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GLOBAL PUBLIC COMPANY ACADEMY

2018 PROXY DISCLOSURE HIGHLIGHTS

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January 10, 2018

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ISS POLICY 2018 UPDATES

Board Matters

- **Non-Employee Director Pay**
  - ISS has adopted a new policy on "excessive" non-employee director pay, although the policy will *not* impact voting recommendations for 2018.
  - Under the policy, ISS will recommend votes "against" board or committee members responsible for approving or setting non-employee director compensation when there is a recurring pattern (which ISS defines as two or more consecutive years) of "excessive" pay without a compelling rationale or other mitigating factors to justify the compensation.
  - While ISS does not define what constitutes "excessive" pay, it notes that it has identified "cases of extreme outliers relative to peers and the broader market."

Board Matters (cont.)

- **Director Independence**
  - ISS is changing its terminology on director classifications—from "inside" to "executive" and from "affiliated outside" to "non-independent non-executive."
  - Directors who were previously considered "inside" directors due to ownership of more than 50% of a company's stock will be moved to the "non-independent non-executive" category.
- **Attendance for Newly-Appointed Directors**
  - ISS is exempting new directors who have served for only part of the year from its attendance policy, under which it generally recommends votes "against" directors who attend less than 75% of meetings unless the proxy statement includes "an acceptable reason" for the absences.
  - ISS will exempt new directors from the attendance policy, rather than expecting disclosure about scheduling conflicts.

Board Matters (cont.)

- **Board Diversity**
  - ISS has expanded its existing factors for determining votes for director nominees to include a specific statement about the benefits of boardroom diversity.
  - ISS states that "[b]oards should be sufficiently diverse to ensure consideration of a wide range of perspectives."
  - In addition, ISS stated that it will not consider a lack of gender diversity in making voting recommendations, but it will highlight in its voting analysis if a board has no female directors.

Board Matters (cont.)

- **Low Say-on-Pay Vote**
  - ISS will vote case-by-case on the Compensation Committee and say-on-pay proposal if previous say-on-pay vote received less than 70% of votes cast and considering disclosure of engagement efforts, including timing and frequency of engagements and whether independent directors participated.
  - Disclosure of specific concerns noted by stockholders.
  - Disclosure of specific actions taken to address the stockholder concerns.

Governance

- **Pledging Company Stock**
  - For 2018, ISS has implemented an explicit policy on problematic pledging, where it will recommend voting "against" the members of the committee responsible for overseeing pledge-related risks, or the full board, where a "significant" level of executive or director pledging raises concerns.
  - In making its voting recommendations, ISS will consider several iterated factors, including the existence of an anti-pledging policy, magnitude of pledged shares, disclosure to reduce amount of pledged shares, stock ownership guidelines or holding requirements that do not include pledged stock.

Governance

- **Poison Pills**
  - Vote against nominees if the company has adopted a poison pill not approved by public stockholders.
    - However, vote case-by-case on nominees if the board adopts an initial pill with a term of one year or less depending on disclosed rationale and other relevant factors such as a commitment to put a renewal up for a stockholder vote.
  - Vote against nominees if board makes a material adverse change to an existing pill, including extension, renewal, or lowering the trigger, without stockholder approval.

Stockholder Proposals

- **Gender Pay Gap**
  - ISS adopted a new policy focused on stockholder proposals that target the gender pay gap, which indicates that ISS will consider such proposals on a case-by-case basis.
  - ISS' consideration of the same will be based on certain factors:
    - Current policies and disclosures relating to diversity and inclusion, and compensation philosophy and fair and equitable compensation practices,
    - Whether the company has been subject of a recent controversy, litigation, etc. related to gender gap issues, and
    - Whether the company's reporting on gender pay policies or initiatives lag behind peers.

Stockholder Proposals

- **Climate Change**
  - ISS has updated its policy on stockholder proposals relating to climate change risk.
  - ISS generally supports proposals asking that a company disclose information on the risks it faces related to climate change, and the policy provides examples of those risks.
  - According to ISS, the updated voting policy "better aligns" with the recommendations from The Task Force on Climate-Related Financial Disclosures, which seek transparency around the roles of the board and management in assessing and managing climate-related risks and opportunities.

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GLASS LEWIS 2018 UPDATES

Board Matters

- **Board Diversity**
  - Glass Lewis has added a new section to its voting guidelines on how it considers gender diversity on boards of directors.
  - Glass Lewis will continue to review board composition closely, and it may note as a concern instances where it believes the board lacks diversity, including those boards that have no female directors.
  - For 2018, Glass Lewis will not make voting recommendations solely on the basis of a board's diversity, although this will be one of several factors it considers.
  - In 2019, Glass Lewis will begin recommending votes “Against” the nominating/governance committee chair at companies with no female directors. In those instances, Glass Lewis may also recommend votes “Against” other nominating/governance committee members as well, depending on factors such as the company's size, industry, and governance profile.
  - Glass Lewis may refrain from recommending a vote “Against” directors of companies outside of the Russell 3000 index.

Board Matters (cont.)

