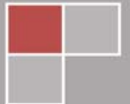


February 8  
2012

# Proxy Voting Guidelines





# STATE OF WISCONSIN INVESTMENT BOARD

## Proxy Voting Guidelines

*February 8, 2012*

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## ***Board of Directors<sup>1</sup>***

The election of directors is one of the most important voting matters for shareholders. The directors' role as fiduciaries is to maximize shareholder value, thus their interests should be aligned with shareholders<sup>2</sup>. SWIB takes the position that directors are responsible for their actions on the board and should be held accountable to the shareholders<sup>34</sup>. By electing directors who share their views, shareholders can help to define performance standards against which management can be held accountable<sup>5</sup>.

### **Director Elections**

SWIB welcomes and encourages communication between shareholders and directors to help facilitate a stronger understanding of governance issues in both uncontested and contested director elections.<sup>6</sup> Director elections are important because they provide shareholders with a means to express discontent or disapproval in governance areas that are not placed on the ballot for shareholder vote. In addition, SWIB believes directors should receive a majority of favorable votes cast in uncontested elections to remain a director or to become a director.

### Withholding Votes

Most proxies require the shareholder to choose either “for”, “against” or “abstain” when voting on a particular ballot item. Director elections, however, are customarily handled differently, requiring shareholders to choose “for” or “withhold authority” when placing their vote. Thus, for director election votes, withholding a vote is equivalent to voting against a particular director nominee. When withholding a vote for a director due to key committee actions, SWIB will communicate with the company the reasons for the withhold vote.

### Uncontested Elections

SWIB generally supports management's recommendations in most director elections if long-run economic performance has been satisfactory. However, to the extent that SWIB obtains evidence that the board or individual directors are not qualified to represent shareholders, or have acted in a manner that compromises their ethics or ability to represent the best economic interests of shareholders; SWIB will withhold its vote for the director. SWIB supports a majority vote standard election process.

When voting for an entire board of directors, SWIB examines the following factors and will generally withhold votes for all directors if at least three of the situations exist.

- Sub-standard company economic performance and earnings relative to investment expectations and earnings projections.
- Entrenchment of management, consisting of three or more anti-takeover defenses.
- Existence of awareness of financial restatements and/or public misstatement of the company's condition.
- Lack of independence of the full board defined as when less than half of the board consists of independent directors.

- Failure of the board to consistently respond to majority vote shareholder proposals.
- CEO/senior management compensation is in the top quartile of industry or market capitalization peers while company performance is in the bottom quartile.
- Failure to serve shareholders adequately defined by the companies under performance over the 1-, 3- and 5-year period as measured by identified performance metrics.
- Failure to disclose major components of compensation that are required under the new SEC regulations such as total compensation tables, the discussion of the plan design, or other required data.
- Failure for directors to follow and implement company policies.

When voting for an individual director nominee, SWIB will consider the following factors and will generally withhold votes for the director nominee if any of the situations exist.

- Nominee attended less than 75 percent of board and committee meetings in one year without valid reason or explanation.
- Nominee is an insider who sits on key committees such as audit, compensation or nominating committees.
- Nominee is serving on more than four boards.
- Nominee had been convicted or is under investigation of a financial, corporate, or securities crime or has a history of serious misconduct, regulatory sanctions or ethical violations relating to corporate financial responsibilities.
- Nominee has served on a board within the last 5 years where there is evidence the company's financial condition was purposely misstated or the company was unresponsive to a shareholder resolution that received a majority vote.
- Nominee serves as both chair and CEO unless there is a lead independent chair.
- Nominee is a current CEO and sits on more than two other boards.
- Nominee serves as both CEO/Chair and the independent lead director has the same or very similar job responsibilities.
- Nominee receives less than 75% favorable votes.
- Nominee is part of a board that authorizes greenmail.
- Nominee has prior service on a board where CEO/senior management compensation was in the top quartile of industry for two years or market capitalization peers while company performance was in the bottom quartile.
- Nominee has failed to perform his or her committee responsibilities on any board or committee assignment. Failure to perform duties is defined to mean that a nominee has not been truly elected, or has approved unwarranted practices such as excessive compensation plans, lack of adequate disclosure, option back-dating, disproportionate non-audit fees or other action which would be considered detrimental to the long term viability of the company.
- Nominee first appears on the ballot, but has been serving the board prior to being elected and contributed to poor board decisions.
- Nominee fails to remove another director who has received less than a majority vote.
- Company fails to disclose nominee qualification or why they are specifically qualified to serve on the board.

- Nominee failed to receive a majority vote in previous election and is still serving.
- Failure of board to identify each director by using slate voting.
- Nominee has consulting arrangements with company management.
- Nominee or immediate family member receives personal or direct benefit from company.
- Nominee has had previous executive level employment with the company and is serving on a key committee.

## JAPAN

- Nominee is a Statutory Auditor who is not independent.
- Nominee is President/Chair of the Board if the Board isn't majority independent.

### Contested Elections

Contested elections frequently occur when a board candidate or alternate slate of candidates seeks election for the purpose of achieving a significant change in corporate policy or control of seats on the board. SWIB will support the right of any shareholder to present an alternate candidate or slate of candidates assuming the alternative is presented in accordance with all applicable rules and regulations. While SWIB will support the process to present an alternative director, SWIB is not obligated in any way to vote for the director. However, due to concerns relating to liability exposure, a SWIB employee or Trustee may not be included in an alternate slate.

