

ISS and Glass Lewis Proxy Voting Policy Updates for the 2023 Proxy Season

December 23, 2022

Proxy advisory firms Institutional Shareholder Services (ISS) and Glass Lewis & Co. (Glass Lewis) have updated their proxy voting policies for shareholder meetings held on or after February 1, 2023 (ISS) or January 1, 2023 (Glass Lewis).¹ This Sidley Update summarizes the most noteworthy changes ISS and Glass Lewis made to their policies that apply to U.S. companies and provides some practical considerations. Appendix A summarizes the various circumstances in which ISS and Glass Lewis may recommend votes against directors in an uncontested election.

ISS Policy Updates for 2023

The key changes to ISS' proxy voting policies for 2023 relate to the following:

- **Board Gender Diversity.** Beginning in 2023, ISS' existing board gender diversity policy, previously announced in 2021, will apply to all companies (not just Russell 3000 and S&P 1500 companies). For 2023, ISS will generally recommend votes against nominating committee chairs (or other directors on a case-by-case basis) at all companies where there are no women on the board. ISS will continue to make an exception if there was at least one woman on the board at the previous annual meeting and the board commits to return to a gender-diverse status within a year.
- **Officer Exculpation Charter Amendment Proposals.** The Delaware General Corporation Law (DGCL) was amended in August 2022 to permit corporations to limit or eliminate the personal liability of senior officers for claims of breach of the fiduciary duty of care (but not the duty of loyalty) by including an exculpation provision in the corporation's charter. Previously the DGCL allowed corporations to limit or eliminate such liability only for directors. For 2023, ISS will evaluate on a case-by-case basis proposals to amend the charter to provide for officer exculpation, taking into account the stated rationale for the proposed change and other specified factors. ISS added that it will consider the extent to which the proposal would eliminate directors' and officers' liability for monetary damages for violating the duty of loyalty (which is permitted in some states such as Nevada) but noted that it will generally not support proposals to adopt an officer exculpation charter provision that would apply to duty of loyalty breaches even if allowed under state law.
- **Board Accountability – Climate-Related Issues.** For 2023, ISS will expand the scope of its climate accountability policy to apply globally. Under the updated policy, ISS will generally recommend votes against the incumbent chair of the responsible committee (or other directors on a case-by-case basis) at companies that are significant greenhouse gas (GHG) emitters through their operations or value chain (i.e., companies in the [Climate Action 100+ Focus Group](#)) if ISS determines that the company has not taken minimum steps needed to assess and mitigate the company's climate-related risks. For purposes of the policy, minimum steps include both (1) detailed disclosure of climate-related risks, such as according to the framework established by the Task Force on Climate-related Financial Disclosures

¹ ISS, United States Proxy Voting Guidelines: Benchmark Policy Recommendations (published Dec. 13, 2022), available [here](#); Glass Lewis, 2023 Policy Guidelines: United States (published Nov. 17, 2022), available [here](#); and Glass Lewis, 2023 Policy Guidelines: ESG Initiatives (published Nov. 17, 2022), available [here](#).

(TCFD), and (2) appropriate GHG emissions reduction targets, meaning medium-term GHG reduction targets or Net Zero-by-2050 GHG reduction targets for a company's operations (Scope 1) and electricity use (Scope 2). ISS noted that the targets should cover the vast majority (95%) of the company's direct emissions.

- **Board Accountability – Unequal Voting Rights.** In 2023, ISS will generally recommend votes against individual directors, committee members or the entire board (except new nominees, who should be considered case-by-case) if a company uses a common stock structure with unequal voting rights, with limited exceptions for (1) newly-public companies with a sunset provision of not more than seven years from the date of going public, (2) limited partnerships and the operating partnership unit structure of REITs, (3) situations where the super-voting shares represent less than 5% of total voting power and are therefore considered to be *de minimis* or (4) cases where the minority shareholders have a binding vote on whether to maintain the structure. The revised policy reflects the expiration of the one-year grace period for companies that had been grandfathered under the current policy and now defines the *de minimis* exception to mean no more than 5% of the total voting power.
- **Board Accountability – Problematic Governance Structures.** Although ISS has recognized a reasonable sunset provision as a potential mitigating factor when making vote recommendations with respect to problematic governance structures, its policy had not explained what characteristics would render a sunset provision reasonable. To provide clarity, ISS updated its policy for 2023 to state that a problematic governance structure must sunset within seven years of the date of going public to be considered a mitigating factor.² Additionally, ISS clarified that the policy applies to companies that held their first annual shareholder meeting after February 1, 2015 (replacing the previous reference to “newly public companies”).
- **Board Accountability — Poison Pills.** For 2023, ISS revised its poison pill policy to clarify that it will consider the trigger threshold as an additional factor when evaluating the appropriateness of the board's actions in adopting a short-term pill that is not put to a vote. ISS [indicated](#) that it considers trigger thresholds of 5-10% very low.
- **Board Accountability – Unilateral Bylaw/Charter Amendments.** ISS generally recommends votes against directors (except new nominees, who should be considered case-by-case) if the board amends the company's bylaws or charter without shareholder approval in a way that materially diminishes shareholders' rights or could adversely impact shareholders. For 2023, ISS revised the policy to add two situations that may lead to negative vote recommendations: if the board adopted a fee-shifting provision³ or any other provision deemed egregious by ISS.
- **Shareholder Proposals to Reduce Quorum Requirements.** ISS relaxed its policy on amending quorum requirements after observing a recent increase in the number of small companies with large retail ownership that had to repeatedly adjourn their shareholder meetings due to the lack of a quorum. For 2023, ISS revised its policy to evaluate on a case-by-case basis proposals to reduce quorum requirements for shareholder meetings below a majority of the shares outstanding, considering specified factors. ISS prefers a quorum threshold as close as possible to a majority of shares outstanding. ISS will make vote recommendations on a case-by-case basis with respect to directors who unilaterally lower the company's quorum requirements below a majority of shares, taking into account specified factors and the immediate circumstances of the meeting/adjournments in progress.
- **Shareholder Proposals Requesting Racial Equity and/or Civil Rights Audits.** For 2023, ISS added as a new factor it will consider when evaluating on a case-by-case basis shareholder proposals requesting racial equity and civil rights audits whether a company adequately discloses workforce diversity and inclusion metrics and goals, which ISS believes will allow for quantitative assessments of progress.

² This aligns with ISS' proxy voting policy regarding problematic capital structures, which views a seven-year time-based sunset to a dual-class capital structure as reasonable.

³ A fee-shifting provision could require a shareholder who sues a corporation and loses to pay all litigation expenses of the corporation and its directors and officers.

- **Shareholder Proposals on Political Expenditures and Lobbying Congruency.** Under a new policy for 2023, ISS will evaluate on a case-by-case basis shareholder proposals requesting greater disclosure from companies about the alignment between their political contributions and lobbying efforts and their publicly stated values and policies. ISS will consider (1) the company's policies, management, board oversight, governance processes and level of disclosure related to political expenditures and lobbying activities, (2) the company's disclosure regarding the reasons for its support of candidates, trade associations and other political activities, (3) any incongruencies between a company's political expenditures and its publicly stated values and priorities and (4) recent significant controversies related to the company's lobbying or political contributions or activities. Additionally, ISS will evaluate on case-by-case basis proposals requesting comparison of a company's political spending to objectives that can mitigate material risks for the company (e.g., limiting global warming).
- **Share Issuance Mandates at U.S. Domestic Issuers Incorporated Outside the U.S.** For 2023, ISS implemented a new policy regarding share issuance mandates for U.S. domestic issuers incorporated outside the U.S. and listed *solely* on a U.S. exchange. For these issuers, ISS will generally recommend votes in favor of proposals to authorize the issuance of common shares up to 20% of currently issued common share capital where the issuance is not connected to a specific transaction or financing proposal. ISS will evaluate case-by-case proposals to authorize share issuances tied to a specific transaction or financing proposal. For pre-revenue or other early-stage companies that rely heavily on periodic equity financing, ISS will generally recommend votes in favor of proposals to authorize a common stock issuance of up to 50% of currently issued shares, with the company bearing the burden to prove there is a genuine need for the increased limit. ISS advises companies to seek renewal of these mandates annually.
- **Problematic Pay Practices.** ISS maintains a list of examples of problematic pay practices that carry significant weight in its consideration of a company's overall pay program and may result in negative vote recommendations. For 2023, ISS added as a new example severance payments made to an executive when the executive's termination is not clearly disclosed as involuntary (e.g., a termination without cause or resignation for good reason). ISS also clarified that the list is not exhaustive and referred to its [U.S. Compensation Policies: Frequently Asked Questions](#) for more detail.
- **Equity-Based and Other Incentive Plans — Value-Adjusted Burn Rate.** In its policy updates for 2022, ISS announced that it would be transitioning to a new "Value-Adjusted Burn Rate" methodology for stock plan evaluations. The change will be in effect for 2023 now that the one-year transition period has ended.
- **Shareholder Proposals on Environmental and Social Metrics in Executive Compensation.** For 2023, ISS will continue to evaluate on a case-by-case basis shareholder proposals seeking increased disclosure on a company's approach toward incorporating environmental and social (E&S) criteria into its executive compensation strategy, considering specified factors. ISS revised the policy to reflect its view that a company's board or compensation committee is generally in the best position to determine performance metrics while also acknowledging that shareholders would benefit from improved disclosure about the rationale and considerations behind pay metrics.

Glass Lewis Policy Updates for 2023

The key updates to Glass Lewis' proxy voting policies for 2023 relate to the following:

- **Board Gender Diversity.** As announced in 2022, Glass Lewis will transition from a fixed numerical approach to a percentage-based approach for board gender diversity in 2023. At Russell 3000 companies, Glass Lewis will generally recommend votes against the nominating committee chair of a board that is not at least 30% gender diverse. Glass Lewis will review a company's disclosure of its diversity considerations and may choose not to issue negative vote recommendations if a board has provided a sufficient rationale or plan to address the lack of board diversity, including a timeline to appoint gender diverse directors (generally by the next annual meeting).

