2023 United States and ESG Proxy Season Preview

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Brianna Castro
Senior Director of U.S. Research
Glass Lewis

Maria Vu
Senior Director of North American Compensation Research
Glass Lewis

Courteney Keatinge
Senior Director of ESG Research
Glass Lewis
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grow@glasslewis.com (institutional investors) | engage@glasslewis.com (public companies)
Our Leadership Team
U.S. Research Leadership

Brianna Castro - Senior Director, U.S. Research
• Joined Glass Lewis in 2016
• Specializes in stakeholder engagement, corporate governance analysis, and research operations
• Involved in Glass Lewis policy and product development

Courteney Keatinge - Senior Director, ESG Research
• Joined Glass Lewis in 2011
• Leads Glass Lewis partnerships with ESG data providers as well as ESG-related stakeholder engagement and analysis
• Has contributed to a variety of papers with organizations including the UN PRI and Ceres on issues related to ESG and corporate governance

Maria Vu - Senior Director, Executive Compensation Research
• Joined Glass Lewis in 2016
• Leads specialized team analyzing North American compensation issues, including proposals relating to Say-on-Pay and equity plans
Agenda
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**Agenda**

- Key Trends
- Meetings to Watch
- Q&A
- What’s next at Glass Lewis
Key Trends
Corporate Governance

• **Board Composition and Effectiveness**
  • Expansion of gender diversity policies; looking for more gender diverse directors on boards
  • Increasing focus on board racial/ethnic diversity
  • Expect to see more disclosure of board composition metrics, including racial/ethnic diversity, diversity considerations, etc.
  • Also expect disclosure on board evaluation and nomination process, how gaps in skills are identified, succession plans, etc. Boards should think about how they can demonstrate their effectiveness to shareholders.

• **Board Oversight of E&S Risk and Other Risks**
  • Expect to see more disclosure of board oversight of E&S risk and board processes for identification and management of material ESG factors
  • Due to events in the past few years, there is an increased focus on board oversight and management of factors such as impacts from geopolitics and economic fluctuations.
  • Directors at companies seen as laggards may face increased shareholder opposition
Corporate Governance

• Universal Proxy Card and Advance Notice Provisions
  • Universal Proxy Card Rule went into effect August 31, 2022; all candidates included on ballots moving forward to allow shareholders to elect director candidates on a single card
  • Many companies are amending their advance notice provisions in response, which regulate the process by which shareholders can nominate director candidates (roughly 500 in our coverage since August 2022); some have included provisions that are outside of market standards and/or significantly infringe on shareholder rights (i.e. Masimo Corporation)
  • Expect to see these amendments throughout the season

• Officer Exculpation
  • In August 2022, the Delaware General Assembly amended the DGCL to permit companies to exculpate officers from monetary liability for breaches of their fiduciary duty of care. Delaware companies can now propose an amendment to the certificate of incorporation to adopt exculpation provisions. Since then, 19 companies have proposed such provisions.
  • Shareholders will need to decide whether they should give up their right to sue corporate officers for claims of negligence and breaches of fiduciary duty of care
  • Look for compelling rationale from companies on why shareholders should give us this right.
Shareholder Proposals/ESG

• **Continued Focus on ESG**
  - More shareholder proposals as result of changes at SEC
  - ESG "backlash"
    - Number of "anti-ESG" proposals and proponents likely to increase
  - Lower average support in 2022
    - Fewer shareholder proposals dealing with financially material topics

• **Stakeholder Relations/Human Capital Management**
  - Diversity reporting, EEO-1 reporting
    - Effectiveness of diversity programs
    - Pay equity
  - Civil rights audits
  - Employment practices
    - Freedom of association, unionization
    - Concealment Clauses
  - Abortion-related proposals

• **Climate Change**
  - More scrutiny from investors on climate proposals
  - Climate Finance
  - Global Focus:
    - Say on Climate
    - Director accountability
Glass Lewis ESG Profile

Introduced in 2022

- Snapshot of companies’ ESG performance/disclosure on key topics
  - Coverage expanded to roughly 5,400 in 2023

