The Need for Bold Proxy Process Reforms

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Business Roundtable

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I. Overview

The U.S. proxy system allows shareholders of public companies to exercise their voting rights on corporate matters. Recognizing its significance, Congress granted the U.S. Securities and Exchange Commission (SEC) authority to regulate this important proxy process. While substantive corporate governance matters are generally governed by state law, the SEC's role is to ensure the proxy system operates fairly, transparently and efficiently — preserving the integrity of the capital markets.

Over the past two decades, the SEC has engaged with market participants to assess the need to modernize the proxy system. In 2020, it took modest but necessary steps to address these concerns. To better align the interests of shareholder proponents and public companies, the SEC revised Rule 14a-8 to raise the submission and resubmission thresholds for shareholder proposals. It also amended the proxy rules to require key disclosures from proxy advisory firms, improving accountability while maintaining exemptions from overly burdensome filing requirements. Additionally, the SEC issued guidance on investment advisers' fiduciary duties, addressing concerns over "robovoting" and reinforcing advisers' obligation to act in their clients' best interests when voting their shares.

However, under new leadership in 2021, the SEC swiftly reversed these reforms. The Commission not only declined to enforce the 2020 proxy advisory rules but rescinded key provisions through new rulemaking. Moreover, rather than defending its authority, the SEC chose not to appeal a district court ruling that questioned its statutory power to regulate proxy advisory firms. At the same time, its approach to shareholder proposals shifted dramatically. Long-standing interpretations of Rule 14a-8 were rewritten to favor broader inclusion of environmental, social, political and other policy-related proposals. Further, the SEC staff began applying standards from an unfinalized proposed rule — concerning substantial implementation, duplication and resubmission exclusions under Rule 14a-8 — effectively bypassing the formal rulemaking process.

This retreat from responsible regulation has allowed a small but vocal group of activist investors to exploit the proxy system for political purposes. As a result, shareholder proposals focused on environmental, social and political issues have surged, despite having little to no connection to long-term shareholder value. Rather than serving as a tool for informed voting on matters directly tied to company performance, corporate proxy statements have become battlegrounds for political debates. This shift forces all shareholders — regardless of their views — to subsidize the policy agendas of a minority of politicized investors, undermining the integrity of the proxy system.

The SEC's failure to exercise effective oversight has also left proxy advisory firms unaccountable. Despite wielding significant influence over voting outcomes, these firms operate with little transparency or regulatory scrutiny — remaining among the only major participants in the capital markets without meaningful oversight. Concerns over the accuracy and reliability of their voting recommendations and independence continue to grow, as their actions increasingly contribute to the politicization of the proxy process and, in some cases, appear retaliatory toward companies for legitimate decisions.

For example, data from the 2023 and 2024 proxy seasons reveal a stark ideological imbalance: Institutional Shareholder Services (ISS) did not recommend a vote in favor of a single right-leaning environmental, social, or political proposal, yet endorsed a majority of the left-leaning proposals.[1] Additionally, during the 2024 proxy season, Glass Lewis recommended voting against Exxon's independent lead director solely because the company pursued judicial relief under Rule 14a-8 against an activist investor. Notably, Glass Lewis made this recommendation despite its conflict of interest as a member of the Interfaith Center on Corporate Responsibility (ICCR), which actively opposed Exxon's legal action and led media efforts against it.[2]

The current state of the proxy process is unsustainable. Companies are being forced to divert significant resources and attention toward responding to a flood of ideology-driven shareholder proposals — resources that would be better spent driving long-term value creation. These escalating costs ultimately fall on shareholders, yet there is little evidence that such proposals yield meaningful economic benefits.

This problem extends beyond individual companies. As political agendas increasingly influence the proxy process, trust in public companies and capital markets more broadly is eroding. A system that prioritizes political activism over the efficient allocation of capital will ultimately harm the U.S. economy and financial markets, further contributing to the decades-long decline in public companies. Moreover, using corporate governance mechanisms to advance policy objectives outside the democratic process undermines

1 Data from a review of ISS Voting Analytics platform on environmental, social and political shareholder proposals submitted at Russell 3000 companies reveals that ISS did not recommend a vote in favor of any environmental, social or political proposal from right-leaning proponents, while endorsing the majority of proposals from left-leaning proponents. This analysis is based on publicly available data and was referenced in a letter from Senator Bill Hagerty and Representative Bryan Steil to Gary Retelny, President & CEO of ISS: Hagerty, B., & Steil, B. (April 17, 2024). *Letter to Gary Retelny, President & CEO of ISS*. Retrieved from https://www.hagerty.senate.gov/wp-content/uploads/2024/04/ISS-Letter-4.17.24-FINAL.pdf

2 Reuters. (May 15, 2024) Exxon says proxy advisor Glass Lewis should recuse itself from making recommendations. *Reuters*. Retrieved from https://www.reuters.com/sustainability/boards-policy-regulation/exxon-says-proxy-advisor-glass-lewis-should-recuse-itself-making-recommendations-2024-05-15/

accountability and weakens confidence in regulatory institutions. The SEC's mission is to protect investors, maintain fair, orderly and efficient markets and facilitate capital formation. However, if the agency is perceived as prioritizing ideological goals over these core objectives, its credibility — and trust in the regulatory framework supporting our markets — will be at risk.

On February 12, 2025, the SEC took a significant step toward restoring balance by rescinding Staff Legal Bulletin No. 14L (SLB 14L), which had broadened the scope of shareholder proposals that companies were required to include in their proxy statements. Issued in November 2021, SLB 14L had made it more difficult for companies to exclude proposals under the "ordinary business" and "economic relevance" exceptions in Rule 14a-8, particularly those related to environmental, social and political issues — even when they had little direct connection to a company's core operations.

In its place, the SEC issued Staff Legal Bulletin No. 14M (SLB 14M), reinstating the long-standing company-specific approach to evaluating shareholder proposals. This change restored a more objective framework, allowing companies to exclude proposals that raise broad policy issues without a clear relationship to their business. The SEC's swift action — especially in the middle of proxy season — was an encouraging sign of its new leadership's commitment to rebalancing the process. However, while this course correction was necessary, it does not resolve the deeper structural issues that continue to undermine the integrity of the proxy system. To address these challenges, the SEC must act with urgency. Substantive reforms to Rule 14a-8 are critical to prevent activist investors from hijacking the proxy process for political purposes. These reforms must be accompanied by measures to enhance accountability for proxy advisory firms, building upon the foundation of the SEC's 2020 actions.