- **Underrepresented Community Board Diversity.** Beginning in 2023, at Russell 1000 companies, Glass Lewis will generally recommend votes against the nominating committee chair of a board with no director from an “underrepresented community.”⁴ Glass Lewis will review a company’s disclosure of its diversity considerations and may choose not to issue negative vote recommendations if a board has provided a sufficient rationale or plan to address the lack of board diversity, including a timeline to appoint additional directors from an underrepresented community (generally by the next annual meeting).
- **State Laws on Board Diversity.** Two California state laws mandating gender and underrepresented community diversity on the boards of California-headquartered corporations were struck down as unconstitutional in spring 2022. Those decisions have been appealed. Glass Lewis clarified that while it follows the appeal process, it will continue to monitor a company’s compliance with state board composition requirements but will not issue vote recommendations until further notice.
- **Disclosure of Director Diversity and Skills.** Beginning in 2023, Glass Lewis will expand from the S&P 500 to the Russell 1000 its policy to generally recommend votes against the nominating and/or governance committee chair at companies that have not provided any disclosure in their proxy statements in any of the following categories: (1) the board’s current percentage of racial/ethnic diversity, (2) whether the board’s definition of diversity explicitly includes gender and/or race/ethnicity, (3) whether the board has adopted a “Rooney Rule” policy requiring women and minorities to be included in the initial pool of candidates when selecting new director nominees and (4) board skills disclosure. In addition, beginning in 2023, Glass Lewis will generally recommend votes against the nominating and/or governance committee chair at Russell 1000 companies that have not provided any disclosure of individual or aggregate racial/ethnic minority demographic information.
- **Director Commitments.** Glass Lewis revised its policy on director commitments to establish different thresholds for a director who serves as an executive *officer* of a public company versus an executive *chair*. As revised for 2023, Glass Lewis will generally recommend votes against (1) a director who serves as an executive officer (other than executive chair) of any public company while serving on more than one external public company board, (2) a director who serves as an executive chair of any public company while serving on more than two external public company boards and (3) any other director who serves on more than five public company boards. Glass Lewis will continue to consider other relevant factors (e.g., size and location of the other companies, director tenure, meeting attendance) in determining whether a director’s service on an excessive number of boards may limit the ability of the director to devote sufficient time to board duties. Glass Lewis generally will not recommend votes against overcommitted directors at the companies where they serve as an executive. Finally, Glass Lewis clarified that it will generally refrain from recommending votes against a director who serves on an excessive number of boards within a consolidated group of companies *in related industries*.
- **Officer Exculpation Charter Amendment Proposals.** Glass Lewis will generally recommend votes against officer exculpation charter amendment proposals unless the board provides a compelling rationale for the adoption and the provisions are reasonable.
- **Board Accountability – Climate-Related Issues.** For companies with material exposure to climate risk stemming from their own operations (i.e., companies in the Climate Action 100+ Focus Group), Glass Lewis expects thorough climate-related disclosures in line with TCFD recommendations and disclosure of explicit and clearly defined oversight responsibilities for climate-related issues. If these disclosures are absent or significantly lacking, Glass Lewis may recommend votes against the chair of the committee (or board) charged with oversight of climate-related issues, or if no committee has been charged with oversight, the governance committee chair. Glass Lewis may extend its negative vote recommendation to additional members of the responsible committee if the committee chair is not standing for election due to a classified board, or based on other factors (e.g., the company’s size, industry and overall governance profile). If appropriate directors are not standing for election, Glass Lewis may instead

⁴ As defined by Glass Lewis, a director from an “underrepresented community” is an individual who self-identifies as (x) Black, African American, North African, Middle Eastern, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian or Alaskan Native or (y) gay, lesbian, bisexual or transgender. For purposes of the evaluation, Glass Lewis will rely solely on the self-identified demographic information disclosed in a company’s proxy statement.

recommend votes against other voting items (e.g., ratification of board acts).

- **Board Oversight of E&S Issues.** Beginning in 2023, Glass Lewis will generally recommend votes against the governance committee chair of Russell 1000 companies that fail to provide explicit disclosure in their proxy statements or governance documents (e.g., committee charters) about the board's role in overseeing E&S issues. In 2023, Glass Lewis will expand tracking of board-level oversight of E&S issues to all companies within the Russell 3000 index but will not yet issue vote recommendations beyond Russell 1000 companies.
- **Board Oversight of Cyber Risk.** Glass Lewis views cyber risk as material for all companies and encourages companies to provide clear disclosure concerning the role of the board in overseeing issues related to cybersecurity and how directors are staying well-informed on evolving cybersecurity issues. In 2023, Glass Lewis will generally not issue vote recommendations on the basis of a company's oversight or disclosure concerning cyber-related issues but may recommend votes against appropriate directors at a company where cyber-attacks have caused significant harm to shareholders and Glass Lewis finds that the disclosure or oversight is insufficient.
- **Disclosure of Shareholder Proponents.** Glass Lewis will generally recommend votes against the governance committee chair if a company does not disclose in its proxy statement the identity of the proponent (or lead proponent when multiple proponents have submitted a proposal) of any shareholder proposal that may be going to a vote. Glass Lewis also encourages companies to provide information about the proponent's level of share ownership and the company's engagement (or lack thereof) with a proponent.
- **Shareholder Proposals Requesting Racial Equity or Civil Rights Audits.** In a new policy for 2023, Glass Lewis has codified its approach to shareholder proposals requesting that companies undertake racial equity or civil rights audits. When analyzing these proposals, Glass Lewis will assess (1) the nature of the company's operations, (2) the level of disclosure provided by the company and its peers on its internal and external stakeholder impacts and the steps it is taking to mitigate any attendant risks and (3) any relevant controversies, fines or lawsuits. Thereafter, Glass Lewis will generally recommend votes in favor of a well-crafted proposal when doing so could help the target company identify and mitigate potentially significant risks.
- **Board Responsiveness.** Glass Lewis clarified its expectations for board responsiveness when a significant percentage of shareholders vote contrary to management, as evidenced by votes against a director nominee or management proposal or votes for a shareholder proposal. When 20% or more shareholders vote contrary to management, boards should engage with shareholders on the issue and demonstrate some initial level of responsiveness, and when a majority of shareholders vote contrary to management, boards should engage with shareholders and provide a more robust response to fully address shareholder concerns. This may include fully implementing the request of a majority-supported shareholder proposal and/or engaging with shareholders on the issue and providing sufficient disclosures to address shareholder concerns. Glass Lewis also expanded its evaluation of board responsiveness to include a review of a company's proxy statement disclosure describing the board's efforts to engage with shareholders and the actions taken to address shareholder concerns.
- **Compensation Clawback Provisions.** On October 26, 2022, the SEC adopted rules mandating that the national securities exchanges develop new listing standards requiring listed companies to maintain and disclose compensation clawback policies. The New York Stock Exchange and Nasdaq must update their listing standards by November 28, 2023 in response to the final rules, and companies will have 60 days after the effective date of the new listing standards to comply. Until the new listing standards take effect, Glass Lewis will continue to raise concerns for companies that maintain clawback policies that meet only the requirements set forth by Section 304 of the Sarbanes-Oxley Act. However, Glass Lewis noted that disclosure about proactive efforts to meet the standards of the final rules may help to mitigate concerns. Glass Lewis recommends that boards adopt detailed variable compensation clawback policies that, at a minimum, allow companies to recover compensation from former and current named executive officers in the event of overpayment due to erroneous data that triggered an accounting restatement. Glass Lewis noted that it will increase its focus on the specific terms of clawback policies – beyond merely

satisfying minimum legal requirements – as market practice continues to evolve.

- **Other Compensation-Related Policy Updates:**

- **Incentive Programs:** Glass Lewis revised its threshold for the minimum percentage of the long-term incentive grant that should be performance-based from 33% to 50% to align with market trends. Accordingly, beginning in 2023, Glass Lewis will raise concerns in its analysis with executive pay programs that provide that less than half of an executive's long-term incentive awards are subject to performance-based vesting conditions. Further, Glass Lewis updated its discussion of short- and long-term incentives to recognize the importance of the compensation committee's judicious and responsible exercise of discretion over incentive pay outcomes to account for significant, material events (e.g., major litigation settlement charges or health and safety failures) that would otherwise be excluded from performance results of selected metrics of incentive programs. Glass Lewis believes that companies should discuss how these events were considered in the committee's decisions to exercise discretion or refrain from applying discretion over incentive pay outcomes.
- **Compensation Committee Performance:** Glass Lewis clarified that beginning in 2023 it will consider recommending votes against the compensation committee chair when a company grants "mega-grants" (meaning outsized awards to one individual valued at more than \$100 million) that present concerns such as excessive quantum, lack of sufficient performance conditions and/or excessive dilution, among others.
- **Grants of Front-Loaded Awards:** Glass Lewis expanded its discussion relating to front-loaded awards, which it weighs with particular scrutiny, to explicitly reference "mega-grants." Glass Lewis also expanded on its concerns regarding the increased restraint placed on the board to respond to unforeseen factors when a company uses front-loaded awards. Finally, Glass Lewis clarified that in situations where a front-loaded award was intended to cover a certain portion of the regular long-term incentive grant for each year during the covered period, Glass Lewis' analysis of the value of the remaining portion of the regular long-term incentives granted during the period covered by the award will account for the annualized value of the front-loaded portion and Glass Lewis expects the company will not award a supplemental grant during the vesting period of the front-loaded portion.
- **One-Time Awards:** Glass Lewis has expanded its expectations regarding a company's disclosure of one-time awards and beginning in 2023 will expect a company to describe how it determined the quantum and structure of the award.
- **Pay for Performance:** Glass Lewis noted that it may review new pay-for-performance disclosures when evaluating executive pay programs on a qualitative basis but clarified that the new SEC rules will not change Glass Lewis' pay-for-performance methodology for the 2023 proxy season.
- **Company Responsiveness to Say-on-Pay:** Glass Lewis clarified its policies on company responsiveness to shareholder opposition of more than 20% to say-on-pay proposals. When assessing the level of opposition, Glass Lewis added that it may examine the level of opposition among disinterested shareholders as an independent group. Glass Lewis expects a board to demonstrate a commensurate level of engagement and responsiveness to the concerns behind the disapproval, with a particular focus on responding to shareholder feedback. Appropriate responses include engaging with large shareholders, especially dissenting shareholders, to identify their concerns, and, where reasonable, implementing changes and/or making commitments that directly address those concerns within the company's compensation program. In cases where particularly egregious pay decisions caused the say-on-pay proposal to fail, Glass Lewis will closely consider whether any changes were made directly relating to the pay decision that may address structural concerns that shareholders have.
- **Retirement Benefits and Severance:** In an update for 2023, Glass Lewis clarified that, while it generally supports proposals requesting that companies adopt a policy whereby shareholders must approve severance payments exceeding 2.99 times the amount of the executive's base salary plus bonus, it may recommend against them if the company has a policy to seek shareholder approval for any cash severance payments exceeding 2.99 times the sum of an executive's salary and bonus.

Practical Considerations

- Companies should review the composition of their boards and their corporate governance and compensation practices for potential vulnerabilities under the ISS and Glass Lewis policy updates (e.g., in relation to board gender and racial/ethnic diversity or director commitments) and decide what action, if any, to take in light of this assessment.
- Companies should consider supplementing their proxy statement disclosures in light of the policy updates for 2023, particularly with respect to director diversity and board oversight of climate-related, E&S and cybersecurity issues. They should also be sure to identify the proponents of any shareholder proposals listed in the proxy statement.
- Finally, companies incorporated in Delaware should consider amending their charters to add an officer exculpation provision, which would require seeking shareholder approval at their next annual meeting.