SWIB will generally vote for alternate directors in contested elections when the following conditions exist:

- Company performance has been objectively inferior to its peers in terms of long-term goals and there are reasonable doubts that current management can improve the situation.
- The alternative slate of independent directors has the qualifications and a focused business plan to remedy poor business or corporate performance.
- Candidates meet similar criteria SWIB imposes upon uncontested election directors. Candidates communicate their position to SWIB for further analyses if necessary.

### **Annual Elections / Classified Boards**

SWIB will generally vote for proposals supporting annual elections of directors. SWIB believes that annual elections provide the best governance system for accountability to shareholders<sup>7</sup>. Overlapping terms or “classified boards” limit shareholder ability to change control of a board because a vote for a director only comes to vote every three years<sup>8</sup>. Directors face higher accountability when they are required to stand for re-election each year.

Often, supermajority provisions are combined with classified board votes. In these cases, SWIB supports a simple vote instead of a supermajority. Simple majority voting better aligns the board with shareholders and limits management's ability to use supermajority provisions to block proposals. SWIB will support simple majority proposals.

## **Board & Committee Size**

Proposals seeking to set board size are reviewed on a case-by-case basis. SWIB will generally support management proposals to fix the size of the board at a specific, reasonable number of directors.

## **Board Structure**

SWIB supports board self-evaluations, retirement policies, charters, definitions of CEO role and Chair role. SWIB supports established key committees with independent directors. SWIB supports disclosure of Board succession planning policies.

### **JAPAN**

Japanese boards typically use a statutory auditor structure, with fewer than 5% of companies adopting a committee style board structure. Director independence levels on Japanese boards are very low. SWIB will encourage Japanese companies to alter their board structure to create committee style boards.

- SWIB will vote for Japanese directors of companies with Committee style boards.

### **FRANCE**

French companies historically have had large boards. There is a currently a trend to reduce board size and limit board service. French companies are required, by legislations, to increase the number of women on their boards. SWIB supports its accomplishment without increasing the overall size of the board.

- SWIB will vote against proposals requesting to increase board size due to new French board structure laws

## **Independent Directors**

SWIB believes that a board independent from management is of vital importance to a company and its shareholders<sup>910111213</sup>. SWIB will support proposals that encourage independence of boards. In general, SWIB will support proposals that request a majority of independent directors as defined by the Council of Institutional Investors. Independence will be evaluated based upon a number of factors including past or current employment by the company, or by a firm that is one of the company's paid advisors or consultants, financial transactions, or family relationships of key employees of the company.

SWIB supports only independent directors on key committees such as compensation, nominating and audit committees.

## **CEO Responsibilities**

SWIB supports the disclosure of the CEO role and responsibilities as defined by the Board. SWIB will vote for proposals requiring this disclosure.

## **CEO Serving as Chairperson**

SWIB will generally vote in favor of shareholder proposals that require companies to separate the positions of chairperson and CEO<sup>1415</sup>. If the company combines the positions of CEO/Chair and has good performance, SWIB may accept an independent lead director. The company will have to justify the current structure to shareholders and provide job descriptions for the Chair and the Lead Director<sup>16</sup>.

## **Limit Term of Office**

SWIB will generally vote against proposals which try to limit the number of terms a director may serve. While SWIB believes there may be merit in limiting terms for nonperforming directors, limits can be somewhat arbitrary impositions and may force valuable, experienced directors to leave the board solely on length of service.

## **Stock Ownership Requirements**

SWIB will vote against shareholder proposals requiring minimum stock ownership requirements. While SWIB believes that directors should be required to own company stock, making a specific amount mandatory could restrict board membership to the independently wealthy.

## **Director Diversity**

SWIB encourages diversity in experience, gender, race and age and will generally support such qualified nominees unless such a vote would violate another guideline<sup>17</sup>. SWIB believes that increasing diversity in the boardroom will better reflect a company's workforce, customers and community, and that this enhances shareholder value.

## **Director Attendance**

SWIB will vote in favor of proposals requesting the company provide detailed reports of attendance by directors.

## **Director Standards and Education**

SWIB supports director standards that are designed to make directors more effective shareholder representatives and align their interests with shareholders. SWIB will support efforts of companies to improve the professionalism of their board with training and education.

## **Director Performance**

SWIB supports monitoring director performance on a case-by-case basis. SWIB will analyze the company performance for the 1-, 3-, and 5- year as measured by the total shareholder return and other performance metrics relative to identified peers and index; and may withhold from a director for underperformance.

## **Director Discharge**

SWIB encourages companies to establish a process for discharging directors. As more companies are moving toward majority vote for director elections, companies must have a process to remove a director.

## **Director Nomination/Selection**

SWIB encourages companies to fully disclose the process for selecting and nominating director candidates. SWIB strongly encourages companies to create such a process if one doesn't currently exist. SWIB will vote FOR directors of the nominating committee when proper and clear disclosure is provided.

## **Director & Officer Indemnification**

SWIB will vote against proposals that limit or eliminate a director's and/or officer's liability for monetary damages for violating the duty of care and against proposals that would expand indemnity coverage for intentional or criminal acts that are more serious violations of fiduciary duty than mere negligence, consistent with Wisconsin State statutes<sup>18</sup>.

Indemnification provides payment by a company for the expenses of directors who become involved in litigation as a result of service to the company. Proposals to indemnify a company's directors differ from those to eliminate or reduce their liability because, with indemnification, directors may still be liable for an act or omission, but the company will bear the expense.