This report examines these issues in detail. Section II outlines how politicized investors have exploited the shareholder proposal process, aided by SEC actions. Section III examines the SEC's failure to oversee proxy advisory firms and the ongoing concerns surrounding their practices. Section IV explores the significant costs imposed by the current proxy system. Finally, Section V presents concrete policy recommendations to restore responsible regulation and refocus the proxy process on supporting shareholder interests and long-term value creation.

II. Exploitation of the Shareholder Proposal Process

The Original Intent of the Shareholder Proposal Rule

In 1942, the SEC adopted its first shareholder proposal rule, requiring public companies to include in their proxy materials any shareholder proposal deemed a "proper subject for action by the security holders." At that time, the determination of what constituted a proper subject matter for such proposals was left largely to state law, though the SEC established some key guideposts. Specifically, in 1945, the Division of Corporation Finance interpreted the rule to cover only proposals that "relate directly to the affairs of the particular corporation" and concluded that those addressing broader political, social or economic issues were not "proper subjects for action by security holders."[3]

Concerns about potential misuse of the rule emerged early. In 1943, when asked whether it could be exploited by individuals pushing personal causes or ideological agendas, SEC Chairman Ganson Purcell assured Congress that the agency would "make such appropriate changes as might seem necessary" if such abuses arose.[4] At the time, the SEC's role was not to dictate the substance of shareholder proposals but to ensure transparency — overseeing the dissemination of information about valid proposals so shareholders could present resolutions at annual meetings. This framework preserved a critical balance: state law largely determined the scope of permissible proposals, while federal law ensured fair disclosure.[5]

However, because state law provided little guidance on the subject matter of shareholder proposals, the SEC gradually assumed a quasi-judicial role, ultimately becoming the primary arbiter of what could and could not be included in a company's proxy materials.[6] Over time, this authority expanded beyond procedural oversight into substantive decision making — despite the absence of explicit statutory authority for such a sweeping role.

Today, SEC staff effectively serve as the final authority on whether a shareholder proposal can be excluded from a company's proxy statement. While companies have the right to seek judicial review, most rely on the SEC's no-action letter process to resolve these disputes. Litigation is not only costly and time-consuming but also carries the risk of negative publicity and unfavorable proxy advisor recommendations. Unfortunately, the no-

3 Op. of Baldwin B. Bane, Director, Division of Corporation Finance, Release No. 34-3638, 1945 WL 27415 (Jan. 3, 1945).
4 *Hearings before the Committee on Interstate and Foreign Commerce, House of Representatives*, 78th Cong., 1st sess. 163-64 (June 9-11, 1943).
5 See *Proposing Rel. No. 34-87458, Procedural requirements and resubmission thresholds under Exchange Act Rule 14a-8* (Nov. 5, 2019) at fn. 5, citing Securit[ies] and Exchange Commission Proxy Rules: *Hearings on H.R. 1493, H.R. 1821, and H.R. 2019 before the House Committee on Interstate and Foreign Commerce*, 78th Cong., 1st sess. 17–19 (1943) (Statement of the Honorable Ganson Purcell, Chairman, Securities and Exchange Commission).
6 See e.g. Griffith, S. (April 2024). Corporate speech and corporate purpose: A theory of corporate First Amendment rights. *5 Journal of Free Speech Law 3*.

action letter process has become increasingly inconsistent, opaque and arbitrary, with no meaningful avenue for appeal. As a result, companies must navigate a system that lacks both clarity and predictability, fueling growing frustration among issuers.

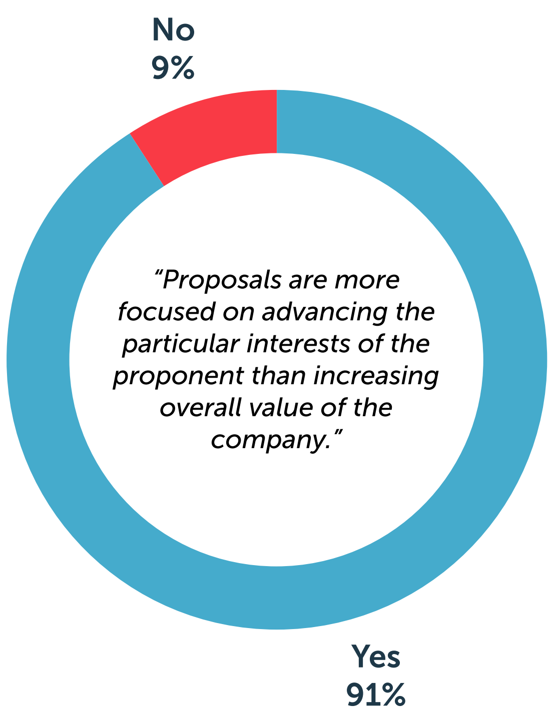
In principle, the shareholder proposal process should foster constructive engagement while minimizing costs for both companies and investors. When functioning effectively, it enables shareholders to raise concerns and ensures companies remain accountable to their owners. However, Business Roundtable believes the process has been increasingly co-opted by special interest groups advancing environmental, social and political agendas — often with little regard for long-term shareholder value. Even more concerning, the SEC has exacerbated this problem by prioritizing these activist interests over those of the broader shareholder base, further politicizing the process and undermining its intended purpose.

Environmental, Social and Political Agendas

Over the past several years, shareholder proposals have increasingly been used as a tool to advance environmental, social and political agendas — many of which have little connection to a company's business strategy or long-term performance. Our 2025 Member Survey found that 91% of respondents agree that shareholder proposals are more focused on advancing the particular objectives of the proponent rather than increasing the value of the company.[7]

Figure 1: Most proposals are intended to advance special interests, not company value

Share of Business Roundtable Members (2025 Survey)



7 Business Roundtable conducted a survey of its members in January 2025 to learn more about their experience with various aspects of the proxy process; 44 companies responded. The statistics in this paper reflect the experiences of the 35 companies that reported receiving at least one shareholder proposal in the typical proxy season.

From 2020 to 2024, the number of shareholder proposals surged, with environmental and social proposals alone rising by 59%.[8,9] These proposals now dominate the shareholder proposal landscape, covering a broad range of issues, including climate change, DEI (Diversity, Equity and Inclusion), human rights and lobbying practices. They are submitted by groups across the political spectrum, from both left-leaning and right-leaning organizations.[10]

A key driver of this increase is a small but highly active group of investors — primarily values-based investors, nonprofits and activist organizations — who submit the majority of shareholder proposals despite having little to no financial stake in the companies they target.[11] Some of these groups work together in varying capacities to submit proposals across multiple companies. Neither the extent of their coordination nor the source of their funding is transparent. In 2024, six of the top ten shareholder proponents focused primarily on environmental or social issues.[12] However, despite their growing prevalence, the success of environmental and social proposals has been mixed. Their approval rates peaked in 2021 at 46% and 15%, respectively, but have since plummeted to just 2% and 0% in 2024.[13]

This heavy concentration of proposals from a narrow set of proponents skews the shareholder proposal process, forcing companies to devote significant resources to addressing issues that reflect the niche interests of a few agenda-driven proponents, with very limited financial interest in the company, rather than the broader priorities of shareholders.

