SULLIVAN & CROMWELL LLP

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BlackRock and State Street Update Proxy Voting Guidelines

Focus on Diversity and Climate Change

SUMMARY

Over the past two months, both BlackRock Investment Stewardship ("BlackRock") and State Street Global Advisors ("SSGA") have released updates to their proxy voting policies. In December, BlackRock released its 2021 proxy voting guidelines together with a report summarizing its stewardship expectations for the coming year. Specifically, BlackRock noted that its 2021 engagement focus will be on (i) board and workforce diversity, (ii) understanding key stakeholders and their interests and (iii) alignment with the global goal of net zero GHG emissions by 2050. More recently, on January 26, BlackRock released Chairman and CEO Larry Fink's annual letter to CEOs and its Executive Committee's letter to clients, both of which further emphasized BlackRock's increased efforts around climate change.

On January 11, 2021, SSGA's CEO Cyrus Taraporevala released his annual letter on SSGA's 2021 proxy voting agenda in which he announced that SSGA's main stewardship priorities for 2021 will be the systemic risks associated with climate change and a lack of racial and ethnic diversity at both the board and workforce levels. Beginning in 2021, SSGA will vote against the Chair of the Nominating & Governance Committee at S&P 500 companies that do not disclose the racial and ethnic compositions of their boards, with additional diversity-related voting policies to take effect in 2022.

OVERVIEW OF BLACKROCK'S PROXY VOTING GUIDELINES

In its updated guidelines, BlackRock continues to focus on Environmental, Social and Governance ("ESG") topics, including board oversight of ESG-related risks, climate risks and board diversity disclosures. Key updates to BlackRock's proxy voting guidelines include:

Boards and Directors

BlackRock has expanded the circumstances in which it will vote or consider voting against committee members and/or individual directors, including with respect to:

- **Board Oversight:** Where the board has failed to exercise sufficient oversight with regard to material ESG risk factors, or the company has failed to provide shareholders with adequate disclosure to conclude the board gave appropriate strategic consideration to these factors, BlackRock will consider voting against directors.
- **Director Overboarding:** BlackRock will vote against directors who serve on an excessive number of boards. Beginning in 2021, the maximum number of boards on which a director who is a public company executive or fund manager[1] may serve is two, after which BlackRock considers him/her over-committed. This is an expansion of the previous policy, which only applied this lower threshold to public company CEOs.
- **Responsiveness to Shareholders:** BlackRock now expects companies to consider shareholder proposals that receive substantial support and, in BlackRock's view, have a material impact on the business, shareholder rights or the potential for long-term value creation, while previously only expecting companies to implement proposals that received majority support. If the board fails to consider such shareholder proposals, BlackRock may vote against the lead independent director or members of the Nominating & Governance Committee even if the proposal did not receive majority shareholder support. BlackRock also expects companies to respond when a director does not receive support from at least 75% of shares voted, an increase from BlackRock's previous threshold of 70%, although BlackRock noted that this may not apply in cases where BlackRock did not support the initial "against" vote. BlackRock may vote against the independent chair or lead independent director, members of the Nominating & Governance Committee, and/or the longest tenured director(s), if BlackRock believes a board did not substantially address shareholder concerns.
- **Diversity Disclosures:** BlackRock encourages boards to disclose demographics related to board diversity, including gender, ethnicity, race, age and geographic location, as well as "measurable milestones to achieve a boardroom reflective of multi-faceted racial, ethnic, and gender representation." If a company has not adequately accounted for diversity in its board composition within a reasonable timeframe (based on BlackRock's assessment), BlackRock may vote against members of the Nominating & Governance Committee.
- **Director Tenure:** BlackRock continues generally to defer to the board's decision with respect to setting of term and age limits, but has revised its policy to note that BlackRock (i) considers the average board tenure to evaluate processes for board renewal and (ii) may oppose boards that appear to have an insufficient mix of short-, medium- and long-tenured directors.

Executive Compensation

BlackRock specified that there should be a clear link between variable pay and company performance that drives value creation.

- BlackRock is generally not supportive of one-off or special bonuses unrelated to company or individual performance. Where the compensation committee has used discretion in setting awards, BlackRock expects disclosure relating to how and why discretion was used and how the adjusted outcome is aligned with the interests of shareholders.
- BlackRock will vote against management compensation proposals if a company has failed to align pay with performance and in such cases will consider voting against the compensation committee members. In evaluating compensation policies, BlackRock noted in its updated guidelines that it is (i) supportive of incentive plans that foster the sustainable achievement of results consistent with

the company's long-term strategic initiatives and (ii) concerned when the rationale for increases in total compensation is based solely on peer benchmarking, rather than absolute performance.