- **Board Responsiveness to Stockholder Votes**
  - For 2018, when 20% or more of the votes cast on a proposal (including the election of directors) are contrary to management's recommendation, Glass Lewis will evaluate whether or not the board responded appropriately following the vote.
  - This 20% threshold alone will not automatically generate a negative voting recommendation, but may be a contributing factor to Glass Lewis' recommendation to oppose the board's voting recommendation.

Board Matters (cont.)

- **Clarification on Non-CEO Executive “Overboarded” Directors**
  - No change in policy for 2018.
  - Clarified how existing policy will apply to directors who are serving in executive roles but are not CEOs.
  - Glass Lewis generally recommends a vote “Against" (i) any director that serves as a public company executive officer while also serving on more than two total public company boards and (ii) any other director serving on more than five total public company boards.
  - In determining whether to issue a negative voting recommendation, Glass Lewis will consider whether service in excess of these limits may impact a director's ability to devote sufficient time to board duties.
  - For directors who are non-CEO executives, the 2018 policy clarifies that Glass Lewis will evaluate the specific duties and responsibilities of the executive's role.

Virtual-Only Annual Meetings

- **New Policy on Virtual Meetings**
  - Glass Lewis has adopted a new policy on virtual meetings.
  - Glass Lewis considers virtual meeting technology "a useful complement" to in-person stockholder meetings because of its ability to expand the participation of stockholders that cannot attend those meetings in-person (resulting in a "hybrid meeting").
  - Glass Lewis states that virtual-only meetings could curb stockholders' ability to have meaningful discussions with company management.
  - In 2018, Glass Lewis will not make voting recommendations just because a company has chosen to hold a virtual-only meeting, but will look for "robust" proxy statement disclosure indicating that stockholders will have the same ability to participate in the virtual-only meeting that they would have at an in-person meeting.
  - For 2019, Glass Lewis generally will recommend votes “Against" the members of the nominating/governance committee where the company intends to have a virtual-only stockholder meeting and fails to provide such disclosure.

Compensation

- **Pay Ratio**
  - Beginning in 2018, Glass Lewis Proxy Papers will include a company's CEO pay ratio as an additional data point.
  - Glass Lewis stated that pay ratio will not be a determinative factor in its voting recommendations at this time.

Stockholder Proposals

- **Climate Change**
  - Glass Lewis has expanded its policy on stockholder proposals relating to climate change.
  - Generally will recommend "For" proposals seeking disclosure of information about climate change scenario analyses and other climate change-related considerations at companies in certain extractive or "energy-intensive" industries that have increased exposure to climate change-related risks.
  - Glass Lewis generally supports the disclosure recommendations of The Task Force on Climate-Related Financial Disclosure, but will conduct a case-by-case review of proposals requesting that companies report in accordance with these recommendations.

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ISS FAQ
2018 UPDATES

Equity Plan Scorecard

- **U.S. Equity Plan Scorecard (EPSC)**
  - For S&P 500 companies, the passing score for equity plans will increase to 55 points (from 53) and will remain at 53 for other companies.
- **Change in Control Vesting**
  - For performance based awards, full credit if acceleration (i) is limited to actual performance achieved, (ii) pro rata of target based on elapsed portion of the performance period, (iii) combination of both, or (iv) the awards are forfeited/terminated.
  - For time-based awards, acceleration upon a change of control cannot be automatic single trigger or discretionary.
  - If plan is silent as to treatment, ISS will consider treatment to be discretionary so must hard wire.
  - In all other cases, no credit for this factor.

Equity Plan Scorecard (cont.)

- **Liberal Definition of Change in Control**
  - Lowered percentage of outstanding common stock from 20% to 15% or less.
- **Minimum Vesting Requirement**
  - Clarified that ratable vesting that allows for partial vesting prior to one year will not meet requirement because award that vests over two years could vest monthly.
- **Treatment of Vesting Period for Most Recent CEO Grant**
  - In order to receive full points the period must be no shorter than three years (ok if performance based awards have slightly shorter period so long as performance measurement period is three years).
  - For performance-based awards that are subject to subsequent time-based vesting, only the performance-contingent portion of the vesting period is counted.

Equity Plan Scorecard (cont.)

- **Holding Periods**
  - To receive full credit for the holding period requirement, a change from a 36-month hold period to a 12-month holding period:
    - A holding period of less than 12 months will result in no credit.
    - Companies with holding periods that apply only until ownership guidelines are met will not receive credit on this factor.
- **Discretion to Accelerate Vesting**
  - Board discretion to accelerate vesting factor has been changed:
    - Full credit if limited to acceleration in the case of death and disability only.
    - Authority to accelerate vesting in a change-in-control will not receive credit.

Equity Plan Scorecard (cont.)

- **Proposal for Amendment Where Plan Not Disclosed**
  - ISS may recommend against the proposal without formal plan.
- **Director Only Plans**
  - The relative magnitude of director compensation as compared to companies of a similar profile;
  - The presence of problematic pay practices relating to director compensation;
  - Director stock ownership guidelines and holding requirements;
  - Equity award vesting schedules;
  - The mix of cash and equity-based compensation;
  - Meaningful limits on director compensation;
  - The availability of retirement benefits or perquisites; and
  - The quality of disclosure surrounding director compensation.