## **Cumulative Voting**

SWIB will vote in favor of cumulative voting practices according to Wisconsin State statutes. SWIB understands that cumulative voting provides flexibility to the shareholder in protecting their interests. Likewise, SWIB will not support management if it proposes to eliminate cumulative voting unless a majority vote for directors is implemented.

## **Majority Voting**

SWIB strongly supports companies that amend their bylaws, charters and governance documents to provide for director election by majority vote.

## **Proxy Access**

SWIB encourages companies to establish reasonable conditions and procedures for shareholders to nominate director candidates to the company's proxy and ballot.

## **Succession Planning**

SWIB supports disclosure of a clearly defined succession planning process. The Board of Directors has the responsibility to oversee the CEO succession plan. SWIB will vote FOR Nominating Committee members that provide an informative CEO succession plan.

## ITALY

- Italian legislation is requiring minimum disclosure for director succession planning beginning in 2012.

## *Executive Compensation*<sup>19</sup>

The board of directors has the responsibility for establishing compensation policies that attract, retain and motivate management<sup>2021222324</sup>. The board is also responsible for aligning the compensation of employees with the interests of shareholders to enhance the long-term financial performance of the company<sup>25262728</sup>.

SWIB believes the compensation committee should be held accountable for any compensation package given to management<sup>29</sup>. SWIB believes the compensation committee should disclose plan design, including performance targets, compensation drivers, and long-term incentives and ensure the compensation package is linked to performance. While the use of stock options is common in compensation plans, SWIB believes the granting of options should be selective and not be significantly dilutive to the individual share price regardless of relative industry use of options<sup>30</sup>. Additionally, SWIB supports efforts to implement pay for performance policies at public corporations. In the event a company does not adequately disclose compensation practices and the company is unwilling to address SWIB's concerns through communication attempts, SWIB may withhold from the compensation committee members.

### **Disclosure**

SWIB supports full disclosure of executive benefits and other in-kind retirement perquisites in accordance with new Securities and Exchange Commission (SEC) regulation<sup>3132333435</sup>. Compensation devices like executive pensions (Supplemental Executive Retirement Plans - SERPS), deferred compensation plans, below-market-rate loans or guaranteed post-retirement consulting fees can amount to significant liabilities to shareholders<sup>36</sup>.

SWIB supports disclosure of total compensation which includes detailed information regarding items such as deferred compensation, perquisites, severance, and post-retirement packages displayed in a clearly understandable way for shareholders to understand<sup>37</sup>. Pay should be measured against meaningful, objective and rigorous benchmarks and not general market measurements unrelated to company performance<sup>38</sup>.

SWIB supports disclosure of the compensation committee consultant. In addition to disclosing the name of the consultant, the company must also state that the compensation consultant firm will only work on activities directed by the compensation committee.

SWIB will withhold votes from the compensation committee members for failure to address SWIB's concerns or to adhere to the principles of full disclosure. SWIB will withhold from the entire Board if the company does not adhere to the new SEC disclosure requirements.

## Pay Practices

The compensation committee should have the ability to consult with independent advisors to assist in the design and implementation of compensation arrangements. SWIB will typically vote in favor of proposals that support best pay practices. SWIB will review company pay practices that are deemed poor by ISS, on a case-by-case basis. SWIB may withhold from the compensation committee if determined that the company has less than adequate pay practices. Examples of best practices include but are not limited to the following:

- Employment contracts should only be entered into with top execs under certain circumstances for a short period of time and should not have auto renewal features.
- Severance agreements should not be so appealing that they become incentive for executives to be terminated. Failure to renew an employment contract or termination under questionable events should not qualify as reasons for severance payments.
- Change-in-control payments should be made only when there is a significant change in the company ownership structure, when there is a loss of employment or substantial change in job duties associated with the change, and after a merger or acquisition has legally taken place.
- Supplemental executive retirement plans that include sweeteners, such as additional years of service or inclusion of variable pay, should be eliminated.
- Deferred Compensation that provides above market returns or guaranteed minimum returns should not be provided.
- Compensation consultants should be used to assist in determining appropriate compensation levels and to ensure pay levels are set consistent with similar jobs at similar companies. Compensation practices should consider general consistency and fairness between the compensation of management and all other employees<sup>394041</sup>.
- Compensation consultants should be disclosed to shareholders and should only be employed to work on activities directed by the compensation committee.
- CEO pay not aligned with company performance.

## Ratification of Compensation – Advisory Proxy Votes

Factors Reviewed to Evaluate Compensation Plans:

1. Performance compared to its benchmark and industry peers.

Executive compensation should initially be evaluated in the context of performance achieved. For example, if compensation has increased, SWIB will review company performance, index performance and peer performance on a one-, three- and five-year basis to see if it is justified. If the performance has declined while total compensation has increased, the plan may be inadequate and more review may be necessary.

2. Link between executive pay and performance.

Based upon the proxy information provided to shareholders, SWIB will confirm that a company claiming to have a strong link between performance and pay actually does. To accomplish this, SWIB will review pay elements, company strategy and basis for incentive awards. SWIB will also look to ensure that metrics were not changed during a pay cycle without proper justification and disclosure.

### 3. Executive Compensation Disclosure.

Plans that are not clear or lack specific information on which to determine pay and performance links are typically not supported. Rationale about how compensation is determined and why certain elements and pay targets are used should be clearly articulated. Plans should disclose retrospective goals that generated specific payouts.

