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Glass Lewis Announces its 2018 Policies on CEO Pay Ratios, Say-on-Pay Votes and More

Glass Lewis' 2018 policy updates include clarification on its approach to CEO pay ratio disclosures and lower thresholds for additional scrutiny of Say-on-Pay and other ballot items.

Proxy advisory firm Glass Lewis & Co. has announced its voting recommendation **policy updates** for the 2018 proxy season. The announcement from Glass Lewis comes on the heels of policy changes Institutional Shareholder Services (ISS) announced earlier this month (see our ISS client alert **here**).

Consistent with prior years, Glass Lewis' 2018 policy updates include amended and new policies and provide clarification on existing policies. Summarized below are a few of the key compensation and corporate governance-related policy changes in the United States (US) market.

Compensation-Related Policy Updates

- **CEO Pay Ratio:** Glass Lewis will display each company's CEO pay ratio as a data point in its Proxy Papers (the research and voting report on companies Glass Lewis sends to investor clients ahead of annual meetings). Glass Lewis says that while the pay ratio has the potential to provide additional insight when assessing a company's pay practices, such ratios will not be a determinative factor in 2018 voting recommendations.

  Our Thinking: This policy is not unexpected as Glass Lewis, ISS and many investors have said the CEO pay ratio would be a data point, even though such ratios may not be easily comparable across companies, industries or over time. As such, while these ratios will be included for informational purposes in the Glass Lewis Proxy Papers, we do not expect them to be impactful in any quantitative or qualitative assessments.

- **Board Responsiveness:** Glass Lewis will now expect boards to respond whenever 20% or more of shareholders vote in opposition to a proposal at an annual meeting— particularly in the case of director elections or compensation-related proposals. For companies with a dual-class share structure, they will examine the level of approval or disapproval attributed to unaffiliated shareholders when determining whether board responsiveness is warranted.

  Our Thinking: This is a material adjustment to Glass Lewis' previous voting result threshold of 75%. Whereas in the past, companies needed to receive less than 75% support for a director's reelection or

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ballot proposal— including Say-on-Pay proposals— to signal additional scrutiny from Glass Lewis, that threshold will now be 80% going forward. Companies need to review their 2017 proxy voting results to determine if there were any proxy ballot items with less than 80% support. If a company has a result of less than 80% support, Glass Lewis will expect disclosure in the next proxy statement discussing a post annual meeting shareholder outreach effort and what, if any, actions were taken in response to any perceived shareholder concerns. Absent such disclosure, Glass Lewis could issue adverse vote recommendations for relevant board members and/or proxy ballot items.

- **NEO Pay-for-Performance Policy:** While there is no change to the actual model, Glass Lewis has added clarification regarding the uses of its grading system. Consistent with previous years, the pay-for-performance letter grades will help guide the firm's evaluation of compensation committee effectiveness. Glass Lewis will continue to generally recommend voting against both compensation committee members and Say-on-Pay proposals at companies with a pattern of failing the pay-for-performance analysis. However, unlike a school letter grade, a "C" is a favorable outcome as it indicates that pay and performance percentile rankings relative to peers are generally aligned.

  Our Thinking: This clarification is an attempt to proactively highlight that a "C" is a desirable outcome under the pay-for-performance policy. This clarification does not include any methodology changes for the pay-for-performance policy for 2018.

Additional Corporate Governance Policy Updates

- **Board Diversity:** As with previous years, Glass Lewis will continue to closely review the composition of the board and may be concerned in instances where it believes the board lacks representation of diverse director candidates, including boards with no female directors. In 2018, Glass Lewis will not make voting recommendations solely on the basis of the diversity of the board; instead, it will be one of many considerations taken into account when evaluating companies' oversight structures. However, beginning in 2019, Glass Lewis will generally recommend voting against the nominating committee chair of a board with no female members. Depending on other factors, including the size of the company, the industry in which the company operates and the governance profile of the company, they may extend this practice to vote against other nominating committee members. When making these voting recommendations, they will review a company's disclosure of its diversity considerations, including providing sufficient rationale for not having any female board members or disclosing a plan to address the lack of diversity on the board.

  Our Thinking: Investors are increasingly looking for more diversity on corporate boards. Companies should ensure their proxy disclosure adequately explains any existing board diversity policies, especially if there is a lack of diversity on the existing board (i.e., how diversity is considered when assessing current and prospective board members) or if there has been any recent change in board membership that affects diversity.

- **Director Commitments:** While there is no change to the director overboarding policy, Glass Lewis has clarified their approach to evaluating outside commitments of directors who serve in executive roles other than CEO (e.g., executive chair). When determining whether to apply the limit of two total board memberships for public company executives, they will now evaluate the specific duties and responsibilities of their executive role in addition to the company's disclosure regarding that director's time commitments.

Our Thinking: This policy clarification is helpful given previous uncertainty and somewhat inconsistent policy application in this area. The new policy indicates that the more an executive chairperson assumes executive-like duties, the more likely Glass Lewis will be to apply its stricter overboarding policy to that individual.

- **Dual Class Board Structures:** Glass Lewis has not changed its general approach or evaluation of corporate governance following an IPO or spin-off within the past year. However, they will now include the presence of dual-class share structures as an additional factor in determining whether shareholder rights are being severely restricted indefinitely.

  Our Thinking: This clarification codifies the historical approach that Glass Lewis has been using to assess various proxy ballot items when assessing the reasonableness of shareholder rights at companies. This policy clarification reflects the approach already taken by many institutional investors when assessing shareholder rights-related provisions.

- **Virtual Shareholder Meetings:** In 2018, Glass Lewis will not make voting recommendations solely on the basis that a company is holding a virtual-only meeting. Instead, when analyzing the governance profile of companies that choose to hold virtual-only meetings, they look for robust disclosure in a company's proxy statement which assures shareholders that they will be afforded the same rights and opportunities to participate as they would at an in-person meeting. Beginning in 2019, however, Glass Lewis will generally recommend voting against members of the governance committee of a board where the board is planning to hold a virtual-only shareholder meeting and the company does not provide such disclosure.

  Our Thinking: Given the small number of virtual-only shareholder meetings, this new policy is unlikely to affect that many companies in the US. Companies that do hold online-only meetings, sufficient proxy disclosure highlighting key shareholder rights provisions might be helpful to mitigate negative scrutiny from Glass Lewis.

Next Steps

While the new 2018 Glass Lewis policy updates contain numerous provisions that will impact boards of directors and executives, we will continue to monitor and report on how these changes bear out in the 2018 proxy season. If you have any questions about these policy updates or want to speak to a member of our consulting team about related compensation and governance issues, please write to consulting@radford.com.

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