

Glass Lewis Announces Policy Changes for 2016

November 16, 2015 | Client Update | 2-minute read

Glass Lewis updated its [voting guidelines](#) that apply to the 2016 proxy season. There are limited revisions from the prior policies, which include:

Overboarding. Beginning in 2017, Glass Lewis will recommend voting against a director (a) who is the executive officer of a public company and sits on more than two public company boards or (b) who serves on more than five public company boards. In 2016, Glass Lewis will note a concern for these directors, thus providing a transition period before putting the full policy into effect.

Exclusive forum provisions (for IPO companies only). Instead of recommending against the chairman of the nominating and governance committee, for IPO companies that have adopted exclusive forum Glass Lewis will evaluate the provision alongside other bylaw terms, such as supermajority vote requirements and a classified board. For non-IPO companies, Glass Lewis will continue to recommend voting against the chair of the nominating and governance committee if exclusive forum is adopted without a shareholder vote.

Clarification regarding nominating committee. The policies have been revised to clarify that Glass Lewis may recommend voting against the chair of the nominating committee “where the board’s failure to ensure the board has directors with relevant experience, either through periodic director assessment or board refreshment, has contributed to a company’s poor performance.” It is unclear what types of situations these guidelines cover.

Codification of board’s responsibilities for environmental and social risk oversight. In cases where the board or management has failed to sufficiently identify and manage a material environmental or social risk that Glass Lewis believes did or could impact shareholder value, the adviser will recommend shareholders vote against directors responsible for risk oversight. This has been Glass Lewis’ policy, and is now stated explicitly.

Dueling management and shareholder proposals on the same topic. Glass Lewis will examine the following factors in determining whether to support conflicting management and shareholder proposals: (a) the nature of the issue; (b) the benefit to shareholders from implementation of the proposal; (c) the materiality of the differences between the terms of the two proposals; (d) the appropriateness of the provisions in the context of a company’s shareholder base, corporate structure and other relevant circumstances; and (e) a company’s overall governance profile and, specifically, its responsiveness to shareholders as evidenced by a company’s response to previous shareholder proposals and its adoption of “progressive shareholder rights provisions.”

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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