The shareholder proposal rule was never intended to serve as a vehicle for a small subset of investors to advance environmental, social or political agendas at the expense of companies and their long-term shareholders. In fact, the SEC explicitly acknowledged this concern in 1946, stating that "[i]t was not the intent of [the shareholder proposal rule] to permit stockholders to obtain the consent of other stockholders with regard to matters which are of a general political, social, or economic nature."[14] The Commission made clear that companies could exclude proposals made "primarily for the purpose of promoting general economic, political, racial, social, or similar

8 See Gibson Dunn, (July 29, 2024). *Shareholder Proposal Developments During the 2024 Proxy Season*. (noting four consecutive years of increased submissions of proposals and 2024 representing the highest number since 2015). Retrieved from https://www.gibsondunn.com/wp-content/uploads/2024/07/shareholder-proposal-developments-during-the-2024-proxy-season.pdf?v3

9 See Mishra, S. (Nov. 18, 2024). *U.S. shareholder proposals: A decade in motion*. Retrieved from https://corpgov.law.harvard.edu/2024/11/18/u-s-shareholder-proposals-a-decade-in-motion/

10 Belyeu, K. & Goldstein, M. (Aug. 5, 2024). I*n Focus: Shareholder Proposals in the 2024 Proxy Season*. Retrieved from https://insights.issgovernance.com/posts/in-focus-shareholder-proposals-in-the-2024-us-proxy-season/

11 Some activist groups submit shareholder proposals without actually owning any stock in the relevant company by serving as a representative for a shareholder meeting the eligibility requirements. Rule 14a-8(b)(iv) imposes limited requirements on such representatives to provide companies with written documentation attesting to the authorization.

12 See Sullivan & Cromwell, (Aug. 13, 2024). *2024 Proxy Season Review: Part 1*. Retrieved from https://www.sullcrom.com/SullivanCromwell/_Assets/PDFs/Memos/2024-Proxy-Season-Review-Part-1.pdf

13 Mishra. *U.S. shareholder proposals: A decade in motion*.

14 Securities Exchange Act Release No. 3638, 11 Fed. Reg. 10,995 (1946).

causes."[15] At the time, state law was intended to govern the scope of valid shareholder proposals, while the SEC's role was strictly limited to ensuring transparency and disclosure. However, as the SEC has recently expanded its authority over the process, its decisions increasingly favored proponents advancing ideological agendas rather than maintaining a fair and balanced system for all shareholders.

SEC's Empowerment of Special Interests

In 2020, the SEC introduced incremental reforms, including modest adjustments to the submission and resubmission thresholds, to move toward a more reasonable framework that respects both corporate resources and shareholder rights. However, while well-intentioned, these changes failed to prevent politicized investors from exploiting the shareholder proposal process to advance their agendas. British billionaire hedge fund manager Christopher Hohn underscored how the low submission threshold enabled his 2021 campaign to force companies to publish carbon-emission reduction plans, stating: "[y]ou only need to buy $25,000 of stock and hold it for one year to file a shareholder resolution in the U.S. ... With $12 million you can buy enough shares to file them with every company in the S&P 500."[16] Responses to our member survey bear this out. Zero responding companies view the current initial submission thresholds as fully effective at preventing frivolous proposals.

Starting in 2021, the SEC began taking steps to undermine the impact of these reforms, overturning well-established staff interpretations of Rule 14a-8. SLB 14L, for example, reversed long-standing guidance on the ordinary business exclusion, expanding the definition of what constituted a valid shareholder proposal. Instead of evaluating a proposal's relevance to the company, the SEC staff shifted its focus to the broader social policy significance of the issue — placing its staff in the inappropriate position of deciding what qualifies as a "significant social policy issue." This change made it significantly harder for companies to exclude proposals related to environmental and social issues, even when they had little or no connection to the company's business strategy or long-term value.[17] It also discouraged meaningful engagement between proponents and management.

Additionally, the SEC staff reversed precedent in numerous no-action letter responses, further muddying the waters and creating uncertainty for both companies and shareholders.
These decisions have not only increased the politicization of the no-action process but have also led to inconsistent and unpredictable

15 Securities Exchange Act Release No. 4775, 17 Fed. Reg. 11,431, 11,433 (1952).
16 Wirz, M. (Jan. 28, 2021). British Hedge Fund Billionaire Takes Climate Fight to S&P 500. *The Wall Street Journal*. Retrieved from https://www.wsj.com/articles/british-hedge-fund-billionaire-takes-climate-fight-to-s-p-500-11611842401
17 In 2022, only 26% of no-action letter requests seeking exclusion on the basis of Rule 14a-8(i)(7) were granted by the SEC staff. That number has climbed back up to 68% by 2024. See Gibson. *Shareholder Proposal Developments During the 2024 Proxy Season*. 11.

regulatory outcomes, making it more difficult for companies to navigate shareholder proposals effectively.[18]

The Commission's 2022 proposed changes to Rule 14a-8 compounded these challenges by encouraging more shareholder proposals, many of which would have imposed burdensome and overly prescriptive requirements on companies. The SEC's proposals sought to codify increasingly restrictive staff interpretations, making it harder for companies to exclude proposals that: (i) addressed the same subject matter as other

INSIGHTS FROM INDUSTRY

Member companies report a growing trend of shareholder proponents using the proxy process to advance ideologically-motivated policy agendas rather than addressing company-specific risks or governance concerns. Several companies have had experiences in which proponents have explicitly stated that their proposals seek to address broader societal or political objectives rather than material risks to the company.

For example, one company engaged with a repeat proponent who admitted their proposal was purely about general environmental concerns, not company-specific risks. Another company engaged with a proponent seeking a report on political spending alignment, only to have discussions pivot to pressuring the company to not contribute to candidates with certain policy positions. Similarly, a proponent advocating for a racial equity audit acknowledged submitting the same proposal across several different companies, regardless of individual company practices — underscoring a broader policy-driven strategy.

Many companies describe how some proponents refuse to engage in meaningful discussions or consider negotiated outcomes. One repeat proponent openly stated they would not withdraw their proposal, not due to company-specific concerns, but because keeping it on the proxy statement provided a larger platform for their cause.

