



# Summary of Policy Updates 2023

ISS



## Key Takeaways

ISS is the largest proxy advisory services company based in the United States. ISS published its annual update for proxy voting policies on November 30, 2022. These policy guidelines will apply for meetings held on or after February 1, 2023 in all markets. Some of the primary updates for the United States voting policy are as follows:

### Board Composition

#### Gender Diversity

- Vote AGAINST/WITHHOLD from nominating committee chairs of companies with **no women on the board**
  - **Change:** Previously applied to only Russell 3000 and S&P 1500 companies; **policy will extend to ALL companies**

### Board Accountability

#### Poison Pills

- Vote case-by-case on nominees of a **board that adopts a short-term pill without shareholder approval** considering rationale, **trigger**, company's market capitalization, commitment to renew by shareholder vote, and other factors
  - **Change:** Clarifies that the trigger threshold will be a consideration as many short-term pills were adopted with low triggers during the early phases of COVID as a defense against activism amid severe market turbulence

### Unequal Voting Rights

- Vote AGAINST/WITHHOLD from relevant directors of companies with unequal voting rights; exceptions still provided for newly-public companies with no more than a 7-year sunset provision, REIT Limited/Operating Partnerships, and companies with de minimis unequal voting or sufficient minority shareholder protections
  - **Change:** **Previously grandfathered companies with unequal voting rights will no longer be exempted;** de minimis threshold clarified as super-voting shares <5% total voting power

### Problematic Governance Structures

- Vote AGAINST/WITHHOLD from directors at newly-public companies with “problematic” governance structures, namely **classified boards and supermajority vote requirements without a sunset period of no more than 7 years**
  - **Change:** Reasonable sunset period defined as no more than 7 years

### Key Takeaways (Contd.)

#### Board Accountability (continued)

##### Unilateral Bylaws/Charter Amendments

- Vote AGAINST/WITHHOLD from directors of boards that have classified its structure, adopted supermajority vote requirements to amend bylaws/charter, eliminated shareholders' ability to amend bylaws, or **adopted fee-shifting or other egregious provisions**
  - **Change:** Added fee-shifting along with a catch-all clause for other provisions that can be deemed as egregious

##### Climate

- For Climate Action 100+ companies – deemed as significant greenhouse gas emitters by ISS – vote AGAINST/WITHHOLD from incumbent chair of responsible committee for NOT providing:
  - Detailed disclosure of climate-related risks (TCFD framework recommended)
  - Appropriate GHG emissions reduction targets
  - **Change:** Appropriate reduction targets defined as medium-term GHG reduction targets or Net Zero by 2050 for company operations (**scope 1**) and electricity use (**scope 2**); targets should cover vast majority of direct emissions

##### Director and Officer Indemnification

- Proposals seeking to limit or eliminate personal liability of directors and officers will be evaluated case by case
  - **Change:** Prior policy was to vote AGAINST such proposals and was modified to align with the August 2022 amendment to the Delaware General Corporation Law (“DGCL”); the amendment expanded a corporation’s authority to exculpate its directors from breach of fiduciary duty of care claims, to include its officers; although some states extend exculpation to breaches of fiduciary duty of loyalty, ISS will generally not support these cases

#### Compensation

##### Problematic Pay Practices

- **Severance payments made when the termination is not disclosed as involuntary** (i.e., termination without cause or resignation for good reason, etc.) is formally **deemed as a problematic practice** and subject to adverse votes

##### Value-Adjusted Burn Rate

- **Stock plan evaluation will incorporate the new "Value-Adjusted Burn Rate" (VABR) methodology** as a more accurate measure of the value of recently granted equity awards



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## Key Takeaways (Contd.)

### Other

#### Capitalization

- **New Policy** – For U.S. domestic issuers incorporated outside the U.S. and listed solely on a U.S. exchange, vote FOR resolutions to authorize the issuance of common shares up to 20% of issued common share capital, where not tied to a specific transaction or financing proposal; For pre-revenue or early-stage companies, issuances can go up to 50%

#### Quorum Requirements

- Vote case by case on proposals reducing quorum requirements for shareholder meetings considering quorum threshold requested, rationale, market capitalization, ownership structure, previous turnouts, restoration provisions, etc.
  - **Change:** Prior policy was to vote AGAINST, but adjusted to accommodate smaller companies with more retail investors that are increasingly having trouble meeting quorum requirements

#### Racial Equity Audits

- Updated policy criteria for the case-by-case analysis of racial equity audit and/or civil rights audit proposals to reflect the range of factors that will be considered
  - **Change:** Added workforce diversity and inclusion metrics and goals which allow for quantitative assessments of progress; removed explicit alignment with market norms as it has not driven analysis for this proposal

#### ESG Compensation-Related Proposals

- Refined criteria used in case-by-case evaluation of proposals seeking a report or additional disclosure on the company's approach, policies, and practices on incorporating environmental and social criteria into executive compensation strategy, considering scope and nature of proposal, current level of disclosure regarding E and S performance and governance, the degree to which information is disclosed, and whether the company has had significant controversies
  - **Change:** Removed criteria related to industry peer comparisons

#### Political Activity

- **New Policy** – Vote case by case on proposals requesting greater disclosure of a company's alignment of political contributions, lobbying, and electioneering spending with a company's publicly stated values and policies considering policies and management governing lobbying activities and participation in trade associations, related disclosures, any inequities in direct and indirect political expenditures, and any recent controversies



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Understand how investors will vote on your ballot

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Contact information & key players at each firm

CONTACT US TO SCHEDULE A DEMO

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