#### ITALY

- SWIB will evaluate disclosure and structure of Executive Compensation.

### 4. Plan Design.

Compensation plans should be thoughtfully constructed to provide appropriate incentives to reward top performers while minimizing excessive risk-taking. Plans should also align executive's interests with shareholders. SWIB will review the following elements when analyzing plan design:

- Plan should include a clawback policy that applies to a broader employee base than just the CEO and CFO and is triggered by events or restatements that change the basis on which incentive compensation was originally calculated and awarded.
- Substantial stock holding requirement to tie payouts to sustained positive performance.
- Employment Agreements should be short term, for 1 – 3 years after exec is recruited, not indefinite, and not guaranteed.
- Plans should include severance and change-in-control provisions which incent the executive to stay on at the current company. The plan should not allow excise tax gross-ups.
- Peer groups used for plan comparisons should be fully disclosed in a similar industry, size and annual revenue or market capitalization. Strong justification should exist if above-median targets are used for base or incentives.

- Performance criteria and targets should be clearly defined and make sense based upon the company's business strategy. Plans should have separate short- and long-term provisions.
- Internal pay structures should not be disparate. For example, C-level executive pay should be relatively similar so all could be potential successors to the CEO.
- Stock retention or Stock holding requirements.
- Co-CEO's as combined CEO compensation in the pay plan.

#### 5. Perquisites.

Perquisites should be clearly disclosed and not be excessive. For example, disproportional use of corporate aircraft, expensive home security systems, generous relocation or auto allowances and tax gross-ups are considered excessive.

#### 6. Compensation Committee Composition and Actions.

The compensation committee should be comprised of independent directors to provide an objective view of the company and the role of compensation and incentives. Advisors and consultants to the compensation committee should be independent and work only for the committee to avoid conflicts of interests.

#### 7. Board Responsiveness to Directors.

Many companies are establishing communication channels with shareholders such as SWIB. SWIB will review past proxy vote tallies to see whether company directors have acknowledged and respected shareholder judgment expressed through voting. A board's disregard for investor's input on pay issues may indicate misalignment of the plan with shareholder's interests.

#### 8. Responsiveness on Advisory Vote on Pay.

Companies are required to disclose their actions following the Advisory Vote on Pay. SWIB supports companies that demonstrate an appropriate level of shareholder engagement and clearly communicates the outcome of such engagement.

### **Stock Option Plans<sup>42</sup>**

SWIB supports compensating executives at a reasonable rate and believes that executive compensation should be strongly correlated to performance<sup>43444546474849</sup>. Stock options, restricted stock and other forms of non-cash compensation should be performance-based

with a focus toward improving long-term shareholder value. However, many plans sponsored by management provide goals so easily attained that executives can realize large rewards even though shareholder value is not necessarily created<sup>5051</sup>. SWIB may withhold from a director who was a member of the compensation committee at the time options were backdated if the company has made a financial restatement as a direct result of backdating. SWIB will also consider corrective actions taken by the company such as the adoption of a policy that prohibits backdating and establishes fixed dates for option grants. If the company is formally charged with backdating, SWIB may withhold from the entire board.

SWIB votes on stock option plans on a case-by-case basis. In general, when considering executive and director compensation plans, the following elements are reviewed:

***Dilution:*** SWIB may support plans that allow up to 20% dilution and will vote against any plan that exceeds 20% dilution. (Computed by dividing shares outstanding on record date not fully diluted by: a.) shares reserved under the plan, and b.) shares available for grant under all existing plans, and c.) shares granted but not exercised.)

***Burn Rate:*** SWIB may support management compensation plans with option grants that do not exceed 2% of the outstanding stock for each year or 10% in aggregate over a ten year plan.

***Vesting:*** SWIB supports a defined and significant vesting period.

***Fair Market Value:*** SWIB supports options granted at fair market value. SWIB reviews the company computation of fair market value.

***Re-pricing:*** SWIB will vote against any proposal to permit a reduced or reset price for options granted without the approval of shareholders. SWIB will vote against any re-pricing or re-issuance (without cancellation of the original options) of “underwater options” or those options whose current stock price is below the current option contract price.

***Share Recycling:*** SWIB will vote against plans that allow for shares to be repurchased by the company and placed back into a previous equity plan thereby avoiding a shareholder vote.

***Restricted Stock:*** Some companies grant restricted stock. SWIB reviews restricted stock by adding a premium, and then analyzes the same performance metrics as general option plans<sup>52</sup>.

***Stock Option Expensing:*** SWIB will vote in favor of stock option expensing.

## **Evergreen Provisions**

SWIB will vote against stock-based incentive plans with an evergreen feature. “Evergreen” features reserve a specified percentage of outstanding shares for award each year without of having a termination date for the plan.

## **Top Hat Provisions**

SWIB does not support excessive pay plans that continue the trend of pay escalation into a supplemental retirement benefit to executives. “Top hat” provisions allow companies to give executives a much larger retirement benefit than regular employees.

## **Golden and Tin Parachutes**

SWIB will vote for proposals that require shareholder approval of severance packages, also known as golden and tin parachute plans. Plans should not exceed two years of salary. Conversely, SWIB will vote against proposals that ban shareholder approval and those that are deemed excessive by market standards.

