Governance & Securities
Alert

Weil

From the Public Company Advisory Group of Weil, Gotshal & Manges LLP

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ISS and Glass Lewis Launch Annual Global Policy Surveys Signaling 2026 Changes

Institutional Shareholder Services (ISS) and Glass Lewis have launched their annual policy surveys (available here and here) to help inform potential changes to their voting policies in advance of the 2026 proxy season. The surveys address, among other topics, shareholder rights, shareholder proposals, governance and risk oversight, diversity, and executive and director compensation. Survey questions of interest that are relevant to U.S. companies and investors are summarized below.

ISS survey responses are due by August 22, 2025, at 5 p.m. and Glass Lewis Survey responses are due on September 15, 2025, at 8 p.m. (both times Eastern). More information on the policy development processes of ISS and Glass Lewis are available here and here.

Board Matters

Diversity

ISS**.** In February 2025, ISS suspended its consideration of the gender, and racial and/or ethnic diversity of a company's board when making vote recommendations under those policies on the election or re-election of directors at U.S. companies. Although companies have adjusted their board-level diversity disclosure, ISS notes that companies still continue to include some data on board diversity factors for interested investors. ISS asks how organizations stand on DEI-related topics, and what factors respondents continue to consider when evaluating or assessing board diversity.

Glass Lewis**.** Glass Lewis also asks respondents various questions regarding diversity, including whether respondents expect boards to maintain diversity, and what specific disclosure pertaining to diversity respondents expect companies to provide (e.g., the current percentage of racial/ethnic diversity on the board, or whether the board has adopted a "Rooney Rule" policy). Glass Lewis also asks generally what disclosures and policies respondents expect U.S. companies to provide regarding company-wide diversity issues.

Director Performance. Glass Lewis asks what respondents believe is the most suitable course of action when shareholders have material concerns with a director, but there is not a directly relevant proposal on the meeting agenda (e.g., the board is classified and the relevant director is not up for election at the meeting).

Shareholder Engagement

ISS**.** Recent SEC guidance (see SEC CDI 103.12 here) regarding the ability of institutional investors to file as passive investors on Schedule 13G under certain circumstances, including if they have engaged on executive compensation issues with the purpose of changing or influencing control, has deterred institutional investors from engaging with companies on compensation issues. Noting that a lack of engagement by institutional investors can potentially make it more difficult for companies to determine and disclose what shareholder concerns led to low say-on-pay support, ISS asks respondents how, in the context of say-on-pay responsiveness, ISS should view a company's inability to obtain shareholder feedback after attempting to engage with investors. ISS further asks respondents, in the absence of disclosed feedback, whether they believe pay program changes can be considered responsive.

Glass Lewis. Citing the same recent SEC guidance, Glass Lewis asks respondents whether they are considering making changes to their voting or engagement policies and practices in response to the rule change and potential loss of passive investor status.

Shareholder Rights

Multi-Class Capital Structures

ISS. ISS generally does not support multi-class capital structures. Although "non-common" shares do not fall under the current multi-class capital structure policy, ISS notes that such shares may nonetheless confer disproportionate voting or other superior voting rights on a founder or strategic investor that is disproportionate to their capital commitment. ISS asks respondents whether their organizations treat "non-common" shares with more than one vote per share, other than cases in which these shares vote on an "as-converted basis," similarly to common shares that have more than one vote per share.

Glass Lewis. Respondents are asked whether companies with multi-class share structures should be expected to disclose vote results on a "one to one" basis (thereby removing the impact of shares with higher voting rights). Glass Lewis asks respondents under what circumstances they would be likely to support a dual class structure.

Shareholder Action by Written Consent (ISS). ISS acknowledges that, although the right to act by written consent may allow shareholders to swiftly take action on time-sensitive matters, such rights are predominantly used by controlling shareholders at controlled companies to bypass shareholder meetings, thus denying minority shareholders the ability to provide input or vote against the subject of written consent. ISS asks respondents to provide their views on written consent rights at non-controlled companies.

