Cooley

ISS Opens Peer Group Submission Window for 2025 Annual Meetings

November 11, 2024

Institutional Shareholder Services (ISS) uses peer group data as one input in their analysis of a company's executive pay program that may ultimately impact their vote recommendation for a company's "say-on-pay" proposal and/or director elections. Each year, ISS constructs its own group of "peers" for each company, which it uses to analyze the company's executive pay and relative company performance for the preceding year. ISS considers a company's self-selected peer group as part of that peer group construction methodology. Accordingly, ISS periodically invites companies to submit any changes they have made to their self-selected peer group for their next proxy disclosure. For annual meetings of US and Canadian companies slated to be held between February 1, 2025, and September 15, 2025, (or January 31, 2026, for European companies), that submission window opened at 9:00 am EST today, Monday, November 11, 2024, and will close at 8:00 pm EST on Friday, November 22, 2024.

We encourage any companies that have changed their peer groups from those publicly disclosed in the last proxy filing to consider providing that information to ISS during the submission window, because doing so may result in greater overlap between the company's self-selected peer group and the ISS-constructed peer group. Submissions should reflect peer companies used in setting CEO pay for the fiscal year ending prior to the company's next upcoming annual meeting (e.g., for calendar year-end companies, the peer group used in making 2024 compensation decisions). Compensation committees take great care in selecting appropriate peer groups, and it is appropriate for ISS to analyze pay decisions and company performance compared to that carefully chosen peer group. Participating in the peer group submission process increases the likelihood that ISS will take the company's self-selected peer group into greater account.

Companies are not obligated to participate in the submission process, and some companies may not want to provide this information or feel that the benefit of doing so is not sufficiently meaningful in their circumstances. For companies that do not submit any information, the proxy-disclosed peers from the company's last proxy filing will automatically be factored into ISS' peer group construction methodology. We recommend that even a company that has made no changes to its previously disclosed peer group (or that otherwise declines to participate) still verify through the submission process that ISS has collected the complete and relevant peer group from its most recent proxy statement.

Note that a company should only participate in the peer submission process if the company intends to disclose the resulting peer group in its next proxy filing. For example, an emerging growth company that participates in the peer submission process should be prepared to voluntarily disclose the same submitted peer group in the company's next proxy filing, even though the company is subject to the scaled proxy disclosure rules and not otherwise required to disclose a peer group.

Additionally, the peer submission process is unlikely to be useful to a company where the ISS vote recommendation is not meaningful. Although ISS has a strong following of institutional shareholders, companies should consider – as a threshold matter – the composition of their shareholder base, the extent to which those shareholders look to ISS (or other proxy advisory firms) in determining whether to support a proxy proposal, and the areas with which their shareholders appear to be most concerned.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction, and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. When advising companies, our attorney-client

relationship is with the company, not with any individual. This content may have been generated with the assistance of artificial intelligence (AI) in accordance with our AI Principles, may be considered Attorney Advertising and is subject to our legal notices.

Key Contacts

Alessandra Murata **Palo Alto**	**amurata@cooley.com** **+ 1 650 843 5696**
Michael Bergmann Washington, DC	mbergmann@cooley.com +1 202 728 7008
Janice Chan New York	jchan@cooley.com +1 212 479 6383

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.