

December 8, 2021

ISS 2022 Benchmark Policy Changes

On December 7, 2021, Institutional Shareholder Services Inc. (“ISS”) published its Benchmark Policy Changes for multiple countries in the Americas, including Canada. This publication of the final policy for 2022 comes more than a month after ISS released its [proposed updates](#) for comment on November 4. The comment period to provide feedback ended on November 16.

The changes affecting companies in the Canadian market include codifying a framework for analyzing Say-on-Climate proposals that are put forward by both management and shareholders, an updated board gender diversity policy, and the establishment of a higher bar for Say-on-Pay voting results that would trigger an expectation of board engagement with the company’s shareholder base to solicit feedback on executive compensation practices. The updates have implications for issuers listed on Canadian multiple stock exchanges, including the TSX, TSXV, NEO, CSE and NEX.

In Canada, ISS said it held a virtual roundtable on climate governance issues with seven institutional investors, in addition to one-on-one conversations with issuers and investors throughout the year. The virtual roundtable covered shareholder Say-on-Climate proposals, criteria for assessing management climate plans and voting mechanisms to enhance accountability. ISS also noted other engagements held with various market constituents in other countries regarding climate and other topics of interest.

The 2022 Benchmark Policy will be effective for shareholder meetings occurring on or after February 1, 2022, except for those policies, as noted, that are being announced with a one-year transition period.

ISS is an influential proxy advisory firm that issues recommendations for its institutional investment clients on matters being put to a shareholder vote. These recommendations are key considerations for many of the world’s largest investment managers. Companies should stay current on the latest policy changes to anticipate and mitigate any areas of concern.

Below is a summary of the 2022 Benchmark Policy Changes for the Canadian market:

Climate

To foster transparency and consistency across markets, ISS has codified its policy for reviewing proposals related to climate transition plans. These policies will apply globally.

Say-on-Climate Management Proposals (All Markets)

ISS has adopted a global policy for considering management proposals that ask shareholders to approve a company’s climate transition action plan (Say-on-Climate) or similar variations. ISS will review these

proposals on a case-by-case basis by weighing 10 different factors, among others. These factors, as written by ISS in its publication, are:

- The extent to which the company's climate related disclosures are in line with Task Force on Climate-Related Financial Disclosures (TCFD) recommendations and meet other market standards;
- Disclosure of its operational and supply chain greenhouse gas (GHG) emissions (Scopes 1, 2, and 3);
- The completeness and rigor of the company's short-, medium-, and long-term targets for reducing operational and supply chain GHG emissions (Scopes 1, 2, and 3 if relevant);
- Whether the company has sought and approved third-party approval that its targets are science-based;
- Whether the company has made a commitment to be "net zero" for operational and supply chain emissions (Scopes 1, 2, and 3) by 2050;
- Whether the company discloses a commitment to report on the implementation of its plan in subsequent years;
- Whether the company's climate data has received third-party assurance;
- Disclosure of how the company's lobbying activities and its capital expenditures align with company strategy;
- Whether there are specific industry decarbonization challenges; and
- The company's related commitment, disclosure, and performance compared to its industry peers.

Say-on-Climate Shareholder Proposals (All Markets)

With respect to Say-on-Climate proposals brought forth by shareholders, ISS has also published a global policy that will see it issue recommendations on a case-by-case basis by accounting for a handful of stated factors, according to the Benchmark Policy Update:

- The completeness and rigor of the company's climate-related disclosure;
- The company's actual GHG emissions performance;
- Whether the company has been the subject of recent, significant violations, fines, litigation, or controversy related to its GHG emissions; and
- Whether the proposal's request is unduly burdensome (scope or timeframe) or overly prescriptive.

Diversity

Board Gender Diversity (TSX Guidelines)

ISS has finalized its proposed policy changes related to board gender diversity at Canadian companies.

The policy states that for S&P/TSX Composite Index companies, shareholders should generally vote to WITHHOLD for the Chair of the Nominating Committee or Chair of the committee designated with the responsibility of a nominating committee, or the Chair of the Board if no such committee exists, if women account for less than 30% of the board of directors AND the company has not provided a formal, publicly disclosed written commitment to achieve at least 30% female representation on its board prior to its next AGM.

For Canadian companies that are not members of the Composite Index, ISS will generally recommend that shareholders WITHHOLD their votes for the Chair of the Nominating Committee or Chair of the committee designated with the responsibility of a nominating committee, or the Chair of the Board if no such

committee exists, if the company has not disclosed a formal written gender diversity policy AND there are no women on its board.

If changes are not made in two years, ISS will weigh whether to oppose the election of additional director nominees. ISS expects the gender diversity policy should include a clear and firm commitment with measurable goals and/or targets to bolster its gender diversity. Generic and boilerplate language will not be acceptable to ISS.

Board Responsiveness

Compensation – Advisory Vote on Executive Compensation (TSX Guidelines)

ISS will now evaluate board responsiveness following cases where a company's previous Say-on-Pay proposal received support of less than 80% of votes cast. This threshold has been revised upwards from less than 70% support and aligns the ISS standard with that of Glass, Lewis & Co. LLC.

Other Updates

- **Overboarding** (Venture Guidelines): Aligns the overboarding director policies for non-CEO and CEO directors for Venture issuers with the existing ISS policy for shareholder meetings for TSX-listed issuers on or after February 1, 2023.
- **CSE Evergreen Policy** (Venture Guidelines): Clarifies its policy for equity-based compensation plans at Venture issuers if the company maintains an evergreen plan – including those adopted prior to going public – and has not sought shareholder approval in the past two years and does not seek shareholder approval of the plan at the meeting.
- **NEO Exchange Policy** (TSX Guidelines): Updates its TSX Guidelines to explicitly state its application to issuers also listed on the NEO Exchange.

Note: The ISS Benchmark Policy for Venture-listed Companies applies to Canadian-incorporated companies that are listed on the TSXV, NEX and CSE.

Key Upcoming Dates

- **Late December:** Publication of updated Benchmark Policy for 2022 to be posted on ISS' website
- **By the end of January 2022:** Publication of updated FAQs on ISS' website
- **February 1, 2022:** The updated Benchmark Policy will take effect for shareholder meetings occurring on or after this date

If you have any questions about this update about ISS' 2022 Benchmark Policy, please contact Kingsdale's experts listed below to discuss directly.

Kelly Gorman
Executive Vice President
Governance Advisory
(647) 289-5226
kgorman@kingsdaleadvisors.com

Anqi Xu
Vice President
Governance Advisory
(647) 995-4999
axu@kingsdaleadvisors.com

Christina Pellegrini
Associate Director
Governance Advisory
(416) 726-4505
cpellegrini@kingsdaleadvisors.com

This client advisory has been prepared by the Governance Advisory team at Kingsdale Advisors.