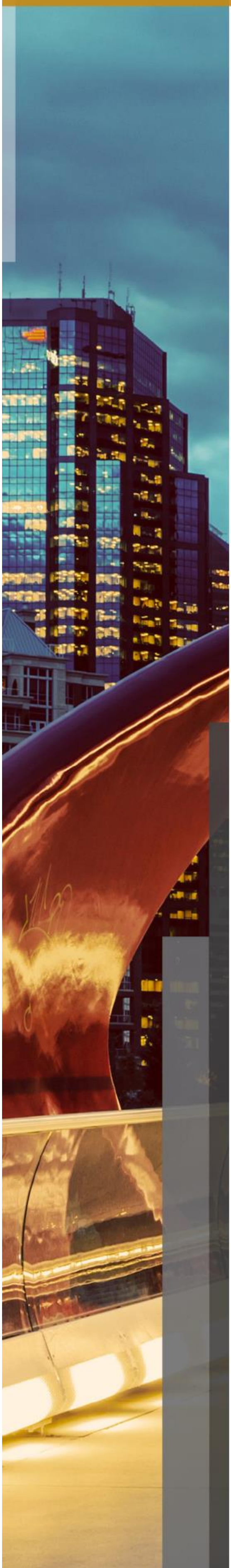

ISS issues policy guidance in response to impacts of the COVID-19 pandemic

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Institutional Shareholder Services (**ISS**) has issued policy guidance in response to the effects of the COVID-19 pandemic on publicly traded issuers. The policy guidance touches on several issues which broadly fall under the categories of annual shareholder meetings, shareholder rights, defensive mechanisms, compensation issues and raising capital.

Annual shareholder meeting issues

Meeting postponements

ISS recognizes that many meetings will be postponed as a result of the COVID-19 pandemic and expects that shareholders will look to companies to use standard disclosure documents, press releases and websites to keep parties informed about material events and developments. ISS supports boards that choose to use webcasts, conference calls, or other mediums of electronic communications to engage with shareholders and other stakeholders.

Virtual only meetings

While ISS does not currently have a specific policy in Canada in respect of hybrid or virtual-only shareholder meetings, they recognize that virtual-only meetings may be preferable or necessary in response to public health concerns resulting from the COVID-19 pandemic. If a company is opting to hold a virtual-only meeting, ISS has indicated that they encourage disclosure of the reason for the decision to go virtual-only (i.e. concerns for public health due to the COVID-19 pandemic) and to strive to provide shareholders with a meaningful opportunity to participate, including providing the ability for shareholders to ask questions of directors and senior management and to engage in dialogue if they wish. ISS has indicated that they encourage boards to commit to a return to in-person or hybrid meetings as soon as practicable.

Poison pills, shareholder rights and boards / directors

Poison pills and other defensive measures

Many companies have adopted or are considering adopting short-term poison pills or other defensive measures (i.e. those with a duration of less than a year) to protect against the threat of opportunistic bidders taking advantage of the recent dramatic decline in share prices. In the case where defensive measures are adopted, ISS has indicated that they will evaluate on a case-by-case basis and will consider the rationale for the plan and whether directors have protected shareholders from abusive bidders without entrenching the current board and management team before making a recommendation to vote for or against such defensive measures. Specific events that trigger the defensive measures will also be relevant in their analysis. A severe decline in share price as a result of the COVID-19 pandemic is likely to be viewed by ISS as a valid justification for such adoption in most cases; however, boards should provide detailed disclosure regarding their decision, including with respect to the length of the plan, its specific triggers and reasons for delaying or avoiding putting the plan to a shareholder vote.

Changes to the board of directors or senior management

ISS is aware that, as a result of the COVID-19 pandemic, there may be instances where board or senior management members may be unable to fulfill their responsibilities, or there may be an urgent need to add expertise, which may result in issues relating to independence, diversity, overboarding or otherwise. ISS will consider these situations on a case-by-case basis and has stated that, as a general principle, boards should have broad discretion during the COVID-19 pandemic to ensure they have the best possible board and senior management group to direct the company during these exceptional circumstances and may show more flexibility towards overboarding, board diversity and situations where a board members temporarily fill executive roles.

Compensation issues

Change in metrics / shift in goals or targets

It is expected that many companies will announce plans to materially change performance metrics used in short-term compensation, as well as potentially alter the structure of their long-term plans in response to the recent market changes. ISS encourages boards to provide an explanation for expected changes in short-term compensation now, rather than waiting until the 2021 meeting season. Changes to short-term compensation and to currently outstanding long-term awards will be evaluated by ISS on a case-by-case basis, which will include whether the disclosure provides an adequate explanation to shareholders of the rationale for the changes. Changes to long-term plans will be assessed using ISS' existing benchmark policy frameworks.

Option repricing

If boards seek shareholder approval of repricing actions, ISS will apply their existing case-by-case policy approach. In Canada, ISS generally votes against proposals to reprice outstanding options. ISS has indicated that they do not consider market deterioration to be an acceptable reason for companies to reprice stock options.

Capital structure and payouts

Capital raisings

Current ISS benchmark voting policies generally already provide for a case-by-case assessment of requests to increase authorized common or preferred stock, share issuances, private placements and other related proposals, subject to market-specific rules or guidance, which ISS expects to continue to apply in the current environment.

Share issuances –ISS generally recommends a vote in favour of an increase to authorized capital if a company's shares are in danger of being de-listed or a company's ability to continue to operate is uncertain. ISS generally votes against unlimited capital authorizations; however, their current policies provide for case-by-case analysis and vote "for" recommendations to proposals that exceed normal market-specific limits in the event of exceptional circumstances (such as the COVID-19 pandemic) and provided that there is clear and compelling justification by the board of a company's underlying need for the increase in share capital in the current economic environment.

Private placements –ISS considers a number of factors in evaluating private placements requiring shareholder approval, but generally recommends a vote in favour of a private placement if the company will file for bankruptcy if the transaction is not approved or the company's auditor and / or management has indicated the company has going concern issues.

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