DIRECTOR OVERBOARDING IN 2020

Over the past few years, director board service has become a major area of focus for the institutional investor community. Investors believe that directors should be able to devote sufficient time to their companies in order to manage their responsibilities effectively. To that end, institutions began to codify certain limits on the total number of directorships a certain individual could have. Failure to fall within these limits would result in a vote against that director's election to the board.

Scrutiny on director "overboarding" began to pick up steam in early 2019 after the Vanguard Group announced that they would start voting against director nominees that were considered to have too many commitments. Other large investors began to update their voting policies with numerical caps on allowable directorships. Most policies shared the same general format – total allowable directorships would be capped for independent (non-executive) directors and further restrictions would be placed on public company CEOs (or NEOs, in some cases).

The 2020 proxy season saw continued investor focus on overboarding. Some institutions added restrictions on directors who also serve as a board chairperson. For instance, Legal & General Investment Management (LGIM) considers a board chair role to be the equivalent of two directorships. For independent directors, LGIM will allow up to 4 board commitments. Thus, if a certain director nominee sits on a total of three boards but serves as a board chairman at two of those boards, he or she would be considered by LGIM to be overboarded and would not receive their support.

The following chart shows directorship limits imposed by some of the largest institutional asset managers (as disclosed in their voting policies):

TOTAL ALLOWABLE DIRECTORSHIPS THRESHOLDS

INSTITUTION/ ADVISORY FIRM	DIRECTOR TYPE			
	Independent	CEO (including their own board)	NEO (non-CEO)	Board Chairmanships
ISS	5	3*	5	
Glass Lewis	5	2*	2	
Vanguard	4	2*	2	
BlackRock	4	2	4	
SSgA (State Street Global Advisors)	4	2	2	3
Invesco	6	3	6	
J.P. Morgan	4	3*	4	
BNY Mellon	6	3	6	
Northern Trust	4	2	4	
Goldman Sachs	5	3*	5	
Norges (NBIM)	5	5	5	2
Legal & General	4	2	4	counts as 2 roles
T. Rowe Price	5	3	5	
AllianceBernstein	3	2*	3	
Massachusetts Financial	4	2*	4	

*Will withhold at outside boards only

As shown in the chart, most institutions will not support an independent director that sits on more than 4-5 total boards or a CEO that sits on more than 2-3 total boards (including their own).

While the average number of board seats occupied by independent directors remains consistent, increased Investor attention to overboarding appears to be influencing commitments made by public company CEOs. According to the 2019 Spencer Stuart U.S. Board Index, "on average, independent directors of S&P 500 companies serve on 2.1 boards, unchanged over the past five years. An increasing number of S&P 500 CEOs serve on no outside boards. This year's survey found 59% of S&P 500 CEOs serve on no outside boards, up from 55% last year and 51% 10 years ago. More than one-third (37%) of S&P 500 CEOs serve on one outside board. Only 23 S&P 500 CEOs (5%) serve on two or more outside boards, and 79 independent directors (2%) serve on more than four public company boards."[1]

Director overboarding will continue to be scrutinized, so issuers must continue to focus on and manage the overall composition of the board. A "best practice" definition for what constitutes an overboarded director is starting to materialize. Each year, ISS launches a Global Policy Survey that invites institutional investors, corporate issuers and other market participants to give feedback on a variety of governance issues to assist with the development of ISS' voting guidelines. Currently, ISS policy allows for up to 5 boards for non-executive directors and up to 3 for directors that also serve as a CEO of a public company. The results of the most recent ISS Survey, however, suggest that many investors have a more stringent view on an appropriate number of board commitments. The survey found that a "plurality (42 percent) of investor respondents selected four public-company boards as the appropriate maximum limit for non-executive directors" and a "plurality of investor respondents (45 percent) also responded that two total board seats is an appropriate maximum limit for CEOs."[2] These results, combined with the proliferation of overboarding policies amongst the major institutions, make for a strong possibility that ISS (and other advisory firms) will reexamine their current overboarding policies and, perhaps, lower their allowable thresholds. Morrow Sodali will continue to monitor developments and keep our clients informed of any significant changes.

1. *2019 Spencer Stuart U.S. Board Index.* Available at: https://www.spencerstuart.com/-/media/2019/ssbi-2019/us_board_index_2019.pdf
2. Institutional Shareholder Services Inc. (2020, July 29). *ISS Announces Results of Global Benchmark Policy Survey* [Press Release] Available at: https://www.issgovernance.com/iss-announces-results-of-global-benchmark-policy-survey/