

ISS Releases Updated Proxy Voting Policies for 2012

November 29, 2011

On November 17, 2011, Institutional Shareholder Services, the influential proxy advisory firm, released its 2012 proxy voting policies. These policies, which govern ISS' voting recommendations, will begin to apply for shareholder meetings that take place on or after February 1, 2012.

We recommend that companies start to evaluate now how ISS will respond to planned management and shareholder proposals at their 2012 annual meeting of shareholders. If a company anticipates a negative recommendation, it may be possible to make changes in the planned proposals to avoid such a recommendation. Alternatively, a company could evaluate its prospects for convincing institutional investors to vote independently of the anticipated ISS recommendation. Last proxy season, a few companies responded to negative ISS recommendations by communicating directly with their shareholders, using summary documents filed with the SEC as additional proxy soliciting materials.

ISS' policy updates relate to the subjects outlined below:

Pay-for-Performance Alignment

ISS' most significant update is its revised pay-for-performance policy. ISS has adopted a new approach to analyzing executive compensation that it says seeks to provide a more "robust view" of the relationship between executive pay and company performance over a "sustained time horizon." This approach will utilize two analytical tools:

1. "Peer group alignment," which is the degree of alignment between the company's Total Shareholder Return, or TSR, and CEO pay over each of a one-year and three-year period, as compared to a group of peer companies. It also will consider the multiple of the CEO's total pay compared to the median among peer group companies; and
2. "Absolute Alignment," which is a comparison of the trend in CEO pay and the trend in TSR over the prior five fiscal years for the company in question.

ISS states that it will consider additional factors if it determines that a particular company has problematic levels of alignment.

Other Policy Updates

Key policy updates for the 2012 proxy season also include the following:

- *How the Board responds to say-on-pay votes* – ISS will make recommendations on a case-by-case basis on individual compensation committee members up for re-election, and on management say-on-pay proposals, if the company's previous say-on-pay proposal received less than 70 percent support of all votes cast. ISS case-by-case determinations will take into account, among other factors, the actual level of support (with less than 50 percent calling for "the highest degree of responsiveness"), the company's response in terms of changes to compensation packages, disclosure of engagement efforts with major institutional investors on the issues that contributed to low levels of support, and other recent compensation actions taken by the company.
- *How the Board responds to frequency of advisory vote on pay results* – Under the new policy, if a majority of votes are cast expressing a preference for a certain frequency of advisory vote on pay, but the board does not implement that preference, then ISS would recommend voting against or withholding from voting for the entire board. If a majority of shareholders does not back any single frequency option, and the board adopts the option that receives plurality support, then ISS will determinate its recommendation on a case-by-case basis.
- *Proxy access proposals* – ISS will approach proxy access shareholder proposals on a case-by-case basis, whether sponsored by the company or by a shareholder. In determining a voting recommendation, ISS states that it will consider a number of factors, including proposed ownership thresholds that would apply to shareholders who wish to submit board nominees under the proposed proxy access framework, the maximum proportion of directors that shareholders may nominate each year, and the method for handling nominations from multiple shareholder groups.
- *Political Spending Proposals* – ISS will generally recommend a vote for political spending proposals, having previously made recommendations on a case-by-case basis. The change in policy is based primarily on ISS' perception that institutional investors have become more interested in the issue.

ISS' 2012 policies may be viewed in full at <http://www.issgovernance.com/policy>.

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