Governance & Securities Alert

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The End of an Era: SEC Proposes to Rescind Shareholder Proposal Rules and Modernize the Proxy Solicitation Process

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On September 16, 2026, the Securities and Exchange Commission (the "SEC") proposed two landmark rulemakings that would fundamentally change the shareholder proposal and engagement landscape. The first proposal would rescind Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and amend Exchange Act Rule 14a-4(c) accordingly. The second proposal is intended to modernize key aspects of the proxy solicitation process. In this Alert, we summarize the SEC's proposed rule changes and their potential impact on public companies.

Rescission of Rule 14a-8 and Amendments to Rule 14a-4(c):

The SEC proposed rescinding Rule 14a-8, which establishes the federal framework through which eligible shareholders may submit proposals for inclusion in a company's proxy materials. In the proposal, the SEC states that Rule 14a-8 exceeds the SEC's statutory authority, and that various developments in the shareholder proposal process, as well as unintended consequences since its adoption, have "rendered Rule 14a-8's original justifications less compelling. If the proposed changes are adopted, the ability of shareholders to submit and vote on shareholder proposals at annual meetings will largely be determined by applicable state laws and a company's governing documents, subject to the federal proxy rules and applicable securities laws.

This proposal is not unexpected. Chair Atkins has clearly signaled an interest in substantially scaling back Rule 14a-8, and the Division of Corporation Finance indicated that it would stop responding to no-action and no-objection requests relating to shareholder proposals. For our prior discussion of the Staff's decision and its implications for public companies, see our prior Alert here.

The SEC has also proposed to amend Rule 14a-4(c), which governs a company's ability to exercise discretionary authority on matters raised at a shareholder meeting. Under the proposal, a company could exercise discretionary voting authority with respect to timely submitted shareholder proposal, provided that specified information regarding the proposal is included in the proxy statement and on the proxy card. This amendment is intended to address the absence of the Rule 14a-8 framework and would provide companies with greater flexibility to vote uninstructed proxies on shareholder proposals outside of a company's proxy materials. This change could prove particularly significant if, following the rescission of Rule 14a-8, shareholders increasingly pursue proposals through exempt or independent solicitation campaigns rather than through company proxy statements.

Amendments to Filing Preliminary Proxy Statements

The SEC also proposed corresponding amendments to Rule 14a-6(a) to limit the scope of when a company would need to file a preliminary proxy statement that includes a shareholder proposal. Under the proposal, just the inclusion of a shareholder proposal in a company's proxy materials (or the exclusion of a proposal), without a corresponding non-exempt solicitation made by the shareholder proponent, would not require the company to file a preliminary proxy statement. If, however, (i) the company includes a shareholder proposal in (or excludes from) its proxy materials and (ii) the shareholder proponent prepares and distributes its own proxy materials to shareholders, the company would be required to file a preliminary proxy statement.

Amendments to Modernize the Proxy Process

In a separate release, the SEC proposed a series of amendments intended to modernize the proxy solicitation framework, eliminate outdated requirements, reduce compliance costs and reflect advances in technology and shareholder communications. These changes propose to:

