

From the Governance, Securities & Reporting Group of Weil, Gotshal & Manges LLP

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SEC Staff Announces They Will Not Express Substantive Views on Requests to Exclude Most 14a-8 Shareholder Proposals for the 2025-2026 Proxy Season

Companies can proceed with excluding shareholder proposals without the Staff's input

No Substantive Staff Responses to Most Requests to Exclude Proposals Under Rule 14a-8

The staff (Staff) of the SEC's Division of Corporation Finance (Division) announced in a [statement](#) yesterday that, "[d]ue to current resource and timing considerations following the lengthy government shutdown and the large volume of registration statements and other filings requiring prompt staff attention, as well as the extensive body of guidance from the Commission," they would not respond to no-action requests for, nor express substantive views on, companies' intent to exclude shareholder proposals under Rule 14a-8 from their proxy materials, other than no-action requests to exclude a proposal under Rule 14a-8(i)(1).¹

This announcement applies to the current proxy season (October 1, 2025 – September 30, 2026), and no-action requests received before October 1, 2025, to which the Division has not yet responded.

Companies are Still Required to Notify the SEC and Proponent of Their Intent to Exclude Proposals

Pursuant to Rule 14a-8(j), companies that intend to exclude shareholder proposals must still notify² the Commission and proponents no later than 80 calendar days before filing a definitive proxy statement. (Though the Staff's statement reminds companies and proponents that this notification requirement is informational only, and that there is no requirement for companies to seek the Staff's views on their intent to exclude a proposal, or for the Staff to respond).

Companies Can Still Request the Staff's Acknowledgement of Their Intent to Exclude Proposals

Although the Staff will not respond *substantively* to submissions regarding companies' intent to exclude shareholder proposals, other than proposals relating to Rule 14a-8(i)(1), companies can request an acknowledgment of their intent to exclude a proposal. If a company wishes to receive such acknowledgement, it must include in its Rule 14a-8(j) notification an unqualified representation that the company has a reasonable basis to exclude the proposal, based on Rule 14a-8, prior published guidance, and/or judicial decisions. In such instances, the Staff will respond with a letter indicating that, based solely on the company's representation, the Staff will not object if the company omits the proposal from its proxy materials. The Division will not, however, evaluate the adequacy of the representation or express a view as to the basis upon which the company intends to rely in excluding the proposal.

Companies that have already submitted a request relying on a basis for exclusion, other than Rule 14a-8(i)(1), and that wish to receive a Staff response should submit a notice to the Division that includes the representation described above. In those cases, the time of the initial submission will apply for purposes of the 80-day requirement in Rule 14a-8(j).

The Staff Will Continue to Review No-Action Requests Related to Rule 14a-8(i)(1)

In light of recent developments regarding the application of state law and Rule 14a-8(i)(1) – proposals that are not a proper subject for action by shareholders under state law – to precatory proposals,³ the Staff concluded that there is not a sufficient body of applicable guidance for companies and proponents to rely on, and as such, will continue to review and express its views on no-action requests related to Rule 14a-8(i)(1) “until such time as it determines there is sufficient guidance available to assist companies and proponents in their decision-making process.”⁴

The Staff of the Division of Investment Management Will Follow a Similar Process

The staff of the Division of Investment Management, responsible for responding to Rule 14a-8 requests related to investment companies, will follow a substantially similar process as that set forth above.

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¹ In a separate [statement](#), SEC Commission Caroline Crenshaw blasted the Division’s announcement, calling it a “giveaway to issuers [rather] than an exercise in resource allocation, and “an act of hostility toward shareholders.” Commissioner Crenshaw went on to describe the announcement as “a Trojan horse [cloaked] in neutrality by expressing that the Division will not weigh in on any company’s exclusion of shareholder proposals, but then [...] hands companies a hall pass to do whatever they want. It effectively creates unqualified permission for companies to silence investor voices (with “no objection” from the Commission).”

² Rule 14a-8(j) notices must be submitted to the Division using its online [Shareholder Proposal Form](#). Note, that the Form still requires companies to state substantive bases for exclusion to submit the notification; but, we were informed by the Staff that the Form will be revised to include an option to indicate the submission is being solely for this purpose, and that no Staff response is expected.

³ See SEC Chair Paul Atkins’ [Keynote Address at the John L. Weinberg Center for Corporate Governance’s 25th Anniversary Gala](#), Oct. 9, 2025.

⁴ Commissioner Crenshaw also took issue with the Division’s statement that there is “not a sufficient body of guidance,” noting that there have been no changes in changes in law, but rather a change in “institutional policy.”

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