

Summary of Policy Updates

Glass Lewis - Key Takeaways



Glass Lewis (GL) is one of the largest proxy advisory companies based in the United States. The company recently published its updated proxy voting policies for 2024 which will be in effect for annual meetings held on or after **January 1, 2024**. A summary of the key policy updates for US companies are listed below. The text of the actual policies are included thereafter.

Region	Policy	Change Summary
US	Material Weaknesses	May recommend AGAINST votes for all audit committee members when a material weakness is reported without a disclosed remediation plan or when a weakness is ongoing for over a year without an updated remediation plan.
	Cyber Risk Oversight	May recommend AGAINST votes for relevant directors when companies do not provide shareholders with periodic updates communicating the company's progress toward resolving and remediating the impact of a material cyber-attack .
	Board Oversight of Environmental and Social Issues	Board oversight of environmental and social issues must be formally designated and codified in the appropriate governing documents.
	Board Accountability for Climate-related Issues	Policy requiring climate-related disclosures for the largest, most significant emitters, will no longer be reserved for Climate Action 100+ companies; starting in 2024, the climate disclosure policy will be applied to S&P 500 companies operating in industries deemed by the Sustainability Accounting Standards Board (SASB) to have material exposure to climate risk .
	Clawback Provisions	Clawback policies should allow for compensation recoupment amid evidence of problematic decisions or actions , such as material misconduct, a material reputational failure, material risk management failure, or a material operational failure.
	Executive Ownership Guidelines	Companies should adopt minimum share ownership requirements for executives . Clear disclosure should be provided and unearned awards should not be counted toward shares held without a rationale.
	Net Operating Loss (NOL) Pills	Acting in concert provisions will be added to the list of factors considered in the evaluation of NOL Pills.

United States

Material Weaknesses

New Policy: When a material weakness is reported and the company has not disclosed a **remediation plan**, or when a material weakness has been ongoing for more than one year and the company has not disclosed an updated remediation plan that clearly outlines the company's progress toward remediating the material weakness, GL will consider recommending that shareholders vote AGAINST all members of a company's audit committee who served on the committee during the time when the material weakness was identified.

- *Change: Companies will be expected to disclose a remediation plan for all reported material weaknesses.*

Board Oversight

Cyber Risk Oversight

Old Policy: GL will generally not make voting recommendations based on a company's oversight or disclosure concerning cyber-related issues. However, GL will closely evaluate a company's disclosure in this regard in instances where cyber-attacks have caused significant harm to shareholders and may recommend against appropriate directors should GL find such disclosure or oversight to be insufficient.

New Policy: In instances where a company has been materially impacted by a cyber-attack, GL believes shareholders can reasonably expect **periodic updates communicating the company's ongoing progress towards resolving and remediating the impact of the cyber-attack**. Disclosures should focus on the company's response to address the impacts to affected stakeholders and should not reveal specific and/or technical details that could impede the company's response or remediation of the incident or that could assist threat actors.

In such instances, GL may recommend against appropriate directors should GL find the board's oversight, response or disclosure concerning cybersecurity-related issues to be insufficient or are not provided to shareholders.

- *Change: Companies will be expected to provide updates to shareholders on resolving/remediating material cyber-attacks.*

Environmental and Social Issues

Old Policy: When evaluating the board's role in overseeing environmental and/or social issues, GL will examine a company's proxy statement and governing documents (such as committee charters) to determine if directors maintain a meaningful level of oversight of and accountability for a company's material environmental and social impacts.

New Policy: When evaluating the board's role in overseeing environmental and/or social issues, GL will examine a company's committee charters and governing documents to determine if the company has **codified** and maintained a meaningful level of oversight of and accountability for a company's material environmental and social impacts

- **Change:** *Board oversight of environmental and social issues must be formally designated and codified in the appropriate committee charters or other governing documents.*

Climate-Related Issues

Old Policy: Companies with this increased risk exposure, such as those **companies identified by groups including Climate Action 100+**, should provide clear and comprehensive disclosure regarding these risks, including how they are being mitigated and overseen...thorough climate-related disclosures in line with the recommendations of the Task Force on Climate-related Financial Disclosures ("TCFD") should be provided. GL also believes the boards of these companies should have explicit and clearly defined oversight responsibilities for climate-related issues.

