

## Institutional Shareholder Services (ISS) and Glass Lewis Issue Reports on Medley Capital Corporation: Voting Recommendations Summary

*Excerpts from the ISS and Glass Lewis reports recommending MCC stockholders vote FOR NexPoint's slate of director nominees at the Annual Meeting on June 4, 2019, removing incumbents Seth Taube and Arthur Ainsberg from the MCC board*

### Executive Summary

On May 23, 2019, Institutional Shareholder Services ("ISS") and Glass Lewis, two leading independent proxy advisory firms, released reports on Medley Capital Corporation ("MCC").

In their reports, both firms recommended that MCC stockholders vote FOR Stephen A. Mongillo and Mark T. Goglia, the independent director nominees put forward by NexPoint Advisors, L.P. (together with its affiliates "NexPoint") at the June 4, 2019 annual meeting of stockholders (the "Annual Meeting").

Through their proxy analyses, both ISS and Glass Lewis found sufficient reason to support the removal of the two incumbent directors, Seth Taube and Arthur Ainsberg, who are up for re-election.

ISS and Glass Lewis also found that NexPoint's nominees offer true independence and, having no prior relationship with NexPoint, are well suited to carry out the director responsibilities in the interest of MCC stockholders.

The following excerpts from the ISS and Glass Lewis reports provide insight into how the respective firms arrived at their conclusions.

ISS and Glass Lewis recommend MCC stockholders:

- **Reject the incumbent directors; DISCARD your WHITE proxy card; and**
- **Vote FOR NexPoint's two independent nominees, Stephen A. Mongillo and Mark T Goglia, using your BLUE proxy card.**

Learn more about the alternative director candidates, NexPoint's independent nominees, at [www.MedleyCapitalVote.com/nominees](http://www.MedleyCapitalVote.com/nominees).

## Institutional Shareholder Services (ISS)

### Overview of ISS' Report

“[NexPoint] presented a compelling case that **board change is warranted** and that its nominees are the best option available to achieve that change.”

- “This contest has an **element of urgency** because net asset values have declined; if the company's net asset value is below \$275 million for two consecutive quarters, the noteholders can accelerate the note repayment.”
- “Concerns that the [NexPoint] nominees could be biased in favor of the NexPoint proposal over potentially superior alternatives are mitigated by the fact that these **nominees appear sufficiently independent of NexPoint.**”
- “As such, votes are warranted on the BLUE card for dissident director nominees **Stephen Mongillo and Mark Goglia.**”

### ISS' Views on Stockholder Returns

“...through May 17, 2019, the company's TSR of **negative 37.7 percent** was 65.1 percentage points below the index and 96.2 percentage points below the peer median.”

	1-Year	3-Year	5-Year
<b>Company Total Shareholder Returns (TSR) (%)</b>	<b>-27.91</b>	<b>-8.77</b>	<b>-12.23</b>
Russell 3000 TSR (%)	17.58	17.07	13.46

Source: Compustat. As of closest month end to company FY end.

- “Between the time of MCC's IPO on Jan. 19, 2011...and May 17, 2019, the **company's TSR of negative 37.7 percent** was 65.1 percentage points below the index and 96.2 percentage points below the peer median.”
- “Similarly troubling underperformance can be observed in each of the one-, three-, and five-year periods through either the unaffected date or the recent past.”

## ISS' Views on Operating Performance

**“There are multiple worrying trends in the company's operating performance...”**

- “There are **multiple worrying trends in the company's operating performance**, but the most troubling is the decline in the value of net assets...[NexPoint] pointed out that MCC's 2024 Notes have a financial covenant requiring a minimum net asset level of \$275 million or more. As of the end of the first quarter, MCC's balance sheet has \$278 million in net assets. If the net asset value is below that threshold for two consecutive quarters the notes could be accelerated, **creating substantial distress for the company.**”

## ISS' Conclusion: “Which Nominees?”

**“[NexPoint] has specifically and intentionally selected unaffiliated nominees so that they will act solely in the best interests of all MCC stockholders”**