If you have any questions regarding this Sidley Update, please contact the Sidley lawyer with whom you usually work, or

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Circumstances That May Trigger ISS and Glass Lewis Negative
Vote Recommendations in Uncontested Director Elections

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Table of Contents

Introduction A-1

Governance and Anti-Takeover Provisions A-2

Director Competence/Commitment A-9

Board Leadership, Size, Composition and Structure A-12

Other Governance-Related Matters A-15

Compensation-Related Matters A-21

Audit-Related Matters A-28

Introduction

Institutional Shareholder Services (ISS) and Glass Lewis have identified several circumstances that may trigger a negative vote recommendation in uncontested director elections at shareholder meetings of U.S. companies held during the 2023 proxy season. These circumstances are outlined in this report. Changes to ISS and Glass Lewis proxy voting guidelines to take effect for the 2023 proxy season are noted in bold and italics.

Sources:

- ISS, 2023 U.S. Proxy Voting Guidelines – Benchmark Policy Recommendations (published Dec. 13, 2022), [available here](#).
- ISS, U.S. Procedures & Policies (Non-Compensation) – Frequently Asked Questions (last updated Oct. 4, 2021), [available here](#).
- ISS, U.S. Compensation Policies – Frequently Asked Questions (last updated Dec. 16, 2022), [available here](#).
- ISS, U.S. Compensation Policies and the COVID-19 Pandemic – Updated for 2022 U.S. Proxy Season – Frequently Asked Questions (published Dec. 7, 2021), [available here](#).
- Glass Lewis, *2023 Policy Guidelines: United States* (published Nov. 17, 2022), [available here](#).
- Glass Lewis, *2023 Policy Guidelines: ESG Initiatives* (published Nov. 17, 2022), [available here](#).

Notes:

- Where the board is classified and a continuing director responsible for a problematic governance issue at the board/committee level that would warrant a negative vote recommendation is not up for election, ISS may hold any or all appropriate nominees, except new nominees, accountable.
- ISS defines a “new nominee” as a director who is being presented for election by shareholders for the first time. ISS makes vote recommendations on new nominees who have served for less than one year on a case-by-case basis depending on the timing of their appointment and the problematic governance issue in question.
- Where the recommendation is to vote against a committee chair and the chair is not up for election because the company has a classified board, except where noted, Glass Lewis will note the concern with regard to the committee chair but will not recommend voting against the other members of the relevant committee who are up for election. However, if Glass Lewis has identified multiple concerns and the committee chair is not up for election due to a classified board, Glass Lewis will generally recommend voting against other members of the committee who are up for election, on a case-by-case basis.
- Generally speaking and except as set forth herein, Glass Lewis will not issue vote recommendations against directors on the basis of governance standards (e.g., board independence, committee membership and structure, meeting attendance) at a company that completed an IPO within the past year.
- Glass Lewis has no board size requirements for controlled companies and applies certain exceptions to its board independence standards for controlled companies. Specifically, Glass Lewis does not require controlled companies to have boards that are at least two-thirds independent or fully independent compensation committees and nominating and governance committees. Finally, Glass Lewis does not require controlled companies to have an independent chair or an independent lead or presiding director.

Governance and Anti-Takeover Provisions

Topic	ISS		Glass Lewis	
	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors
Unilateral Bylaw / Charter Amendments	<ul style="list-style-type: none"> Board amendment of the company's bylaws or charter without shareholder approval in a manner that materially diminishes shareholders' rights or that could adversely impact shareholders, considering the following factors: <ul style="list-style-type: none"> The board's rationale for adopting the amendment without shareholder ratification; Disclosure of any significant engagement with shareholders regarding the amendment; The level of impairment of shareholders' rights caused by the amendment; The board's track record with regard to unilateral board action on bylaw/charter amendments or other entrenchment provisions; The company's ownership structure; The company's existing governance provisions; The timing of the amendment in connection with a significant business development; and Other factors, as deemed appropriate, that may be relevant to determine the impact of the amendment on shareholders. Examples of materially adverse unilateral amendments: <ul style="list-style-type: none"> Authorized capital increases that do not meet ISS' Capital Structure Framework; Board classification to establish staggered director elections; Director qualification bylaws that disqualify shareholders' nominees or directors who could receive third-party compensation; Fee-shifting bylaws that require a suing shareholder to bear all costs of a legal action that is not 100% successful; Increasing the vote requirement for shareholders to amend charter/bylaws; Adopting a plurality vote standard in uncontested director elections, or a majority vote standard in contested director elections; Removing or restricting the right of shareholders to call a special meeting (raising thresholds, restricting agenda items); and Removing or materially restricting the shareholders' right to act in lieu of a meeting via written consent. 	Individual Directors, Committee Members or the Entire Board (except new nominees who will be considered on a case-by-case basis)	<u>Amendments Generally:</u> <ul style="list-style-type: none"> Board amendment of the company's governing documents to reduce or remove important shareholder rights, or to otherwise impede the ability of shareholders to exercise such rights, without shareholder approval. <u>Examples:</u> <ul style="list-style-type: none"> The elimination of the ability of shareholders to call a special meeting or to act by written consent; An increase to the ownership threshold required for shareholders to call a special meeting; An increase to vote requirements for charter or bylaw amendments; The adoption of provisions that limit the ability of shareholders to pursue full legal recourse – such as bylaws that require arbitration of shareholder claims or “fee-shifting” or “loser pays” bylaws; The adoption of a classified board structure; and The elimination of the ability of shareholders to remove a director without cause. 	Governance Committee Chair or Governance Committee Members
			<u>Director Compensation Bylaws:</u> <ul style="list-style-type: none"> When the board adopts without shareholder approval provisions in its charter or bylaws that, through rules on director compensation, may inhibit the ability of shareholders to nominate directors. <u>Exclusive Forum Provision:</u> <ul style="list-style-type: none"> When during the past year the board adopted an exclusive forum provision, designating either a state's courts for intra-corporate disputes, and/or federal courts for matters arising under the Securities Act of 1933, without shareholder approval. Glass Lewis may make an exception to this policy if it can be reasonably determined that a forum selection clause is narrowly crafted to suit the particular circumstances facing the company. If the board is currently seeking shareholder approval of an exclusive forum provision pursuant to a bundled bylaw amendment rather than as a separate proposal. 	Governance Committee Members Governance Committee Chair

<p>Unilateral Bylaw / Charter Amendments (cont'd)</p>	<ul style="list-style-type: none"> • <u>Examples of unilateral amendments generally not considered materially adverse (considered on a case-by-case basis):</u> <ul style="list-style-type: none"> ○ Advance notice bylaws that set customary and reasonable deadlines; ○ Director qualification bylaws that require disclosure of third-party compensation arrangements; and ○ Exclusive forum provisions (if the venue is the company's state of incorporation). • Case-by-case on director nominees in subsequent years until the adverse amendment is reversed or submitted to a binding shareholder vote, except that ISS will generally recommend against in subsequent years if the directors: <ul style="list-style-type: none"> ○ Classified the board; ○ Adopted supermajority vote requirements to amend the bylaws or charter; ○ Eliminated shareholders' ability to amend the bylaws; ○ Adopted a fee-shifting provision; or ○ Adopted another provision deemed egregious. <p><u>Exclusive Forum Provisions:</u></p> <ul style="list-style-type: none"> • When during the past year the board adopted without shareholder approval a federal forum selection provision restricting the forum to a particular federal district court. • When during the past year the board adopted without shareholder approval an exclusive forum provision for state law matters that specifies as the exclusive forum (i) a state other than the state of incorporation or (ii) a particular local court within the state of incorporation. <p><u>Amending Quorum Requirements:</u></p> <ul style="list-style-type: none"> • When directors unilaterally lower the quorum requirements below a majority of the shares outstanding, taking into consideration: <ul style="list-style-type: none"> ○ The new quorum threshold requested; ○ The rationale presented for the reduction; ○ The company's market cap (size, indices); ○ The company's ownership structure; ○ Previous voter turnout or attempts to achieve quorum; ○ Any commitments to restore quorum to a majority of shares outstanding, should voter turnout improve sufficiently; and ○ Other factors as appropriate. 			
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<p>Undue Restrictions on Shareholders' Ability to Amend Bylaws</p>	<ul style="list-style-type: none"> • If the company's governing documents impose undue restrictions on shareholders' ability to amend the bylaws, including (but not limited to): <ul style="list-style-type: none"> ○ Outright prohibition on the submission of binding shareholder proposals or share ownership requirements; ○ Subject matter restrictions (e.g., prohibitions on shareholders' ability to amend the particular bylaws that govern their ability to amend the bylaws); and ○ Time holding requirements in excess of SEC Exchange Act Rule 14a-8. Negative vote recommendations on an ongoing basis. • Submission of management proposals to approve or ratify requirements in excess of SEC Exchange Act Rule 14a-8 for the submission of binding bylaw amendments, which are generally viewed as an insufficient restoration of shareholders' rights. Negative vote recommendations on an ongoing basis until shareholders are provided with an unfettered ability to amend the bylaws or a proposal providing for such unfettered right is submitted for shareholder approval. 	<p>Governance Committee Members</p>		
<p>Management Proposals to Ratify Existing Charter or Bylaw Provisions</p>	<ul style="list-style-type: none"> • Where boards ask shareholders to ratify existing charter or bylaw provisions, considering the following factors: <ul style="list-style-type: none"> ○ Presence of shareholder proposal addressing the same issue on the same ballot; ○ Board's rationale for seeking ratification; ○ Disclosure of actions to be taken by the board should ratification proposal fail; ○ Disclosure of shareholder engagement regarding the board's ratification request; ○ Level of impairment to shareholders' rights caused by the existing provision; ○ History of management and shareholder proposals on the provision; ○ Whether current provision was adopted in response to the shareholder proposal; ○ The company's ownership structure; and ○ Previous use of ratification proposals to exclude shareholder proposals. 	<p>Individual Directors, Governance Committee Members or the Entire Board</p>		

