opinions of the corporate governance community generally and not on any verifiable evidence. We do not believe that changing the overboarding policies, which would have the effect of radically changing the board policies of many companies and require many directors to resign from their positions, should be based solely on community opinion. Importantly, missing from ISS' argument is evidence that the increase in 88 average annual hours has adversely affected shareholder interests or company value. To the contrary, using this increase to justify a decrease in the number of directorships could actually harm companies and their shareholders. As one limits the number of boards on which a director can serve, one similarly limits the access that directors have to shared insights, experiences and knowledge. This can detract from the effectiveness of a board, and therefore its impact on a company and its shareholders.

Providing verifiable evidence of the negative effect of directors' hours is necessary before consequently concluding a director should reduce the number of his or her directorships. Based on the NACD survey, it is equally possible that directors are adequately attending to board matters without a concurrent adverse effect on shareholder interests or company value. Moreover, the increase in annual hours is not unreasonable. ISS states that the NACD survey shows an increase of 88 annual hours from 2005 (190 annual hours) to 2014 (278 annual hours). According to the NACD survey, however, NACD this year added an extra question about informal hours (which added 36 hours between 2013 and 2014), and excluding this response the increase would only have been an average of 52 annual hours, or 27%, between 2005 (190 annual hours) and 2014 (242 annual hours). This increase is less than six hours per year for the 10-year period between 2005 and 2014. Assuming the study's results relate to service on a single board, an additional six hours per year is not an excessive amount of time, nor is a total of 242 hours, or approximately 30 days per year. Even if a director were to sit on six boards, this amounts to approximately 180 days per year (less than half of the available days). Using the 278 hour measure, the commitment for six boards would equate to less than an average of 210 days per year. For a professional director, this amount should be quite manageable and allow adequate time to properly meet his or her duties and responsibilities. Without further evidence of a connection between directors' hours and a negative effect on shareholders' interest or company value, the Company believes that changing the current overboarding policy for non-CEO and CEO directors is neither warranted nor advisable.



## 2015 ISS Policy Survey – No Clear Preference for a Change in Policy

ISS surveyed investors, companies and other interested market participants to ascertain their views on acceptable limits for the number of total boards held by U.S. company directors. ISS divides the results of its survey into two camps—Investor and Non-Investor.

ISS should account for and consider equally the Non-Investor responses as compared to the Investor responses. Within the Non-Investor category are companies and advisors—the constituents who know their directors best, know firsthand the relative level of contribution of their members and can properly assess the appropriate amount of time spent on board duties.

The Non-Investor responses generally favor not changing the current overboarding policies. For non-CEO directors, the survey reports 25% of Non-Investors support keeping the overboarding limit at six, 41% said “a general limit should not be applied, each board should consider what is appropriate and act accordingly” and 8% said “it depends/other.” When these three categories are added together, 74% of Non-Investors—an overwhelming majority—favor either no limit, recognize facts and circumstances should be applied to determining the appropriateness of the limit or want to keep the limit at six. Even in the Investor responses for non-CEO directors, these three categories of responses total 48% in favor of not making a change. The numbers are similarly weighted for the CEO limits, with 80% of Non-Investors and 52% of Investors favoring no limit, keeping the limit at three total directorships, recognizing facts and circumstances should be applied or “other.”

Based on ISS’ policy to consider the views of the entire corporate governance community, ISS’ should weigh and give due consideration to the fact that 74% and 80% of Non-Investors would not agree with decreasing the limits on non-CEO and CEO directorships, respectively, and even Investors would favor no change.

### Inconsistent Treatment of CEO Directors

While not specifically a request for comment, we note that ISS’ policy could treat CEOs who do not serve on their home board differently than those who do. Under ISS’ proposed policy, a CEO who does not serve on his or her home company board would be limited to service on one board of directors, while a CEO serving on his or her own board of directors could serve on two total boards. If ISS determines to revise its policy on CEO directorships to reduce the number to two boards (including the home board), at a minimum, consideration should be given to allow CEO directors to serve on two boards total, whether or not the CEO serves on the home board.


### Transition Period

Finally, we note that ISS has proposed a one-year transition period for directors to leave one or more boards of directors. In the event of a policy change, we would ask ISS to consider grandfathering in directors who comply with the current policy so that they could naturally attrite from their boards rather than forcing a retirement that could detrimentally impact a company and its shareholders.

In summary, while we understand the need to ensure that directors have sufficient time to adequately fulfill their fiduciary duties and other obligations to boards, further limiting the number of public company boards on which a director may serve is not in the best interest of directors, companies, or shareholders. The Company therefore believes ISS should not change its current overboarding policies.

The Company appreciates ISS' request for public comment on changing its U.S. voting policy with respect to director overboarding. We hope ISS will give due consideration to the Company's arguments for not changing the current policy. If you have any questions or would like to discuss this further, please contact me at 650-424-6443 or John Kuo, our General Counsel, at 650-424-6226.

Sincerely,



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Kimberley Honeysett  
Asst. General Counsel and Asst. Corporate Secretary