

ISS Issues 2014 Policy Updates

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ISS has issued two policy [updates](#) for the U.S. market, effective for meetings on or after February 1, 2014. Both are consistent with the proposals that ISS put out for comment, which we previously discussed [here](#).

In its 2013 policy updates, ISS announced that starting with 2014, it will review the responsiveness of a board to a shareholder proposal that receives one year of a majority of votes cast in support. ISS has now clarified that recommendations on director elections with respect to majority-supported shareholder proposals will be made on a “fact-specific, case-by-case basis.” One of the factors, likely the most important one, includes “the board’s rationale as provided in the proxy statement.” If a board takes action that is less than full implementation, it will be expected to provide a rationale of how it made that determination. As a discussion of shareholder outreach is expected, the explanation of how shareholder engagement affected the board’s decisions will probably be important, as well as the actual vote received in terms of the level of shareholder support for the proposal.

Also, as proposed, ISS will simplify the methodology for calculating its Relative Degree of Alignment (RDA) pay-for-performance screen that it uses to evaluate say-on-pay votes. Currently this measure is calculated as the difference between the company’s total shareholder return (TSR) rank and the CEO’s total pay rank within a peer group, as measured over one-year and three-year periods. The new methodology is to calculate simply the difference between the company’s TSR rank and the CEO’s total pay rank within a peer group, as measured over a three-year period (or as many full fiscal years that the company has been publicly traded and disclosed pay data).

Some upcoming milestones include an updated FAQ document on key policies in December and in January (after shareholder proposals deadlines have passed for year-end companies), ISS will evaluate new shareholder proposals anticipated for 2014 and update its voting guidelines accordingly.

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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