<p>Problematic Capital Structure – Unequal Voting Rights</p>	<ul style="list-style-type: none"> <i>If the company employs a common stock structure with unequal voting rights, unless one or more of the following circumstances are present:</i> <ul style="list-style-type: none"> Newly public company with a sunset provision of no more than seven years from the date of going public; Limited Partnership or Operating Partnership unit structure of REITs; Situations where the super-voting shares represent less than 5% of total voting power and therefore considered to be de minimis; or The company provides sufficient protections for minority shareholders, such as allowing minority shareholders a regular binding vote on whether the capital structure should be maintained. <p><i>A common stock structure with unequal voting rights is generally considered to include classes of common stock that have additional votes per share than other shares; classes of shares that are not entitled to vote on all the same ballot items or nominees; or stock with time-phased voting rights (“loyalty shares”).</i></p>	<p><i>Individual Directors, Committee Members or the Entire Board (except new nominees who will be considered on a case-by-case basis)</i></p>	<ul style="list-style-type: none"> <i>At companies with a multi-class structure and unequal voting rights when the company does not provide for a reasonable sunset of the multi-class share structure (generally seven years or less).</i> 	<p>Governance Committee Chair</p>
<p>Problematic Governance Structures at Newly Public Companies</p>	<ul style="list-style-type: none"> <i>For companies that held their first annual meeting of public shareholders after Feb. 1, 2015</i>, if, prior to or in connection with the company’s public offering, the company or its board adopted the following bylaw or charter provisions that are considered to be materially adverse to shareholder rights: <ul style="list-style-type: none"> Supermajority vote requirements to amend the bylaws or charter; A classified board structure; or Other egregious provisions. <p><i>A provision which specifies that the problematic structure(s) will be sunset within seven years of the date of going public will be considered a mitigating factor.</i></p> <ul style="list-style-type: none"> Case-by-case on director nominees in subsequent years until the adverse provision is reversed or removed. 	<p>Individual Directors, Committee Members or the Entire Board (except new nominees who will be considered on a case-by-case basis)</p>	<ul style="list-style-type: none"> For newly public companies (e.g., those that have completed an IPO or spin-off within the past year), if the board approved governing documents that severely restrict the ability of shareholders to effect change, considering: <ul style="list-style-type: none"> The adoption of anti-takeover provisions such as a poison pill or classified board (unless they provide for a reasonable sunset (generally three to five years)); Supermajority vote requirements to amend governing documents; The presence of exclusive forum or fee-shifting provisions; Whether shareholders can call special meetings or act by written consent; The voting standard provided for the election of directors; Shareholders’ ability to remove directors without cause; The presence of evergreen provisions in the company’s equity compensation arrangements; and The presence of a multi-class share structure that does not afford common shareholders 	<p>Entire Board (directors who served when the problematic provision was adopted, depending on the severity of the concern; typically Governance Committee Members but potentially others if there is no Governance Committee or if a portion of the Governance Committee Members are not standing for election because the board is classified)</p>

Problematic Governance Structures at Newly Public Companies (cont'd)			voting power aligned with their economic interest (unless the board committed to submit the provision to a shareholder vote at the first shareholder meeting following the IPO and it provides for a reasonable sunset (generally seven years or less)).	
			<ul style="list-style-type: none"> When a board adopts an anti-takeover provision (e.g., poison pill or classified board) preceding an IPO and the board (i) did not also commit to submit the anti-takeover provision to a shareholder vote at the company's first shareholder meeting following the IPO (rather than within 12 months of the IPO) or (ii) did not provide a sound rationale or sunset provision for adopting the anti-takeover provision. 	Entire Board
Removal of Shareholder Discretion on Classified Boards	<ul style="list-style-type: none"> If the company has opted into, or failed to opt out of, state laws requiring a classified board structure. 	Entire Board (except new nominees who will be considered on a case-by-case basis)		
Poison Pills	<ul style="list-style-type: none"> <i>The company has a poison pill with a deadhand or slowhand feature, including a short-term pill with a deadhand feature that is enacted but expires before the next shareholder vote.</i> <i>The board makes a material adverse modification to an existing pill, including, but not limited to, extension, renewal, or lowering the trigger without shareholder approval; or</i> <i>The company has a long-term poison pill (with a term of over one year) that was not approved by the public shareholders.</i> <ul style="list-style-type: none"> <i>Approval prior to, or in connection with a company's becoming publicly-traded, or in connection with a de-SPAC transaction, is insufficient.</i> 	Entire Board (except new nominees who will be considered on a case-by-case basis)	<ul style="list-style-type: none"> When a poison pill with a term of longer than one year was adopted without shareholder approval within the prior 12 months. If the board has, without seeking shareholder approval and without adequate justification, extended the term of a poison pill by one year or less in two consecutive years. 	Entire Board
	<ul style="list-style-type: none"> <i>The board adopts an initial short-term pill (with a term of one year or less), including a short-term pill with a deadhand feature that is enacted but expires before the next shareholder vote, without shareholder approval, taking into consideration:</i> <ul style="list-style-type: none"> <i>The disclosed rationale for the adoption;</i> <i>The trigger;</i> <i>The company's market capitalization (including absolute level and sudden changes);</i> <i>A commitment to put any renewal to a shareholder vote; and</i> <i>Other factors as relevant.</i> 	Entire board (on a case-by-case basis)	<ul style="list-style-type: none"> If a poison pill with a term of one year or less was adopted without shareholder approval and without adequate justification. 	Governance Committee Members

Proxy Access	<p><u>Lack of Board Responsiveness to a Majority-Supported Shareholder Proxy Access Proposal:</u></p> <ul style="list-style-type: none"> • If the proxy access provision implemented or proposed by management contains material restrictions more stringent than those included in the shareholder proposal with respect to the following: <ul style="list-style-type: none"> ○ Ownership thresholds >3%; ○ Ownership duration > three years; ○ Aggregation limits <20 shareholders; and ○ Cap on proxy access nominees set at <20% of the board. • If the aggregation limit or cap on proxy access nominees differs from the terms of the shareholder proposal and the company has not disclosed its shareholder outreach efforts and engagement. • If the proxy access provision contains restrictions or conditions on proxy access nominees, ISS will review case-by-case considering the following restrictions as “potentially problematic,” particularly in combination: <ul style="list-style-type: none"> ○ Prohibitions on resubmission of failed nominees in subsequent years; ○ Restrictions on third-party compensation of proxy access nominees; ○ Restrictions on the use of proxy access and proxy contest procedures for the same meeting; ○ How long and under what terms an elected shareholder nominee will count toward the maximum number of proxy access nominees; and ○ When the right will be fully implemented and accessible to qualifying shareholders. • ISS will consider the following restrictions as “especially problematic”: <ul style="list-style-type: none"> ○ Counting individual funds within a mutual fund family as separate shareholders for purposes of an aggregation limit; or ○ The imposition of post-meeting shareholding requirements for nominating shareholders. • ISS will also consider in connection with other problematic provisions whether the proxy access provision provides the board with broad and binding authority to interpret the provision. 	Individual Directors, Nominating/Governance Committee Members or the Entire Board	See discussion under Other Governance-Related Matters – Lack of Board Responsiveness below.	
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Proxy Access (cont'd)	<p><u>Proxy Access Nominees:</u></p> <ul style="list-style-type: none"> • Case-by-case on proxy access nominees considering the following and any other relevant factors, including those specific to the company, to the nominee and/or to the nature of the election (such as whether there are more candidates than board seats): <ul style="list-style-type: none"> ○ Nominee/nominator-specific factors: <ul style="list-style-type: none"> ■ Nominators' rationale; ■ Nominators' critique of management/incumbent directors; and ■ Nominee's qualifications, independence and overall fitness for directorship. ○ Company-specific factors: <ul style="list-style-type: none"> ■ Company performance relative to its peers; ■ Background to the contested situation (if applicable); ■ Board's track record and responsiveness; ■ Independence of directors/nominees; ■ Governance profile of the company; ■ Evidence of board entrenchment; ■ Current board composition (skill sets, tenure, diversity, etc.); and ■ Ongoing controversies, if any. ○ Election-specific factors: <ul style="list-style-type: none"> ■ Whether the number of nominees exceeds the number of board seats; and ■ Vote standard for the election of directors. 	Individual Directors		
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Director Competence/Commitments

Topic	ISS		Glass Lewis	
	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors
Director Attendance	<ul style="list-style-type: none"> A director attends less than 75% of the aggregate of his/her board and committee meetings for the period of service (or missed more than one meeting, if the director's total service was three or fewer meetings), unless the absence was due to medical issues/illness or family emergencies, and the reason for such absence is disclosed in the proxy statement or other SEC filing. If the proxy disclosure is unclear and insufficient to determine whether the director attended at least 75% of board and committee meetings during the period of service. 	Individual Directors (except those who served only part of the fiscal year under review)	<ul style="list-style-type: none"> A director who fails to attend a minimum of 75% of the aggregate of his/her board and applicable committee meetings (not applicable if a director has served for less than one full year or if the proxy discloses that the director missed meetings due to serious illness or other extenuating circumstances). 	Individual Directors (except those who have served less than one full year)
	<ul style="list-style-type: none"> Chronic poor attendance without reasonable justification. <ul style="list-style-type: none"> Defined as three or more consecutive years. May also apply where there is a long-term pattern of absenteeism, such as poor attendance the previous year and three of the past four years. If a director has chronic poor attendance without reasonable justification: <ul style="list-style-type: none"> After three years, ISS will issue a negative vote recommendation against the nominating/governance committee chair; After four years, ISS will issue vote recommendations against the full nominating/governance committee; and After five years, ISS will issue vote recommendations against all nominees. 	Individual Directors, Nominating/Governance Committee Chair or Nominating/Governance Committee Members or the Entire Board	<ul style="list-style-type: none"> Directors' records for board and committee attendance are not disclosed. When it is indicated that a director attended less than 75% of board and committee meetings but the proxy disclosure is sufficiently vague that it is not possible to determine which specific director's attendance was lacking. 	Governance Committee Chair
Director Overboarding	<ul style="list-style-type: none"> A director who sits on more than five public company boards. A director who is CEO of a public company who sits on boards of more than two public companies besides the CEO's own board (the negative vote recommendation will not apply to the boards of controlled subsidiaries (>50% ownership) of the CEO's own board); at outside boards and <50% subsidiaries, ISS will review case-by-case, considering: <ul style="list-style-type: none"> Structure of the parent subsidiary relationship (e.g., holding company); Similarity of business lines between the parent and subsidiary; Percentage of subsidiary held by the parent company; 	Individual Directors	<ul style="list-style-type: none"> A director who is an executive officer (other than executive chair) of any public company while serving on more than one external public company board. A director who serves as an executive chair of any public company while serving on more than two external public company boards. Any other director who serves on more than five public company boards. <ul style="list-style-type: none"> Glass Lewis may consider relevant factors such as the size and location of the other companies where the director serves on the board, the director's board roles at the companies in question, whether the director serves on the board of any large 	Individual Directors