These experiences reflect a fundamental shift in how shareholder proposals are being used. Rather than using them for tools for constructive engagement, activist proponents have hijacked the process to promote broader political and social objectives that are at odds with a company's business priorities and long-term shareholder value.

Based on comments from the Business Roundtable 2025 Member Survey

18 See e.g. Brief of Alliance Defending Freedom as Amicus Curiae in Support of Petitioners, Nat'l. Ctr. For Pub. Pol'y Rsrch v SEC, No. 26-60230 (5th Cir. July 21, 2023) (detailing SEC Rule 14a-8 no-action letters that allegedly demonstrate that the SEC is engaging in viewpoint discrimination in favor of progressive ESG proposals, while disfavoring religious and conservative proposals).

shareholder proposals already acted upon by the company, (ii) were being presented to shareholders at the same meeting, or (iii) had previously been rejected by shareholders. Even though the rules were never finalized, SEC staff appeared to apply these new standards in practice — creating uncertainty and raising concerns about the agency's adherence to its own rulemaking process.

These changes reflect a troubling trend: the SEC's recent actions seem to prioritize advancing social and political agendas over maintaining a fair and balanced regulatory framework. Shareholder proposals impose real costs — both on companies required to respond (costs ultimately borne by shareholders) and on shareholders who must evaluate and vote on them. Yet, the SEC has increasingly disregarded these costs in favor of policies that do not necessarily reflect the interests of the broader shareholder base. The rescission of SLB 14L on February 12, 2025, and the reinstatement of long-standing guidance on the ordinary business exclusion were positive steps toward restoring balance to the shareholder proposal process. However, they are insufficient to address the persistent abuses of the system. The informal and impermanent nature of staff guidance remains susceptible to change with each new administration.

In addition to changing the standards by which it evaluated no-action letter requests under Rule 14a-8, the SEC has facilitated the circumvention of its own rules. The rise of exempt solicitation filings, for example, has allowed activist groups to build support for shareholder proposals without being subject to the same regulations as traditional proxy solicitations. Proxy advisory firms frequently reference these filings in their voting recommendations, further amplifying their impact. While exempt solicitations are technically subject to Rule 14a-9's prohibition on misleading statements, the sheer volume of these filings raises serious questions about whether the SEC is enforcing its rules effectively.

The 2024 proxy season introduced a new tactic designed to bypass Rule 14a-8. The AFL-CIO and the United Mine Workers of America leveraged the universal proxy rules to pressure Warrior Met Coal, Inc. into including five shareholder proposals in its proxy materials. Using these rules, the proponents prepared their own solicitation materials, secured support from shareholders representing a majority of voting power, and included the company's slate of directors on their proxy card.

While companies in this situation are not required to include shareholder proposals submitted through the universal proxy process in their proxy materials, failing to do so may make it more difficult to monitor quorum during the vote. This approach effectively circumvents Rule 14a-8's limitations, allowing proponents to submit multiple proposals while preventing companies from seeking exclusion of improper proposals. Notably, when the SEC adopted the universal proxy rules in 2021, it did not appear to anticipate this novel strategy for advancing shareholder proposals.

III. Proxy Advisory Firms: Accountability and Reform

The SEC's failure to regulate proxy advisory firms has enabled a duopoly of for-profit foreign entities to dominate the market. ISS and Glass Lewis control an estimated 97% of the industry, exerting substantial influence over shareholder vote outcomes.[19] And a recent study found that when these firms recommend voting against management, their clients are 20% more likely to follow suit — underscoring their outsized impact on corporate governance.[20] This is especially troubling because our member survey found that virtually all (97%) of responding companies experience proxy advisory recommendations that conflict with the position of the majority-independent board. The combination of their unchecked power and lack of meaningful regulatory oversight has eroded the integrity of the shareholder proposal process.

SEC's Abdication of Oversight

In 2020, the SEC took a step in the right direction by adopting rules, following notice and comment, that would have brought much-needed transparency and accountability to the proxy voting process. These rules aimed to ensure that firms benefiting from exemptions under federal proxy rules adhered to appropriate safeguards, including conflict-of-interest disclosures and "notice and awareness" provisions. These provisions required proxy advisory firms to notify companies in advance of their recommendations and to provide clients with a mechanism to review company responses before shareholder meetings.

However, less than a year after adoption, the SEC — under new leadership — abruptly halted enforcement, leading to the misguided 2022 Amendments, which rescinded key provisions, including the notice and awareness requirements.[21]

Ongoing litigation over these shifting rules has led to conflicting court decisions, creating uncertainty in the regulatory landscape. The Fifth Circuit Court of Appeals ruled that the 2022 Amendments were arbitrary and capricious, violating the Administrative Procedure Act, while the Sixth Circuit Court of Appeals reached the opposite conclusion.[22,23] Adding to the complexity, a district court in the District of Columbia held that the SEC lacks the authority under the Exchange Act to define "solicit" in a way that includes proxy voting advice.[24] Although the SEC initially appealed this ruling, it later withdrew its appeal

19 Congressional Research Services. (Jan. 25, 2023). The SEC's proxy advisory firm disclosure reforms. ("2023 CRS article"), 1. Retrieved from https://crsreports.congress.gov/product/pdf/IF/IF11695

20 Shu, C. (2024). The proxy advisory industry: Influencing and being influenced. *Journal of Financial Economics*, 154. Retrieved from https://www.sciencedirect.com/science/article/abs/pii/S0304405X24000333

21 The 2022 Rules also deleted Note (e) to Rule 14a-9, which set forth examples of material misstatements or omissions relating to proxy voting advice.

22 National Association of Manufacturers v. SEC, 105 F.4th 802 (5th Cir. 2024).

23 Chamber of Commerce of U.S. v. SEC, 2024 WL 4132206 (6th Cir. Sept. 10, 2024).

24 Institutional Shareholder Services Inc v. SEC, 1:19-cv-03275 (D.D.C., Feb. 23, 2024).

without explanation. Meanwhile, an intervenor continues to pursue the case, which is now before the DC Circuit Court of Appeals. Business Roundtable filed an amicus brief in this case, emphasizing the need for regulatory oversight of proxy advisory firms to uphold transparency, accountability and fairness in the proxy voting process.

This tangle of conflicting legal opinions has left the SEC without meaningful oversight of proxy advisory firms, granting them an exceptional and unregulated status despite their substantial influence over U.S. capital markets.

Concerns with Proxy Advisory Firms Persist

The SEC's retreat from oversight responsibilities has left unresolved the long-standing concerns that led to the 2020 Rules. These issues continue to undermine the integrity of corporate governance, the reliability of proxy advice, and the interests of shareholders.