- **Eliminate the Delivery of the Glossy Annual Report.** The proposed rules would eliminate the annual report delivery requirement under Rule 14a-3(b). Instead, companies would be required to file or furnish their Form 10-K (or an EDGAR-furnished annual report satisfying the rule's requirements) before the proxy statement is first sent or made available to shareholders. Public companies may nonetheless choose to deliver an annual report to security holders voluntarily.
- **Eliminate Stock Performance Graph**. As a part of the proposed elimination of the annual reporting, the SEC proposes to eliminate Item 201(e)'s stock performance graph requirement as otherwise readily available online.
- **Eliminate the 20-Business-Day Proxy Delivery Requirement for Incorporation by Reference.** Citing the availability of materials on EDGAR, the SEC proposes to remove the requirement for companies to send a proxy statement to shareholders at least 20 business days before the meeting date in order to incorporate by reference into the proxy statement. Comparable requirements in Forms S-4 and F-4 would likewise be removed, providing companies with additional flexibility in transaction and proxy timelines.
- **Eliminate Notices of Exempt Solicitation.** The proposed rules would rescind Rule 14a-6(g) thereby eliminating the ability for persons conducting exempt solicitations to file notice materials with the SEC. The SEC noted that most notices are "voluntary" filings made by shareholders who hold less than the $5 million threshold required for filing, are oftentimes duplicative or already public and distract from required SEC filings. Further, as shareholders have other ways to publicize their views (press releases, third-party sites), the notice no longer serves its original purpose of providing notice of non-public solicitations by large shareholders.
- **Accelerating Broker Search.** The proposed rules would amend Rule 14a-13 to reduce the minimum "broker search" period from 20 business days to five business days, reflecting technological developments that have led to more efficient coordination between parties involved in the broker search process. This change could potentially accelerate M&A transaction timing and proxy contests by moving forward with meetings more quickly, thereby narrowing the window in which market volatility, competing bids, or regulatory changes could disrupt a pending deal before the shareholder vote.
- **Add Contact Information to Proxy and Information Statements.** The proposal would revise the cover pages of Schedule 14A and Schedule 14C to require registrants to include contact information (i.e., a name, address and telephone number) for a representative that can answer questions about the filing.
- **Other Changes**. The proposals include other amendments to various rules and forms to reflect the implementation of such amendments and correct various errors that are non-substantive and technical in nature.

The proposed changes contemplated in both releases are not yet effective, and the public comment period concerning such changes will remain open for sixty days following the publication of the proposed releases in the Federal Register (which has not yet occurred).

What To Do Now?

Ahead of the adoption of these proposed rule changes, companies should consider preparing for their impact, including:

- **Reassess the company's shareholder proposal framework.** If Rule 14a-8 is rescinded, shareholder proposals will no longer be governed by a uniform federal process. Companies should review their governing documents and consider how state law, advance notice provisions and other bylaw requirements would apply to shareholder proposals in the absence of the federal regime. Companies may also wish to evaluate whether amendments to their bylaws are appropriate to provide greater clarity regarding the submission and consideration of shareholder proposals. In particular, companies should consider whether it would be appropriate to amend their bylaws, including to implement minimum ownership or holding-period thresholds to limit proposals from shareholders with only a nominal or transitory interest.
- **Evaluate the implications of expanded discretionary voting authority.** The proposed amendments to Rule 14a-4(c) could alter the mechanics of how shareholder proposals are addressed at annual meetings. Companies should assess how the ability to exercise discretionary voting authority over certain shareholder proposals may affect meeting administration, shareholder outreach strategies and the balance between management flexibility and shareholder influence.
- **Prepare for an evolving shareholder engagement landscape.** If Rule 14a-8 is eliminated, some proponents may increasingly rely on independent or exempt solicitation campaigns rather than seeking inclusion in company proxy materials. Companies should consider whether existing governance, investor relations and shareholder engagement practices are well-positioned for a more decentralized shareholder proposal environment.
- **Review annual meeting and proxy season procedures.** The proposed modernization amendments could alter longstanding proxy preparation, solicitation and disclosure practices. Companies should identify any processes, timelines and advisor relationships that may need to be adjusted if the amendments are adopted, particularly with respect to proxy statement preparation, exempt solicitations and annual report distribution practices.
- **Consider the optics.** The SEC has proposed to eliminate decades-old federal shareholder-rights mechanism. This change is already drawing attention from investors, proxy advisors and media. Companies should brief their investor relations and governance teams now on how to field questions at upcoming meetings and investor calls, rather than waiting for the comment period to play out and final rules to be adopted.

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If you have questions concerning the contents of this Alert, or would like more information, please speak to your regular contact at Weil or to any of the following members of the Governance, Securities & Reporting Group:

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