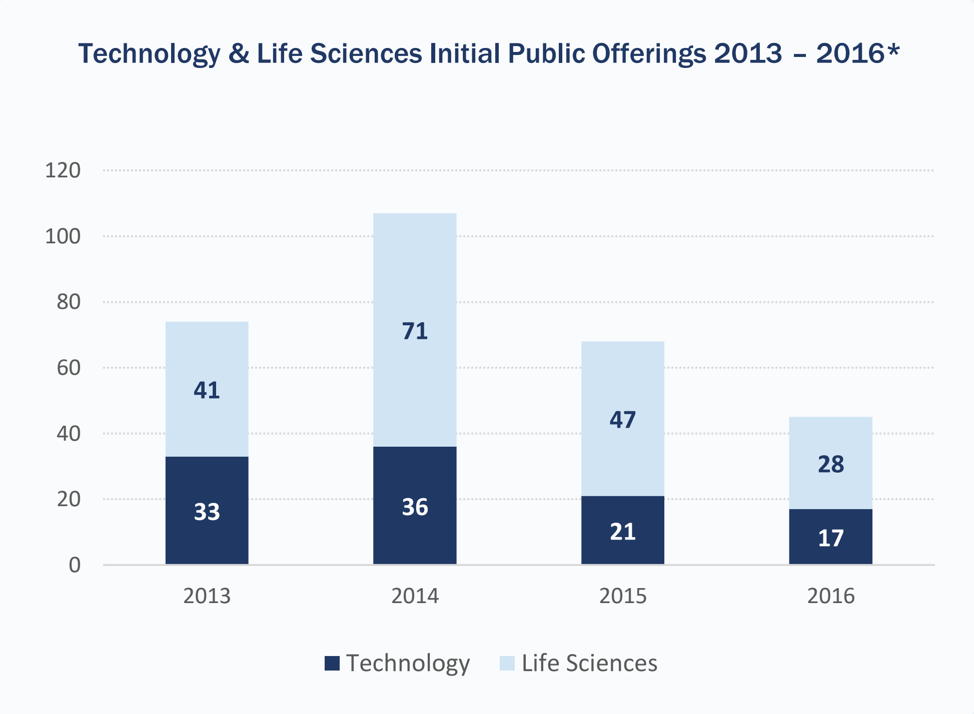
Preparing for the Expiration of an Equity Plan "Evergreen" Feature

In connection with their IPO, greater than 90% of technology and life sciences companies adopt equity compensation plans that contain an "evergreen" provision. These provisions provide for an automatic increase in the number of shares available for issuance under the plan (with a typical initial share pool of 8% to 12% of outstanding shares and a 4% to 5% annual increase in the technology sector) without requiring additional shareholder approval of the increase.

Consistent with the listing standards of the New York Stock Exchange and the Nasdaq Stock Market, an evergreen provision may have a term of up to ten years. Although not required, many companies that adopted evergreen provisions in connection with their IPO also provided that their equity plan contain a fixed 10-year term that mirrors the term of the evergreen provision. As a result, these companies must ask their shareholders to approve a new equity plan as they near the 10-year anniversary of their IPO.

Typically, by evergreen and plan expiration, most companies are relatively "mature" and widely held by institutional shareholders whose support, absent a multi-class stock structure and/or insider voting control, will be required for the new equity plan. This Thoughtful Pay Alert provides an overview of the factors that companies that went public with an evergreen provision in the 2013-2016 time frame may wish to consider as they develop their new equity plans and submit them to shareholders for approval.