“Golden and tin parachutes” are designed to protect the employee of a corporation in the event of a change in control. Under most golden parachute agreements, senior level management employees receive a lump sum pay-out triggered by a change in control at usually two to three times base salary. Increasingly, corporations with golden parachutes also extend coverage to all employees via a tin parachute. SWIB believes that both golden and tin parachutes improve employee morale and productivity, encourage potential acquirers to carefully consider the full cost of acquisition, and shareholders of target companies tend to receive greater returns due to higher takeover bids.

## **Golden Coffins**

SWIB will vote against any golden coffin proposal. A golden coffin refers to a death-benefit package awarded to the heirs of high ranking executives who die while still employed with a company. Benefits awarded can include unearned salary and accelerated stock options.

## **Director Retirement Plans**

SWIB supports proposals that allow for shareholder approval of director retirement plans. SWIB believes director plans are not in shareholders’ best interest because they provide an incentive for directors to align with management. Therefore, when SWIB has the opportunity to vote for a director retirement plan, SWIB will vote against such plans.

## **Termination Provisions**

SWIB will vote for severance pay agreements that provide management with a reasonable period and level of compensation after termination due to a change in control. The total severance pay should not exceed two times current salary.

## **Advisory Vote on Pay**

SWIB will vote for an annual vote on the advisory compensation package.

## **Clawback**

SWIB will support provisions seeking to establish and implement clawback payments. The clawback payments should reach more than the CEO and CFO.

### **Compensation Plan Design**

SWIB will support plans that clearly define and disclose the performance metrics for annual bonus and long term incentive plans. SWIB will generally vote against any compensation changes throughout the year after closely analyzing the situation.

### **Director Stock Ownership**

SWIB encourages directors to have a direct and meaningful stock ownership position. This aligns directors' interests with shareholders' interests as directors are often compensated with shares of stock. SWIB will vote FOR director compensation disclosure and a minimum stock holding requirement as defined by the company.

### **Perquisites**

SWIB encourages companies to properly disclose and adequately account for perquisites awarded to senior level executives. The compensation committee should ensure that any perquisites are warranted and have a legitimate business purpose<sup>53</sup>. Total perquisites must be identified, described, disclosed and valued for appropriateness.

## *Auditors*

Consistent with federal Sarbanes/Oxley legislation, SWIB believes that auditors should be independent in order to ensure integrity of the audit process<sup>54</sup>. SWIB will ratify auditors when non-audit fees are not excessive<sup>555657</sup>.

### **Ratification of Auditors**

To help ensure auditor independence, SWIB favors limits on the use of non-audit consulting fees<sup>58596061</sup>. When voting for ratification of auditors, SWIB will review total fees paid to the auditor. When non-audit services represent 25% or more of the total fees paid to auditors during the previous fiscal year, SWIB will vote against ratification. Prior to voting, SWIB will review the company's classification of non-audit consulting fees to ensure fees that could be considered audit-related are classified correctly<sup>62</sup>. If non-audit consulting fees are deemed excessive and unrelated to audit, SWIB will vote against ratification. Consideration will be given to non-audit fees incurred due to initial public offerings, bankruptcy, spin-offs and other potential one-time events.

If ratification is not placed on the ballot for shareholder vote and the non-audit fees have been deemed excessive per the above procedure, SWIB may withhold its vote from the audit committee director nominees.

Audit services are defined as services rendered for the audit of the company's annual financial statements and review of financial statements for statutory or regulatory filings, assurances and related services related to the performance of the audit or review of the financial statements, and tax compliance and tax preparation services. SWIB believes that the majority of fees should be paid for services directly applicable to audit activities.

Fees paid to the auditor for non-audit related services, can only account for up to 25% of the total fees paid to the auditor.

SWIB may allow non-audit fees to exceed SWIB's threshold when pre-approved by the company audit committee for specific events such as a domestic company with international branches.

### **Disclosure Under Section 404 of Sarbanes-Oxley Act**

SWIB will review compliance with Section 404 of Sarbanes-Oxley on a case-by-case basis<sup>63</sup>. When material weaknesses in the internal controls are known, SWIB will communicate with the company to further understand the specific issue. SWIB may withhold votes from the audit committee if material weaknesses are identified, the company has not established an effective remedial control mechanism, or is unwilling to address SWIB's concerns.

## *Mergers and Acquisitions*<sup>64</sup>

### **Restructurings**

SWIB reviews and votes on every company merger and/or acquisition on a case-by-case basis internally with the assistance of the portfolio manager(s) who holds the security<sup>65</sup>. Decisions will be based on the impact of the merger on valuation, shareholder value, anticipated financial and operating benefits realizable through combined synergies, offer price, financial viability of the combined companies as a single entity, and fairness to existing shareholders.

### **Consideration of Non-Financial Effects – Stakeholder Laws**

Stakeholder laws in some states, such as Wisconsin, authorize directors and officers to take into consideration interests other than those of the shareholder when discharging their duties to the corporation. SWIB will vote on a case-by-case basis when asked to vote on consideration of non-financial effects.

### **Change in Control**

SWIB will review change in control disclosures on a case-by-case basis. Some of the criteria evaluated will include overall disclosure of the change in control, severance agreements, the triggers for payment, and who controls those triggers.

## *Take Over Defenses*

SWIB votes on take-over defenses on a case-by-case basis. SWIB will generally support a requirement that shareholders approve any new anti-takeover measures adopted by the company.

### **Poison Pill**

Shareholder rights plans, typically known as “poison pills”, take the form of rights or warrants issued to shareholders and are triggered when a potential acquiring stockholder reaches a certain threshold of ownership. When triggered, poison pills generally allow shareholders to purchase shares from, or sell shares back to, the target company and or the potential acquirer at a price far out of line with fair market value.

