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ISS 2024 Policy Survey Questionnaire Suggests No Imminent Change in ISS Voting Policy on Compensation Matters

Institutional Shareholder Services (ISS) recently issued its 2024 Policy Survey Questionnaire, which generally previews potential changes in ISS's proxy voting policies.

Through its annual policy survey, ISS seeks feedback from institutional investors, public companies, corporate directors and the consulting and legal communities on emerging trends in corporate governance, executive compensation and other matters as part of its policy formulation process. The policy survey often provides an early read on ISS's emerging views on a particular issue.

This year's survey only includes one question on compensation, which relates to U.S. companies use of non-GAAP performance measures in their incentive pay programs.[1]

Specifically, ISS asks whether companies should disclose a line-item reconciliation of non-GAAP adjustments to incentive pay metrics in their proxy statement, with the following allowable responses.

- *Yes, line-item reconciliation should always be disclosed when a company uses non-GAAP metrics.*
- *Sometimes, the disclosure is needed only when the adjustments significantly impact payouts and/or where non-GAAP results significantly differ from GAAP.*
- *No, such disclosure should not be routinely expected.*
- *It depends on other factors.*

ISS notes "Recent events resulting in increased investor scrutiny of non-GAAP adjustments include direct and indirect COVID-19-related impacts, adjustments related to the Russia-Ukraine conflict, and costs arising from litigation. A growing number of investors believe that disclosure of line-item reconciliation is needed to make an informed assessment of executives' incentive pay."

The SEC's proxy rules require companies disclose *qualitative,* rather than *quantitative,* reconciliation of non-GAAP adjustment to the nearest GAAP measure.

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[1] Other ISS policy survey questions relate to (i) director independence, (ii) ESG matters, and (iii) climate transition plans.

Meridian comment. The largest institutional investors' proxy voting policies have not addressed this issue. However, the Council of Institutional Investors petitioned the SEC in April 2019 to require public companies to disclose such quantitative reconciliation and to describe why the non-GAAP financial measures are better for determining executive pay than GAAP financial measures.[2] While SEC rulemaking is not imminent, ISS may scrutinize non-GAAP adjustments to incentive metrics and related disclosures in its Say on Pay analyses. However, ISS is unlikely to adopt a formal proxy voting policy on this item for the 2024 proxy season.

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[2] https://www.cii.org/files/issues_and_advocacy/correspondence/2023/August 28 2023 Reg Flex Letter (final).pdf