	<ul style="list-style-type: none"> and <ul style="list-style-type: none"> o Total number of boards on which he/she serves. • Boards of subsidiaries with publicly-traded stock count as separate boards. Subsidiaries that only issue debt are not counted. • If service on another board is an integral part of the duties of an officer (e.g., joint marketing agreements requiring service on another board; service on the boards of an externally-managed issuer and its external manager), ISS will still count each board as a separate board but will take that into consideration in determining the vote recommendation. o ISS will generally not count a board when it is publicly disclosed that the director will be stepping off that board at its next annual meeting if that meeting will occur in the near future. However, ISS will include the new boards that the director is joining even if the shareholder meeting with his or her election has not yet taken place. 		<p>privately held companies, the director's tenure on the boards in question and the director's attendance record at all companies.</p> <ul style="list-style-type: none"> o When evaluating whether a director who serves in an executive role other than CEO (e.g., executive chair) is overboarded, Glass Lewis will consider the specific duties and responsibilities of the director's executive role. If a director serves only as an executive at a SPAC, Glass Lewis will generally apply the higher threshold of five public company directorships. o Glass Lewis may refrain from recommending votes against a director if the company provides sufficient rationale for the director's continued board service that should allow shareholders to evaluate the scope of the director's other commitments, as well as the director's contributions to the board, including specialized knowledge of the company's industry, strategy or key markets; the diversity of skills, perspective and background the director provides; and other relevant factors. o Glass Lewis will also generally refrain from recommending votes against a director who serves on an excessive number of boards within a consolidated group of companies <i>in related industries</i> or a director who represents a firm whose sole purpose is to manage a portfolio of investments that includes the company. 	
Audit Committee Overboarding			<ul style="list-style-type: none"> • Any audit committee member who sits on more than three public company audit committees, unless he/she is a retired CPA, CFO or controller, or has similar experience, in which case the limit is four committees, considering time and availability, including a review of the audit committee member's attendance at all board and committee meetings. 	Audit Committee Members
Service at Other Companies	<ul style="list-style-type: none"> • Under extraordinary circumstances, egregious actions related to service on other boards that raise substantial doubt about the director's ability to effectively oversee management and serve the best interests of shareholders at any company. 	Individual Directors, Committee Members or the Entire Board	<ul style="list-style-type: none"> • Director who has served on boards or as an executive of companies with records of poor performance, inadequate risk oversight, excessive compensation, audit- or accounting-related issues, and/or other indicators of mismanagement or actions against the interests of shareholders, considering, among other factors: <ul style="list-style-type: none"> o Length of time passed since the incident giving rise to the concern; o Shareholder support for the director; o The severity of the issue; o The director's role (e.g., committee membership); 	Individual Directors

			<ul style="list-style-type: none"> • Director tenure at the company; <ul style="list-style-type: none"> ○ Whether ethical lapses accompanied the oversight lapse; and ○ Evidence of strong oversight at other companies. • A director who is also the CEO of a company where a serious and material restatement has occurred after the CEO had previously certified the pre-restatement financial statements. • A director who has received two “against” recommendations from Glass Lewis for identical reasons within the prior year at different companies (the same situation must also apply at the company being analyzed). 	
			<ul style="list-style-type: none"> • Any compensation committee member who has served on the compensation committee of at least two other public companies that have consistently failed to align pay with performance and whose oversight of compensation at the company in question is suspect. 	Compensation Committee Members
Late Section 16 Filings			<ul style="list-style-type: none"> • A director who belatedly filed a significant Form 4 or 5 or who has a pattern of late filings if the late filing was the director’s fault. 	Individual Directors (case-by-case)
Inadequate Number of Committee Meetings			<ul style="list-style-type: none"> • The nominating and/or governance committee did not meet during the year. • The compensation committee did not meet during the year. • The audit committee did not meet at least four times during the year. 	Applicable Committee Chair

Board Leadership, Size, Composition and Structure

Topic	ISS		Glass Lewis	
	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors
Independent Board Leadership			<ul style="list-style-type: none"> When the board chair is not independent and an independent lead or presiding director has not been appointed. When the independent lead or presiding director is rotated among directors from meeting to meeting. 	Governance Committee Chair
Board or Committee Size			When there are more than 20 board members.	Nominating/Governance Committee Members
			When there are fewer than five board members.	Nominating/Governance Committee Chair
			If the audit committee has less than three members.	Audit Committee Chair
Insufficient Board Independence	<ul style="list-style-type: none"> Independent directors comprise 50% or less of the board. 	All Executive Directors and Non-Independent, Non-Executive Directors	Where more than one-third of the members of the board are inside or affiliated directors, Glass Lewis will recommend votes against some of the inside and/or affiliated directors to reach the two-thirds independence threshold.	Individual Inside and/or Affiliated Directors
Lack of Key Committees	<ul style="list-style-type: none"> The company lacks an audit, compensation or nominating committee, so the full board functions as that committee. The company lacks a formal nominating committee (even if the board attests that independent directors fulfill the functions of such a committee). 	All Executive Directors and Non-Independent, Non-Executive Directors		
Key Committees Not Entirely Independent	<ul style="list-style-type: none"> A non-independent director serves on the audit, compensation or nominating committee. 	All Executive Directors and Non-Independent, Non-Executive Directors	<ul style="list-style-type: none"> Any inside or affiliated director seeking appointment to an audit, compensation, nominating or governance committee, or who has served in that capacity in the past year. Compensation committee members who are not independent based on Glass Lewis standards. Any audit committee member who owns 20% or more of the company's stock. 	Individual Directors
Audit Committee Size and Composition			<ul style="list-style-type: none"> If the audit committee does not have a financial expert or the committee's financial expert does not have a demonstrable financial background sufficient to understand the financial issues unique to public companies. If the committee has fewer than three members. 	Audit Committee Chair
Director Tenure; Waiver of Term/Age Limits			Where the average tenure of non-executive directors is 10 years or more and no new independent directors have joined the board in the past five years, it may be a contributing factor in recommendations against the Nominating Committee Chair where Glass	Nominating and/or Governance Committee Chair

			<p>Lewis has identified other governance or board performance concerns.</p> <ul style="list-style-type: none"> If the board waives its term/age limits for two or more consecutive years unless sufficient explanation is provided (e.g., consummation of a merger). 	Nominating and/or Governance Committee Members
Lack of Relevant Experience			<ul style="list-style-type: none"> Where the board's failure to ensure the board has directors with relevant experience, either through periodic director assessment or board refreshment, has contributed to a company's poor performance. 	Nominating Committee Chair (If there is no governance or nominating committee, then the board chair. If the chair is the CEO, then the longest-serving director)
Lack of Board Gender Diversity	<ul style="list-style-type: none"> After Feb. 1, 2023 (whether or not the company is in the Russell 3000 or S&P 1500 index), where there are no women on the board unless there was a woman on the board at the preceding annual meeting and the board makes a firm commitment to return to a gender-diverse status within a year. Prior to Feb. 1, the above applies to only companies in the Russell 3000 or S&P 1500 index. For Foreign Private Issuers listed on U.S. Exchanges, a one-year grace period will be applied at companies where there are no women on the board but there is at least one director who is disclosed as identifying as non-binary. 	Nominating Committee Chair (or Individual Directors on a case-by-case basis) (e.g., other directors responsible for director nominations at companies with no formal nominating committee)	<ul style="list-style-type: none"> Where a board has no gender diverse directors. Beginning in 2023, where a board is not at least 30% gender diverse at companies within the Russell 3000 index. Glass Lewis will review disclosure of diversity considerations and may refrain from recommending against directors when a board has provided a sufficient rationale or plan to address the lack of diversity on the board, including a timeline to appoint additional gender diverse directors (generally by the next annual meeting). 	Nominating Committee Chair (May extend to additional members of the nominating committee where the committee chair is not standing for election due to a classified board, or based on other factors, including the company's size and industry, applicable laws in its state of headquarters, and its overall governance profile.)
Lack of Board Racial/Ethnic Diversity	<ul style="list-style-type: none"> For companies in the Russell 3000 or S&P 1500 index, where the board has no apparent racially or ethnically diverse members unless there was racial and/or ethnic diversity on the board at the preceding annual meeting and the board makes a firm commitment to appoint at least one racially and/or ethnically diverse member within a year. 	Nominating Committee Chair or Individual Directors (on a case-by-case basis) (e.g., other directors responsible for director nominations at companies with no formal nominating committee)	<ul style="list-style-type: none"> Beginning in 2023, for companies within the Russell 1000 index, where a company has no directors from an underrepresented community. <ul style="list-style-type: none"> Defined as an individual who self-identifies as Black, African American, North African, Middle Eastern, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, or Alaskan Native, or who self-identifies as gay, lesbian, bisexual, or transgender, as disclosed in the proxy statement. Glass Lewis will review disclosure of diversity considerations and may refrain from recommending against directors when a board has provided a sufficient rationale or plan to address the lack of diversity on the board, including a timeline to appoint additional directors from an underrepresented community (generally by the next annual meeting). 	Nominating Committee Chair (May extend to additional members of the nominating committee where the committee chair is not standing for election due to a classified board, or based on other factors, including the company's size and industry, applicable laws in its state of headquarters, and its overall governance profile.)

<p>Disclosure of Director Diversity and Skills</p>			<ul style="list-style-type: none"> • <i>When companies in the Russell 1000 index have not provided any disclosure in any of the following categories:</i> <ul style="list-style-type: none"> ○ <i>The board's current percentage of racial/ethnic diversity;</i> ○ <i>Whether the board's definition of diversity explicitly includes gender and/or race/ethnicity;</i> ○ <i>Whether the board has adopted a "Rooney Rule" policy requiring women and minorities to be included in the initial pool of candidates when selecting new director nominees; and</i> ○ <i>Board skills disclosure.</i> • <i>Beginning in 2023, when companies in the Russell 1000 index have not provided any disclosure of individual or aggregate racial/ethnic minority board demographic information.</i> 	<p><i>Nominating and/or Governance Committee Chair</i></p>
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Other Governance-Related Matters

Topic	ISS		Glass Lewis	
	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors
Poor Performance, Accountability and Oversight	<ul style="list-style-type: none"> The board lacks mechanisms to promote accountability and oversight, coupled with sustained poor performance of the company relative to peers measured by one-, three- and five-year total shareholder returns in the bottom half of a Russell 3000 company's four-digit Global Industry Classification Group (ISS will take into consideration the company's operational metrics and other factors as warranted); ISS will consider "problematic" the following governance practices: <ul style="list-style-type: none"> A classified board structure; A supermajority vote requirement; A plurality vote standard in uncontested director elections or a majority vote standard for director elections with no plurality carve-out for contested elections; Inability of shareholders to call special meetings or act by written consent; A multi-class capital structure; and/or A non-shareholder approved poison pill. 	Entire Board (except new nominees who will be considered on a case-by-case basis)	<ul style="list-style-type: none"> If, with consideration given to the company's overall corporate governance, pay-for-performance alignment and board responsiveness to shareholders, the company performed significantly worse than peers and the directors have not taken reasonable steps to address the poor performance. 	Individual Directors (who served during that period)
	<ul style="list-style-type: none"> <u>Board Accountability on Climate:</u> For companies that are significant greenhouse gas (GHG) emitters, through their operations or value chain, where ISS determines that the company is not taking the minimum steps needed to understand, assess, and mitigate risks related to climate change to the company and the larger economy. Companies defined as "significant GHG emitters" will be those on the current Climate Action 100+ Focus Group list. Minimum steps to understand and mitigate those risks are considered to be the following, both of which will be required to be in alignment with the policy: <ul style="list-style-type: none"> Detailed disclosure of climate-related risks, such as according to the framework established by the Task Force on Climate-related Financial Disclosures (TCFD), including: <ul style="list-style-type: none"> Board governance measures; Corporate strategy; Risk management analyses; and Metrics and targets. Appropriate GHG emissions reduction targets "Appropriate GHG emissions reductions targets" will be 	Incumbent chair of the responsible committee (or other directors on a case-by-case basis)	<ul style="list-style-type: none"> <i>When a company has material exposure to climate risk stemming from its own operations and does not provide thorough climate-related disclosures in line with TCFD recommendations and/or does not disclose explicit and clearly defined oversight responsibilities for climate-related issues.</i> 	<i>Chair of the Committee Charged with Oversight of Climate-Related Issues or, if None, the Governance Committee Chair (May extend to additional members of the responsible committee where the committee chair is not standing for election due to a classified board, or based on other factors, including the company's size and industry and its overall governance profile.)</i>
			<ul style="list-style-type: none"> <i>Beginning in 2023, for companies in the Russell 1000 index, where a company fails to provide explicit disclosure concerning the board's role in overseeing environmental and social (E&S) issues. Glass Lewis will examine a company's proxy statement and governing documents (e.g., committee charters) to determine if directors maintain a meaningful level of oversight and accountability for material E&S risks.</i> 	<i>Governance Committee Chair</i>

