



## As AGM season is fast approaching, we have had lots of questions from public companies looking for advice on a number of important issues. To ensure you are prepared, we have put together a quick Top 10 Checklist:

### **1 Are you aware how sensitive your shareholder base is to the recommendations of the proxy advisors?**

Too often companies are not aware of how many of their shareholders follow the voting advice of proxy advisors Institutional Shareholder Services (ISS) and Glass Lewis. This is especially true if your company is newly listed, recently added to a stock index, has graduated to a senior exchange, or if there has been a recent turnover in your stock.

### **2 Are you aware of how many of your shareholders have internal governance teams and/or internal voting policies?**

Most large institutional shareholders have developed their own internal voting policies that may be stricter than ISS and Glass Lewis. Understanding their policies as well as how they previously voted on the same or similar proposals is critical to determine whether or not a proposal has merit.

### **3 Do you know how recent board changes will be viewed by shareholders?**

On the surface, the appointment of new board members may look great, but some shareholders will take a closer look. How many other boards do nominees sit on? What relationships do they have with other directors? What is their past performance? It is important to know the answers to these questions since they will impact many shareholders' voting decisions.

### **4 Have you considered reviewing your bylaws, articles, and shareholder rights plan to make sure they keep up with best practices?**

It is critical to balance the rights of shareholders and proper defense mechanisms. Are you aware of the benchmarks against which your full bylaws will be assessed by ISS and Glass Lewis if you are changing any one part of your bylaws?

### **5 Have you received environmental, social and governance (ESG) shareholder proposals?**

ESG matters have an increasing importance. When legislation or regulations are not catching up, shareholders will rely more on private ordering to push for changes.

### **6 Have you noticed the participation rate at your meeting on the decline?**

Do you know what is causing it and what you can do?

### **7 How has your company performed recently and is your executive compensation aligned with performance?**

Shareholders traditionally look at TSR performance, but ISS has recently introduced six additional metrics that they may look at to evaluate performance (Return on Invested Capital, Return on Assets, Return on Equity, Change in Cash Flow from Operations, Revenue Growth, EBITDA Growth). Do you measure and have targets for all these, and do you know how you have stacked up? What about against your peers?

### **8 Are you planning an executive transition?**

Executive transitions usually mean new compensation arrangements. Do you understand not only how ISS and Glass Lewis will review these, but how they will be measured by the internal voting policies of your largest shareholders?

### **9 Are you planning to renew your rolling reserve equity plan or intend to seek shareholder approval for additional treasury reserves?**

Be aware of the ISS Equity Plan Scorecard approach to evaluating equity plans, which looks at three main categories including plan cost, plan features, and granting practices.

### **10 Do you know your foreign private issuer status?**

As you approach the various deadlines for establishing your status, it is important to know if you still qualify. Some companies have unknowingly lost their status with more than 50% of their shares being held directly or indirectly by U.S. residents. Clarity on your status is important, as your company will maintain its established regulatory structure and avoid costs related to registration and disclosure requirements for domestic U.S. issuers. You will also remain within the advisory jurisdiction of the Canadian branch of ISS. This can make a significant difference to the recommendations of ISS.

**If this checklist has prompted a question, we are here to help. As a trusted advisor to boards and management, we regularly help our clients work through challenging issues.**