- The company's nominees have overseen **negative total shareholder returns, conflicted and underperforming investment management**, and been found by the Delaware Court of Chancery to have breached their fiduciary duties.
- “ISS' engagement with [NexPoint] nominees suggests that **their independence is credible.**”
- “[NexPoint] has presented a compelling case that **board change is warranted. Votes for [NexPoint] director nominees are therefore warranted.**”

## ISS' Conclusion: “Is Change Warranted?”

**“MCC shareholders will likely benefit from a change on the board from the incumbent directors to new directors”**

- “The management nominees appear to have participated in a **“stonewalling” response to [NexPoint] and other potential strategic partners**. A Delaware Chancellor found that the **management nominees breached their fiduciary obligations to MCC shareholders.**”
- “The special committee is composed of four members, two of which were recently appointed; **the committee does not have a curative process if there is a deadlock.**”
- “In light of the Delaware Memorandum Opinion that found the company's nominees **breached their fiduciary duties, inferior shareholder returns during the incumbents' tenure, and troubling operating performance**, further change at the board level is warranted.”

## Glass Lewis

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### Overview of Glass Lewis' Report

There is “sufficient evidence that the corporate governance at MCC is fundamentally broken” and “a clear need to overhaul the board.”

- “In this campaign, we find that NexPoint has made a compelling argument in favor of **removing and replacing the directors up for election** at the 2019 annual meeting.”
- “Most importantly, [NexPoint] points to the Delaware Decision which finds that the **MCC directors breached their fiduciary duties to shareholders** in approving the Merger and describes at considerable length **appalling conduct by MCC directors.**”
- “We believe the Delaware Decision provides sufficient evidence that the **corporate governance at MCC is fundamentally broken** and speaks to a **clear need to overhaul the board.**”

### Glass Lewis' Views on NexPoint's Nominees

“[NexPoint] Nominees would provide additional **independent oversight and accountability** on the board and, ideally, on the special committee overseeing the pending go-shop process”

- “We believe [NexPoint] Nominees are qualified to serve on the MCC board, with **considerable professional experience and relevant skills.**”
- “[NexPoint] Nominee [Stephen] Mongillo has **significant public company board experience** and extensive experience in the financial services industry.”
- “[NexPoint] Nominee [Mark] Goglia has **significant legal experience** in the financial industry, including **experience advising public companies on corporate matters.**”
- “While NexPoint’s pursuit of external management contracts at MCC indicates that NexPoint has interests in this campaign that are different from those of other shareholders, [NexPoint] Nominees are **not affiliated with NexPoint, and we see no reason to doubt their independence or objectivity.**”
- “NexPoint states that there is no agreement or understanding pursuant to which its nominees have agreed to vote in favor of NexPoint’s external management proposals, and we expect they **would represent the interests of all shareholders in accordance with their fiduciary duty if elected to the board.**”

## Glass Lewis' Views on Arthur Ainsberg

**“Ainsberg failed to understand that the prior sale process for MDLY did not ‘effectively’ shop MCC, an egregious error for the chairman of a special committee tasked with seeking the best alternative for shareholders”**

- “The Delaware Decision provides evidence that **Arthur Ainsberg has failed to represent the best interests of MCC shareholders**, including with respect to the Merger and in his role as chairman of the special committee tasked with evaluating that transaction, in our view.”
- “In particular, the court finds that the special committee failed to assert control over the timing of the process, **failed to consider the value of MDLY** in the transaction, **failed to effectively shop the Company** and **failed to contact alternative parties that submitted unsolicited proposals.**”

## Glass Lewis' Views on Seth Taube and Board Composition and Conflicts

**“To ensure that shareholder interests are placed above all else...removing Seth Taube from the board is warranted given his status as an affiliate”**