	<i>medium-term GHG reduction targets or Net Zero-by-2050 GHG reduction targets for a company's operations (Scope 1) and electricity use (Scope 2). Targets should cover the vast majority (95%) of the company's direct (Scope 1 & 2) emissions.</i>		<ul style="list-style-type: none"> Where cyber-attacks have caused significant harm to shareholders and Glass Lewis finds disclosure or oversight of issues and risks relating to cybersecurity to be insufficient. 	Appropriate Directors
Governance Failures	<ul style="list-style-type: none"> Under extraordinary circumstances, due to: <ul style="list-style-type: none"> Material failures of governance, stewardship, risk oversight (examples include bribery, large or serial fines or sanctions from regulatory bodies, demonstrably poor risk oversight of environmental and social issues, including climate change, significant adverse legal judgments or settlements or hedging of company stock) or fiduciary responsibilities at the company; Failure to replace management as appropriate; or Egregious actions related to a director's service on other boards that raise substantial doubt about his or her ability to effectively oversee management and serve the best interests of shareholders at any company. <ul style="list-style-type: none"> Sources of information about such egregious actions may include a well-supported shareholder campaign, a controversy, or a clear mismatch between a company's future planning and industry norms that threaten to put the company at a competitive disadvantage. 	Individual Directors, Committee Members or the Entire Board	<ul style="list-style-type: none"> When a company has disclosed a sizable loss or writedown, and the risk committee contributed to the loss through poor oversight. 	Risk Committee Members
			<ul style="list-style-type: none"> Where a company maintains a significant level of financial risk exposure but fails to disclose any explicit form of board-level risk oversight (committee or otherwise). 	Chair of the Board (but not Chair/CEO except in egregious cases)
			<ul style="list-style-type: none"> When management and the board have displayed disregard for environmental or social risks, have engaged in egregious or illegal conduct, or have failed to adequately respond to current or imminent environmental and social risks that threaten shareholder value. 	Directors Responsible for Oversight of Environmental or Social Risks (e.g., a Sustainability Committee); if such oversight responsibility has not been clearly defined in a company's governance documents, Audit Committee Members
			<ul style="list-style-type: none"> Particularly egregious actions by the company relating to the mismanagement of corporate funds through political donations or lobbying activities. 	Governance Committee Chair or Other Responsible Directors
Lack of Board Responsiveness	<ul style="list-style-type: none"> Failure to adequately respond to a shareholder proposal that received the support of a majority of votes cast in the previous year, or to a management proposal seeking to ratify an existing charter or bylaw provision that received opposition of a majority of shares cast in the previous year, taking into account: <ul style="list-style-type: none"> Disclosed outreach efforts by the board to shareholders in the wake of the vote; Rationale provided in the proxy statement for the level of implementation; The subject matter of the proposal; The level of support for and opposition to the resolution in past meetings; Actions taken by the board in response to the majority vote and its engagement with shareholders; 	Individual Directors, Committee Members or the Entire Board on a case-by-case basis	<ul style="list-style-type: none"> When the board has not taken clear action to implement or enact a shareholder proposal relating to important shareholder rights that received support from a majority of the votes cast (excluding abstentions and broker non-votes) (e.g., proposals to declassify the board, adopt majority voting to elect directors, or permit shareholders to call a special meeting); in determining whether a board has sufficiently implemented such a proposal, Glass Lewis will examine the quality of the right enacted or proffered by the board for any conditions that may unreasonably interfere with the shareholders' ability to exercise the right (e.g., overly restrictive procedural requirements for calling a special meeting). 	Governance Committee Members

<p>Lack of Board Responsiveness (Cont'd)</p>	<ul style="list-style-type: none"> ○ The continuation of the underlying issue as a voting item on the ballot (as either shareholder or management proposals); and ○ Other factors as appropriate. • Clear examples of non-responsiveness by the board would include: no acknowledgement in the proxy statement that shareholders supported the proposal; dismissal of the proposal with no reasons given; or actions taken to prevent future shareholder input on the matter altogether. • A recommendation other than a “For”, (e.g. “None” or “Against”) will generally not be considered as sufficient action taken. 		<ul style="list-style-type: none"> • When the board failed to respond appropriately after 20% or more of shareholders (excluding abstentions and broker non-votes) voted contrary to management (either against a director nominee, against a management proposal or for a shareholder proposal); Glass Lewis expects boards to engage with shareholders on the issue and demonstrate some <i>initial</i> level of responsiveness; Glass Lewis will examine the severity of the underlying issue, and the lack of appropriate response may be a contributing factor to a future recommendation against a director nominee. <ul style="list-style-type: none"> ○ Particularly relevant in the case of director elections and say-on-pay proposals. 	Individual Directors or the Entire Board
			<ul style="list-style-type: none"> • When the board failed to respond appropriately after a majority of shareholders (excluding abstentions and broker non-votes) voted contrary to management (either against a director nominee, against a management proposal or for a shareholder proposal); Glass Lewis expects boards to engage with shareholders on the issue and provide a <i>more robust response</i> to fully address shareholder concerns; Glass Lewis will examine the severity of the underlying issue, and the lack of appropriate response may be a contributing factor to a future recommendation against a director nominee. <ul style="list-style-type: none"> ○ <i>Glass Lewis believes clear action is warranted when shareholder proposals receive majority support which may include fully implementing the request of the proposal and/or engaging with shareholders on the issue and providing sufficient disclosures to address shareholder concerns.</i> 	Individual Directors or the Entire Board
			<ul style="list-style-type: none"> • When the compensation committee failed to implement a shareholder proposal regarding a compensation-related issue, if the proposal received the affirmative vote of a majority of the voting shares, and if a reasonable analysis suggests the compensation committee should have taken steps to implement the request. 	Compensation Committee Members
			<ul style="list-style-type: none"> • When the board of a company with a multi-class share structure failed to demonstrate an appropriate level of responsiveness after a majority of unaffiliated shareholders supported a shareholder proposal or opposed a management proposal. 	Individual Directors or the Entire Board

	<ul style="list-style-type: none"> At the previous board election, any director received more than 50% negative votes of the votes cast and the company failed to address the underlying issues that led to the low support level. 	Individual Directors, Committee Members or the Entire Board on a case-by-case basis	<ul style="list-style-type: none"> When a director received a greater than 50% (in rare cases, 20% or more) against vote the prior year and the director was not removed and the issues that raised shareholder concern were not corrected, considering the severity of the issues that raised shareholder concern and company responsiveness. <ul style="list-style-type: none"> Also see discussion of 20% threshold above. 	Nominating Committee Chair
	<ul style="list-style-type: none"> At the previous board election, any director received less than 70% of shareholder support and the board is not responsive (i.e., lacks discussion or consideration). 	Individual Directors, Committee Members or the Entire Board on a case-by-case basis		
	<ul style="list-style-type: none"> The board failed to act on takeover offers where the majority of shares were tendered. 	Individual Directors, Committee Members or the Entire Board on a case-by-case basis		
Exclusion of Shareholder Proposals	<ul style="list-style-type: none"> Omission from the proxy statement/ballot of a properly submitted shareholder proposal without obtaining any of: <ul style="list-style-type: none"> Voluntary withdrawal of the proposal by the proponent; No-action relief from the SEC; and A U.S. District Court ruling that it can exclude the proposal from its ballot. 	Individual Directors, Committee Members or the Entire Board	<p><u>Excluded Shareholder Proposals When the SEC Has Not Granted Written No-Action Relief:</u></p> <ul style="list-style-type: none"> When a company excluded a shareholder proposal and the SEC had declined to state a view on whether the proposal should be excluded. When a company excluded a shareholder proposal the SEC had verbally permitted the company to exclude (but the SEC provided no written record) and the company did not provide disclosure in its proxy statement about the SEC's no-action relief. <p><u>Excluded Special Meeting Shareholder Proposals:</u></p> <ul style="list-style-type: none"> When a company excluded a shareholder proposal seeking a reduced special meeting right by means of including on the ballot a management proposal seeking to ratify an existing special meeting right that is materially different from the shareholder proposal. <p><u>Other Excluded Proposals:</u></p> <ul style="list-style-type: none"> When the board takes actions to limit shareholders' ability to vote on matters material to shareholder rights, such as excluding a shareholder proposal by means of ratifying a management proposal materially different from the shareholder proposal. <ul style="list-style-type: none"> Glass Lewis clarified that this would occur in very limited circumstances when the exclusion of a shareholder proposal was detrimental to shareholders. 	<p>Governance Committee Members</p> <p>Governance Committee Chair or Governance Committee Members</p> <p>Governance Committee Chair or Governance Committee Members</p>

