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ISS “Clarifies” Majority Voting Position

In a “frequently asked questions” document issued today, ISS has “clarified” its November 18 policy on majority voting. The “clarification” specifically rejects my hope that adaptation of the model corporate governance guideline in my November 18 memo would satisfy the original ISS policy position.

ISS is now emphasizing that its fundamental position is that all companies should have a true majority-vote standard. Not only does ISS want a true majority-vote standard, it wants the standard to deal with the corporate law that an incumbent director who fails to get a majority nevertheless holds over until a successor is elected. ISS wants the holdover rule modified to ensure that the board comprises a majority of independent directors and maintains a minimum of three independent directors at all times.

In its new statement, ISS emphasizes that, in the absence of a true majority vote provision, it will not support a shareholder resolution only if ISS determines that the alternative to a true majority-vote standard “is the best structure at this time for boosting directors’ accountability to shareholders.”

I continue to believe that unless and until the corporate law is changed to deal with the several issues which arise out of moving from a plurality-vote standard to a majority-vote standard, the corporate governance guideline is a flexible and appropriate alternative and cogent arguments can be made to shareholders that they should accept the guideline in lieu of the resolutions that are being put forth by labor unions and other activists.

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