New Policy: GL will carefully examine the climate-related disclosures provided by **companies in the S&P 500 index operating in industries where GHG emissions represent a financially material risk by the Sustainability Accounting Standards Board (SASB)**, as well as companies where GL believes emissions or climate impacts, or stakeholder scrutiny thereof, represent an outsized, financially material risk, in order to assess whether they have produced disclosures in line with the recommendations of the TCFD. GL will also assess whether these companies have disclosed explicit and clearly defined board-level oversight responsibilities for climate-related issues.

- **Change:** *Applicability of policy on Board Accountability for Climate-related Issues, has shifted from Climate Action 100+ companies to S&P 500 companies operating in industries where emissions represent a material risk per SASB.*

Clawbacks

Old Policy: Clawbacks should be triggered, at a minimum, in the event of a restatement of financial results or similar revision of performance indicators upon which incentive awards were based. Such policies allow the board to review all performance-related bonuses and awards made to senior executives during a specified period and, to the extent feasible, allow the company to recoup such incentive pay where appropriate. However, some recoupment policies empower companies to recover compensation without regard to a restatement, such as those triggered by actions causing reputational harm. These may inform the overall view of the compensation program in future especially as market practice continues to evolve around expanded clawback authority.

New Policy: Recoupment policies should provide companies with the ability to claw back variable incentive payments (whether time-based or performance-based) when there is **evidence of problematic decisions or actions**, such as material misconduct, a material reputational failure, material risk management failure, or a material operational failure, the consequences of which have not already been reflected in incentive payments and where recovery is warranted.

➤ **Change:** *Clawback provisions should allow for compensation recoupment amid evidence of problematic decisions or actions.*

Executive Ownership Guidelines

New Policy: The alignment between shareholder interests and those of executives represents an important assurance to disinterested shareholders that executives are acting in their best long-term interests. Companies should facilitate this relationship through the **adoption and enforcement of minimum executive share ownership requirements**. Companies should clearly disclose their executive ownership requirements in their Compensation Discussion and Analysis section and how the various types of outstanding equity awards are counted or excluded from the ownership level calculation. In determining whether executives have met the requirements or not, the inclusion of unearned performance based full value awards and/or unexercised stock options without cogent rationale may be viewed as problematic.

➤ **Change:** *Companies should impose minimum share requirements on executives.*

Net Operating Loss (NOL) Pills

Old Policy: Glass Lewis evaluates NOL pills on a strictly case-by-case basis taking into consideration, among other factors, the value of the NOLs to the company, the likelihood of a change of ownership based on the size of the holding and the nature of the larger shareholders, the trigger threshold and whether the term of the plan is limited in duration (i.e., whether it contains a reasonable “sunset” provision) or is subject to periodic board review and/or shareholder ratification. In many cases, companies will propose the adoption of bylaw amendments specifically restricting certain share transfers, in addition to proposing the adoption of an NOL pill. In general, if GL supports the terms of a particular NOL pill, GL will generally support the additional protective amendment in the absence of significant concerns with the specific terms of that proposal.

New Policy: **Acting in concert provisions** broaden the definition of beneficial ownership to prohibit parallel conduct, or multiple shareholders party to a formal or informal agreement collaborating to influence the board and management of a company, and aggregate the ownership of such shareholders towards the triggering threshold. In the GL view, acting in concert provisions broadly limit the voice of shareholders and may diminish their ability to engage in a productive dialogue with the company and with other shareholders.

As such, Glass Lewis evaluates NOL pills on a strictly case-by-case basis, taking into consideration, among other factors: (i) the value of the NOLs to the company; (ii) the likelihood of a change of ownership based on the size of the holdings and the nature of the larger shareholders; (iii) the trigger threshold; (iv) the duration of the plan (i.e., whether it contains a reasonable “sunset” provision, generally one year or less); (v) **the inclusion of an acting in concert provision;** (vi) **whether the pill is implemented following the filing of a Schedule 13D by a shareholder or there is evidence of hostile activity or shareholder activism;** and (vii) if the pill is subject to periodic board review and/or shareholder ratification.

➤ **Change:** *Acting in concert provisions will be added to the list of factors considered when evaluating NOL Pills.*



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