Failure to Disclosure Shareholder Proponent			<ul style="list-style-type: none"> • <i>When a company does not clearly disclose in its proxy statement the identity of a shareholder proponent (or lead proponent when there are multiple filers) of any proposal that may be going to a vote.</i> 	Governance Committee Chair
Bundling of Proxy Proposals			<ul style="list-style-type: none"> • If the company bundles disparate proposals into a single proposal. 	Governance Committee Chair
Conflicts of Interest / Related Party Transactions			<ul style="list-style-type: none"> • A CFO who is on the board. • A director, or a director who has an immediate family member, providing material consulting or other material professional services to the company. (Glass Lewis will generally refrain from recommending against a director who provides consulting services for the company if the director is excluded from membership on key committees and Glass Lewis has not identified significant governance concerns with the board.) • A director, or a director who has an immediate family member, engaging in airplane, real estate or similar deals, including perquisite-type grants, amounting to more than \$50,000 in payments from the company. • Interlocking directorships of CEOs or other top executives who serve on each other's boards. 	Individual Directors
			<ul style="list-style-type: none"> • An inside director who simultaneously serves as a director and as an employee of the company and who derives a greater amount of income as a result of affiliated transactions with the company rather than through compensation paid by the company (i.e., salary, bonus, etc. as a company employee). 	Individual Inside and/or Affiliated Directors
			<ul style="list-style-type: none"> • When the committee nominated or renominated an individual who had a significant conflict of interest or whose past actions demonstrated a lack of integrity or inability to represent shareholder interests. 	Nominating Committee Members
			<ul style="list-style-type: none"> • When for two consecutive years the company provides what Glass Lewis considers to be "inadequate" related-party transaction disclosure (i.e., the nature of such transactions and/or the monetary amounts involved are unclear or excessively vague, thereby preventing a shareholder from being able to reasonably interpret the independence status of multiple directors above and beyond what the company maintains is compliant with SEC or applicable stock exchange listing requirements). 	Governance Committee Chair

Problematic Pledging of Company Stock by Executives and Directors	<ul style="list-style-type: none"> Where a significant level of pledged company stock by executives or directors raises concerns, taking into account: <ul style="list-style-type: none"> The presence of an anti-pledging policy, disclosed in the proxy statement, that prohibits future pledging activity; The magnitude of aggregate pledged shares in terms of total common shares outstanding, market value and trading volume; Disclosure of progress or lack thereof in reducing the magnitude of aggregate pledged shares over time; Disclosure in the proxy statement that shares subject to stock ownership and holding requirements do not include pledged company stock; and Any other relevant factors. 	Members of the committee that oversees risks related to pledging and potentially the Entire Board (except new nominees who will be considered on a case-by-case basis)		
Virtual-Only Shareholder Meetings			<ul style="list-style-type: none"> Where the board plans to hold a virtual-only shareholder meeting and the company does not provide adequate disclosure in the proxy statement or the company's website about the following topics: <ul style="list-style-type: none"> When, where and how shareholders can ask questions at the meeting (e.g., timeline for submitting questions, types of appropriate questions, rules for how questions and comments will be recognized and disclosed to shareholders); How appropriate questions received before or during the meeting will be addressed by the board (including a commitment by the company to answer appropriate questions in a format accessible by all shareholders, such as on the company's annual meeting or investor relations website), especially if shareholders are restricted from asking questions during the meeting; The procedure and requirements to participate in the meeting and/or access the meeting platform; and Technical support that is available to shareholders before and during the meeting. 	Governance Committee Members and/or the Chair of the Board
Failure to Disclose Annual Meeting Voting Results			<ul style="list-style-type: none"> Where a company has not disclosed a detailed record of proxy voting results from the last annual meeting within a reasonable time frame. 	Governance Committee Chair

Compensation-Related Matters

Topic	ISS		Glass Lewis	
	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors
Lack of Responsiveness: Say-on-Pay	<ul style="list-style-type: none"> The board demonstrated poor responsiveness to a previous say-on-pay vote that received the support of less than 70% of votes cast, taking into account: <ul style="list-style-type: none"> The disclosure of details on the breadth of engagement, including information on the frequency and timing of engagements, the number of institutional investors and the company participants (including whether independent directors participated); The disclosure of specific feedback received from investors on concerns that led them to vote against the proposal; Specific and meaningful actions taken to address the issues that contributed to the low level of support; <ul style="list-style-type: none"> Going forward, with respect to this factor, the responsiveness policy will return to its pre-pandemic application. Under the policy, companies must demonstrate actions that address investors' feedback. This includes negative feedback stemming from one-time COVID-related pay decisions. In such a case, a responsive board could make a commitment not to repeat the action that shareholders viewed as problematic. Other recent compensation actions taken by the company and/or the persistence of problematic issues; Whether the issues raised are recurring or isolated; The company's ownership structure; and Whether the proposal's support level was less than 50%, which would warrant the highest degree of responsiveness. 	<p>Compensation Committee Members and potentially the Entire Board (except new nominees who will be considered on a case-by-case basis); ISS may limit the adverse recommendation to the say-on-pay proposal (and not Compensation Committee Members) if the board has demonstrated a limited degree of responsiveness, but which falls short of a robust response; ISS may recommend against the Entire Board in cases of multiple years of insufficient responsiveness indicating a systemic problem around board stewardship and oversight</p>	<ul style="list-style-type: none"> When the committee failed to address shareholder concerns following majority shareholder rejection of the say-on-pay proposal in the previous year, including where the proposal was approved but there was a significant shareholder vote (i.e., >20% of votes cast) against the say-on-pay proposal in the prior year; lack of appropriate response where shareholder support was significant may be a contributing factor to a future recommendation against the compensation committee chair or all compensation committee members; <i>Glass Lewis may further examine the level of opposition among disinterested shareholders as an independent group</i>; Glass Lewis expects the compensation committee to provide some level of response to a significant vote against, which will correspond with the level of shareholder opposition as expressed through the magnitude in a single year and the persistence of shareholder discontent over time. Responses Glass Lewis considers appropriate include engaging with large shareholders (<i>especially dissenting shareholders</i>) to identify their concerns and, where reasonable, implementing changes <i>and/or making commitments</i> that directly address those concerns within the company's compensation program; <i>in cases where particularly egregious pay decisions caused the say-on-pay proposal to fail, Glass Lewis will closely consider whether any changes were made directly relating to the pay decision that may address structural concerns that shareholders have</i>; in the absence of evidence <i>in the disclosure</i> that the board is actively engaging with shareholders and responding accordingly, Glass Lewis may recommend holding compensation committee members accountable for failing to adequately respond to shareholder opposition, giving careful consideration to the level of shareholder protest and the severity and history of compensation problems. 	<p>Compensation Committee Members and/or Compensation Committee Chair</p>

Problematic Compensation Practices	<ul style="list-style-type: none"> In the absence of a say-on-pay vote or in egregious situations if: <ul style="list-style-type: none"> There is an unmitigated misalignment between CEO pay and company performance under ISS' pay-for- performance analysis. 	Compensation Committee Members and potentially the Entire Board (except new nominees who will be considered on a case-by-case basis)	<ul style="list-style-type: none"> Members who are up for election and served when the company failed to align pay with performance if shareholders are not provided with a say-on-pay vote. If shareholders are provided with a say-on-pay vote but there is a pattern of failing to align pay with performance and/or the company exhibits egregious compensation practices. <ul style="list-style-type: none"> Glass Lewis will consider not recommending against Compensation Committee Members if the disconnect between pay and performance is marginal and the company has outperformed its peers. 	Compensation Committee Members
			<ul style="list-style-type: none"> Where the CD&A provides insufficient or unclear information about performance metrics and goals, where the CD&A indicates that pay is not tied to performance, or where the compensation committee or management has excessive discretion to alter performance terms or increase amounts of awards in contravention of previously defined targets. 	Compensation Committee Chair
			<ul style="list-style-type: none"> When new excise tax gross-up provisions are adopted in employment agreements with executives, especially where the company previously committed not to provide such entitlements in the future. 	Compensation Committee Chair and/or Compensation Committee Members
			<ul style="list-style-type: none"> When new excise tax gross-up provisions are added in specific change-of-control transactions. 	Compensation Committee Members
			<ul style="list-style-type: none"> When “mega-grants” have been granted and the awards present concerns such as excessive quantum, lack of sufficient performance conditions, and/or are excessively dilutive, among others. 	Compensation Committee Chair
	<ul style="list-style-type: none"> In the absence of a say-on-pay vote or in egregious situations if: <ul style="list-style-type: none"> The board exhibits a significant level of poor communication and responsiveness to shareholders on compensation issues raised previously; The company maintains significant “problematic pay practices,” such as the following (which is not an exhaustive list): <ul style="list-style-type: none"> Repricing or replacing of underwater stock options/SARS without prior shareholder approval (including cash buyouts and voluntary surrender of underwater options); Extraordinary perquisites or tax gross-ups; New or materially amended agreements that provide for: <ul style="list-style-type: none"> Excessive termination or CIC severance payments (generally exceeding three times [base salary plus average/target/most recent bonus]); CIC severance payments without involuntary job 	Compensation Committee Members and potentially the Entire Board (except new nominees who will be considered on a case-by-case basis)	<ul style="list-style-type: none"> When the company entered into excessive employment agreements and/or severance agreements. When performance goals were lowered when employees failed or were unlikely to meet original goals, or performance-based compensation was paid despite goals not being attained. When excessive employee perquisites and benefits were allowed. When the company repriced options or completed a “self tender offer” without shareholder approval within the past two years. When vesting of in-the-money options was accelerated. When option exercise prices were backdated. When option exercise prices were spring-loaded or otherwise timed around the release of material information. When the company has engaged in bullet-dodging and there has been a pattern of granting options at or 	Compensation Committee Members