Agency problem:
A fundamental issue is the inherent agency problem between proxy advisory firms and the shareholders they advise. These firms operate as third-party contractors to their clients, yet they owe no fiduciary duties to the shareholders of the companies they evaluate, nor do they hold any financial stake in those companies. As a result, proxy advisory firms are insulated from the economic consequences of their voting recommendations, creating a misalignment of incentives that can diverge from the best interests of shareholders.

Conflicts of interest:
The business model of proxy advisory firms presents significant conflicts of interest. For instance, ISS provides consulting services to public companies on the same proxy proposals it evaluates, including its ESG Corporate Rating service. This dual role creates a financial incentive for ISS to recommend votes on proposals in ways that drive further consulting business, raising concerns about the objectivity of its advice. Additionally, as noted earlier, proxy advisors are members of certain groups that support shareholder proposals. Simply disclosing these relationships does not sufficiently mitigate these conflicts.

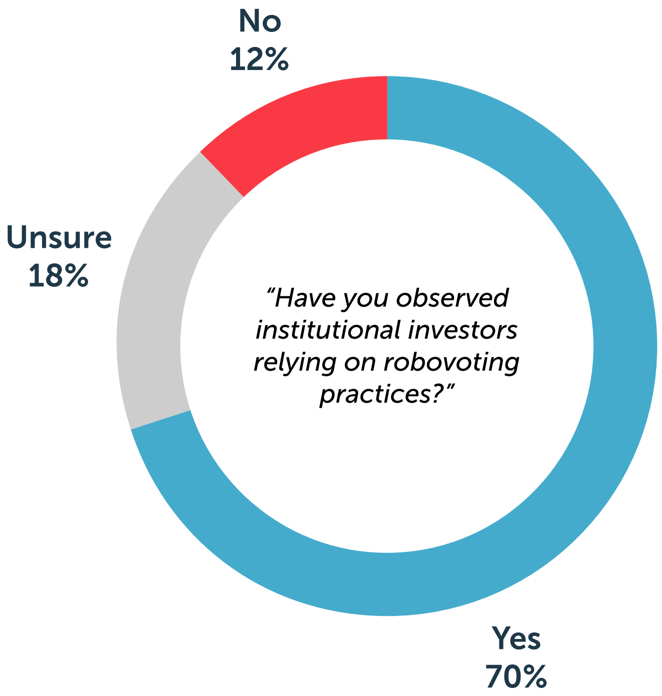
Robovoting and outsized influence on voting decisions:
Robovoting refers to the practice in which institutional investors automatically follow the voting recommendations of proxy advisory firms — often without independent review — by using pre-populated electronic ballots and default voting mechanisms.[25] This practice, facilitated by the electronic voting platforms of ISS and Glass Lewis, allows clients to execute votes en masse with minimal scrutiny, significantly amplifying the influence of these firms over corporate governance.[26]

25 Robovoting does not refer to arrangements where an asset manager enables institutional investors to implement their own proprietary voting policies.
26 Shu. The proxy advisory industry: Influencing and being influenced. 154. The study also estimated that the practice of robovoting has increased to an estimated 23% of ISS's customers and 9% of Glass Lewis's customers as of 2021.

The widespread use of robovoting affects vote outcomes even when proposals fail to pass, as higher vote totals can prevent companies from excluding previously rejected proposals under Rule 14a-8's resubmission exclusion. Additionally, higher vote totals for proposals that fail to pass often require companies to explain their responsiveness to such proposals, under the threat of a proxy advisory firm recommending a vote against a director nominee.[27] Robovoting raises concerns about whether investment advisers are fulfilling their fiduciary duties when delegating proxy voting decisions without meaningful oversight. In 2020, the SEC issued guidance outlining steps investment advisers should take to ensure their voting decisions align with clients' best interests. However, since the change in leadership in 2021, the Commission has not taken meaningful action to assess whether firms are complying with this guidance, leaving these concerns unaddressed.

Figure 2: Most members observe robovoting by institutional investors

Share of Business Roundtable Members (2025 Survey)



Accuracy of voting recommendations:
The accuracy of proxy advisory firm recommendations remains a persistent issue. Business Roundtable CEO surveys consistently reveal that nearly all respondents have identified factual errors in proxy advisory reports about their companies. Our member survey revealed that, over the last five years, nearly two-thirds of responding companies faced factually incorrect or incomplete voting recommendations frequently or occasionally; 100% of the responding companies reported contending with incorrect or incomplete inaccuracies, if left unchallenged, can mislead investors and distort shareholder decision-making.

Lack of economic analysis supporting recommendations:
Proxy advisory firms fail to provide rigorous economic analyses to justify their voting recommendations. Instead, their reports rely on subjective assessments of what is "best" for shareholders, often disregarding the informed judgments of a majority-independent board acting in the corporation's and shareholders'

27 See ISS. (Jan. 9, 2025). United States Proxy Voting Guidelines, Benchmark Policy Recommendations at 9 (stating that director nominees will be judged by responsiveness to "significant support for shareholder proposals").

best interests, as their fiduciary duties require. This is particularly troubling in light of a finding from our 2025 Member Survey that nearly two-thirds of respondents experience recommendations that are primarily based on political or ideological criteria. Without regulatory or legislative requirements for proxy advisory firms to "show their work," shareholders risk being guided by recommendations that lack objective analytical support.

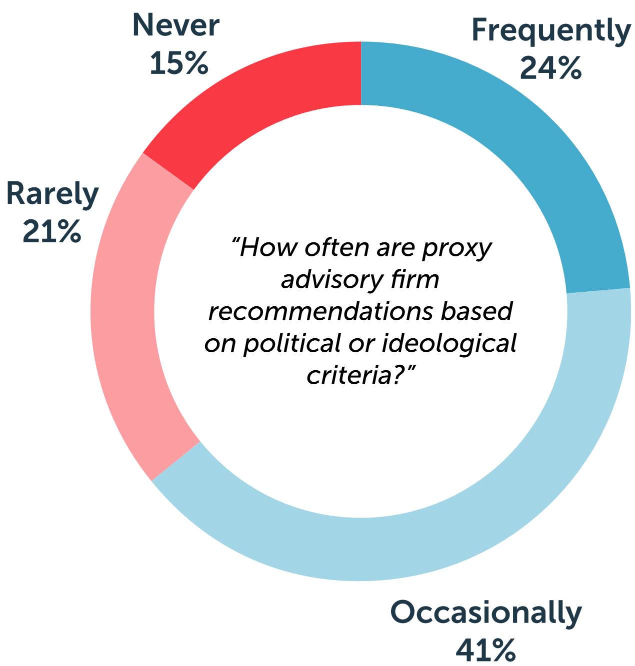
Foreign ownership and influence: Compounding these concerns is the fact that the two dominant proxy advisory firms are foreign-owned. ISS is controlled by Deutsche Börse, a German company, while Glass Lewis is owned by Peloton Capital, a Canadian private equity firm. As a result, foreign entities exert substantial influence over U.S. energy and social policy and corporate governance, in ways that may not align with the interests of American shareholders.

