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GLASS LEWIS ISSUES PROXY VOTING POLICY UPDATE FOR THE 2025 PROXY SEASON

Glass, Lewis & Co., one of the largest proxy advisory firms in the United States, has released its updated benchmark policy guidelines, available here. These guidelines will apply to annual shareholder meetings of U.S. public companies held on or after January 1, 2025. As described in more detail below, these updated guidelines include a new section on board oversight of artificial intelligence (**AI**) and provide an updated section addressing change-in-control provisions for executive compensation. In addition, they include clarifications to existing policies regarding reincorporation proposals, executive pay programs, and board responsiveness to shareholder proposals. Policy changes reflected in these updated guidelines should inform proxy drafting and shareholder engagement for the upcoming annual meeting season.

BOARD OVERSIGHT OF AI

Glass Lewis advises U.S. public companies that use or develop AI technologies to consider adopting strong internal frameworks that include ethical considerations and ensure they have provided a sufficient level of oversight of AI. They expect these companies to provide clear disclosure concerning the role of the board in overseeing issues related to AI, including how companies are ensuring directors are fully versed on this rapidly evolving and dynamic issue. In addition, they expect the boards of these companies to be aware of material risks that could arise from use or development of AI and take steps to mitigate these risks. For any company where there is evidence that insufficient oversight or management of AI technologies has resulted in material harm to shareholders, Glass Lewis will:

- seek to identify which directors or board-level committees are responsible for oversight of AI-related risks; and
- closely evaluate the board's response to, and management of, AI-related incidents as well as any associated disclosures.

If Glass Lewis finds the board's oversight, response or disclosure concerning AI-related issues to be insufficient, they may recommend against appropriate directors.

TREATMENT OF UNVESTED AWARDS WHEN CONTROL CHANGES

Glass Lewis expects U.S. public companies that allow for committee discretion over the treatment of unvested awards to commit to providing clear rationale for how such awards are treated in the event a change in control occurs.

REINCORPORATION PROPOSALS

In general, Glass Lewis believes that a company's board is in the best position to determine the appropriate jurisdiction of incorporation for the company. Any proposals to reincorporate to a different state or country will be reviewed by Glass Lewis on a case-by-case basis. As part of such a review, Glass Lewis may consider changes in corporate governance provisions, material differences in corporate statutes and legal precedents, and relevant financial benefits that would result from the change in domicile. If a controlled company proposes to reincorporate to a different jurisdiction, Glass Lewis will closely evaluate how the independent members of the board came to its recommendation, if the controlling shareholder had any ability to influence the board, and if the proposal is also put to a vote of disinterested shareholders. Glass Lewis has indicated that it will only support shareholder proposals to change a company's place of incorporation in exceptional circumstances.

APPROACH TO EXECUTIVE PAY PROGRAM

Glass Lewis now includes in the section titled "The Link Between Compensation and Performance" clarifying statements regarding its holistic approach to analyzing executive compensation programs, which involves reviewing executive pay programs on a case-by-case basis. They will review any unfavorable factors in the context of rationale, overall structure, overall disclosure quality, the program's ability to align executive pay with performance and the shareholder experience and the trajectory of the executive pay program resulting from changes introduced by the compensation committee.

Glass Lewis expects companies to provide investors with clear and complete disclosure of all the significant terms of compensation arrangements, even smaller reporting companies that that are subject to scaled disclosure requirements. If a company fails to provide sufficient disclosure of its executive compensation policies, Glass Lewis may recommend against a company's say-on-pay proposal.

BOARD RESPONSIVENESS TO SHAREHOLDER PROPOSALS

When shareholder proposals receive significant shareholder support (generally more than 30% of votes cast but less than a majority), boards should engage with shareholders regarding the issues raised by such proposals and provide disclosure addressing shareholder concerns and outreach initiatives. If a company is a controlled company or has a multi-class share structure with unequal voting rights, Glass Lewis will carefully examine the level of approval attributed to unaffiliated shareholders in determining whether a shareholder proposal has received significant shareholder support. Glass Lewis applies a separate policy to shareholder proposals that receive majority support.

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Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.

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