COMPLIANCE CHANGES FOR 2016.

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One of the most popular new year's resolutions is to get in shape, but instead of thinking about it as a personal goal, it's good to consider it a goal for your company. From a governance perspective, publicly traded companies can get fit by ensuring positive support for Say-on-Pay (SOP) proposals. Many of our clients, particularly those in the energy industry, are finding this increasingly challenging since they are negatively affected by macro-economic and geopolitical factors.

According to a recent study conducted by Ernst & Young, 20% of companies have seen investor support for their pay plans drop 20 percentage points or more at least once in the past five years. Most of the S&P 500 companies that received low SOP support in 2014 modified their pay practices and/or disclosures following outreach efforts. The engagement-driven changes helped increase the SOP vote nearly 30 percentage points.

We've included a table below that highlights some of the changes required by governing entities in 2016 and beyond, as well as some actions that can be taken to help ensure compliance.

ENTITY	SYNOPSIS	HOW TO PREPARE
ISS & Glass Lewis	Overboarding – Lowering from 6 to 5 the maximum number of public company directorships an external director may hold.	• Determine whether your company's directors exceed the maximum. • Ensure directors provide current biographies and are aware of private companies that anticipate an IPO.
ISS	Unilateral Board Actions – Directors are susceptible to negative recommendations if prior to or in connection with an IPO, the board adopted amendments that materially diminish shareholder rights.	Companies that are recently public or are preparing for an IPO should consider the impact of each bylaw/amendment.
ISS	Insufficient Compensation Disclosure by Externally-Managed Issuers (EMIs). ISS will now generally recommend against say-on-pay where insufficient compensation disclosure (e.g., disclosure of only the aggregate management fee) precludes a reasonable assessment of pay programs and practices applicable to the EMI's named executive officers.	• The compensation committee should review prior proxy statement disclosure on compensation of its NEOs by the external manager and determine whether additional detail is necessary. • Consider the updated expectations about disclosure of long-term incentives, transitional awards and equity compensation when preparing the CD&A.
ISS	QuickScore 3.0 Updates - A copy of the revised QuickScore 3.0 document is available for download.	Once issued, review your QuickScore and provide feedback via the ISS data verification website.
ISS	Equity Plan Scorecard Updates – ISS adopted a new Equity Plan Scorecard for the 2015 proxy season that considers a range of positive and negative factors.	Companies that plan to include equity plans on the ballot should register to gain access to the ISS Equity Plan Data Verification Portal to review the company data that ISS will consider as part of its scorecard.
Glass Lewis	Compensation Policy Updates • Look for actual performance and vesting levels for previous grants earned during the fiscal year. • Sign on arrangements should be clearly disclosed and explained. • Qualitative factors of equity compensation plans should include the choice of, use of, and difficulty in meeting award metrics and targets (if any).	Companies need to be familiar with the updates and determine if any changes or additional disclosures are necessary.
SEC	Clawback – The SEC proposed rules for the exchanges to adopt specific rules regarding clawback policies.	While these SEC proposals are not currently in effect, companies that have not yet adopted these policies may benefit with institutional investors and others that focus on corporate governance best practices by adopting policies that comply with the proposed rules. In addition, companies should review their compensation programs, including any employment agreements, to determine whether the rules conflict with current programs and agreements. Companies should also assess their compensation committee charters and indemnification provisions for conformity with the proposed rules.
SEC	TSR – Under the proposed rule, registrants would be required to show the relationship over a period of years between the pay of certain senior-level executives and the total shareholder return (TSR) for the registrant. [5] Each registrant also would be required to compare, over the same period of time, its TSR with that of a peer group.	

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