One-size-fits-all approach: Proxy advisory firms, as profit-driven entities, prioritize efficiency and scale over company-specific analysis. This results in standardized recommendations that fail to account for the unique circumstances of individual companies.

This one-size-fits-all approach is particularly insidious with respect to executive compensation; driving compensation practices to the mean, stifling innovation, and depriving

Figure 3: Proxy advisory firm recommendations are often ideologically driven

Share of Business Roundtable Members (2025 Survey)



on individual approaches. It also leads to inappropriate and incomplete assessments of corporate decisions. For example, proxy advisory firms often make flawed peer group selections when evaluating executive compensation decisions.[28]

Moreover, unlike corporate issuers, which must adhere to U.S. GAAP in their audited financial statements, proxy advisory firms use non-GAAP assumptions and methodologies when valuing

28 Business Roundtable. (June 3, 2019) Supplemental comment letter on SEC staff roundtable on the proxy process. Retrieved from https://www.sec.gov/comments/4-725/4725-5619758-185567.pdf at 13. See also Business Roundtable. (Feb. 3, 2020). Comment letter on amendments to exemptions from the proxy rules for proxy voting advice. Retrieved from https://www.sec.gov/comments/s7-22-19/s72219-6742505-207780.pdf at 8

stock options. This practice inflates option valuations, disadvantaging companies.

As a result, companies often resort to issuing public letters to shareholders to defend their executive compensation decisions and counter flawed proxy advisor analyses. However, given the outsized influence of proxy advisors and the prevalence of robovoting, these efforts may be insufficient to counteract the effects of an adverse proxy advisor recommendation.

Disenfranchising shareholders on executive compensation:
Proxy advisory firms impose arbitrary thresholds that override shareholder intent when making recommendations on management proposals related to executive compensation. ISS, for example, subjects companies to additional scrutiny if a say-on-pay proposal receives less than 70% support, potentially recommending votes against both the proposal and compensation committee members.[29] Glass Lewis applies an even higher threshold of 80%.[30] These policies effectively disenfranchise the majority of shareholders who vote in favor of management's proposal, undermining the principle of shareholder democracy.

Undermining management's discretion:
Laws and regulations often provide public company management with flexibility in how they comply with corporate governance requirements. However, proxy advisory firms frequently impose their own preferred compliance paths, effectively overriding the discretion granted to companies by Congress or the SEC.

For example, the Dodd-Frank Act requires companies to hold "say on frequency" votes, which allow shareholders to decide whether say-on-pay votes should occur every one, two or three years. While management is explicitly permitted to recommend any of these options, proxy advisory firms strongly advocate for annual votes. As a result, most large companies adopt this recommendation, often without a meaningful opportunity to evaluate whether a different frequency would better suit their shareholders.

INSIGHTS FROM INDUSTRY

One member company noted that proxy advisory firms often base their recommendations on ideological reasoning — and never on economic analysis. In some cases, both ISS and Glass Lewis endorsed a proposal based on analyses that ignored key concerns like legal and regulatory risks, competitive disadvantages, and costs, instead focusing solely on peer disclosure trends.

Based on comments from the Business Roundtable 2025 Member Survey

29 ISS. (Dec. 13, 2024). United States executive compensation policies frequently asked questions. Retrieved from https://www.issgovernance.com/file/policy/active/americas/US-Compensation-Policies-FAQ.pdf?v=2024.12.1 at 8

30 Glass Lewis. (2025). United States 2025 benchmark policy guidelines. Retrieved from https://resources.glasslewis.com/hubfs/2025%20Guidelines/2025%20US%20Benchmark%20Policy%20Guidelines.pdf at 52

A similar dynamic emerged with the SEC's consideration of no-action letter requests relating to SEC Rule 14a-8(i)(9) during the 2014-15 proxy season. Rule 14a-8(i)(9) allows companies to exclude shareholder proposals that directly conflict with management proposals. Historically, companies could seek no-action relief from the SEC staff to confirm that a proposal met this exclusion. However, in January 2015, the SEC announced it would not provide views on the rule's application during the proxy season, leaving companies with discretion in determining whether they could exclude certain proxy access proposals. In response, some companies opted to omit these proposals based on their own legal assessments. Shortly thereafter, ISS issued guidance stating that it would generally recommend votes against directors of companies that omitted such proposals, effectively pressuring companies into compliance with ISS's preferred approach.

By coercing companies into following their preferred governance frameworks, proxy advisory firms act as unaccountable regulators, undermining the discretion that laws and regulations are meant to provide. This practice is even more troublesome in the executive compensation context, where the objectivity of proxy advisory firms recommendations is undermined by the sales of executive compensation consulting services to public companies.

Targeting directors with retaliatory recommendations:
Proxy advisory firms have increasingly targeted individual directors for decisions made in accordance with their fiduciary duties. During the 2024 proxy season, for example, Glass Lewis recommended voting against Exxon's independent lead director solely because the company pursued litigation — a fundamental legal right — against an activist investor and sought declaratory relief under Rule 14a-8.[31] Additionally, proxy advisory firms routinely recommend votes against board members at companies that decline to implement non-binding shareholder proposals, regardless of merit. These retaliatory tactics undermine board independence and erode shareholder democracy by punishing directors for making sound business decisions.

In light of these persistent and systemic issues, meaningful reform is needed to ensure that proxy advisory firms operate with greater transparency, accountability and alignment with shareholder interests.

