

August 2, 2016

ISS Policy Changes Under Preliminary Consideration for 2017

In connection with determining voting policy updates for the 2017 proxy season, Institutional Shareholder Services (ISS) today commenced its global [survey](#) of investors and companies with respect to possible policy changes. Topics addressed for the U.S. include, among others:

- **Overboarding of Executive Chairs:** Should executive chairs who are not also the CEO be subject to the overboarding policies that apply to CEOs (*i.e.*, no more than three total boards) or continue to be treated the same as other non-executive directors (*i.e.*, no more than five total boards);
- **Director Tenure:** Is “lengthy director tenure” a genuine concern that implicates a board’s nominating and refreshment processes and, if so, when should the topic be pressed at a company, with options provided by ISS ranging from: (1) the absence of any newly-appointed independent directors in recent years (*e.g.*, five years); (2) lengthy average tenure on the board (*e.g.*, average director tenure greater than 10 years, or greater than 15 years); (3) a high proportion of directors with long tenure (*e.g.* three-fourths of the board having tenure of 10 years or more); or (4) some other approach (such as ones we have [previously discussed](#));
- **Non-TSR Financial Metrics When Assessing “Pay-For-Performance”:** Using financial metrics beyond total shareholder return in ISS’s quantitative pay-for-performance screens and models;
- **Say-When-On-Pay:** Preferred frequency of say-on-pay votes and what particular factors might impact the desired frequency (we have discussed the upcoming 2017 frequency vote [here](#));
- **MUTA:** Maryland state law-specific provisions that often apply to Maryland REITs;
- **Dual-Class Stock:** Whether ISS should consider recommending “withhold” votes against newly public companies whose capital structures feature multiple classes of stock with differential voting rights and the circumstances under which doing so would or would not be appropriate.

Whether ISS actually proposes any changes in these or other areas for the U.S. market will be known later in the year, and ISS will continue its practice of publishing for comment specific proposed changes in the fall in advance of announcing final 2017 policies.

Regardless of whether ISS ultimately makes changes in the highlighted areas, once ISS includes a topic in the survey, it is placed on the “radar” of governance and proxy voting teams at institutional investors (to the extent it was not already) and accordingly may be raised by investors with issuers (or vice versa) during off-season engagement sessions, influence investor policies or become the subject of new forms of shareholder proposals.

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