*IPO data per internal Compensia databases

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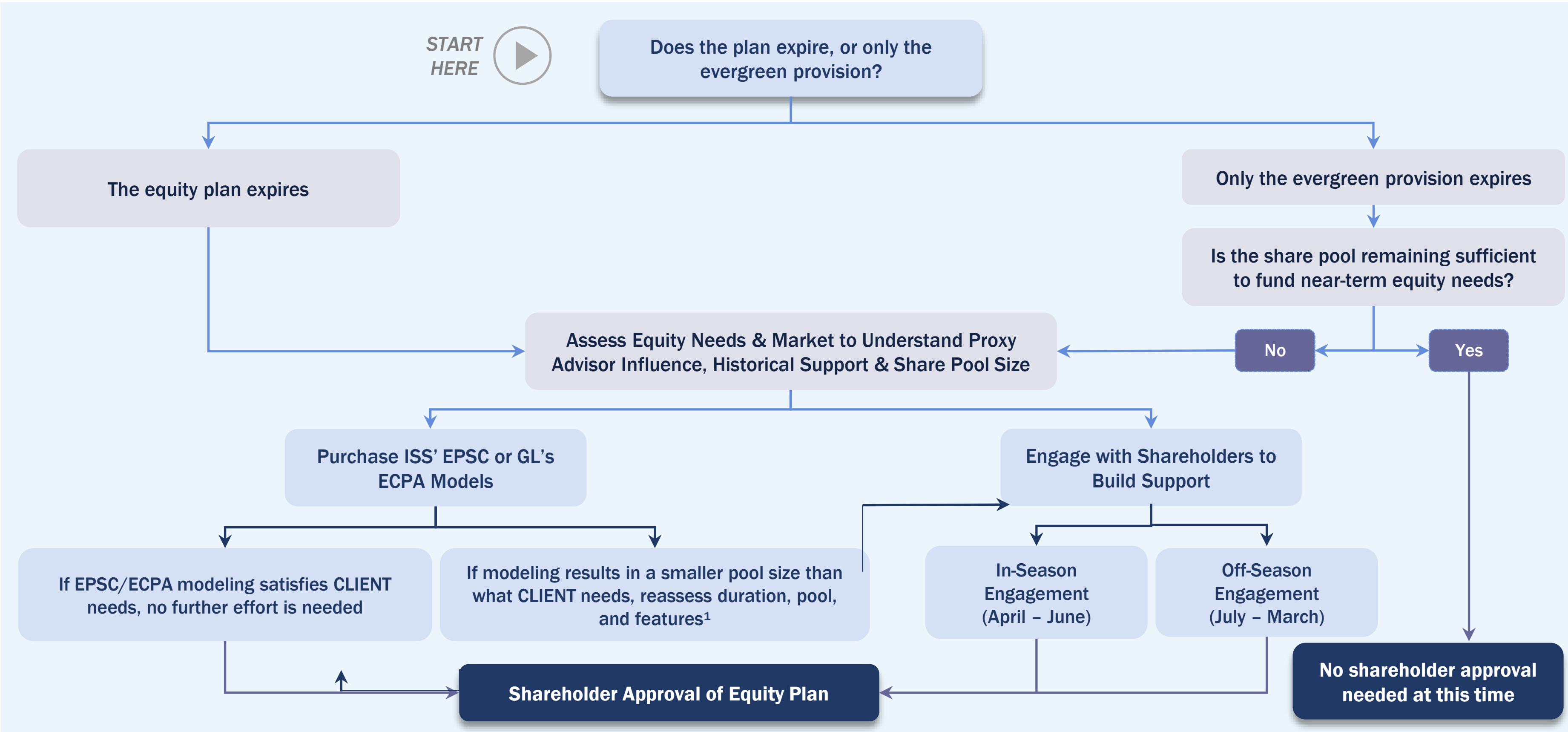

Key Questions To Ask Now

1. Did your company go public between 2013 and 2016? If so, it's time to start planning for expiration of your evergreen provision.
2. Is your plan expiring, or just your evergreen provision?
3. How many shares remain available/can you reasonably request? Will that amount be compatible with your equity strategy?
4. Do you need to subscribe to ISS and/or Glass Lewis equity plan modeling services?
5. Are your plan terms aligned with best practices?

As you work your way through the above flow chart, note that each step can raise complicated questions. We find that early planning can often pay dividends – or in this case, shares. We regularly provide support and guidance across critical decision points, including pool size assessment, shareholder influence analysis, proxy advisor policies and shareholder engagement strategy. If an expiring evergreen is on your horizon, we are here to help.

Preparing for the Expiration of an Equity Plan "Evergreen" Feature (Continued)

Need Assistance?

Compensia has extensive experience in helping companies understand and address proxy advisory firm and institutional shareholder voting and engagement policies, corporate governance, and executive compensation policies. If you have any questions on the topics covered in this Thoughtful Pay Alert or would like assistance is assessing equity award practices, please feel free to contact Mark A. Borges at 415.462.2995 or mborges@compensia.com, or Hannah Orowitz at 332.867.0566 or horowitz@compensia.com.

About Compensia

Compensia, Inc. is a management consulting firm that provides executive compensation advisory services to Compensation Committees and senior management.

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