

Three Months On Say on Pay and Say on Frequency (“Say When on Pay”)

It has been almost three months since issuers were required to have proposals on their annual meeting ballots allowing shareholders to vote on the company’s executive compensation and giving shareholders a choice on how frequently they would like this vote to occur.

Although both proposals are non-binding, issuers should carefully consider the choices made by shareholders and the board’s response to the vote on each proposal.

To date, there have been approximately 1,771 proxies filed with Say on Pay and Say on Frequency votes on the ballot. Of those, 130 have come to a vote and reported results. As illustrated below, the clear choice for most investors is for Annual votes on Say on Pay. Also of note is that while most companies have easily won support for their Say on Pay proposals, several companies failed to achieve majority support.

Average Reported Results to date on Say on Pay

	For	Against
All Companies	91.6%	8.4%
Russell 3000	91.6%	8.4%
S&P 500	89.3%	10.7%

Institutional Preferences on Say on Frequency

ISS policy calls for supporting an annual frequency on Say on Pay votes which, according to ISS, “provide the most consistent and clear communication channel for shareholder concerns about companies' executive pay programs.” While not as rigid as ISS, Glass, Lewis also believes companies should adopt annual Say on Pay votes unless the company “provides a compelling rationale or unique circumstances for Say-on-Pay votes less frequent than annually.” Virtually all institutional investors have also adopted policies that support annual votes, though there are some notable exceptions - BlackRock, Northern Trust, and Capital International – that are currently supporting triennial votes on Say on Pay.

Breakdown of Issuer Recommendations on Frequency proposal

	Annual	Biennial	Triennial	No Rec
All Companies	1009	57	647	58
Russell 3000	782	44	564	43
S&P 500	227	13	83	15

Although the early trend showed more than a majority of companies supporting a triennial frequency for Say on Pay votes, recent filings show that over a majority of companies are now recommending an annual frequency vote on Say on Pay. We believe that this change reflects votes for companies with early meetings, and ISS' and Glass Lewis' recommendations for an annual vote.

Average Reported Percentage Results to date on Frequency proposal

	Annual	Biennial	Triennial
All Companies	62.7%	4.1%	31.3%
Russell 3000	62.7%	4.1%	31.3%
S&P 500	62.8%	5.6%	30.4%

The recommendations of ISS and Glass Lewis have clearly had an impact on the votes we've seen so far. Results will also be colored by the shareholder profile of a particular company: high insider positions and high retail ownership will tend to move the votes closer to management's recommendation than a company with a high institutional presence.

Issuers should, of course, be driven in their recommendations by what they believe is best for the company and its shareholders. If you have a strong case for a triennial frequency, this is the year and forum to make it. It is our opinion that there will be little immediate adverse effects from having made a recommendation that is different from what your shareholders approve. The consequences, if any, would come in following years if a company chooses to disregard the vote of shareholders on their choice of frequency.

In general, the results to date on frequency have been unsurprising, given the preference of both ISS and Glass Lewis for Annual frequency votes. We expect that this trend will continue.