Depending on the type of pill, the triggering event can either transfer wealth from the target company or dilute the equity holdings of current shareholders. Poison pills insulate management from the threat of a change in control and provide the target company with veto power over takeover bids<sup>66</sup>. Because poison pills greatly alter the balance of power between shareholders and management, shareholders should be allowed to make their own evaluation of such plans.

SWIB will vote for shareholder proposals that ask a company to submit its poison pill for shareholder ratification. SWIB supports poison pills that are short term (three years or less), are evaluated by the independent directors, and are in the best interest of shareholders. SWIB does not support pills whose primary goal is to prevent a takeover. SWIB may support pills that are structured to be triggered with 20% ownership.

### **Greenmail**

SWIB does not support payment of greenmail without shareholder approval. SWIB will generally vote against resolutions that provide for payment of greenmail.

“Greenmail” refers to the practice of management repurchasing a large block of its own company stock, at a substantial premium, from individuals or groups seeking control of the company. Since only the hostile party receives payment, the practice discriminates against other shareholders. The cash used for the greenmail payment could be better used for reinvestment in the company, payment of dividends, or to fund a public share repurchase program.

### **Fair Price Provision**

SWIB will vote on a case-by-case basis on proposals to adopt a fair price provision. When evaluating fair price proposals for acquisition, the balance between the bargaining power the provision gives to a company’s board and the likelihood that such as provision may discourage beneficial takeovers will be taken into consideration. SWIB believes fair price provisions protect shareholders from abusive tender offers. SWIB will generally vote against fair price provisions that require a supermajority vote.

“Fair price” provisions were designed to defend against the most coercive take-over devices, the two-tiered, front-end-loaded tender offer. In such a hostile takeover, the bidder offers cash for just enough shares to gain control of the target. At the same time, the acquirer states that once control has been obtained, the target’s remaining shares will be purchased with cash, cash and securities, or securities only. Since the payment offered for the remaining stock is, by design, less valuable than the original offer for the controller shares, shareholders are forced to sell out early to maximize the value of their shares.

Standard fair price provisions require that, absent board or shareholder approval of the acquisition, the bidder must pay the remaining shareholders the same price for their shares that brought control. The pricing requirement may be avoided by an acquirer by obtaining the support of holders of at least a majority of disinterested shares. However, in most cases, fair price provisions require a supermajority vote that may be as high as 95% to get around pricing guidelines.

### **Targeted Share Placement**

In general, SWIB supports shareholder approval of any targeted stock placements over 10% of current outstanding stock. SWIB will determine on a case-by-case basis whether the placement is equitable to all shareholders.

In a “targeted share placement”, a large number of corporations place a large block of shares with a single shareholder. These blocks are typically being placed with the company’s Employee Supplemental Option Plan (ESOP), or with a single “friendly” firm or individual. SWIB believes that placement of shares in friendly hands can sometimes be used to block a takeover that could improve the company. As a result, SWIB believes that shareholders should be allowed to vote on all placements greater than 10%.

## *Capital Structure*

The management of a corporation's capital structure involves a number of important issues including dividend policy, types of assets, opportunities for growth, ability to finance new projects internally, and the cost of obtaining additional capital. Many financing decisions have a significant impact on shareholder value, particularly when they involve the issuance of additional common stock, preferred stock or debt.

### **Capital Stock Authorizations**

SWIB supports proposals that require existing shareholders be allowed to vote on resolutions to increase authorized capital. SWIB will vote FOR plans requesting up to 50% increase in capital. SWIB will review requests over 50% on a case-by-case basis.

### **Unequal Voting Rights**

SWIB supports equal voting rights for all shareholders. SWIB believes that company founders and those who own a majority of shares already have a significant vote without providing additional rights to their shares.

### **Blank Check Preferred Authorization**

SWIB will not support requests for authorizing preferred stock when it includes provisions that allow the board the prerogative to set voting rights at the time of issuance.

Preferred stock is an equity security which has certain features similar to debt instruments, such as fixed dividend payments and seniority of claims to common stock, and usually carries little or no voting rights. The terms of "blank check preferred stock" give the board of directors the power to issue shares of preferred stock at their discretion with voting, conversion, distribution, and other rights to be determined by the board at the time of issue. Blank check preferred stock can be used for sound corporate purposes but can also be used as a device to thwart hostile takeovers without shareholder approval.

### **Stock Class**

SWIB supports one class of stock with equal voting rights.

### **Preemptive Rights**

SWIB will review proposals seeking to create or abolish preemptive rights on a case-by-case basis. Company policy needs to be specific so that current shareholders are not harmed by additional awards of discounted shares.

### **Reverse Stock Splits**

SWIB will review reverse stock splits on a case-by-case basis.

## *State of Incorporation*

SWIB evaluates re-incorporations by U.S. companies on a case-by-case basis. In determining its vote, SWIB will consider previous shareholder responsiveness, rationale for relocation and the extent to which shareholder rights are limited and/or transparency is decreased.

### Re-incorporation of Companies

SWIB will generally vote FOR proposals requesting re-incorporation when the relocation improves the business strategy and doesn't significantly hamper shareholder rights.

## *Shareholder Rights*<sup>67</sup>

### **Supermajority Voting Provisions**

SWIB supports simple majority provisions that require 51% of votes to pass.

