Key Considerations for the 2025 Annual Reporting and Proxy Season Part II: Proxy Statements

February 25, 2025

Each year in our Annual Memo series, White & Case's Public Company Advisory Group provides practical insights on preparing Annual Reports on Form 10-Ks, Annual Meeting Proxy Statements and, for FPIs, the Annual Report on Form 20-F. This installment of our Annual Memo provides our top considerations and reminders for 2025 Annual Meeting Proxy Statements.

1. **Equity Grant Policy Disclosure.** This is the first year that public companies are required to add new disclosure in their proxy statements under Item 402(x)(1) of Regulation S-K, which was added in the SEC's 2022 rule amendments. The new rule requires narrative disclosure of a company's "*policies and practices on the timing of awards of options in relation to the disclosure of material nonpublic information*" (MNPI) including:
    - "*how the board determines when to grant such awards (for example, whether such awards are granted on a predetermined schedule)*;
    - *whether and how the board or compensation committee takes MNPI into account when determining the timing and terms of such an award*; and
    - *whether the company has timed the disclosure of MNPI for the purpose of affecting the value of executive compensation*."

    This new disclosure is required to be tagged in inline XBRL pursuant to Item 402(x)(3).

    The new Regulation S-K requirement on equity grant practices is not clearly limited to executive officers, and although the rule requirement is limited to options and option-like awards, such as stock appreciation rights ("SARs"), companies may opt to address their equity grant practices for all types of equity, including by addressing the annual timing for their equity award grants. As explained in our client alert that provides sample equity grant guidelines, Equity Grant Procedures and Guidelines for the Granting of Equity Awards, the timing of equity award grants has recently come under increased focus by Staff Accounting Bulletin 120 applicable to all types of equity awards, and by Item 402(x)(2) (as described in #2 below).

    Historically, equity grant practices have been addressed for all types of equity as part of CD&A disclosure, which already requires disclosure to the extent material on "*how the determination is made as to when awards are granted, including awards of equity-based compensation such as options*."[1] Companies should therefore be careful to consider any historical disclosures made in their CD&As on equity grant practices and enhance this disclosure as appropriate to address the new SEC requirements this year. In addition, certain

[1] *See* Item 402(b)(2)(iv) of Regulation S-K.

companies, such as smaller reporting companies that do not have a CD&A and do not grant options, may also determine that no additional disclosure is required.[2]

2. **New Tabular Disclosure *if* Options Granted in Window Starting Four Business Days Before (and Ending One Business Day After) a Form 10-K/10-Q or Form 8-K with MNPI**. New Item 402(x)(2) requires tabular disclosure of option, SAR and option-like grants awarded to named executive officers ("NEOs") in the last fiscal year, but ***only if*** such awards were granted in the window starting four business days before and ending one business day after the filing of a Form 10-K or 10-Q or the filing or furnishing of a Form 8-K that discloses MNPI. For calendar year-end companies, the disclosure must be made in upcoming 2025 proxy statements, covering any such grants made **in 2024**.[3] As a reminder, this disclosure relates only to grants of options, SARs and "similar instruments with option like features" — it is not required for full-value awards such as RSUs or restricted stock.

3. **Insider Trading Policy Description**. New Item 408(b) of Regulation S-K, which was also adopted as part of the SEC's 2022 rule amendments now requires companies to disclose in proxy statements "*whether they have adopted insider trading policies and procedures governing the purchase, sale, and/or other dispositions of [their] securities by directors, officers, and employees, or the registrant itself, that are reasonably designed to promote compliance with insider trading laws, rules, and regulations*," or explain why they have not done so.[4] Although it is unclear why the SEC included the reference to the "*registrant itself*" when the 2022 rule amendments did not otherwise apply to the registrant's own transactions,[5] it is recommended that companies consider adding language in their proxy statement disclosure on insider trading policies along the lines that "*it is also the policy of the Company to comply with all applicable securities laws when transacting in its own securities*," since this statement should cover the requirement, even without a company having to specifically adopt detailed written insider trading policies and procedures for a company's own trades, beyond the policies and procedures typically in effect for directors, officers and employees.

4. **Clawback Considerations**. Companies that were required to prepare a "Big R" or a "little r" accounting restatement during or after the last completed fiscal year must provide disclosure in their upcoming proxy statements regarding the accounting restatement and any "erroneously awarded compensation" that was required to be recovered under a clawback policy. This disclosure is required even if the company's clawback policy did not result in any recovery of "erroneously awarded compensation." In particular, Item 402(w)(2) states that if, "*at any time during or after its last completed fiscal year, the registrant was required to prepare an accounting restatement, and the registrant concluded that recovery of erroneously awarded compensation was <u>not required</u> pursuant to the registrant's compensation recovery policy*," then the registrant must *"briefly explain why application of the recovery policy resulted in this conclusion*."[6]

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[2] Such companies should consider making an affirmative statement that they do not grant options and therefore are not providing disclosure under Item 402(x)(1).

[3] The table must include: (i) each award, including the grantee's name, the date of the grant, the number of securities underlying the award, the option's per-share exercise price and the grant-date fair value; and (ii) the percentage change in closing market price of the securities underlying each award on the trading day before and after disclosure of the MNPI.

[4] Insider trading policies were required to be filed for the first time as an exhibit to the Form 10-K covering the first full fiscal period that began on or after April 1, 2023 (or October 1, 2023 for SRCs).

[5] Notably, in the 2022 10b5-1 rule amendments, the SEC specifically declined to adopt a cooling-off period for issuers, as was initially proposed, as the SEC is "continuing to consider whether regulatory action is needed to mitigate any risk of investor harm from the misuse of Rule 10b5-1 plans by the issuer, such as in the share repurchase context." In addition, the SEC's adopted repurchase rules were vacated by the Fifth Circuit.

[6] Also see, for example, the November 7, 2024, comment issued by the Staff to WM Technology, Inc.: "*Your response to prior comment 1 states that the restatement did not impact your executive compensation payments and, thus, no recovery was required. This was because the performance-based portion of your executive compensation payments was calculated and finalized based on financial results provided in your year-end financial statements, which already took into account the adjustments to the first three quarters of 2023 that resulted from the restatement, and the time-based RSUs were not granted on the basis of your performance or financial results. You also indicate you determined that no disclosure was required by Item 402(w) of Regulation S-K as there was no erroneously awarded compensation. However, Item 402(w)(2) of Regulation S-K requires disclosure of a brief explanation as to why application of your recovery policy resulted in no*

5. **Diversity and "ESG" Disclosures**. In light of the scrutiny on diversity, equity and inclusion programs by the Trump administration and its recent executive orders, companies should carefully consider their diversity disclosure and ensure it is updated and aligns with a company's current priorities and policies, including taking into account the perspective of board members, senior management and significant investors. Beyond diversity, institutional investors have also removed their policy references to "ESG" (for example, by moving towards using the terms "climate risk" and "transition risk" rather than ESG), and given this trend, companies should also reassess their proxy disclosure on ESG to ensure it aligns with a company's current approach.