31 Kerber, R. (May 13, 2024) Glass Lewis recommends votes against Exxon director Hooley, citing lawsuit. *Reuters*. Retrieved from https://www.reuters.com/sustainability/boards-policy-regulation/glass-lewis-recommends-votes-against-exxons-hooley-citing-lawsuit-2024-05-13/

IV. Costs and Consequences: The Price of a Broken System

Burden on Companies

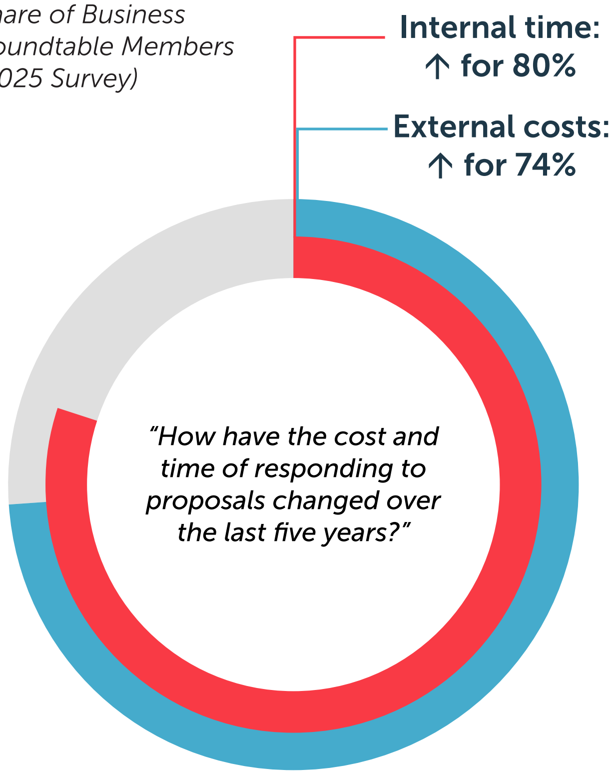
The shareholder proposal system imposes a significant and unnecessary burden on companies, diverting resources from core business operations and long-term value creation. Each year, companies spend millions navigating a complex and often duplicative process to address shareholder proposals. While these costs may be warranted when proposals enhance shareholder value, they offer no clear benefit when focused on environmental, social or political issues misaligned with business objectives. In these cases, the financial burden far outweighs any potential value to shareholders.

The financial and operational costs of this system are substantial and far-reaching. Companies frequently incur significant legal and advisory expenses, hiring outside counsel, proxy solicitation firms and other consultants to navigate the SEC's no-action process and assess the viability, legality and implications of proposals. Additionally, senior executives and board members must dedicate considerable time to these matters — time that could be better spent on strategy, operations and innovation. According to our member survey, nearly 20% of responding companies spend over $500,000 in external costs managing and responding to shareholder proposals in a typical season, including some small-cap firms. Moreover, 75% of respondents have seen external costs spent on shareholder proposals increase over the last five years.

Even when proposals are ultimately excluded through the no-action process, companies still incur significant costs. Beyond legal fees, internal teams — including legal, compliance and investor relations — must devote substantial time to analyzing, responding to, and managing these proposals. Our 2025 Member Survey found that more than 75% of respondents spend over 100 hours each

Figure 4: Most companies now face higher costs in shareholder proposal management

Share of Business Roundtable Members (2025 Survey)



proxy season on shareholder proposals, underscoring the significant resource drain. When proposals make it into proxy statements, the burden intensifies. Companies must engage in prolonged negotiations with proponents, draft opposition materials, and conduct extensive shareholder outreach to explain their concerns and build support — often requiring direct involvement from C-suite executives and independent directors. These efforts divert critical resources and can delay decision making on other strategic priorities. Management and directors are often forced to spend a disproportionate amount of time engaging with activist investors on these matters instead of shareholder engagement geared toward long-term value creation. Ultimately, shareholders bear the financial burden, as companies have fewer resources to invest in long-term growth.

Impact on Institutional and Retail Investors

The current shareholder proposal process imposes significant costs not only on companies but also on the very investors it is meant to serve. Institutional investors, such as pension funds and asset managers, dedicate substantial resources to reviewing and analyzing the growing volume of proposals submitted each year. This requires employing in-house governance teams or relying on proxy advisory firms to assess the relevance and impact of each proposal — costs that are ultimately passed on to their clients, including retirees, savers and other beneficiaries. These expenses become even more difficult to justify when environmental, social and political proposals fail to create shareholder value or provide any tangible benefit to investors.

Some of the largest asset managers have raised concerns about the increasing number of proposals that lack economic merit or fail to align with long-term shareholder value. One major asset manager further observed that most shareholder proposals in 2023 were disconnected from, or even detrimental to, the financial interests of investors.[32]

Retail investors face even greater challenges. Unlike large institutional investors, individual shareholders typically lack the resources to navigate the often complex and lengthy proxy materials that accompany each proposal. For those who attempt to participate, the time and effort required can be overwhelming, leading many to rely on third-party guidance to make informed decisions.

These costs are further compounded by the broader corporate expenses outlined earlier, which ultimately reduce shareholder value

32 Anderson, D. and Brown, J. (April 29, 2024) For or against? The year in shareholder resolutions—2023. Retrieved from [Blog post] https://corpgov.law.harvard.edu/2024/04/29/for-or-against-the-year-in-shareholder-resolutions-2023/. See also Anderson, D. and Brown, J. (2024), For or against? The year in shareholder resolutions–2023. Retrieved from https://www.troweprice.com/content/dam/gdx/pdfs/2024-q2/pdf-for-or-against-the-year-in-shareholder-resolutions-2023-apac.pdf ("Traditionally, the purpose of shareholder-sponsored resolutions in these markets was understood to be for long-standing investors to offer nonbinding recommendations for consideration by other shareholders on ways a company might increase shareholder value or reduce risk by improving transparency or oversight of certain practices clearly tied to value creation. Today, our analysis suggests that proposals of this nature represent less than half of the total.")

and diminish investment returns. For both institutional and retail investors, the current system fosters inefficiencies that shift attention away from meaningful corporate oversight and toward a proliferation of proposals that often lack financial justification or relevance.

Costs of Proxy Advisory Firms and Robovoting

The growing reliance on proxy advisory firms and the widespread practice of robovoting are injecting politicized decision-making into the proxy process, undermining trust in public markets. Proxy advisory firms wield outsized influence, often issuing one-size-fits-all recommendations that fail to account for the specific circumstances of individual companies. This approach amplifies ideological agendas, pulling corporations into political debates rather than focusing on long-term financial performance and shareholder value.

These practices weaken confidence in the integrity of public markets, contributing to an environment where companies are increasingly hesitant to pursue initial public offerings or remain publicly traded. The perception that public companies are weighed down by proxy-driven distractions and agenda-driven voting has made private markets — where businesses operate free from the pressures of politicized shareholder proposals — an increasingly attractive alternative. This shift has broader economic consequences, reducing opportunities for retail investors to participate in wealth creation through public equity markets.

Ultimately, this trend harms the very investors the proxy system is meant to serve. A shrinking pool of public companies results in fewer investment opportunities, reduced diversification and constrained growth for retirement accounts and savings plans. In 2024, the number of public companies available to investors had fallen to 3,636 — nearly half of the more than 7,000 that existed in 1997.[33] Restoring fairness and transparency to the proxy process is critical to maintaining vibrant public markets and ensuring they remain a powerful engine for economic opportunity and growth.