SWIB believes that the wishes of shareholders should be carried out with a majority vote of the disinterested shares. In contrast, a “super majority voting provision” requires a level of voting approval in excess of a simple majority. Requiring supermajority is one way that management can block proposals that may be in the best interest of shareholders. No state law requires more than a 2/3 vote. However, companies can require a higher level of approval if they receive shareholder approval to do so.

#### NORDIC COUNTRIES

- SWIB will vote to eliminate supermajority voting.

### **Shareholder Ability to Act by Written Consent**

SWIB supports shareholder’s ability to act with written consent. SWIB will vote AGAINST proposals requesting an unrealistic threshold in order to obtain written consent.

Action by written consent allows a shareholder to solicit votes in favor of a proposal and to take action, if the proposal passes without having a meeting. It allows shareholders to take action on certain matters that arise between regularly scheduled annual meetings. A consent card is sent by mail for shareholder approval and only requires a signature for action. SWIB believes that if management is allowed to take action by written consent, then shareholders should have the same basic rights.

### **Charter Amendments**

SWIB will support all efforts to require shareholder approval of any amendments to the company’s charter or bylaws<sup>68</sup>.

### **Shareholder Ability to Call Special Meetings**

SWIB will support shareholders’ rights to call special meetings when deemed significant. A shareholder may want a special meeting when shareholders do not have the right to take action by written consent or other means to take action between regularly scheduled annual meetings. SWIB believes that if management has the right to schedule special meetings, then shareholders should have the same right.

### **Confidential Voting**

SWIB will generally vote in favor of resolutions calling for confidential voting.

Confidential voting ensures that voters are not subject to real or perceived coercion. In an open voting system, management can determine who has voted against its nominees or

proposals before a final vote count. As a result, shareholders can be pressured to vote with management at companies with which they maintain or would like to establish a business relationship. SWIB believes that confidential voting serves to level the playing field between management and shareholders since shareholders are currently unable to determine how other shareholders have voted on an issue. Shareholders can choose to disclose how they voted, especially if they believe it could encourage others to vote in a manner that is in the best interest of the shareholders.

### **Resubmission of Shareholder Proposals and Vote Tabulation**

SWIB will vote in favor of shareholder resolutions requesting that a tabulation of votes be based on total votes cast, which is consistent with Wisconsin statutes and Delaware law. Using total votes cast instead of total available votes will more accurately reflect shareholders' interests.

### **Action to Fill Board Vacancies**

SWIB encourages companies to establish a process for filling board vacancies in a timely and cost-effective manner.

### **Broker Non-Votes**

SWIB strongly supports the elimination of broker non-votes in the vote tally. While the numbers should still be disclosed, the broker non-votes should be identified in a separate column to fully disclose the actual votes cast.

### **Exclusive Venue**

SWIB will vote in support of proposals allowing shareholders to retain the ability to litigate in the Court of their choosing. Some Delaware based companies are suggesting bylaw changes to make it necessary for all cases to be heard in Delaware by the Delaware Chancery Court. The argument is the Chancery Court knows Delaware law best. However, SWIB believes shareholders should be able to bring a case with standing in the venue most fitting.

## **Miscellaneous Corporate Governance**<sup>6970717273747576</sup>

### **Proxy Voting Process**

SWIB will vote in favor of resolutions that allow shareholders to place items on the proxy and those that require identification of the shareholder sponsor<sup>77</sup>. SWIB routinely receives proxy voting statements that include shareholder resolutions addressing problems in the proxy process<sup>78</sup>. SWIB believes resolutions can help level the playing field between management and shareholders<sup>798081</sup>.

### **Securities on Loan**

SWIB will restrict securities available to loan or recall securities currently on loan on a case-by-case basis for voting purposes. For example, SWIB may prevent shares from being lent in the event of a contentious proxy contest or to vote shares in mergers and acquisition situations. Company meeting dates and lending activity will be monitored throughout the year by SWIB staff and a comparative analysis of securities lending revenue versus the voting premium will be conducted. SWIB recognizes its fiduciary duty to protect its long-term interests through voting and to ensure the pursuit of income is not subjecting its beneficiaries to undue risk<sup>8283</sup>.

### **Shareholder Meetings/Ballot Issues**

SWIB strongly encourages companies to establish a procedure to reconcile all ballot issues from the annual meeting and disclose vote counts within a reasonable amount of time.

A number of emerging proxy issues may not be specifically addressed by SWIB's proxy voting guidelines. In accordance with our proxy voting guidelines and corporate governance policy, SWIB will review the issue on a case-by-case basis evaluating the financial impact on shareholders. Major issues will be discussed with the Board and included in future guideline updates.

## *Corporate Citizenship*<sup>8485</sup>

### **Labor and Human Rights**

SWIB recognizes that customs and laws concerning basic labor and human rights in many countries differ from those that prevail in the United States<sup>86</sup>. The Board believes, however, that a company can have a positive influence on labor and human rights, regardless of the country in which it operates, by how it deals with its employees, clients and local governments. Therefore, SWIB will seek investments in organizations that respect basic labor and human rights and will encourage management to respect those rights in all countries in which it does business, for such conduct is conducive to long-term success. [Wis. Admin. Code § IB 2.02 (7)]

When considering a shareholder resolution that deals with employee or human rights, SWIB will support management if the company's position<sup>87</sup>:

- Appears reasonable;
- Is not detrimental to the long-term viability of the company or shareholder value; and
- Reflects society's values and attitudes on the corporation's long-term viability.

