Cooley

Preparing for an Equity Plan Proposal at the 2026 Annual Meeting

February 9, 2026

As proxy season kicks off in earnest, we've reached the time of year when public companies should evaluate whether additional equity plan shares will be needed during the next 12 to 16 months – i.e., to meet any immediate share demand needs and any share demand needs arising before the 2027 annual meeting of stockholders. If more shares will be needed next year, it likely makes sense to request them from stockholders at the upcoming 2026 annual meeting. Otherwise, grants made as part of the 2027 award cycle may need to be postponed until after the 2027 stockholder meeting, or alternatively be disclosed to stockholders in next year's proxy and be made subject to a subsequent favorable stockholder vote at the 2027 meeting.

Modeling share requirements can be a time-consuming process, involve external partners (for instance, legal counsel and compensation consultants) and require internal socialization in advance of board of directors involvement. As a result, the time to act is now.

Companies that hope to receive a favorable recommendation from Institutional Shareholder Services (ISS) and Glass Lewis will need to take their positions into account. An important ISS consideration in that regard is the expected score under its Employee Plan Scorecard (EPSC), the terms of which are reflected in FAQs updated by ISS each December.

The EPSC generally takes three different plan aspects ("pillars") into account:

- The projected cost of the plan in dollar terms (sometimes called the shareholder value transfer).
- Various plan design features ("**Plan Features**" within the EPSC vernacular).
- A company's historical grant practices, including its average annual burn rate relative to market and industry peers

Whether ISS will recommend stockholder approval of an equity plan (including any amendments subject to stockholder approval) is a function of whether the sum of the numerical score achieved under each of the three pillars of the EPSC exceeds the specified threshold level, subject to certain negative overriding factors (such as an evergreen share reserve or permitting option repricings without stockholder approval) that will result in an adverse recommendation even with a passing score. FAQ 37 lists the overriding factors.

It is important to note that, in December 2025, ISS added an additional negative overriding factor, where a plan has an "insufficient" score under the Plan Features pillar (i.e., if the plan "lacks sufficient positive features," as ISS puts it). As a result, ISS may recommend a vote against an equity plan proposal where the EPSC evaluation results in a Plan Features pillar score of less than seven points. Because ISS does not specify how many points are available under each of the various design aspects evaluated under the Plan Features pillar, it is not immediately clear what combination of features will avoid a potential negative override, but legal practitioners and consultants familiar with the EPSC model should be able to offer helpful guidance in that regard.

* * *

Early preparation is essential to a smooth and successful equity plan proposal at your upcoming annual meeting. Cooley's compensation and benefits group is ready to help you navigate the process.

Key Contacts

Michael Bergmann Washington, DC	mbergmann@cooley.com +1 202 728 7008
Alessandra Murata Palo Alto	amurata@cooley.com + 1 650 843 5696