Reincorporation (Glass Lewis). Citing the trend of companies reincorporating from Delaware to other states, Glass Lewis asks what factors respondents consider most important when deciding whether to reincorporate to another state.

Virtual Meetings (Glass Lewis). Respondents are asked whether they believe that safety and security concerns are valid rationale for a company to hold a virtual-only shareholder meeting.

Shareholder Proposals

Burden of Proof (ISS). ISS notes that shareholder proposals are generally non-binding and subject to strict word limits and timing requirements, which makes it difficult for shareholder proponents to present detailed and timely arguments in support of their proposal. In light of such constraints, ISS asks under what circumstances proponents should make complex and company-specific cases for a shareholder proposal.

Independent Board Chairs (ISS). Shareholder proposals seeking an independent board chair structure will seldom receive majority support without company-specific analysis. ISS asks what circumstances make an independent board chair structure appropriate.

Ownership Limitations (Glass Lewis). Glass Lewis notes that certain states have adopted legislation to increase the ownership threshold for the submission of shareholder proposals or filing of derivative actions, effectively limiting the influence of smaller shareholders. Glass Lewis asks whether respondents consider the adoption of higher ownership thresholds without shareholder approval to be concerning, and if so, whether board members should be held accountable.

Shareholder Proposal Topics (Glass Lewis). Acknowledging the popularity of biodiversity and climate-related proposal topics in the last few years, Glass Lewis asks respondents how they are considering issues related to biodiversity, and what characteristics of a company's climate transition plan (i.e., disclosure of emissions, emissions targets, evidence of shareholder engagement on climate-related issues) they believe to be most important.

Governance and Risk Oversight

Director Overboarding (ISS). With increasingly complex director responsibilities, heightened regulatory requirements and diverging market standards in mind, ISS asks about an appropriate limit on total board seats for non-executive directors and CEOs to avoid risks of overboarding. ISS further requests respondents to opine on whether, when an executive director serves as a non-executive on multiple public company boards within the same group of connected companies, each public board seat should be considered a separate mandate for the purposes of assessing overboarding.

AI Governance, Risk Management and Benchmarking

ISS. Companies have increasingly utilized artificial intelligence (AI) in their daily operations, thus prompting the growth of robust AI governance and risk management policies at companies, and leading to an increase in shareholder engagement on AI-focused topics. Amid a rapidly evolving and complex AI landscape, ISS asks whether respondents believe that companies should be utilizing global frameworks (like OECD AI Principles, NIST AI RMF, etc.) to assess AI-related risks. ISS additionally asks respondents how companies should disclose board oversight of AI, the extent to which respondents believe such public disclosure measures a board's understanding of AI-related topics, and the type of information that respondents believe is most relevant to a board's demonstration that it is well-equipped to oversee AI-related risks and opportunities.

Glass Lewis. Although companies have broadly adopted artificial intelligence at their companies, Glass Lewis nonetheless cites that there is a large disparity in the level of public company AI adoption and disclosure on AI across different markets and industries. With such a disparity in mind, respondents are asked whether AI benchmarks and standards should be uniform across markets and industries.

Financial Performance (Glass Lewis). Glass Lewis asks whether respondents believe director elections, governance-related proposals or other voting decisions should be supported or opposed based solely on a company's current financial performance, and, if financial performance is a component for such proxy voting decisions, how respondents' firms measure performance and/or use a financial analysis.

Anti-ESG Sentiment (Glass Lewis). Glass Lewis asks respondents how their companies are responding to growing anti-ESG sentiment within the U.S., whether they have considered revising their approach to ESG issues.

Executive and Director Compensation

Time-Based Awards

ISS**.** Amidst growing concerns that performance-based equity programs may be costly, complicated, and at times, non-rigorous, ISS notes that companies in European markets have begun to trend towards adopting purely time-based equity incentives, both as a minority proportion in mix with performance-based awards, or as a primary component of a company's long-term incentive award program. ISS asks a series of questions about time- and performance-based equity awards, including: whether time-based equity structures are considered acceptable for part or all of executive long-term incentive awards; what vesting and/or post-vesting retention period would be sufficiently long-term for a company to eliminate performance requirements; what would be a reasonable mix of time- and performance-based awards; and what is a meaningful stock retention requirement for after-tax net shares.