Climate Risk

In his annual letter to CEOs, Mr. Fink emphasized that climate risk is an investment risk and stressed the importance of transitioning to net zero. BlackRock's proxy voting policies, stewardship expectations and recent letters all express BlackRock's belief that climate change has become a defining factor in companies' long-term prospects and BlackRock's expectation that companies articulate how they are aligned to a long-term strategy (i) in which global warming is limited to well below 2 degrees Celsius and (ii) that is consistent with a global aspiration to reach net zero GHG emissions by 2050. BlackRock is also signaling an expectation that issuers will provide investors with the data necessary to assess the issuers' progress on their climate-related strategy and has indicated a preference for issuers to use the Task Force on Climate-related Financial Disclosures (TCFD) and the Sustainability Accounting Standards Board (SASB) reporting frameworks.

BlackRock's 2021 proxy voting guidelines noted that BlackRock may support shareholder proposals that ask companies to disclose future climate-related plans aligned with BlackRock's expectations. BlackRock's letter to clients clarified that:

- When BlackRock agrees with the intent of a shareholder proposal addressing a material business risk, such as a climate-related risk, and determines that management could do better in managing and disclosing that risk, BlackRock will support the proposal.
- BlackRock may even support shareholder proposals when management is on track, but BlackRock believes that voting in favor might accelerate management's progress.

While voting using this "new approach" to shareholder proposals, BlackRock supported 54% of all environmental and social proposals in the second half of 2020.

Key Stakeholder Interests

Consistent with the Business Roundtable's 2019 Statement on the Purpose of a Corporation,[2] BlackRock added a new section to its proxy voting guidelines emphasizing the importance of stakeholders, including employees, business partners, clients, consumers, government, regulators and the communities in which companies operate. BlackRock expects companies to report how they determine their key stakeholders and consider stakeholders' interests in business decision-making, as well as how they effectively address adverse impacts that could arise from their business practices and mitigate material risks with appropriate due diligence processes and board oversight.

Human Capital Management

BlackRock also added a new section for human capital management and expects companies to disclose workforce demographics such as gender, race and ethnicity in line with the US Equal Employment Opportunity Commission's EEO-1 Survey. Companies are also expected to disclose the steps they are taking to advance diversity, equity and inclusion and Fink's letter to CEOs reemphasized that company disclosures should fully reflect their long-term plans to improve in these areas. BlackRock may vote against members of the appropriate committee or support relevant shareholder proposals if a company's disclosures or practices fall short relative to the market or peers and are unable to ascertain the board's and management's effectiveness in overseeing related risks and opportunities.

Additional details can be found in BlackRock's commentary on human capital management.

OVERVIEW OF SSGA'S PROXY VOTING AGENDA

SSGA's engagement and focus for its proxy voting agenda for 2021 will be on racial and ethnic diversity and climate risk.

Racial and Ethnic Diversity

SSGA noted in its annual letter that disclosures of racial and ethnic diversity by public companies in the United States are sparse. To ensure companies are forthcoming about the racial and ethnic compositions of their boards and workforces, SSGA is instituting the following proxy voting practices:

- In 2021, SSGA will vote against the Chair of the Nominating & Governance Committee at S&P 500 companies that do not disclose the racial and ethnic compositions of their boards.
- In 2022, SSGA will vote against the Chair of the Compensation Committee at S&P 500 companies that do not disclose their EEO-1 Survey responses.
- In 2022, SSGA will vote against the Chair of the Nominating & Governance Committee at S&P 500 companies that do not have at least one director from an underrepresented community on their boards.

Additional information can be found in SSGA's guidance on enhancing racial and ethnic diversity disclosures.

Climate Risk

SSGA had previously announced that starting in 2020, SSGA would vote against board members at S&P 500 companies that were laggards based on their R-Factor scores (SSGA's proprietary ESG scoring system based on the Sustainability Accounting Standards Board framework), which the annual letter clarified would apply to those in the bottom 10% of R-Factor scores that did not articulate a plan to improve their score. SSGA will also be communicating with companies with underperforming scores that have not shown improvement and, beginning in 2022, will vote against directors at companies that consistently underperform their peers over multiyear periods.

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ENDNOTES

1 "Fund manager" refers to individuals whose full-time employment involves responsibility for the investment and oversight of fund vehicles, and those who have employment as professional investors and provide oversight for those holdings.

2 Business Roundtable, Statement on the Purpose of a Corporation (Aug. 19, 2019), *available at* https://s3.amazonaws.com/brt.org/BRT-StatementonthePurposeofaCorporationOctober2020.pdf.

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