   In addition, there have been several recent regulatory and policy changes that could impact board diversity disclosure this proxy season:

   - ***Nasdaq Board Diversity Rules Overturned – Remove Nasdaq Diversity Matrix.*** Following the Fifth Circuit's striking down of the Nasdaq board diversity rules in December 2024, Nasdaq-listed public companies no longer need to provide the Nasdaq-required board diversity matrix or comply with the requirement to disclose whether or not that they have a specified number of diverse directors. As a result, companies may opt to remove the board diversity matrix and related disclosure from their 2025 proxy statements.

   - ***Institutional Shareholder Services ("ISS") Indefinitely Halts Consideration of Diversity Factors.*** On February 11, 2025, ISS announced that it will no longer consider the gender or racial/ethnic diversity of a company's board when making voting recommendations on director elections. The change was made in response to "*increased attention on diversity, equity and inclusion practices (DEI)*" and the anticipation that institutional investors and companies "*will have a range of perspectives on DEI, including whether and how companies can or should adapt their specific policies and practices to the evolving market and governmental activity*." This announcement was made outside of ISS's regular annual policy updates and applies to all of its policies for US companies.

   - ***Institutional Investors.*** Vanguard's 2025 proxy voting policy for US companies removed prior language stating that boards should, "at a minimum, represent a diversity of personal characteristics, inclusive of at least diversity in gender, race, and ethnicity on the board" and providing for negative votes against nominating chairs for insufficient action to achieve "appropriately representative" board composition. The policy now looks for boards to be "fit for purpose by reflecting sufficient breadth of skills, experience, perspective, and personal characteristics (such as age, gender, and/or race/ethnicity) resulting in cognitive diversity that enables effective, independent oversight." In addition, the 2025 policy provides for potential negative votes against nominating chairs if board composition or related disclosure is inconsistent with relevant "market-specific governance frameworks or market norms." In addition, in its 2025 US proxy voting guidelines, BlackRock updated its discussion of board makeup to focus more on "board composition" and achieving a variety of "experiences, perspectives, and skillsets" that supports the company's governance practices, while removing the aspirational language in the policy to achieve a 30% diverse board. A blackline of relevant policy changes is shown in **Appendix A**.

   - ***Glass Lewis Reviews its Approach to Diversity/DEI.*** On February 19, 2025, Glass Lewis alerted clients that it is reviewing its approach to voting guidance on board diversity (and DEI-related shareholder proposals) and will advise companies of and investors of any modifications to its policies, guidelines, and/or research approach pertaining to US companies on March 3, 2025.

   As a reminder, SEC rules in Item 407(c) of Regulation S-K still requires proxy statement disclosure about whether and how the nominating committee considers diversity in identifying director nominees. However, companies should take note of the origins of this rule requirement from the SEC's 2010 adopting release, which emphasized that companies may define diversity as they deem appropriate and can take a broad view of diversity, by defining "*diversity in various ways, reflecting different perspectives.*" For example, "*some companies may conceptualize diversity expansively to include differences of viewpoint, professional*

recovery of erroneously awarded compensation when you conclude that recovery is not required pursuant to your recovery policy. Please provide this disclosure in future filings."

experience, education, skill and other individual qualities and attributes that contribute to board heterogeneity, while others may focus on diversity concepts such as race, gender and national origin."

6. **Additional Board Composition and Disclosure Considerations:**

- ***Director Skills**:* The new universal proxy regime increases the focus on individual director qualifications, and it is important that each director's skills and qualifications are clearly articulated in the proxy statement. Director skills matrices have become the norm at S&P 500 companies: 73% included a skills matrix in their proxy statement in 2024, up from 45% in 2021, in part due to stockholder pressure.[7] Companies should focus the matrix on the particular skills that are necessary for effective oversight of the company's specific business (including risk oversight), industry and strategy.

- ***Director Independence***: Director independence was recently in the spotlight when the SEC settled charges against a public company director for violating proxy disclosure rules by standing for election as independent without informing the board of his close personal friendship with a high-ranking executive, which resulted in a public company's proxy statements containing materially misleading statements. Companies should proactively consider what types of relationships would impair director independence under the general independence test, including what might qualify as a "close personal friendship", and what factors might weigh in favor of a determination that a director lacks independence from management.

- **Overboarding and Director Interlocks**. Given the overboarding policies of institutional investors, it is crucial to monitor the number of outside public company directorships that each director holds and disclose them appropriately in proxy statements.[8] SEC requirements only require disclosure of outside director service on public company boards, not on private company boards. If private company boards are voluntarily disclosed, companies should clarify the nature of the private company board to avoid having it inadvertently counted against the director. Proxy advisors and institutional investors may also count directorships at companies publicly traded outside the US against the overboarding limit.

  In the case of an overboarded director, companies should carefully consider their disclosure regarding extenuating circumstances or a commitment to step down from other boards. For example, Vanguard's policy states that a fund might vote for an overboarded director if the director has publicly committed to stepping down from a directorship in order to fall within the thresholds. See **Appendix B.** In addition to overboarding concerns, companies should consider any potential illegal interlocking directorates that might violate Section 8 of the Clayton Act, which provides that, subject to certain de minimis exceptions, persons are prohibited from being an officer or director at competing corporations due to the potential for anticompetitive effects.[9]

7. **Board Structure and Risk Oversight**: Item 407(h) of Regulation S-K requires companies to disclose the board's role in risk oversight, which is a focus for investors. Companies should therefore review their disclosures regarding specific areas of risk oversight, such as:

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[7] *See*, for example, the NYC Comptroller's Board Accountability Project 2.0, as described at "Overview : Office of the New York City Comptroller Brad Lander (nyc.gov)."

[8] For example, in 2024, State Street updated its policy on director overboarding, and now considers whether company publicly discloses (*e.g.*, in its corporate governance guidelines, proxy statement or website) a director time commitment policy, which must include (1) a description of the annual review process undertaken by the nominating committee to evaluate director time commitments, and (2) the numerical limits on public company board seats on which the company's directors can serve.

