



ARE YOU READY FOR SAY ON PAY?

January 2024

It's the start of a new year, which for many publicly-traded issuers means the start of preparing for the next Say on Pay season. We now know ISS and Glass Lewis did not make changes to their “pay for performance” evaluations, but they did release minor updates to their shareholder voting guidelines, with very limited changes to executive compensation topics:

- Starting in February, ISS will generally vote against or withhold for the relevant committee chair or board chair where there is no apparent racially or ethnically diverse board members¹, and the issuer has not made a public commitment to improve board diversity. This policy was introduced in 2022, with a 1-year grace period ending February 2024. The change removes transition language and introduces mitigation based on a publicly disclosed commitment.
- ISS also modified its policy on the participation of non-employee directors (NED) in equity-based compensation plans. ISS will automatically vote against an equity compensation plan proposal where the equity plan does not specify a limit on NED participation including (i) \$100,000 worth of stock options and (ii) \$150,000 worth of shares. Prior to 2024, ISS had a second limit on NED participation, voting against equity plan proposals where the aggregate share reserve for NEDs exceeded 1 percent of outstanding common shares – this has been removed.
- Glass Lewis is encouraging the availability of a Clawback Policy for a broader set of events. They are also focusing on executive share ownership guidelines, discouraging the inclusion of PSUs. Refer to our [summary](#) for more details.

Reviewing and understanding the voting guidelines of ISS and Glass Lewis is an important step in preparing for the Say on Pay season. Below we offer a “checklist” of other ways that public issuers can effectively prepare for Say on Pay.

SAY ON PAY CHECKLIST

- Reflect on the last Say on Pay vote and any lessons learned (i.e., preparation process, disclosure, overall vote result, vote decision of top 5 – 10 investors).
- Review company performance results for the year ending, including alignment / misalignment between market (TSR) and financial / operating outcomes and the link to compensation decisions.

¹ Defined by ISS as: Aboriginal peoples (Indigenous, Inuit or Métis) and members of visible minorities (other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour).



- Simulate the ISS and Glass Lewis “pay for performance” evaluations that influence the Say on Pay vote recommendations.

At Southlea Group we have developed in-house tools to simulate the proxy advisor evaluations and other ways to assess the relationship between compensation and performance outcomes. Please connect with a member of our team if we can offer support.

- Review your executive compensation program relative to common “problematic” compensation practices flagged by ISS and Glass Lewis.

If you have any problematic practices, consider relevant disclosure to provide rationale for the design decision, or consider making a commitment that the problematic practice is under review and will be changed in advance of the next Annual General Meeting.

Commonly cited “problematic compensation practices”:

- Internal disparity, where CEO compensation exceeds 4x other active NEOs
- STIP performance targets not disclosed
- STIP performance targets set below prior year actuals (ISS)
- Same metrics used for both STIP and PSUs
- Lack of “performance-based” equity (PSUs)
- Short performance period (less than three years) for PSUs (Glass Lewis)
- For relative measures in a PSU plan, vesting for below-median performance (Glass Lewis)
- One-time incentive awards
- Excessive executive perquisites (ISS)
- Excessive severance payments
- Absence of minimum share ownership guidelines
- Upon a change in control, “single trigger” vesting of outstanding LTIP
- Upon a change in control, vesting of PSUs based on “target” results (ISS)
- Absence of a Clawback Policy (Glass Lewis)
- Lack of a response to shareholders where the prior year Say on Pay score was < 80%

- Review the available reserve of treasury shares for equity plans (where applicable) and determine if a top up is required (subject to shareholder approval).

ISS and Glass Lewis will review all equity plan proposals and provide a vote recommendation to shareholders. Southlea Group has also developed an in-house tool to simulate the ISS evaluation methodology. Details of the Glass Lewis methodology are not well disclosed.



- Understand the preferences and perspectives of your top shareholders (including institutional shareholders) on executive compensation topics.
- Develop key messages for performance results and compensation decisions for inclusion in the Compensation Discussion & Analysis (CD&A) section of the proxy circular.
- Review opportunities to enhance disclosure, including the use of tables / graphs / charts to support better understanding of executive compensation programs and to replace dense text.

Available resources include the most recent Globe & Mail “Board Games” evaluation and the most recent “disclosure best practices” from the Canadian Coalition for Good Governance (CCGG).

- Consider ways to enhance the analysis of compensation and performance outcomes in the proxy circular, including takeaways from the new US SEC “Pay v Performance” disclosure methodology.
- Determine whether any supplemental disclosure or investor meetings to discuss executive compensation topics will be necessary in advance of the Annual General Meeting and Say on Pay vote.

ABOUT US

[Southlea](#) are trusted independent compensation consultants who help solve your complex business challenges. We provide global perspectives as a [GECN Group](#) company working with over 150 compensation consulting professionals in 15 countries. We are headquartered in Toronto, with clients across Canada, representing all industries and organization structures. Our team of experienced compensation consultants are multi-disciplined with diverse backgrounds and experiences. We are proud to be a certified Women’s Business Enterprise by WBE Canada and to be Rainbow Registered as an LGBT+ friendly organization.

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