

Reminder: Data Verification for New ISS QuickScore 3.0 Ends Friday

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The final day for companies to verify the data that will form the basis of their ISS QuickScore 3.0 is tomorrow, November 14. The program closes after that time until the launch of QuickScore 3.0 on November 24. While data verification can still take place after that date, by that point companies may already be assigned a governance score based on possibly faulty information.

QuickScore is published in a company's proxy voting recommendations report, and a new format will show the history of changes to the score over time for the company (it appears more space in the report will be devoted to the score). The rating is also made publicly available through Yahoo! Finance and Bloomberg on a regular basis. While the utility of QuickScore is debated, we understand that some institutional investors may question companies when there is a red flag notation next to a particular topic.

It is also useful to examine the data to determine how ISS classifies a company's directors in QuickScore, since the classifications of "independent" directors and "lead director" only refer to directors who meet specific ISS criteria. Companies should be aware of the differences in designation against their own standards prior to the issuance of the ISS proxy voting recommendations report.

There are several new factors and some amendments to existing evaluations as follows:

- Has ISS' review found that the Board of Directors recently took action that materially reduces shareholder rights? This includes, but isn't limited to: diminishing shareholder rights to call a special meeting/act by written consent, classifying the board, increasing authorized capital, and lowering quorum requirements, without shareholder approval. We understand that this may also include any changes to equity plan terms, such as increasing shares or extending terms, without shareholder approval.
- Does the company disclose a policy requiring an annual performance evaluation of the board? The question evaluates whether the company organizes board evaluations, as well as the nature of such evaluations in terms of frequency, whether there are individual director evaluations and any outside assessments.
- How many women are on the board? How many financial experts serve on the audit committee? While both of these questions were tracked in the prior version, they used to have "zero" weighting. It is unclear at the moment how many (or what proportion) would achieve optimal scoring.
- Does the company have a controlling shareholder? This question has "zero" weighting so it serves as information only.
- Is there a sunset provision on the company's unequal voting structure? The length of time considered appropriate for a sunset provision is unclear.
- Is the company, a director or officer of the company currently under investigation by a regulatory body? This question has been modified to distinguish between "routine" (promotion, marketing or sale of products, billing/false claims, accounting and tax practices and civil investigation demands) and "non-routine" investigations (FCPA-related investigations, Wells Notices, and investigations which raise serious ethical concerns or pose potential risk to the broader financial system such as LIBOR manipulation, mortgage fraud, high frequency trading, or other serious one-off investigations).

There are also several changes to the scoring methodology:

- For say-on-pay vote results, ISS will examine all results below 70% support instead of basing the score against the level received by the industry index.
- For director election results, ISS will flag directors receiving less than 80% shareholder support instead of less than 95% support.

In addition, ISS indicated in an appendix that if a company appoints a new director and files an 8-K, there is generally not enough information for ISS to classify that director as independent under its own standards. ISS will consider the director “unclassified” and not update any of the factors that are otherwise affected, such as the number of independent directors, so that there is no impact on a company’s scores from the addition of this director.

However, if a company provides sufficient information, then ISS will make a preliminary determination for QuickScore on the director’s classification. The minimum amount of information required includes: (a) current position; (b) the company’s determination of whether the director is independent under its listing standards; (c) any previous employment at the company; (d) any familial relationships with the company’s executives or directors and (e) any related party transactions between the director, the director’s employer, or the director’s immediate family member’s current employer, and the company in the last fiscal year.

The technical document is available [here](#).

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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