[9] In March 2023, the DOJ announced that five more directors resigned from four US public company boards, and one PE firm declined to exercise its board appointment rights, in response to DOJ inquiries. *See* our alert, DOJ Antitrust Announces Five More Director Resignations from US Company Boards in Continued Aggressive Clayton Act Section 8 Enforcement, Increasing the Spotlight on Private Equity (PE) and Technology Firms. *See also*, DOJ Announces Seven Director Resignations from Five US Public Company Boards in the Most Recent Wave of Reinvigorated Clayton Act Section 8 Enforcement.

- ***Artificial Intelligence***: Board involvement and oversight with respect to AI will be critical as companies consider how to use AI strategically and responsibly in their business. Companies should consider enhancing disclosure regarding board oversight over AI so that investors and the market are well-informed of how the company is handling these critical matters.[10] Glass Lewis's 2025 proxy voting guidelines include a new discussion on its approach to AI-related risk oversight, advising that boards should be "cognizant of, and take steps to mitigate exposure to, any material risks that could arise from their use or development of AI." For more information on policies on AI oversight, see **Appendix C**.

- ***Cybersecurity***: Glass Lewis's 2025 proxy voting guidelines state that if a company has been materially impacted by a cyber-attack, it may recommend against appropriate directors if the board's oversight, response or disclosures concerning cybersecurity-related issues are insufficient or are not provided to shareholders. Glass Lewis specifically set out the disclosures shareholders should receive, including periodic updates from the company communicating its ongoing progress towards resolving and remediating the impact of the cyber-attack.[11]

8. **Pay versus Performance ("PVP") Disclosures**. This is the third year in which companies must include PVP disclosure on the relationship between executive compensation and financial performance in their proxy statements, as required by Item 402(v) of Regulation S-K.[12] In accordance with the phase-in period under the rules, companies disclosing their third PVP disclosure now have to include the full five years of data, and a total of three years for SRCs. For a detailed discussion of the pay versus performance rules, see Key Considerations for the 2023 Annual Reporting and Proxy Season, Part II: Proxy Statements and SEC Adopts Pay Versus Performance Disclosure Rules. For a detailed discussion of SEC guidance, including C&DIs and 2023 comment letters, see Key Considerations for the 2024 Annual Reporting and Proxy Season, Part II: Proxy Statements.

   SEC Comment Letters in 2024: In 2024, the SEC took a more detailed approach to reviewing year two PVP disclosures. Some of these comments include:

   - Requests for companies to provide clear descriptions (graphically, narratively or a combination of both) of the relationship between compensation actually paid ("CAP") and net income. Stating that no relationship exists (even if a particular measure is not used in setting compensation) is not compliant with Item 402(v)(5)(ii);
   - Noting that including other net income amounts in the PVP table, such as net income attributable to the controlling interest or registrant, is not acceptable. See Regulation S-K C&DI 128D.08. Column (h) must include the company's net income or loss;
   - Reminding companies to disclose how the company selected measure is use net income (loss) as reported in the audited financial statements, and if the company selected measure ("CSM") is a non-GAAP measure, to disclose how it is calculated from the audited financial statements;[13]

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[10] Companies are also reminded that when discussing the potential impact of AI, it is important not to "AI" wash, or mislead investors as to your true artificial intelligence capabilities, which SEC Chair Gary Gensler cautioned companies against in a statement in December of last year.

[11] These disclosures should focus on the company's response to address the impacts to affected stakeholders and should not reveal specific and/or technical details that could impede the company's response or remediation of the incident or that could assist threat actors. Glass Lewis's 2025 policies are available here.

[12] As a reminder, the rules apply to US domestic registrants (including smaller reporting companies ("SRCs") that have ceased to be emerging growth companies) that file proxy statements requiring executive compensation disclosure under Item 402 of Regulation S-K.

[13] For example, "Please include net income (loss), as reported in your audited GAAP financial statements, in column (h) for all years covered by the table. Refer to Regulation S-K [C&DI] 128D.08. Please note that you may voluntarily provide supplemental measures of net income or financial performance, so long as any additional disclosure is "clearly identified as supplemental, not misleading, and not presented with greater prominence than the required disclosure."…While [CSM] disclosure is not subject to Regulation G or Item 10(e) of Regulation S-K, you must disclose how the measure is calculated from your audited financial statements. Please tell us and revise future disclosure to explain how your [CSM] is calculated from your audited financial statements."

- Noting that the CSM is not included in the Tabular List;[14]
- Closely reviewing CAP (including going to the Summary Compensation Table ("SCT") and checking calculations) and reconciliation disclosures, including:
    - Objecting to companies using the phrase "year-over-year" when describing the adjustment for the fair value of equity awards that vested during the year;[15] and
    - Noting a company's failure to present CAP calculations in a footnote and reminding the company of the specific adjustments required by the rule; and[16]
- Reminding companies of the need to list all the companies comprising the peer group if the company does not use a published industry or line-of-business index.[17]

9. *For 2025 Disclosures:* For 2025, it is important to ensure that CSM and tabular lists of financial performance measures are updated to reflect the most important measures used for the most recent fiscal year. Also, companies should reconfirm the peer group used and, if there is a change in the peer group, companies must explain the reasons for the change in a footnote and provide comparison for both the old and new peer groups. [For a sample PVP template, see Appendix A in our prior alert, Key Considerations for the 2024 Annual Reporting and Proxy Season, Part II: Proxy Statements.

10. Perquisites. Perquisites remain one of the most scrutinized areas of compensation disclosure, and the analysis around perk disclosure can be complex and not clear cut.[18] The recent shooting of UnitedHealthcare's CEO has heightened the focus on perquisites in the context of security arrangements for executives, including questions regarding how such security costs should be disclosed in proxy statements. The SEC's 2006 rule release on perquisite disclosure specifically notes that "security provided at a personal residence or during personal travel" *is* considered a perquisite and not integrally and directly related to the performance of an executive's duties.[19] However, the SEC release also notes that companies are in the best position to determine whether particular arrangements are necessary for the executive to do their job. In light of this tension, companies should carefully analyze whether such security is directly and integrally related to

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[14] For example, one SEC comment notes: "We note that you have included Revenue as your [CSM] pursuant to Item 402(v)(2)(vi) of Regulation S-K. Please include your [CSM] in the Tabular List provided pursuant to Item 402(v)(6) of Regulation S-K. In that regard, we note that you included "Organic Revenue" in your Tabular List, but not Revenue."