Glass Lewis**.** Citing the preference of over 85% of respondents to last year's survey for performance-based incentive awards with an openness to time-based awards under certain circumstances, and noting ongoing debate regarding a company's mix of time- and performance- based awards (as discussed at the SEC Roundtable on Executive Compensation on June 26, 2025, see our prior Alert here), Glass Lewis asks respondents under what specific circumstances they would consider use of only time-based awards under a long-term incentive plan to be reasonable.

Removing ESG/DEI Metrics from In-Flight Awards (ISS). ISS notes that recently companies have chosen to remove certain environment & social (E&S) and DEI metrics from their go-forward incentive pay programs and in-flight awards. ISS asks respondents how ISS should consider the removal of such metrics from in-flight awards.

Director Pay

***ISS*.** Under the current policy, ISS will flag high outlier non-executive director pay levels and other problematic pay practices including, but not limited to, performance equity awards, excessive perquisites, and retirement programs. Additionally, ISS will make adverse voting recommendations for committee members at outliers that approve problematic non-executive director pay after two consecutive years if a reasonable justification for such approval is not provided. ISS asks respondents whether there are problematic practices that would warrant more immediate concern for investors, even if only in one year.

***Glass Lewis*.** Glass Lewis notes that, in developed markets, set fees generally account for the majority of non-executive director compensation and that such fees are generally modestly increased over time without controversy or intense scrutiny. Noting the understanding that substantial increases in non-executive director pay occur infrequently, Glass Lewis asks how respondents assess such significant increases in director fees.

Executive Security and Perks (Glass Lewis). Understanding company concerns that the current SEC guidance on perquisites may be confusing and may dissuade companies from providing security protections, Glass Lewis asks whether, and under what circumstances, respondents believe executive security costs should be treated as perquisites.

Make-Whole Incentive Grants (Glass Lewis). Noting the increase in the number of “make-whole” grants disclosed in connection with executive hires in 2025 and the disparate responses to last year’s survey question on the topic, Glass Lewis asks respondents to provide greater detail on their evaluation of make-whole awards, as opposed to other sign-on awards, including whether they should be assessed on the same criteria as other awards.

Equity Plans (Glass Lewis). Glass Lewis notes that when shareholders do not approve a company’s equity plan, it can significantly impact a company’s ability to pay its employees. With such high stakes in mind, Glass Lewis requests that respondents provide greater detail on what characteristics they consider important in evaluating omnibus equity plans, including qualitative terms and best practices, absolute or relative burn rate, or overhang and dilution levels, dilutive impact of the share request, size of the share request compared to past usage and current need, and historical and projected cost of the plan.

SEC Rulemaking (Glass Lewis). Noting that the SEC may scale back executive compensation disclosure, Glass Lewis asks what disclosure elements respondents consider to be crucial in communicating and assessing executive compensation programs. Specifically, Glass Lewis asks respondents to indicate whether the following are “very important,” “important,” or “not important”: incentive plan design; rationale for potentially concerning pay practices; reconciliation between GAAP and non-GAAP metrics used in incentive plans; standard compensation tables; SEC-mandated pay-versus-performance disclosure; and CEO to median employee pay ratio.

Tariffs (Glass Lewis). Glass Lewis asks how respondents would typically expect the board to respond when executive incentive outcomes reflect elements of a company’s performance that have been materially impacted by tariffs.

Severance Benefits (Glass Lewis). Glass Lewis notes that companies may often make ad-hoc adjustments to employment and award agreements to expand severance benefits. As such, Glass Lewis asks which ad-hoc adjustments respondents believe are acceptable.

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If you have questions concerning the contents of this Alert, or would like more information, please reach to your regular contact at Weil or to any of the following contributors:

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**Not Yet Admitted