- New Data Points
  - Comparative feature for companies covered in 2022
  - Has Biodiversity Policy
  - Has Scope 1 & 2 Emissions Reduction Target/Has Scope 3 Emissions Reduction Target
    - Replaces broader GHG reduction target data point
  - Has Board Oversight of Human Capital Management
  - Has “Just Transition” Disclosure
    - Included in Climate Risk Mitigation module
Executive Compensation

• **CEO Pay Growth Early Indicators**
  - Decelerated growth in CEO pay in the months leading up to the 2023 Proxy Season.
  - Average growth of CEO pay at 29% versus 41% a year ago
  - Most aggressive percentage growth is happening among companies with smaller market capitalization at lower dollar values than what was seen in 2021.
  - Watch for potential base salary increases due to macroeconomic issues like inflation

• **Responses to Low Say On Pay Support**
  - Companies will be trying to manage the fall-out of problematic retention granting that dominated the 2021 compensation year.
  - Key S&P 500 companies will be trying for a second time to earn forgiveness from shareholders and avoid a third consecutive failed say on pay proposal.
  - Expect to see other companies with failed say on pay proposals last year mainly expressing intentions to not repeat problematic pay decisions, at least not in the near-term.
Executive Compensation

• **Pay Versus Performance Disclosure**
  • The first examples of new required SEC disclosure started to appear last week.
  • Compensation actually paid numbers are registering negative amounts mainly for the 2020 period.
  • Company-selected metrics for the purpose of the new disclosure requirements are largely in-line with the incentive program metrics.
  • Glass Lewis will be displaying compensation actually paid for the CEO for 2022 and the prior year as well as reported TSR information and key metrics listed in the new disclosure.

• **Rolling Maximum Provisions**
  • This iteration of evergreen provisions commonly seen in Canada are appearing in the U.S.
  • We expect to see more smaller U.S. companies propose equity plans with rolling maximum provisions to ensure sufficient share reserves and perhaps address concerns around dilution.
  • Unlike in Canada, companies do not have to present these plans for re-approval periodically.
Meetings to Watch
Meetings to Watch

Environmental and Social

• Large tech companies (Amazon, Meta Platforms, Alphabet) Human Capital Management, social and environmental impacts, regulatory risk (CDA 230 ruling)
• Starbucks Corporation- Freedom of association
• Norfolk Southern- Safety

Compensation

• CVS Health Corporation – Opioid-related settlements and use of adjusted financial metrics in incentives
• Sarepta Therapeutics, Inc. – Modified vesting of mega-grant
• Netflix, Inc. - Failed director (compensation committee chair) and executive compensation

Governance

• Berkshire Hathaway- Oversight of E&S Issues
• Purple Innovation- Cumulative voting
• Salesforce- Activist investors
• Bath & Body Works- Proxy contest launched by Third Point and recent board refreshment
Webinars on our 2023 Voting Guideline Updates are available on our website

https://www.glasslewis.com/webinars
Q&A
What’s Next at Glass Lewis

• New Features in Proxy Paper
  • New ESG Book Page: Redesigned and simplified for data clarity. Request access to Arabesque platform at www.ESGbook.com. For data verification or more information, contact GL_helpdesk@arabesque-sray.atlassian.net
  • New BitSight Cyber Risk Page: Complete redesign and new data, expected early March 2023. Complete the form on BitSight’s corporate web page to submit requests regarding the page.
  • Glass Lewis ESG Profile Page Updates: Issuers can verify select data points through the IDR. New data includes peer comparison and year-over-year change, if applicable.

• Issuer Data Report (IDR) - Registration for public companies is always open
• Using the Governance Hub, public companies can access the Proxy Papers for their company and on peers, with watchlists and alerts for immediate notification as research is published. Included with Governance Hub subscriptions is the ability to provide a Report Feedback Statement (RFS), which enables public companies to have their opinions on our research and recommendations delivered directly to investor customers.

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Thanks for Listening!

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Public Companies       |  ENGAGE@glasslewis.com

Corporate Website      |  Glasslewis.com
Email                  |  Info@glasslewis.com
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