[15] For example, one SEC comment states: "Refer to the reconciliation table in footnote 2 to your [PVP] table. It is unclear what amounts are reflected in the row titled "Year over Year Change in Fair Value of Equity Awards Granted in Prior Year that Vested in the Year." Specifically, equity awards granted in prior years that vest during the relevant year should be valued as the difference between the fair value as of the end of the prior fiscal year and the vesting date, not the "year over year" change in value. Please ensure that your table headings reflect the amounts used to calculate [CAP]. Refer to Item 402(v)(2)(iii)(C)(1)(iv) of Regulation S-K."

[16] For example, one SEC comment notes: "It appears…that in calculating [CAP] for your principal executive officer, you have subtracted the amounts included in the "All Other Compensation" column of the [SCT]. Please confirm that, in future filings, the [CAP] calculations will be conducted in accordance with Item 402(v)(2)(iii) of Regulation S-K. In addition, [CAP] calculations must be included in a footnote, pursuant to Item 402(v)(3) of Regulation S-K."

[17] For example, one SEC comment notes: "In footnote 3, you indicate that the peer group used for your PVP disclosures is the same as that used for the stock performance graph in your annual report on Form 10-K. You also indicate that [company A]…is one of the key contributors to the peer group TSR, but [company A] is not listed in your annual report on Form 10-K as one of the companies in the peer group used for the stock performance graph. Please advise. In addition, we note that the peer group is not a published industry or line-of-business index. In future filings, if the peer group is not a published industry or line-of-business index, please list all of the companies that comprise the peer group. Refer to Item 402(v)(2)(iv) of Regulation S-K."

[18] For example, an internal review conducted by Boeing found that its CEO and other top executives took personal trips worth more than $500,000 on the company's private jets and other planes that were improperly recorded as business travel. Boeing corrected this improper disclosure in its 2024 proxy statement, noting that some flights by the executives in 2021 and 2022 "were not previously classified as perquisites by the company but should have been classified as such in accordance with SEC rules and guidance."

[19] The release goes on to state that "a company's decision to provide an item of personal benefit for security purposes does not affect its characterization as a perquisite or personal benefit. A company policy that for security purposes an executive (or an executive and his or her family) must use company aircraft or other company means of travel for personal travel, or must use company or company-provided property for vacations, does not affect the conclusion that the item provided is a perquisite or personal benefit."

the ability of the executive to do the job and should document such analysis in the event that their disclosure decision comes into question.

11. **Related Party Transactions ("RPTs").** Companies should carefully analyze potential RPTs to ensure they are properly disclosed. In March 2024, the SEC settled an enforcement action against a company for failure to disclose multiple transactions involving payments to family members of executives and outstanding reimbursements for personal expenses owed to the company by certain executives. Similarly, in January 2025, the SEC settled with a company for failing to disclose, among other things, that a sibling of an executive officer and director, and a child of a different director, received over $1 million in compensation while serving as non-executive employees of the company. Companies should take appropriate measures to ensure that potential RPTs are identified, reviewed and if required, approved in advance by the audit committee or the independent members of the board of directors, and maintain processes and procedures to ensure proper identification and disclosure of such related-person transactions under Item 404.

12. **Executive Severance Considerations.** Executive severance remains a focus of shareholder and proxy advisory firms, and in the 2024 proxy season the most common type of compensation-related shareholder proposal asked boards to submit severance or termination payments to a shareholder vote.[20] These proposals typically requested that boards seek shareholder approval of any senior manager's new or renewed pay package that provided for severance payments with an estimated value exceeding 2.99 times the executive's base salary and bonus. Voting results on such proposals were impacted by whether the company had a policy to address key aspects of the proposal.

    In response to the increased frequency of severance-related shareholder proposals, in 2024 ISS codified its case-by-case approach for analyzing these proposals. The updated ISS policy (i) harmonizes the factors used to analyze both regular severance arrangements and change-in-control related severance arrangements ("golden parachutes"), and (ii) clarifies the key factors it will consider in its analysis.[21]

    Disclosure Considerations. Item 402(j) requires proxy statement disclosure of "each contract, agreement, plan or arrangement…that provides for payment(s) to [an NEO] at, following, or in connection with any termination, including without limitation resignation, severance, retirement or a constructive termination of [an NEO], or a change in control of the registrant or a change in the [NEO's] responsibilities." The focus on executive severance by ISS emphasizes the importance of how such severance agreements are characterized in the proxy statement disclosure. Further, proxy advisory firms have increasingly focused on severance compensation provided to former executive officers that exceeds pre-existing contractual entitlements. If special severance is approved for a departing executive officer or severance is paid upon a voluntary

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20 In 2024, proposal submissions were down somewhat (33 vs 47 in 2023), but almost all of these proposals (29) went to a vote. None passed (vs. 4 in 2023) and support declined, from 24% in 2023 to 15% in 2024. The decline in average support correlated with changing vote recommendations of ISS and Glass Lewis. In 2023, both firms recommended "for" approximately half of voted proposals. In 2024, ISS recommended "for" 36% of voted proposals and Glass Lewis "for" 23% of proposals. For proposals where at least one advisor recommended "for", average support increased to 22%. Where both recommended "for", average support was 33%.

21 The factors that will be considered include, but are not limited to: (i) the company's severance or change-in-control agreements in place, and the presence of "problematic" features in the agreements, such as excessive severance entitlements (generally considered anything greater than three times base salary and bonus, single trigger arrangements, excise tax gross-ups, etc.); (ii) any existing limits on cash severance payouts or policies which require shareholder ratification of severance payments exceeding a certain level; (iii) any recent severance-related controversies; and (iv) whether the proposal is overly prescriptive, such as requiring shareholder approval of severance that does not exceed market norms. To make the appropriate distinction between a problematic change-in-control severance provision and a "single trigger" change-in-control incentive award, ISS will review the company's disclosure of the incentive award structure and award rationale, and whether separate non-problematic severance entitlements are in place.

ISS also added a new FAQ that discusses how it distinguishes between "problematic" (*i.e.*, "single trigger" or "modified single trigger") change-in-control severance arrangements versus bona fide incentive compensation award that becomes payable upon a transaction involving a change-in-control of the company: (i) where an agreement provides for a change-in-control transaction bonus linked to an acquisition premium, ISS will analyze the provision as a change-in-control incentive award and not as a problematic "single trigger" severance arrangement; and (ii) change-in-control incentive awards will continue to be evaluated qualitatively, and therefore issues such as excessive magnitude or an unclear rationale for the arrangement may still raise concerns from a "pay-for-performance" perspective. *See* US-Equity-Compensation-Plans-FAQ.pdf (issgovernance.com).

resignation, care should be taken to explain the rationale for why such payments were approved and how the company determined that payment was appropriate.

