

ISS Detailed Policy Survey Addresses Independent Chair Proposals, Board Matrix and Compensation – Part II

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In addition to the high-level questions in its global policy survey which we previously discussed [here](#), ISS also included a more detailed set of questions for the U.S. that addresses:

Independent Chair Shareholder Proposals. ISS generally supports these proposals after taking into account factors such as the company's governance structure and practices as well as financial performance. The survey asks about the level of importance that respondents may attach to the following factors when evaluating independent chair proposals: controversies and/or risk oversight failures; independence of key board committees; board's rationale for having a combined CEO/chair structure; shareholder rights such as special meetings and proxy access; prevalence of takeover defenses; alignment between CEO pay and performance; board responsiveness to shareholder concerns; management of environmental and social issues; and the company's short- and long-term TSR performance.

Board Qualification Matrix. The survey asks what level of disclosure about a director's individual skills and attributes may be useful to shareholders, including possibly: matrix with each directors' relevant skills, gender and race/ethnicity; same matrix but with one "diversity" category that aggregates the diverse directors; cumulative information about the board as a whole instead of individually; or simply short biographies with pictures. There is no indication as of whether the outcome of this survey question will ultimately impact any voting policies.

Quantitative Pay-for-Performance Screens. ISS indicates that it is exploring ways to improve the financial metrics used in its pay-for-performance analysis, and is considering supplementing or even replacing existing GAAP-based accounting metrics with Economic Value Added (EVA) based metrics. ISS has been reluctant to use companies' non-GAAP metrics due to lack of standardization and comparability, but believes that EVA could measure underlying economic profit and capital productivity.

Director Pay. ISS intends to make adverse recommendations against compensation committee members for multiple consecutive years of "elevated" director pay "without sufficient explanation." In 2018, ISS began identifying outlier director pay, and the 2019 proxy season may trigger the first round of negative vote recommendations. The survey asks what may constitute "reasonable rationales," including: special payments related to corporate transactions or other circumstances; payments in consideration of scientific or other special topical expertise; or payments to reward "extraordinary services."

Minimum Stock Ownership Requirements for Binding Bylaw Amendments. The survey asks whether minimum stock ownership requirement should be set for shareholders who want to propose binding amendments to bylaws, and the appropriate levels and whether shareholders should be permitted to aggregate holdings.

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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