

[Securities Regulation Daily Wrap Up, PROXIES—SEC staff will not respond to shareholder proposal no-action requests, other than state law questions, in coming proxy season, \(Nov. 17, 2025\)](#)

Securities Regulation Daily Wrap Up

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By John Filar Atwood

Due to the backlog of work caused by the government shutdown, as well as sufficient available guidance, only those requests seeking exclusion under 14a-8(i)(1) will be considered.

The SEC's Division of Corporation Finance announced that in the 2025-2026 proxy season it will not respond to no-action requests on, and express no views related to, companies' plans to exclude shareholder proposals under Rule 14a-8, other than under subparagraph (i)(1). The practical effect will be that in many cases the staff will not stand in the way of companies that want to exclude proposals from their proxy statements.

The move was prompted by current resource constraints, but delivers on Chair Paul Atkins' promise to do a "fundamental reassessment" of the shareholder proposal process based on his view that many proposals place a burden on companies without receiving meaningful shareholder support.

In its [statement](#), the Division cited the large backlog of filings review work that built up during the government shutdown. The staff also believes there is an extensive body of guidance from the Commission and the staff available to both companies and proponents on shareholder proposal questions.

Commissioner Caroline Crenshaw sharply [criticized](#) the statement, calling it "an act of hostility toward shareholders." The statement cloaks itself in neutrality, she added, but then gives companies the right to do whatever they want.

"It effectively creates unqualified permission for companies to silence investor voices (with "no objection" from the Commission)," she stated. It is the latest in series of actions by the Commission that will ring the death knell for corporate governance and shareholder democracy, she said.

Lone exception. The lone exception to the staff's new policy are no-action requests to exclude a proposal under Rule 14a-8(i)(1). That subparagraph provides that a proposal may be excluded from a company's proxy materials if it is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization.

Subsection (i)(1) has been under intense scrutiny of late after Atkins' statement at the Weinberg Center for Corporate Governance that there may be no fundamental right under Delaware law for a company's shareholders to vote on precatory proposals, singling out environmental and social proposals as a particularly problematic.

The Division cited those remarks, saying that in light of recent developments regarding the application of state law and subsection (i)(1) to precatory proposals, "there is not a sufficient body of applicable guidance for companies and proponents to rely on." As a result, the staff will continue to review and express its views on no-action requests related to Rule 14a-8(i)(1) until it determines that there is sufficient guidance to assist companies and proponents in their decision-making process.

Companies may request a response. The staff did provide a path for companies that still want to receive some form of response to its notification that it intends to exclude a proposal from its proxy materials on a basis other than 14a-8(i)(1). In those cases, the staff advised that the company or its counsel must include an unqualified representation that the company has a reasonable basis to exclude the proposal based on the provisions of Rule 14a-8, prior published guidance, and/or judicial decisions.

The staff said that it will respond with a letter indicating that, based solely on the company's or counsel's representation, it will not object if the company omits the proposal from its proxy materials. In providing that response, the staff clarified that it will not evaluate the adequacy of the representation or express a view on the basis or bases the company intends to rely on in excluding the proposal.

Crenshaw took issue with this portion of the release, noting that the staff is essentially advising companies to "tell us what you want us to say and we'll bless it." She noted that the staff is not going to object even if it would have disagreed with the company's analysis had it substantively reviewed the submission, or if the representations are unreasonable on their face or contain misrepresentations or omissions.

False impression. The new process will "give the false impression that the Division is not objecting to a company's position because it agrees with the grounds of the submission, when in fact the Division is not objecting because staff have been ordered to rubber stamp those submissions irrespective of their content," she argued.

The announcement applies to the current proxy season running from October 1, 2025 to September 30, 2026, and any no-action requests received before October 1, 2025 to which the staff has not yet responded. The Division of Investment Management intends to follow the same procedures for Rule 14a-8 requests related to investment companies.

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