In addition, companies should be thoughtful about their disclosure as it relates to characterizing executive terminations. ISS's view is that severance is intended for involuntary or constructive job loss and is not appropriate for executives who voluntarily resign or retire.[22] Only stating that an executive "stepped down" or that the executive and board "mutually agreed" on a departure does not clearly indicate an involuntary termination, and the payment of severance without disclosure of a corresponding involuntary termination is a problematic pay practice under ISS policies that can trigger an adverse vote recommendation.[23] To allow investors to fully evaluate severance payments, a company should disclose both the type of termination (*e.g.*, termination without cause or resignation for good reason) as defined under the agreement, as well as the provision by which severance payments were made under the agreement.

13. **Share Ownership Guidelines**: Another important element of executive compensation disclosure is executive share ownership requirements, including how various outstanding equity awards are treated when determining an executive's level of ownership. Under ISS's "Compensation Policies FAQs" if a company's stock ownership guidelines allow for the inclusion of unearned performance awards or unexercised options towards satisfying the guidelines, this will be indicated in its research report, and the guidelines will not be considered robust. This does not apply to unvested full value awards, such as time-based restricted stock and RSUs. Companies should clearly disclose the types of equity awards (vested, unvested, unexercised, etc.) that may count towards satisfying the guidelines.[24] In 2024, Glass Lewis added a new policy requiring clear disclosure in a company's CD&A of their executive share ownership requirements and how various outstanding equity awards are treated when determining an executive's level of ownership. Glass Lewis also views counting unearned performance-based full value awards and/or unexercised stock options towards shares held by an executive as inappropriate.[25] Given this focus, companies should clearly describe their executive share ownership requirements and consider their policies in light of ISS and Glass Lewis policies.

14. **Final Proxy Reminders:**

    (1) Review Voting Standards. Once an annual meeting agenda is finalized, confirm your proxy statement disclosure on the voting standards that will apply to each agenda item, as well as how broker non-votes and abstentions will be treated. Getting this correct means considering the applicability of state law, your certificate of incorporation, bylaws and stock exchange requirements for each proposal. These voting standards should be checked annually, including consideration of recent rule changes and a company's annual meeting agenda. For example:

    - For NYSE companies that have equity plan amendments on the agenda, note that NYSE rules no longer require any special treatment for abstentions and, like Nasdaq, now defer to a company's governing documents and applicable state law for the treatment of abstentions for such proposals;[26]
    - The Say-on-Frequency vote now requires disclosure in the proxy statement of the voting standard used for this proposal. In the past, practice had been divided as to whether a majority vote standard under a company's bylaws and applicable state law is disclosed, or alternatively, a plurality voting standard (*i.e.*, meaning the frequency receiving the highest number of votes cast wins, rather than a majority) is disclosed in light of the non-binding, advisory nature of the proposal and the practicality of having a plurality voting standard for a vote with three options; and

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22 *See* page 49 of ISS's US-Voting-Guidelines.pdf (issgovernance.com).

23 *See* Question 50 in ISS's US-Compensation-Policies-FAQ.pdf (issgovernance.com).

24 *See* Question 47 in ISS's US-Compensation-Policies-FAQ.pdf (issgovernance.com).

25 Glass Lewis's 2024 policies are available here. If a company does count unearned performance-based full value awards and/or unexercised stock options towards shares held by an executive, it should provide a cogent rationale, or else these awards may be viewed as problematic.

26 *See* our alert, "NYSE Proposes to Amend Calculation of "Votes Cast" to Eliminate Confusion in Voting Standards."

- Lastly, remember that SEC rule amendments from 2022 to Item 21 of the Schedule 14A now explicitly require disclosure in proxy statements on the treatment of any "withhold" votes (if applicable), in addition to the treatment of any abstention and broker non-votes.[27]

(2) Remember to File Annual Reports on EDGAR. Starting in 2023, annual reports delivered to shareholders with a company's other proxy materials had to be electronically submitted, in PDF format, through EDGAR on Form ARS.[28] Under amended Rule 14a-3, this EDGAR submission is due no later than the date on which the report is first sent or given to shareholders. Notably, the glossy annual report will not be deemed "soliciting material" or to be "filed" with the SEC. Companies should be sure to check that the report meets all of the applicable requirements of Rule 14a-3, including identification of a company's directors and executive officers and their principal occupation or employment, which can be satisfied via a short list in the annual report.

(3) Confirm Any Disclosure on Section 16 Delinquencies. The SEC has been focused on timely Section 16 reporting by both insiders and public companies, and recently brought enforcement actions against two companies for contributing to filing failures by their insiders and failing to report delinquent Section 16(a) filings by their insiders.[29] Companies should review their prior Section 16 reports and identify any reports that were not filed on a timely basis. For each such late report, a company will need to identify the Section 16 insider who filed late and the number of late reports and transactions that were not reported on a timely basis. As highlighted in the recent enforcement actions, the disclosure must identify all of the late-reported transactions, not just the number of late reported filings. Note that the instruction to Item 405(a) of Regulation S-K specifically encourages companies to exclude the "Delinquent Section 16(a) Reports" caption if there were no late filings to report; however, companies may opt to include the heading even if there were no delinquent filings, as a reminder to check compliance with this item in future year proxy statements. Keeping track of insiders' future equity grant or vesting dates, which can potentially trigger Section 16(a) filing requirements, can help with maintaining timely filings.

(4) Timeline Reminders:

i. For Timelines, There are a Myriad of State Law, SEC and Governance Considerations. For example:

1. SEC Rule 14a-13 requires that a broker search must be initiated at least 20 business days prior to the record date for the annual meeting.[30] Also under Section 204.21 of the NYSE Listed Company Manual, an NYSE-listed company

[27] *See* amended Item 21 of the Schedule 14A and this release. These SEC rule amendments also made clean-up changes to the proxy card rule requirements of Rule 14a-4(b), which in practice should not result in disclosure changes (*i.e.,* they mandate that a proxy card provides for "against" and "abstain" voting options for companies with majority voting in director elections, instead of a "withhold" option).

[28] *See* Rule 14a-3(c) and the SEC's press release, "SEC Updates Electronic Filing Requirements," available here.