SWIB will not support management's position if that position does not reflect the short- and long-term costs, including the effect on its employees and the company's goodwill, both in the US and other countries in which the company operates. [Wis. Admin. Code § IB 2.03 (3) (a) and (b) 4.]

### **Environmental and Climate Risk Issues**

Concerns about the environment have risen significantly in the past few years. More countries and companies have begun to address global warming and other adverse environmental effects and how those issues may affect the company's long-term sustainability<sup>88</sup>. The SEC, Environmental Protection Agency and federal Department of Justice have all adopted policies that require or encourage companies to report information on their environmental practices and liabilities.

As the result of increased scientific work on the environment and climate risk, the United Nations and other organizations have developed the Global Reporting Initiative (GRI). This creates a uniform reporting mechanism for companies throughout the world to use on how they are dealing with environmental issues and the effect those issues will have on the company's ability to sustain its business model. European companies routinely report on sustainability as a part of their financial reporting, and many US companies have begun to report on their environmental practices and exposure, either filing a GRI report or issuing a general report that includes some of the items included in a GRI report.

SWIB reviews and votes on a case-by-case basis on all resolutions asking companies to report on their activities affecting the environment, either using the GRI format or another format. SWIB will support increased reporting if: (1) a company's product or service has the potential to affect the environment adversely; (2) the company has been the subject of adverse publicity or litigation because of its environmental policies; and (3) the company has failed to provide adequate information, as determined by SWIB staff, about its environmental practices to shareholders.

SWIB will vote for a shareholder resolution that asks the company to report on its preparations to comply with the Kyoto Accord if it does business in countries that have adopted the Accord. The Kyoto Accord is an international treaty whereby countries agree to reduce the amount of greenhouse gases they emit if their neighbors do likewise. Although the US government has not signed onto the Accord, US companies that do business in signatory countries are required to comply with the Accord, which became effective for all signatories in late 2004.

In some cases, SWIB may vote against a shareholder resolution on the environment but still recognize that a company's actions regarding the environment may have a negative impact on its operations. In those cases, SWIB will contact the company by letter to request additional information and express concern that the company's economic performance may suffer if it is unresponsive to environmental issues.

## **Health and Safety**

Shareholders introduce a variety of resolutions that deal with the health and safety of employees and consumers in the manufacture or use of products. They may include the advertising or sale of tobacco products, the release and effect of chemical toxins, use of animals for testing purposes, etc. SWIB considers these resolutions from an economic perspective on a case-by-case basis, taking into account:

- (1) The effect the company's action, as addressed by the resolution, may have on long-term shareholder value; and
- (2) The company's competitiveness and sustainability if the resolution addresses a specific state or federal law.

For example, following the Cigarette Advertising Code and the Attorneys General Master Settlement Agreement that restricts selling tobacco products to youth, SWIB supports shareholder resolutions that ask companies to restrict youth access to tobacco products or to report on their advertising or marketing practices.

## **Political Expenditures**

SWIB's governance team will review proposals relating to political expenditures on a case-by-case basis. To make a voting decision, SWIB will analyze current disclosure practices, any known activities such as fines or litigation and the level of political contribution oversight by both the management team and the board. SWIB believes

company management must determine whether or not a company should contribute to a political campaign, PAC or third party independent advocacy organization within a policy that is established and approved by the Board. SWIB urges companies to evaluate the means, rewards and risks of political spending to protect against penalties and reputational risks. To aid the shareholder in understanding the relevance of political expenditures to the company, SWIB supports disclosure of the total amount a company budgets and/or spends on the various types of political expenditures.

SWIB may vote in favor of a proposal when the current disclosure on political contributions is insufficient or significantly lacking compared to its peers, there are verifiable or credible allegations of funds mismanagement through donations, and there is no explicit board oversight or evidence that board oversight on political expenses is adequate. SWIB may not support a shareholder proposal if the information requested is already available in another report or it does not request the disclosure of total contribution expenditures.

### **Other Issues**

Shareholders introduce resolutions that deal with a variety of other issues, including political and charitable contributions, anti-discrimination, privacy and the internet, military contracts, etc.

SWIB will usually vote with management and against such resolutions unless the resolution clearly falls under the directives of the Wis. Admin. Code § IB 2.03. If staff determines that an issue has developed to the point where it could have a significant financial effect on a company but is not clearly defined by the Code, staff will take the issue to the Board of Trustees to determine if guidelines are needed.

For example SWIB considers resolutions dealing with political or charitable contributions on a case-by-case basis and will vote for the resolution if controversy or litigation concerning the contributions affects the company's economic value or public access to information concerning the contributions is limited.

Staff may also contact the company's management to communicate SWIB's concerns about practices addressed by a specific resolution that may adversely affect the company's long-term economic performance.

In addition, as provided in Wis. Admin. Code § IB 2.03 (3) (b), SWIB will support resolutions calling for disclosure of additional information pertaining to particular issues if:

- The requested information is on a subject relevant to the corporation's business;
- The requested information is of value to a majority of shareholders when evaluating the corporation or its managers;
- The costs of disclosure are reasonable;

- The company is not already providing all or a majority of the information in one form or another; and
- The requested information will not disadvantage the corporation either competitively or economically.

SWIB will adopt its voting policies in four key governance areas that will be custom-applied to SWIB's international companies. Those issues relate to Board of Directors, Mergers and Acquisitions, Compensation, and Capitalization. The remaining ballot issues will be voted according to RiskMetrics international policy.

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