

Glass Lewis Makes an Attempt at Transparency, and Studies Try to Evaluate Proxy Advisory Services' Influence

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Glass Lewis released a brief overview that it calls a “Primer for Issuers.” Glass Lewis reiterates that it does not engage in discussions with companies during the proxy solicitation period because of concerns about the possibility of receiving material, nonpublic information. However, it will sometimes host a Proxy Talk conference call during which a company’s management or board can speak directly to Glass Lewis’ clients.

Board Matters. It is not always clear when a director will run afoul of Glass Lewis’ voting recommendations. The [Issuer FAQ](#) provides some information about related person transactions, noting that a director who controls more than 20% of voting stock would be deemed an affiliate. Different types of relationships receive varying levels of scrutiny assessed against different financial thresholds. The condensed [proxy voting guidelines](#) are truly “abridged” and only provide the most general of discussions on different voting matters.

Pay-for-Performance Analysis. Some information in this [section](#) also raises more questions than provides answers. The Glass Lewis model examines six indicators (stock price change, change in book value per share, EPS growth, total return, return on equity and return on assets) and the total compensation of executives against four different peer groups (industry peers, sector peers of similar size, companies of similar market capitalization and companies in the same geographic regions). Each peer group is assigned a weight based principally on the market capitalization of the company. In the Issuer FAQs, Glass Lewis notes that it uses market-based data to calculate shareholder returns from FactSet and, like ISS, finds peers from the Global Industrial Classification System (GICS).

In the end, the model calculates an executive compensation percentile and a performance percentile against peers. A final numeric score is then calculated for each company based on these weighted-average percentile scores, which are then placed on a forced curve, producing the infamous Glass Lewis letter-grade on compensation. 20% of companies receive As and 10% receive Fs. The remaining distribution is not disclosed.

Say-on-Pay Analysis. The above pay-for-performance discussion makes up only the quantitative aspect of the Glass Lewis say-on-pay analysis. [Here](#) issuers will find more lists and charts and general descriptions of items examined to come up with the say-on-pay recommendations. With more negative recommendations on say-on-pay when compared to ISS, one thing to note that makes Glass Lewis quite different is its focus on proxy disclosure, particularly with respect to performance metrics.

In a recent [study](#) trying to determine whether and how any of this matters, The Conference Board, NASDAQ, and the Rock Center for Corporate Governance at Stanford University surveyed 110 companies. More than 70% reported that their compensation programs were influenced by the guidance received from proxy advisory firms or by the policies of these firms. The study found that a negative recommendation from ISS, on average, influences between 13.6% to 20.6% percent of say-on-pay votes.

The impact is further detailed in a [different study](#) that examined the reports issued for the S&P 1500, concluding that a negative recommendation from ISS is associated with 24.7% (12.9% for Glass Lewis) more votes against say-on-pay. When both advisors make negative recommendations, voting dissent is higher by 37.9%. According to this study, not all “Against” recommendations have the same impact. The impact is greater when ISS identifies a problem in pay-for-performance and change-in-control agreements, and when it identifies a problem in more than one category. In the case of Glass Lewis, the impact is higher for companies with the worst letter-grade ratings.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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