[29] In one case, the issuer's disclosures did not fully comply with the requirements of Item 405 in reporting multiple delinquent filings during each of three years. Among other things, the issuer provided the names of insiders with delinquent filings and specified the number of late-filed forms, but failed to disclose as required the number of late-reported transactions (which in several cases far exceeded the number of late-filed forms for such insider). The issuer also omitted from its disclosure numerous untimely transactions and Forms 4. The SEC found that the issuer, despite voluntarily agreeing to perform certain tasks associated with ensuring timely Section 16(a) reports on behalf of its officers and directors, as well as two other greater than 10% beneficial owners, maintained insufficient practices to prevent recurrently late filings, including more than 200 untimely Form 4s. In the other case, the issuer failed to make the required Item 405 disclosures over multiple years and was found to be the cause of its officers and directors failing to file Section 16(a) reports on a timely basis, including more than 100 untimely Form 4s. For virtually all these late-reported transactions, the issuer had received timely notification of or otherwise possessed the necessary information for such filings but failed to prepare and file the reports within the required time frame.

[30] Rule 14a-13 requires any company soliciting proxies in connection with a shareholder meeting to send a search card to any entity that the company knows is holding shares for beneficial owners, in order to ensure that the company prepares a sufficient number of proxy materials to enable each beneficial owner to receive a copy. The NYSE's 2024 Annual Guidance Letter reminded companies of this requirement.

must notify the NYSE of the record date at least ten calendar days before the record date, and this notification should be done promptly after the board sets the record date.

2. Under Delaware law, the record date for determining which shareholders are entitled to notice of a meeting is required to be no fewer than 10 days and no more than 60 days before the meeting date.[31]

3. Under the SEC's Form 10-K[32], definitive proxy statements must be filed no later than 120 days after the end of fiscal year or by April 30, 2025 this year (if the company wants to incorporate Part III information from the proxy statement into its Form 10-K).

4. When utilizing "notice and access", proxy materials must first be sent at least 40 calendar days (and in practice, 43 days) before the shareholder meeting.

5. To determine next year's deadline for Rule 14a-8 shareholder proposals (which must be disclosed in this year's proxy statement), add one year and subtract 120 days from the date that the proxy statement is first sent to shareholders, and for nominations under the SEC's universal proxy rules, the deadline is generally found in a company's bylaws in its advance notice provisions.

ii. For NYSE-Listed Companies, Remember to Notify the NYSE of the Record Date at Least Ten Calendar Days Beforehand. Under Section 204.21 of the NYSE Listed Company Manual, an NYSE-listed company must notify the exchange of the record date for a shareholder meeting at least ten calendar days before the record date and this notification should be completed immediately after the board sets the record date.[33]

iii. For Future Shareholder Proposals, Confirm Your Deadlines. To determine next year's deadline for Rule 14a-8 shareholder proposals (which must be included in this year's proxy statement), determine the date the proxy statement is first mailed, add one year and subtract 120 days. For director nominations under the universal proxy rules, confirm that the advance notice requirements disclosed in your proxy statement are in accordance with your bylaws.

(5) *Last but not Least (Yet for the Top of Every Proxy Preparation List):* **Confirm Sufficient Shares Available for Grants under Equity Compensation Plans**. Companies should confirm well in advance of filing their proxy whether they will need to add shares to their equity-based incentive plans. A company should confirm both the number of existing shares still available for grant, as well as its plans for future equity grants. Adding shares to a plan can be a straightforward exercise when planned in advance, but it also involves many to-do items (*e.g.,* updating the equity compensation plan itself with a company's desired amendments while considering ISS/Glass Lewis policies; drafting the additional required proposal for the proxy statement and carefully form-checking it against the technical requirements of Item 10 of Schedule 14A; if an NYSE-listed company, submitting a supplemental listing application to the NYSE;[34] preparing a Form S-8; and preparing an equity plan prospectus and distributing to grantees pursuant to Rule 428 under the Securities Act).

[31] Delaware General Corporation Law Section 213.

[32] *See* Instruction G(3) to Form 10-K.

[33] *See* Rule 401.02 of the NYSE Listing Manual, which requires "immediate notification" of dates set in connection with the calling of any meeting of shareholders. Record date notifications should be submitted through Listing Manager or emailed to NYSE at proxyadmin@nyse.com. Additionally, the NYSE clarified in its 2023 Annual Guidance Letter that a record date cannot take place on a weekend or exchange holiday.

[34] In its 2025 Annual Guidance Letter, the NYSE reminds issuers of their obligations to submit and obtain a supplemental listing application ("SLAP") in advance of any issuances of a listed security, listing a new security and certain other corporate events, and notes that the NYSE requests at least two weeks to review and authorize all SLAPs. Companies

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are reminded to consult the NYSE before entering into any transaction that may require shareholder approval, including the issuance of securities with certain properties or transactions that may adversely affect the voting rights of existing shareholders (see Sections 303A.08 and 312.03 of the Listed Company Manual).

Appendix A

BlackRock policy: Effective board composition (2024 vs 2025)

Regular director elections also give boards the opportunity to adjust their composition in an orderly way to reflect developments in the company's strategy and the market environment. In our view, it is beneficial for new directors to be brought onto the board periodically to refresh the group's thinking, while supporting both continuity and appropriate succession planning. We consider the average overall tenure of the board, and seek a balance between the knowledge and experience of longer-serving directors and the fresh perspectives of directors who joined more recently.
We encourage companies to regularly review the effectiveness of their board (including its size), and assess directors nominated for election in the context of the composition of the board as a whole. In our view, the company's assessment should consider a number of factors, including each director's independence and time commitments, as well as the ~~diversity~~breadth and relevance of director experiences and skillsets, and how these ~~factors may~~ collectively contribute to the board's effectiveness in advising and overseeing management in delivering long-term financial returns. ~~performance of the company.~~
~~Similarly, there should bereturns.~~
…

When nominating directors to the board, we look to companies to provide sufficient information on the individual candidates so that shareholders can assess the capabilities and suitability of each individual nominee and their fit within overall board composition. These disclosures should give an understanding of how the collective experience and expertise of the board, as well as the particular skill-sets of individual directors, aligns with the company's long-term strategy and business model. Highly qualified, engaged directors with professional characteristics relevant to a company's business and strategy enhance the ability of the board to add value and be the voice of shareholders in board discussions.

