



## ISS, Share Authorizations, and New Data Verification Process

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### Background

Publicly traded companies are required by the SEC and the stock exchanges to obtain shareholder approval when such companies seek to implement a new long-term equity plan or increase the share reserve pursuant to such plans.

Companies comply with this requirement by seeking shareholder approval through the annual proxy process. Institutional Shareholder Services (ISS), the large proxy advisory firm retained by many institutional investors for proxy voting advice, offers its services to institutional clients by evaluating such proposals. One of the tools used by ISS in developing its voting advice is a financial model referred to as the Shareholder Value Transfer (SVT) Model that attempts to assign a cost to each company's equity plan. ISS' proprietary SVT model contains numerous hidden values and algorithms a company cannot readily replicate. If the SVT Model results in an assigned cost that falls outside the boundaries of what is acceptable to ISS, ISS will submit a negative vote recommendation.

Because this model is not transparent, a number of companies have challenged ISS and the validity of its voting advice when ISS has issued a negative vote recommendation. In certain cases, companies have discovered that ISS did not correctly interpret or assimilate data obtained from company proxy filings and Forms 10-K, 10-Q, 8-K, and other sources. To alleviate this potential problem, ISS has recently announced a new data verification process that will allow companies to review and verify the data used by ISS in the application of the SVT Model.

### Findings

- *When public companies seek shareholder approval of a new equity plan or an increase to the equity plan's share reserve, proxy advisory firm ISS applies its Shareholder Value Transfer (SVT) Model*
- *If the SVT Model assigns a cost to the equity plan that falls outside of acceptable boundaries to ISS, then ISS will submit a negative vote recommendation*
- *Some companies have found that ISS did not correctly interpret or assimilate equity plan data from proxies or other public documents*
- *In consideration of such concerns, ISS has introduced a new data verification process that allows companies to review and verify the data used in the SVT Model*
- *The new verification process can be utilized by U.S. companies that have equity plan proposals in proxies filed after September 8, 2014*
- *Companies that desire to utilize the verification process must register for the program at the ISS website ([www.issgovernance.com/equity-plan-data-verification](http://www.issgovernance.com/equity-plan-data-verification))*

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### The ISS Process

ISS has been aware of companies' concerns and, as stated by Dr. Martha Carter (ISS Global Head of Research), in order to "to provide its clients with greater assurance of data integrity," ISS has initiated a new program whereby issuers can verify the data utilized by ISS in making its recommendations. Highlights of the program include:

1. The new equity plan data verification process can be utilized by all U.S. companies (and companies covered by the ISS U.S. policy) that have equity plan proposals on proxy ballots relating to definitive proxy statements filed after September 8, 2014. Companies must file their definitive proxy statements at least 30 days prior to their annual shareholder meetings in order to participate in the program.
2. The data verification process can only be used by companies requesting votes on the adoption or amendment of equity plans. Thus, it cannot be used to verify cash-based plan data points.
3. In order to utilize the equity plan data verification process, companies must register for the program pursuant to procedures set forth in a link contained in the ISS website ([www.issgovernance.com/equity-plan-data-verification](http://www.issgovernance.com/equity-plan-data-verification))
4. Generally, the period during which issuers can review, verify, and comment upon the equity plan data utilized by ISS will begin within 12 days after definitive proxy statements are filed. Each company will be informed of the beginning of the review and verification period by email.
5. The review period generally will last for two (2) business days, beginning at 9:00 am (Eastern Time) on the first day of the review period and ending at 9:00 pm (Eastern Time) on the following business day.
6. ISS will reply to any comments made by, or data updates provided by, companies during the review period within five (5) business days and will notify companies of the results of its review by email and by posting the results on the equity plan data verification website.

In our judgment, this is a meaningful policy adopted by ISS in providing its proxy advisory services to its institutional investor clients. Companies should take advantage of the opportunity to check and verify the data used by ISS in performing its SVT analysis. Pay Governance recommends that all companies interested in registering for the equity plan data verification process visit the ISS website for a more detailed description of the program.

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