

Board diversity, executive compensation key ISS policy updates for 2024

December 21, 2023

Institutional Shareholder Services (ISS) has published policy updates for its [2024 Global Proxy Voting Guidelines](#) (Guidelines) which include key developments with respect to **board diversity disclosure and executive compensation**. ISS' updated Guidelines ([TSX](#) and [Venture](#)) will apply to shareholder meetings beginning on Feb. 1, 2024.

Takeaways

Directors of Canadian publicly traded companies should take note of the following updated ISS Guidelines for the 2024 proxy season:

- Constituents of the S&P/TSX Composite Index are expected to have at least **one racially or ethnically diverse member** on their boards in addition to any gender diversity expectations.
- For TSX-listed issuers, ISS is removing legacy language regarding **percentage limits for non-executive directors' option grants** and ISS' analysis of equity compensation plan proposals.
- ISS is amending its guidance on **equity-based compensation plans for venture companies** by addressing the circumstances where companies have adopted an equity plan without seeking shareholder approval.

Board diversity disclosure and executive compensation to remain ISS' key focus for 2024

Board diversity disclosure

As previously announced by ISS, and as discussed [in an earlier Bulletin](#), beginning with meetings on or after Feb. 1, 2024, ISS will expect S&P/TSX Composite Index constituents to have at least one racially or ethnically diverse board member in addition to satisfying ISS' gender diversity expectations. Where an issuer does not meet ISS' expectation, ISS will generally recommend voting against or withholding from the Chair of the Nominating Committee (or similarly tasked committee) unless the board publicly commits in writing to adding at least one racially and/or ethnically diverse member at or

prior to the issuer's next annual general meeting. Where an issuer has failed to meet ISS' diversity expectations over two or more years, ISS will evaluate whether negative voting recommendations are warranted against additional board members. For the purposes of this new policy, ISS defines racial and/or ethnic diversity to include **Aboriginal peoples (Indigenous, Inuit or Métis) and members of visible minorities** (persons other than Aboriginal peoples who are non-Caucasian in race or non-white in colour).

The 2024 Guidelines align ISS' policy for Canadian S&P/TSX Composite Index companies more closely with the ISS US policy guidelines for Russell 3000 and/or S&P 1500 indices on racial and ethnic diversity.

Executive compensation practices

In the updated Guidelines, ISS is also making the following changes with regards to its policies on executive compensation:

- **Compensation (TSX-Listed Companies) - Individual grants:** ISS is removing legacy language regarding a percentage limit related to non-executive directors' (NEDs) option grants, which no longer reflects market practice. The Guidelines for 2024 state that the maximum annual individual NED limit "should not exceed \$150,000 across all equity compensation plans in aggregate, of which no more than \$100,000 of value may comprise stock options."
- **Equity based compensation plans (TSX-Listed Companies) - Non-employee director (NED) participation:** This policy will have similar language to the above. ISS will remove the same legacy language regarding a percentage limit when analyzing an equity compensation plan proposal, as it no longer reflects market practices.
- **Equity based compensation plans Venture Companies):** ISS will add to the existing policy the circumstance when companies have adopted an equity plan without seeking shareholder approval, as companies listed on the Canadian Securities Exchange (CSE) are required to obtain shareholder approval within three (3) years after the creation of a rolling equity plan and within every three years thereafter.

Next steps

As the 2024 proxy season is fast approaching, we [encourage you to contact BLG](#) if you have questions related to the ISS Guidelines, or for more information on any other corporate governance initiatives.

By

[Laura Levine, Emily Milana](#)

Expertise

[Capital Markets, Corporate Governance](#)

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2024 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.