It is in this context that we are interested in ~~diversity~~ a variety of experiences, perspectives, and skillsets in the board room. We see it as a means ~~to~~ of promoting diversity of thought ~~and avoiding~~ to avoid "group think" ~~when~~ in the board ~~advises~~'s exercise of its responsibilities to advise and ~~oversees~~ oversee management. ~~This position is based on our view that diversity of perspective and thought – in the board room, in the management team, and throughout the company – leads to better long-term economic outcomes for companies. Academic research has revealed correlations between specific dimensions of diversity and effects on decision-making processes and outcomes.1~~
~~In our experience, greater diversity in the boardroom can contribute to more robust discussions and more innovative and resilient decisions. Over time,~~
~~greater diversity in the board room can also promote greater diversity and resilience in the leadership team, and the workforce more broadly. That diversity can enable companies to develop businesses that better address the needs of the customers and communities they serve.~~
~~We ask boards to disclose how diversity is considered in board composition, including professional characteristics, such as a director's industry experience, specialist areas of expertise and geographic location; as well as demographic characteristics such as gender, race/ethnicity, and age.~~
~~We look to understand a board's diversity in the context of a company's domicile, market capitalization, business model, and strategy. Increasingly, we see the most effective boards nominating directors from diverse backgrounds which helps ensure boards can more effectively understand the company's customers, employees, and communities.~~
In assessing board composition, we take a case-by-case approach based on a company's board size, business model, strategy, location and market capitalization. We look for companies to explain how their approach to board composition supports the company's governance practices.
We note that in many markets, policymakers have set board gender diversity goals which we may discuss with companies, particularly if there is a risk their board composition may be misaligned.
~~Self-identified board demographic diversity can usefully be disclosed in aggregate~~ We ask boards to disclose, consistent with local ~~law. We encourage boards to aspire to meaningful diversity of membership, while recognizing that building a strong, diverse board can take time~~ laws, how diversity, including professional and personal characteristics, is considered in board composition, given the company's long-term strategy and business model.

Vanguard Policy: Board composition (2024 vs. 2025)

The funds look for boards to be ~~“~~fit for purpose~~”~~ by reflecting sufficient ~~diversity~~breadth of skills, experience, perspective, and personal characteristics (such as ~~gender,~~ age, ~~race~~gender, and/or race/ethnicity) resulting in cognitive diversity that enables effective, independent oversight on behalf of all shareholders. The funds believe that the appropriate mix of skills, experience, ~~and~~perspectives, and personal characteristics is unique to each board and should reflect expertise related to the company’s strategy and material risks from a variety of vantage points.

~~The~~To this end, the funds ~~look for companies to disclose their perspectives on the appropriate board structure and composition for their company and how those elements support~~seek fulsome disclosure of a board’s process for building, assessing, and maintaining an effective board well-suited to supporting the company’s strategy, long-term performance, and shareholder returns. ~~Disclosure of how the~~This disclosure should include the range of skills, background, and experience that each board member provides and their alignment with the company’s strategy (typically presented as a skills matrix); additionally, the funds look for such disclosure to provide an understanding of the directors’ personal characteristics to enable shareholders to understand the breadth of a board’s composition ~~evolves over time enables shareholders to better understand how the board is positioned to serve as effective, engaged stewards of shareholders’ interests.~~

. The funds also look for ~~The funds expect disclosure of tenure, skills, and experience at the director level (sometimes referred to as a “skills matrix”). To this end, a fund may support requests for disclosure of the company’s approach to board composition, inclusive of board diversity.~~

~~To evaluate board composition in relation to this policy, factors for the funds to consider include applicable market regulations and expectations, along with additional company-specific context.~~

~~• Boards should reflect diversity of attributes including tenure, skills, and experience.~~

~~• A board should also, at a minimum, represent diversity of personal characteristics, inclusive of at least diversity in gender, race, and ethnicity on the board.~~

~~• Boards should take action to reflect a board composition that is appropriately representative, relative to their markets and to the needs of their long-term strategies.~~

~~• Disclosure of directors’ personal characteristics (such as race and ethnicity) should occur on a selfidentified basis and may occur on an aggregate level or individual director level. Disclosure of skills and experience at the director level is expected.~~

~~• Companies should provide~~ disclosure regarding ~~their~~the board’s process for evaluating the composition and effectiveness of their board on a regular basis, the identification of gaps and opportunities to be addressed through board refreshment and evolution, and a robust nomination (and ~~re-nomination~~renomination) process to ensure the right mix of skills, experience, perspective, and personal characteristics ~~into~~in the future.

The funds look for a board’s composition to comply with requirements set by relevant market-specific governance frameworks (e.g., listing standards, governance codes, laws, regulations, etc.) and to be consistent with market norms in the markets in which the company is listed. To the extent that a board’s composition is inconsistent with such requirements or differs from prevailing market norms, the funds look for the board’s rationale for such differences (and any anticipated actions) to be explained in the company’s public disclosures.

A fund may vote against the nomination/governance committee chair if, based on research and/or engagement, a company’s board composition and/or related disclosure is inconsistent with relevant market-specific governance frameworks or market norms

Appendix B

Director Overboarding Policies

	Maximum Number of Board Memberships Permitted (including the Company's Board)		
	Non-Employee Directors	**CEOs**	**Executive Officers (other than CEO)**
Proxy Advisory Firms			
ISS	5	3	5
Glass Lewis	5 (3 for executive chairs)	2	2
Institutional Investors			
Vanguard Group	4	2	2 (NEOs and executive chairs)
BlackRock, Inc.	4 (3 for director is chair of European public company board)	2	2 (NEOs only)
State Street	4 (3 for board chairs and lead independent directors)	2	2 (NEOs only)
Fidelity Investments	6	3	Not addressed
T. Rowe Price Associates	5	2	5

- ***ISS:*** Generally recommend against/withhold from directors who: (i) sit on more than **five** boards; or (ii) are CEOs of public companies who sit on the boards of more than **two** *other* companies (total of **three**, withhold only at their outside boards).[35]
- ***Glass Lewis:*** Generally recommend against: (i) a director who serves as an executive officer of any public company while serving on more than **two** public company boards; and (ii) any other director who serves on more than **five** boards.[36]
- ***BlackRock:*** Public company executives can sit on **one** outside board (total of **two**); other directors can sit on **three** outside boards (total of **four**).

[35] ISS will also generally vote against the bundled election of directors if one or more nominees, if elected, would be overboarded.