- “We also believe the Delaware Decision underscores the negative implications for shareholders resulting from **significant conflicts of interest** at the Company and with respect to the Merger that have not been sufficiently addressed, in our view.”
- “Furthermore, we believe the board suffers from **poor governance structures**, including **interlocking relationships** and a **lack of sufficient independence.**”
- “Seth Taube is chair and CEO of Sierra, where Brooke Taube, chair and CEO of the Company, serves as a director. We **view such interlocking relationships as creating conflicts for directors**, as they may be forced to weigh their own interests in relation to shareholder interests when making board decisions.”
- “Shareholders should also note that three of the seven current directors are either affiliated with the Company or are insiders. Glass Lewis prefers boards with a lower percentage of affiliates and insiders and we believe **MCC's board structure raises concerns about its objectivity and independence** as well as its ability to perform its proper oversight.”

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**IMPORTANT INFORMATION:** On May 13, 2019, NexPoint Advisors, L.P. (“NexPoint”), together with the other participants named below, filed a proxy statement and accompanying BLUE proxy card with the SEC to solicit stockholder votes for the election of its slate of highly-qualified director nominees in connection with the Annual Meeting of Stockholders (the “Annual Meeting”) of the Company expected to take place on June 4, 2019.

NEXPOINT STRONGLY ADVISES ALL STOCKHOLDERS OF THE COMPANY TO READ THE DEFINITIVE PROXY STATEMENT AND OTHER PROXY MATERIALS AS THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION. SUCH PROXY MATERIALS WILL BE AVAILABLE AT NO CHARGE ON THE SEC’S WEBSITE AT WWW.SEC.GOV. IN ADDITION, THE PARTICIPANTS IN THIS PROXY SOLICITATION WILL PROVIDE COPIES OF THE DEFINITIVE PROXY STATEMENT WITHOUT CHARGE UPON REQUEST. REQUESTS FOR COPIES SHOULD BE DIRECTED TO THE PARTICIPANTS’ PROXY SOLICITOR.

**PARTICIPANT INFORMATION:** The following persons are anticipated to be, or may be deemed to be, participants in the proxy solicitation: NexPoint, NexPoint Advisors GP, LLC, the general partner of NexPoint (“NexPoint Advisors GP”), Highland Global Allocation Fund (“Global Fund”), Highland Capital Management Fund Advisors, L.P., the investment advisor to Global Fund (“Highland Fund Advisors”), Strand Advisors XVI, Inc., the general partner of Highland Fund Advisors (“Strand XVI”), Highland Select Equity Master Fund, L.P. (“Select Fund”), Highland Select Equity Fund GP, L.P., the general partner of Select Fund (“Select GP”), Highland Select Equity GP, LLC, the general partner of Select GP (“Select LLC”), Highland Capital Management, L.P., the sole member of Select LLC and the investment advisor to Select Fund (“Highland Capital”), Strand Advisors, Inc., the general partner of Highland Capital (“Strand”) and James D. Dondero, the President of NexPoint Advisors GP and Strand and ultimate control person of Strand XVI, NexPoint Advisors GP and Strand (collectively, the “NexPoint Group”), and the nominees for election as directors of the Company (the “Nominees”, and together with the NexPoint Group, the “Participants”), who include Mark T. Goglia and Stephen A. Mongillo. The NexPoint Group has an interest in the matters to be acted on at the Annual Meeting as they have nominated two independent directors for election at the Annual Meeting and NexPoint has stated its willingness to step-in as the external investment manager of the Company. Certain of the Participants hold direct or indirect interests in securities of the Company as follows: Global Fund holds and beneficially owns 335,000 shares of common stock of the Company and Highland Fund Advisors, Strand XVI and Mr. Dondero indirectly beneficially own such shares of common stock of the Company due to their relationship with Global Fund; Select Fund holds of record and beneficially owns 100 shares of common stock of the Company and Select GP, Select LLC, Highland Capital, Strand and Mr. Dondero indirectly beneficially own such shares of common stock of the Company due to their relationship with Select Fund. Each of the Nominees has an interest in being nominated and elected as a director of the Company, but no Nominee beneficially owns any shares of common stock of the Company.