Say on Pay/Pay for Performance

- **Management Say on Pay**
  - **Low Say on Pay Support**
    - If less than 70%, ISS will conduct a qualitative review of compensation committee's responsiveness to shareholder opposition in the following year.
- **Pay for Performance Evaluation**
  - **Financial Performance Assessment (FPA)**
    - Quantitative screen now includes fourth measure (FPA), which compares the percentile ranks of a company's CEO pay and financial performance across three or four financial metrics, relative to an ISS-developed comparison group, over the prior two-year or three-year period.

Pay for Performance Evaluation

- **Pay for Performance Evaluation (cont.)**
  - **FPA Measurement**
    - FPA compares the company's financial and operational performance over the long term versus the ISS peer group. FPA utilizes three or four financial metrics, which are selected and weighted depending on the company's industry. The potential metrics are: ROIC, ROA, ROE, EBITDA growth and cash flow (from operations) growth.
    - The individual metric performance ranks vs. ISS peers are combined into a weighted average performance rank.
    - Financial performance is measured across a 3-year period (or a shortened 2-year period depending on trading history and data availability), and the subject company is ranked against its ISS-selected peers across each of the applicable metrics. Performance is measured using the 12 most recent trailing quarters (16 for growth metrics) as of ISS' quarterly data download from Compustat (using reported and not adjusted performance).
    - The weighted average performance rank is then compared to the company's CEO pay rank, with a -100 (high pay and low performance) to +100 (low pay and high performance).

Problematic Pay Practices/Director Pay

- **Problematic Pay Practices**
  - **What practices are likely to result in adverse recommendation?**
    - Added catch-all of any other provision or practice deemed to be egregious and present a significant risk to investors.
- **Non-Employee Director Pay**
  - **Advisory Proposals Relating to Non-Employee Director Pay**
    - ISS has been identifying in its research reports instances of relatively high levels of nonemployee director (NED) pay and a policy for 2018 has been implemented by which ISS may issue adverse vote recommendations in certain circumstances. Negative recommendations will be triggered only where a pattern of excessive NED pay is identified in two or more consecutive years.

CEO Pay Ratio

- **CEO Pay Ratio Analysis**
  - Beginning with 2018 meetings subject to the requirement, ISS will display in research reports (i) the median employee pay figure, and (ii) the CEO pay ratio.
  - For this first year of mandated disclosure, the CEO pay ratio will not have any policy implication (i.e., it will not impact vote recommendations).
  - ISS will continue to assess the CEO pay ratio data as it becomes available (very few companies voluntarily disclose this information already).

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PROXY CONSIDERATIONS FOR 2018

2018 Proxy Trends

- **First year in which pay ratio disclosure requirements will be applicable**
- **If you are approving or amending an equity compensation plan,**
  - o Consider adding non-employee director compensation limits;
  - o Carefully form check all disclosure in light of recent litigation (also for cash plans); and
  - o Review Grants table disclosure against plan caps.
- **Consider adding proxy summary, additional charts highlighting governance and compensation practices and any shareholder engagement.**

2018 Proxy Trends (cont.)

- **Additional discussion regarding director compensation practices and related peer benchmarking**
  - Ongoing litigation
- **A discussion of shareholder outreach efforts in the proxy with both ISS and Glass Lewis noting they look for these statements.**
- **TSR important but ISS and Glass Lewis continue to look at other metrics.**

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TAX REFORM

162(m) Changes

- Eliminates the current exception for performance-based compensation (and the separate exception for commissions). Elimination of the performance-based exception would cause the $1 million deduction limit to apply to stock options, stock appreciation rights, performance stock units and performance shares granted to top officers of public companies.
- Expands the group of executives who are subject to the deduction limit to specifically include the principal financial officer (CFO) as a "covered employee" subject to $1 million deduction limit.
- Adopts a "once covered, always covered" rule. If an officer is a covered employee at any time on or after January 1, 2017, that individual's compensation from the same company would remain subject to the deduction limit in perpetuity, including for payments made after the officer resigns from the company, dies, or is otherwise no longer a covered officer.

Limited Grandfathering Rule

- Provides limited grandfathering rule for any written binding contract in effect on November 2, 2017 and not materially modified after that date. The conference report indicates that a compensation plan will be considered a binding contract if the participant has a binding right to participate in the plan at a nondiscretionary level that cannot be terminated by the employer.
- Some uncertainty regarding awards that include discretion (even negative discretion) but we expect further IRS guidance on this point.

Proxy Disclosure Changes

- (Item 402) Executive compensation lists material information to be disclosed under CD&A will vary depending upon the facts and circumstances, examples of such information may include, in a given case, among other things, the following:
  - (xii) The impact of the accounting and tax treatments of the particular form of compensation.
  - *Instructions to Item 402(b)*. 1. The purpose of the CD&A is to provide to investors material information that is necessary to an understanding of the registrant's compensation policies and decisions regarding the named executive officers.
- Limited proxy disclosure changes in 2018.
- Future years will include disclosure changes because performance-based exception will not apply.
- No future shareholder approval for 162(m) purposes.

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North America

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