<p>Problematic Compensation Practices (cont'd)</p>	<p>loss or substantial diminution of duties ("single" or "modified single" triggers) or in connection with a problematic Good Reason definition;</p> <ul style="list-style-type: none"> - <i>Problematic Good Reason termination definitions that present windfall risks, such as definitions triggered by potential performance failures;</i> - CIC excise tax gross-ups entitlements (including "modified" gross-ups); - Multi-year guaranteed awards that are not at risk due to rigorous performance conditions; and - Liberal CIC definition combined with any single-trigger CIC benefits; <p>■ Insufficient executive compensation disclosure by externally-managed issuers (EMIs) such that a reasonable assessment of pay programs and practices applicable to the EMI's executives is not possible;</p> <p>■ <i>Severance payments made when the termination is not clearly disclosed as involuntary (for example, a termination without cause or resignation for good reason);</i></p> <p>■ Any other provision or practice (including any listed in this box below) deemed to be egregious and present a significant risk to investors.</p> <ul style="list-style-type: none"> - For companies that made changes to pay programs that would normally be viewed as concerning from a pay-for-performance standpoint, clear and detailed disclosure of the company's intention to return to a strongly performance-based incentive program going forward may be viewed as a mitigating factor. <p>■ Incentives that may motivate excessive risk-taking or present a windfall risk; and</p> <p>■ Pay decisions that circumvent pay-for-performance, such as options backdating or waiving performance requirements.</p>		<p>near historic lows.</p> <ul style="list-style-type: none"> • When a new employment contract is given to an executive that does not include a clawback provision and the company had a material restatement, especially if the restatement was due to fraud. • When the compensation committee has approved large one-off payments. • The inappropriate, unjustified use of discretion by the compensation committee. • Sustained poor pay-for-performance practices. • When a member of the compensation committee has served on the compensation committee of at least two other public companies that have consistently failed to align pay with performance and whose oversight of compensation at the company in question is suspect. 	
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Problematic Compensation Practices (cont'd)	<p><u>Problematic pay practices that may result in a negative vote recommendation on a case-by-case basis:</u></p> <ul style="list-style-type: none"> • Egregious employment contracts (contracts containing multi-year guarantees for salary increases, non-performance based bonuses or equity compensation). • Overly generous new-hire package for new CEO (sign-on awards that are excessively large or insufficiently performance-based or problematic termination-related equity vesting provisions). • Abnormally large bonus or incentive plan payouts without justifiable performance linkage or proper disclosure (includes performance metrics that are changed, canceled or replaced during the performance period without adequate explanation of the action and the link to performance or payouts despite failure to achieve pre-established threshold performance criteria). • Egregious pension/SERP (supplemental executive retirement plan) payouts (inclusion of additional years of service not worked that result in significant benefits provided in new arrangements or inclusion of performance-based equity or other long-term awards in the pension calculation). • Excessive or extraordinary perquisites (perquisites for former and/or retired executives (e.g., lifetime benefits, car allowances, personal use of corporate aircraft or other inappropriate arrangements), extraordinary relocation benefits, including any home loss buyouts, or excessive amounts of perquisites compensation). • Problematic severance and/or change in control (CIC) provisions: <ul style="list-style-type: none"> ○ Termination or CIC cash severance payments exceeding three times [base salary plus target/average/most recent bonus] (or that include equity gains or other pay elements into the calculation basis); ○ New or materially amended arrangements that provide for CIC payments without loss of job or substantial diminution of job duties (such as provided by a problematic Good Reason definition or by single-triggered or modified single-triggered provisions where an executive may voluntarily leave for any reason and receive CIC severance); ○ New or materially amended executive agreements that provide for an excise tax gross-up (modified gross-ups would be treated in the same manner as full gross-ups); ○ Excessive payments upon an executive's 			
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	<p>termination in connection with performance failure or payments made in connection with an apparent voluntary resignation or retirement;</p> <ul style="list-style-type: none"> ○ Liberal CIC definition in individual contracts or equity plans which could result in payments to executives without an actual CIC occurring; and/or ○ A problematic "Good Reason" termination definition that presents windfall risks, such as definitions triggered by potential performance failures. <ul style="list-style-type: none"> • Tax reimbursements (excessive reimbursement of income taxes on executive perquisites or other payments (e.g., related to personal use of corporate aircraft, executive life insurance, bonus, restricted stock vesting, secular trusts)). • Dividends or dividend equivalents paid on unvested performance shares or units. • Internal pay disparity (excessive differential between CEO total pay and that of the next highest-paid named executive officer). • Repricing or replacing of underwater stock options/stock appreciation rights without prior shareholder approval (including but not limited to cash buyouts, option exchanges and certain voluntary surrender of underwater options where shares surrendered may subsequently be re-granted). • Significant shifts away from performance-based compensation to discretionary or fixed pay elements. • Other pay practices that may be deemed problematic in a given circumstance but are not covered in the above categories. 			
	<ul style="list-style-type: none"> • Approval of repricing (as defined below or otherwise determined by ISS) without prior shareholder approval, even if such repricings are allowed in the equity plan. • "Repricing" typically includes the ability to do any of the following: <ul style="list-style-type: none"> ○ Amend the terms of outstanding options or SARs to reduce the exercise price of such outstanding options or SARs; ○ Cancel outstanding options or SARs in exchange for options or SARs with an exercise price that is less than the exercise price of the original options or SARs; ○ Cancel underwater options in exchange for stock awards; or ○ Provide cash buyouts of underwater options. 	Compensation Committee Members		

	<ul style="list-style-type: none"> If there is a management say on pay (MSOP) proposal on the ballot and either egregious practices are identified or there are recurring problematic issues or responsiveness concerns. 	Compensation committee members or potentially the Entire Board		
	<ul style="list-style-type: none"> If there is no MSOP proposal on the ballot and there are any applicable adverse recommendations by ISS related to executive compensation. 	Compensation committee members		
	<ul style="list-style-type: none"> Failure to submit one-time transfers of stock options to shareholders for approval. 	Compensation Committee Members		
			<ul style="list-style-type: none"> Any director who approved or allowed the backdating of options where a company granted backdated options to an executive who is also a director. Any executive director who received backdated options. Any executive director who benefited from spring-loading or bullet-dodging. 	Individual Directors
			<ul style="list-style-type: none"> When options were backdated, there is a lack of adequate controls in place, there was a resulting restatement, and disclosures indicate there was a lack of documentation with respect to the option grants. 	Audit Committee Members
Failure to Include Say-on-Pay Proposal at Frequency Desired by Shareholders	<ul style="list-style-type: none"> The board implements a say-on-pay vote on a less frequent basis than the frequency that received the plurality of votes cast. 	Compensation Committee Members and, in exceptional cases, the Entire Board on a case-by-case basis	<ul style="list-style-type: none"> When the board adopts a frequency for future say-on-pay votes that differs from the frequency approved by shareholders. 	Compensation Committee Members
Failure to Include Say-on-Pay Proposal or Say-on-Pay Frequency Proposal When Required	<ul style="list-style-type: none"> In the absence of a say-on-pay vote or in egregious situations if: <ul style="list-style-type: none"> The company fails to include a say-on-pay ballot item when required under SEC provisions, or under the company's declared frequency of say-on-pay; or The company fails to include a say-on-pay frequency ballot item when required under SEC provisions. 	Compensation Committee Chair, Compensation Committee Members and/or potentially the Entire Board (except new nominees who will be considered on a case-by-case basis)		
Excessive Non-Employee Director Compensation	<ul style="list-style-type: none"> If there is a pattern (i.e., two or more consecutive years) of awarding excessive non-employee director compensation without disclosing a compelling rationale or other mitigating factors. <ul style="list-style-type: none"> "Extreme outliers" have historically represented pay figures above the top 5% of all comparable directors. 	Compensation Committee Members (or members of other board committee responsible for approving/setting non-employee director compensation)		

<p>Materially Decreased Executive Compensation Disclosure for Smaller Reporting Companies</p>			<ul style="list-style-type: none"> Where materially decreased CD&A disclosure (which may result from a company satisfying the definition of “smaller reporting company” under SEC rules and taking advantage of the corresponding scaled disclosure requirements) substantially impacts shareholders’ ability to make an informed assessment of the company’s executive pay practices. 	<p>Compensation Committee Members</p>
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Audit-Related Matters

Topic	ISS		Glass Lewis	
	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors	Circumstances That May Trigger Negative Vote Recommendations	Affected Directors
Poor Accounting Practices	<ul style="list-style-type: none"> Poor accounting practices that rise to a level of serious concern (such as fraud, misapplication of GAAP and material weaknesses identified in Sarbanes-Oxley Section 404 (internal control over financial reporting) disclosures) are identified, taking into consideration the practices' severity, breadth, chronological sequence and duration, and the company's efforts at remediation or corrective actions. 	Audit Committee Members and potentially the Entire Board (except new nominees who will be considered on a case-by-case basis)	<ul style="list-style-type: none"> When material accounting fraud occurred at the company. When annual and/or multiple quarterly financial statements had to be restated and (i) the restatement involves fraud or manipulation by insiders; or (ii) the restatement is accompanied by an SEC inquiry or investigation; (iii) the restatement involves revenue recognition; (iv) the restatement results in a greater than 5% adjustment to costs of goods sold, operating expense or operating cash flows; or (v) the restatement results in greater than 5% adjustment to net income, 10% adjustment to assets or shareholders equity, or cash flows from financing or investing activities. If the company repeatedly fails to file its financial reports in a timely fashion (e.g., two or more quarterly or annual financial statements filed late within the last five quarters). When it has been disclosed that a law enforcement agency has charged the company and/or its employees with a violation of the Foreign Corrupt Practices Act. When the company has aggressive accounting policies and/or poor disclosure or lack of sufficient transparency in its financial statements. Potentially, when a restatement occurs and expertise as a CPA, CFO, corporate controller or similar experience is lacking. When options were backdated, if there is a lack of adequate controls in place, there was a resulting restatement, and disclosures indicate that there was a lack of documentation with respect to the option grants. 	Audit Committee Members
			<ul style="list-style-type: none"> When, since the last annual meeting, the company has reported a material weakness that has not yet been corrected, or when the company has an ongoing material weakness from a prior year that has not yet been corrected. 	Audit Committee Members (who served since the date of the company's last annual meeting)

Problematic Non-Audit Fees	<ul style="list-style-type: none"> Non-audit fees paid to the auditor are excessive (e.g., non-audit fees are greater than audit fees plus audit-related fees plus tax compliance/preparation fees). 	Audit Committee Members	<ul style="list-style-type: none"> If the non-audit fees or tax fees exceed audit plus audit-related fees in either the current year or the prior year. All who are up for election and served on the committee at the time of the audit, if audit and audit-related fees total one-third or less of the total fees billed by the auditor. 	Audit Committee Members
			<ul style="list-style-type: none"> Where non-audit fees include fees for tax services (including, but not limited to, such things as tax avoidance or shelter schemes) for senior executives of the company. 	Audit Committee Members
			<ul style="list-style-type: none"> When tax and/or other fees are greater than audit and audit-related fees paid to the auditor for more than one year in a row. 	Audit Committee Chair
Audit Fees Not Disclosed			<ul style="list-style-type: none"> Fees paid to the external auditor are not disclosed. 	Audit Committee Chair
Excessively Low Audit Fees			<ul style="list-style-type: none"> When audit fees are excessively low, especially when compared with other companies in the same industry. 	Audit Committee Members
Other Problematic Audit-Related Practices	<ul style="list-style-type: none"> The company receives an adverse opinion on its financial statements from its auditor. 	Audit Committee Members	<ul style="list-style-type: none"> When there is a disagreement with the auditor and the auditor resigns or is dismissed (e.g., the company receives an adverse opinion on its financial statements). Where the auditor has resigned and reported that a Section 10A letter has been issued. 	Audit Committee Members
	<ul style="list-style-type: none"> There is persuasive evidence that the audit committee entered into an inappropriate indemnification agreement with its auditor that limits the ability of the company or its shareholders to pursue legitimate legal recourse against the audit firm. 	Audit Committee Members	<ul style="list-style-type: none"> If the contract with the auditor specifically limits the auditor's liability to the company for damages. 	Audit Committee Members
			<ul style="list-style-type: none"> When the committee reappointed an auditor that Glass Lewis no longer considers to be independent for reasons unrelated to fee proportions. 	Audit Committee Members
			<ul style="list-style-type: none"> If the audit committee does not have a financial expert or the financial expert does not have a sufficient financial background. 	Audit Committee Chair
Failure to Include Auditor Ratification on the Ballot			<ul style="list-style-type: none"> If the company failed to put auditor ratification on the ballot for shareholder approval. 	Audit Committee Chair