

NYSE Webcast Panel Previews the 2013 Proxy Season

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Last week I participated in an NYSE-sponsored webcast hosted by Judy McLevey at the NYSE. Our panel discussed the issues that may affect the upcoming proxy season. The other panelists consisted of a group of recognized experts including Carol Bowie from ISS, Andrew Letts from State Street, Jim Parsons from Exxon Mobil, and Darla Stuckey from the Society of Corporate Secretaries and Governance Professionals. An archive of the webcast is available [here](#).

Some of the main points reviewed included:

New Policies and Investors? Use of Proxy Advisory Firms. Carol described the major parts of the new ISS policy updates and Darla discussed Glass Lewis changes. Both Carol and Andrew emphasized that large institutional investors follow their own guidelines, and use the proxy advisory firms' reports as additional input to inform their voting decisions. Andrew explained State Street's own say-on-pay analysis, and noted that the perception that some investors merely follow ISS may be somewhat due to the fact that investors' guidelines or perspectives are often similar to ISS policies. Darla then reflected on issuer responses to the new policies, with issuers generally pleased that the proxy advisory firms have reevaluated and changed their peer group methodologies for 2013 in response to criticisms. Jim stressed that while the proxy advisory firms can play an important role for investors in analyzing company actions, a board's decisions should be given deserving weight.

Say-on-Pay. Given that small-cap companies will be subject to the say-on-pay vote for the first time in 2013, the panel offered some advice. Companies should focus on making their proxy disclosure simple and concise, as investors may only spend a few minutes on any single proxy given all the other ones competing for their limited attention. Jim discussed Exxon's strategies for anticipating and responding to potential criticisms, including having "fresh eyes" look at the proxy disclosure this past year to ensure that the company's communications were clear to those not involved in the compensation or drafting process. Carol noted that ISS had always reviewed small-caps executive compensation programs in evaluating the compensation committee members, so this does not represent much additional work for ISS.

Importance of Shareholder Engagement. Jim emphasized the need for year-round dialogue with investors, which is becoming more like traditional investors relations in terms of its regular occurrence, rather than only during the annual meeting cycle. Andrew noted that most major investors are global ones and it's standard operating procedure to have such engagement in many other markets. He also advised that companies should understand that it can be difficult to get the attention of even their top ten shareholders, as one company may represent only a very small portion of an investor's overall portfolio. Finally, he recommended that companies not focus entirely on say-on-pay when talking to investors about governance issues.

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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