Kingsdale Governance Advisory Update

November 20, 2024

ISS Launches Open Comment Period for Proposed 2025 United States Benchmark Voting Policy Changes

Institutional Shareholder Services ("ISS") has published its proposed 2025 United States Benchmark Policy changes and opened a comment period for stakeholders to provide feedback. The comment period, running through **5:00 p.m. ET on December 2, 2024**, invites input from investors, companies, and other market participants on proposed policy changes. This consultation follows the release of ISS' 2024 Global Benchmark Policy Survey results and reflects ISS' commitment to ensuring policy updates incorporate diverse perspectives. This is a key opportunity to influence the proxy voting policies that will impact shareholder meetings occurring on or after February 1, 2025, as well as in 2026.

Kingsdale Advisors encourages all its clients that are evaluated pursuant to ISS' U.S. policy to review two proposed changes to ISS' U.S. Benchmark policies, along with two proposed clarifications. We recommend considering the submission of comments where applicable. The updates are as follows:

- **<u>Proposed Change to Executive Compensation – Performance vs. Time-Based Equity Awards:</u>** Under ISS' 2024 U.S. Benchmark policy, a predominance of time-vesting equity awards is a viewed as a significant concern when there is pay-for-performance misalignment. However, investors actually prefer well-structured time-vesting awards over poorly structed performance-based awards that suffer from insufficient disclosure, complex designs and weak metrics. Effective February 1, 2025, ISS is proposing that its evaluation of the quality of a company's disclosure and design of its performance-based equity awards will carry more weight in ISS' qualitative reviews. Significant concerns in this area may be more likely to prompt ISS to oppose a company's Say-on-Pay resolutions. Additional details will be provided in the ISS U.S. Executive Compensation Policies FAQ, expected mid-December 2024.

  ISS is also seeking feedback on the following broader policy changes potentially for 2026:

  - "If, in the future, U.S. benchmark policies were to no longer view a predominance of time-vesting equity awards as concerning in itself, what criteria would you consider most important for analyzing time-vesting equity awards? (for example, vesting periods, award magnitude, holding period requirements, or any other significant factors)"
  - "If U.S. benchmark policies were to no longer view a predominance of regular-cycle time-vesting equity awards as concerning, do you believe the same standard should be applied to any off-cycle/one-time equity awards?"

- **<u>Proposed Change to General Environmental Proposals and Community Impact Assessments:</u>** In response to the increasing focus on biodiversity and related environmental issues such as deforestation and water pollution, ISS has proposed a policy update to consolidate these topics under the broader theme of "natural capital." This update ensures that the ISS U.S. policy remains aligned with the evolving trends in shareholder proposals, particularly those addressing natural capital and community impact risks, and reflects the growing influence of related frameworks. The proposed policy update will be expanded such that ISS' review of current disclosure will examine the company's alignment with any relevant, broadly accepted reporting framework when a company has received a "natural capital"-focused shareholder proposal.

- **Proposed Clarification to Special Purpose Acquisition Corporations ("SPACs") – Proposals for Extension:** ISS' proposed policy clarification provides a formal codification of ISS' already present approach to SPAC extension requests. ISS' proposed policy clarification will support extensions of up to one year from the original termination date. Multiple extension requests may be favorably assessed, provided they do not collectively exceed one year.

- **Proposed Clarification to Poison Pills:** ISS' proposed clarification formally codifies ISS' approach to evaluating short-term poison pills, which are rarely submitted for shareholder approval. The proposed clarification specifies factors considered in assessing whether a board's adoption of such a position pill was reasonable or constitutes a governance failure warranting a recommendation to vote "Against" directors. While these factors were already part of ISS' analysis, the proposed clarification aims to enhance transparency. There is no anticipated change in the volume of positive or negative director recommendations, nor any updates to ISS policies regarding long-term pills adopted with or without shareholder approval.

Read the full report here.

If you have any questions about these proposed policy changes, please feel free to contact Kingsdale's experts listed below to discuss it directly.

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