33 See SEC Office of the Advocate for Small Business Capital Formation. (December 2024) 2024 Annual Report at 34. Retrieved from https://www.sec.gov/files/2024-oasb-annual-report.pdf

V. Necessary Reforms to Shareholder Proposals and Proxy Advisory Firms

The current proxy process is unsustainable, with companies forced to respond to an increasing volume of ideology-driven shareholder proposals. These proposals often impose significant costs on companies without delivering meaningful economic benefits to shareholders. At the same time, proxy advisory firms exert outsized influence over corporate governance, frequently operating with minimal oversight and conflicts of interest.

To restore balance to the system and prioritize long-term shareholder value, both Congress and the SEC must act. Rule 14a-8 must be reformed to prevent activist investors from hijacking the process. And oversight of proxy advisory firms must be strengthened to ensure that proxy advisory firms operate with transparency and accountability.

Reforming Rule 14a-8 (Shareholder Proposal Process)

Restore Rule 14a-8 to its original intent

The SEC has enabled activist investors to exploit the shareholder proposal process to push ideological agendas that undermine long-term shareholder value. Moreover, managing and responding to these proposals — including lengthy and uncertain engagements with SEC staff — are costly and time-consuming, and siphon critical company resources away from more productive uses. Congressional action is needed, but if Congress is unable to act, the SEC should take action to amend the rule and revise its guidance to close loopholes that force companies to include proposals unrelated to their financial performance, and to ensure that the proxy process serves investors' best interests. Specific recommendations include:

- Congress should enact legislation precluding the inclusion of shareholder proposals relating to environmental, social and political issues in a company's proxy statement.
- If new legislation is not enacted, the SEC should:
  - » Amend Rule 14a-8 to add an exclusion for proposals relating to environmental, social and political issues.
  - » Update Commission guidance to eliminate: (1) The significant social policy exception under Rule 14a-8(i)(7); and (2) The broad social or ethical concern exception under Rule14a-8(i)(5).

Raise submission and resubmission thresholds

The current submission and resubmission thresholds under Rule 14a-8 fail to ensure that proponents have meaningful skin in the game or a long-term stake in the company. The SEC's 2020 amendments did not adequately balance the interests of proponents with those of long-term shareholders, leaving the rule vulnerable to exploitation. Specific recommendations include:

- Modernize submission and resubmission thresholds to reflect cost-benefit considerations and shareholder interest (e.g., use percentage-based thresholds).

- Add a momentum requirement: Exclude proposals submitted three or more times in five years if support falls below 50% and declines by 10% or more.

Prevent Rule 14a-8 workarounds

Proponents submit exempt solicitations without meaningful accountability for false or misleading information, while universal proxy rules create a loophole to bypass the entire Rule 14a-8 process. Specific recommendations include:

- Clarify that exempt solicitations relating to shareholder proposals may only be filed by the proponent of the shareholder proposal, if the proponent meets the $5 million threshold in Exchange Act Rule 14a-6(g)(1).
- Amend universal proxy rules to prevent their use as a workaround for Rule 14a-8.

Restrict co-filers and proposal agents

Despite Rule 14a-8's procedural limits restricting proponents to one proposal per company, the same individuals often appear as co-filers or on engagement calls, undermining the rule's intent and allowing circumvention of its restrictions. Specific recommendations include:

- Amend Rule 14a-8 to permit exclusion of a proposal when a single individual or entity is, directly or indirectly, acting as the proponent, representative or agent with respect to two proposals submitted to the same company for the same annual meeting.

Improve SEC staff review process

Companies face increased costs when the SEC staff delays responses to no-action requests until the last moment. The absence of a formal appeals process for Rule 14a-8 no-action determinations further undermines accountability and certainty, leaving companies without a clear path to challenge decisions. Specific recommendations include:

- Establish an appeals process for SEC staff Rule 14a-8 no-action letter decisions, including a mechanism for full Commission review.
- Update the timeline for providing responses to no-action requests and eliminate the requirement for companies to send opposition statements to proponents in advance of filing the proxy statement.

Creating Accountability for Proxy Advisory Firms

Confirm SEC authority to regulate proxy advisory firms

The complex web of litigation arising from the SEC's 2020 and 2022 rulemakings relating to proxy advisory firms has created uncertainty as to the scope of the SEC's authority in regulating proxy advisory firms. Specific recommendations include:

- Congress should expressly confirm the SEC's authority to regulate proxy advisory firms.
- The SEC should defend its interpretation of "solicitation" under the Exchange Act in ongoing litigation with ISS. The SEC should

also enforce the 2020 rules once litigation is resolved.

Prohibit robovoting

Robovoting gives proxy advisory firms disproportionate influence over vote outcomes, raising concerns about whether investment advisers using this practice can fulfill their fiduciary duties. Specific recommendations include:

- Congress or the SEC should prohibit robovoting, ensuring asset managers conduct independent analyses before voting.

Require an economic analysis for proxy advisory recommendations

Proxy advisory firms impose subjective judgments on what is "best" for shareholders, often ignoring the informed decisions of a majority-independent board acting in the corporation's and shareholders' best interests. Specific recommendations include:

- Congress or the SEC should require proxy advisory firms to justify any vote recommendation that contradicts a majority-independent board's decision with a clear economic analysis demonstrating its benefit to shareholders.

Eliminate conflicts of interest

Proxy advisory firms evaluate shareholder proposals while simultaneously selling consulting services to the same companies receiving those proposals. These inherent conflicts of interest are too significant to be addressed through disclosure alone. Specific recommendations include:

- Congress or the SEC should prohibit proxy advisory firms from engaging in practices that create conflicts of interest or eliminate undue influence.

Limit proxy firms' ability to impose subjective preferences

Proxy advisory firms pressure companies to adopt their preferred governance and executive compensation frameworks, effectively acting as unaccountable regulators and undermining the flexibility intended by laws and regulations. For example, while the Dodd-Frank Act grants companies discretion to hold say-on-pay votes annually, biennially, or triennially, most large companies opt for annual votes due to pressure from proxy advisory firms. Specific recommendations include:

- Congress or the SEC should prohibit proxy voting advice that either: (1) Undermines board discretion (e.g., executive compensation decisions); or (2) Is based on prior shareholder support levels, effectively imposing a supermajority requirement that disenfranchises a lawful shareholder majority.
- The SEC should require adherence to U.S. GAAP for valuation-based voting advice. Proxy voting advice that relies on non-GAAP assumptions and methodologies for valuing stock options often leads to inflated award valuations and inconsistencies with the disclosure requirements imposed on companies.