[36] Glass Lewis may consider relevant factors such as: (i) the size and location of the other companies where the director serves on the board; (ii) the director's board roles at the companies in question; (iii) whether the director serves on the board of any large privately held companies; (iv) the director's tenure on the boards in question; and (v) the director's attendance record at all companies. For directors who serve in executive roles other than CEO (*e.g.*, executive chair), it will evaluate the specific duties and responsibilities of that role in determining whether an exception is warranted. Glass Lewis may also refrain from recommending against certain directors if the company provides sufficient rationale for their continued board service. The rationale should allow shareholders to evaluate the scope of the directors' other commitments, as well as their contributions to the board, including specialized knowledge of the company's industry, strategy or key markets, the diversity of skills, perspective and background they provide, and other relevant factors.

- ***Vanguard:*** A named executive officer (“NEO”) can sit on **two** boards (either **one** outside board or **two** outside boards if does not serve on its “home” board); other directors can sit on **four** boards.[37]

  Will also look for portfolio companies to “adopt good governance practices regarding director commitments, including the adoption of an overboarding policy and disclosure of how the board oversees policy implementation.”

- ***State Street*:** The CEO can sit on **one** outside board (total of two); an NEO can sit on **two** boards; board chairs or lead independent directors can sit on **three** boards; other directors can sit on **four** boards.

  For non-NEO directors who are overboarded, may consider waiving the policy to vote “against” such director if the company publicly discloses its overboarding policy (in its corporate governance guidelines, proxy statement, or on the company website) and the policy includes: (i) a numerical limit on public company board seats a director can serve on (which cannot exceed State Street’s policy by more than one seat); (ii) consideration of public company board leadership positions (*e.g.*, Committee Chair); (iii) affirmation that all directors are currently compliant with the company policy; and (iv) a description of an annual policy review process undertaken by the Nominating Committee to evaluate outside director time commitments.

- ***Fidelity:*** A CEO can sit on **two** outside unaffiliated boards (**three** total).

- ***CalPERS*:** An executive officer can sit on **one** outside board (**two** total); other directors can sit on **four** boards.

- ***NYC Comptroller:*** A CEO can sit on **two** outside boards (**three** total, vote against only at outside boards); other directors can sit on **four** boards.

- ***NYSE:*** If an audit committee member serves on more than **three** public company audit committees (including the Company’s), Company must disclose this on its website or in proxy statement.

37 In certain instances, Vanguard will consider voting for a director who would otherwise be considered overboarded because of company-specific facts and circumstances that indicate the director will have sufficient capacity to fulfill his/her responsibilities or if the director has publicly committed to stepping down from the other directorship(s) as necessary to fall within the listed thresholds.

Appendix C

Other Proxy Advisory Firm Policy Updates

Both ISS and Glass Lewis have updated their voting guidelines for the 2025 annual meeting season. Companies should consider the potential impact of these updates when thinking about their corporate governance practices, shareholder engagement and proxy statement disclosures.

- Board Responsiveness to Shareholder Proposals: Under Glass Lewis's revised policy, Glass Lewis will generally take the view that when a shareholder proposal receives significant support (generally more than 30% of votes cast), the board should engage with shareholders on the issue and provide disclosure addressing shareholder concerns and outreach initiatives.[38]

- Reincorporation: Under its revised policy, Glass Lewis will review proposals to reincorporate in a different state or country on a case-by-case basis, considering the impact of reincorporation on shareholder rights, including: (i) changes in corporate governance provisions, (ii) material differences in corporate statutes and legal precedents, (iii) differences in fiduciary duties standards and (iv) whether the new jurisdiction is considered to be a "tax haven."

- AI-Related Shareholder Proposals: In addition to updating its policy on AI oversight (as discussed above), Glass Lewis's updated guidelines on shareholder proposals and ESG-related issues now state that companies should provide sufficient disclosure to allow shareholders to broadly understand how the company is using AI in its operations and what ethical considerations, if any, have been incorporated in its use of this technology. Glass Lewis will make recommendations on shareholder proposals related to companies' use of AI technologies on a case-by-case basis, considering (i) the request of the proposal, (ii) the disclosure provided by the company and its peers regarding their use of AI, and (iii) the oversight afforded to AI-related issues. Glass Lewis will also evaluate any lawsuits, fines or high-profile controversies concerning the company's use of AI, as well as any other indication that the company's management of this issue presents a clear risk to shareholder value.

- Short-term poison pills: ISS policy updates clarify the factors that will be considered in the case-by-case evaluation of whether the board's actions in adopting a short-term poison pill (a pill with a duration of one year or less) were reasonable, or whether the adoption of the pill should be deemed a governance failure warranting a recommendation to vote against directors.[39] These factors are already considered by analysts under the category of "other factors as relevant," but the update was made to increase transparency by spelling out some of these factors.

- "Natural Capital" shareholder proposals: In response to an increased number of shareholder proposals focused on biodiversity and other connected environmental topics such as deforestation and water pollution, ISS has updated its terminology to replace the reference to "General Environmental Proposals" with "Natural Capital-Related and/or Community Impact Assessment Proposals". ISS will vote case-by-case on requests for reports on policies and/or the potential (community) social and/or environmental impact of company operations, considering where relevant: (i) alignment of current disclosure of applicable policies, metrics, risk assessment report(s) and risk management procedures with relevant, broadly accepted reporting frameworks; (ii) the impact of regulatory non-compliance, litigation, remediation, or reputational loss that may be associated with failure to manage the company's operations in question, including the management of relevant community and stakeholder relations; (iii) the nature, purpose, and scope of the company's

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[38] For proposals that receive majority support, Glass Lewis continues to expect that companies will implement the proposal and/or engage with shareholders on the issue and provide sufficient disclosures to address shareholder concerns.

[39] The enumerated factors for consideration are: (i) the trigger threshold and other terms of the pill; (ii) the disclosed rationale for the adoption; (iii) the context in which the pill was adopted, (e.g., factors such as the company's size and stage of development, sudden changes in its market capitalization, and extraordinary industry-wide or macroeconomic events); (iv) a commitment to put any renewal to a shareholder vote; (v) the company's overall track record on corporate governance and responsiveness to shareholders; and (vi) other factors as relevant.

operations in the specific region(s); (iv) the degree to which company policies and procedures are consistent with industry norms; and (v) the scope of the resolution.

- SPAC Extensions: ISS updated its policy to codify its current practice of generally recommending support for extension requests of up to one year from the SPAC's original termination date (inclusive of any built-in extension options, and accounting for prior extension requests). Other factors that may be considered include: any added incentives, business combination status, other amendment terms, and, if applicable, use of money in the trust fund to pay excise taxes on redeemed shares.