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Compliance Update

Key Considerations for 2026 Annual Reporting Season

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This is the first annual reporting and proxy season in recent years in which there are no new disclosure requirements compared to the prior year. Nevertheless, a shift in focus by institutional investors and different SEC priorities under the Trump administration require a change in approach to a number of key disclosures. This alert discusses ESG, AI, cybersecurity, DEI and general drafting considerations for the annual reporting and proxy season, proxy advisor policy updates, the shifting proxy advisor environment and changes to the Rule 14a-8 shareholder proposal exclusion process. It also highlights what to expect from the evolving legislative and regulatory landscape during 2026.

Drafting Considerations

US-Facing Disclosures on Environmental or Social Factors

We anticipate the 2026 annual reporting season will follow the trend that started last year in the United States of a broad shift away from climate and "ESG"-related reporting, with many (although not all) companies generally concluding that most disclosures on those topics are not material for the purposes of their Form 10-Ks and providing only legally mandated disclosures in the Form 10-K and in other locations, such as corporate websites and separate sustainability/impact reports. While Europe continues to pursue a detailed ESG reporting agenda (see "Omnibus I" below), companies subject to U.S. reporting obligations should ensure that any non-mandated disclosures arising out of or in connection with environmental or social matters are limited, clear and, where practicable, linked to the financial interests of shareholders. Development of any such disclosures is typically conducted with advice from lawyers and economists/consultants.

Beyond SEC reports, companies must contend with environmental disclosures required by state regulations:

- California is moving forward with the implementation of SB 253 (the California Climate Corporate Data Accountability Act) and SB 261 (the Climate-Related Financial Risks Act). Both laws are currently being challenged by a business coalition in the Ninth Circuit, which granted a preliminary injunction to suspend enforcement of SB 261. SB 253's first reporting requirement is scheduled to come into effect on Aug. 10. The California Air Resources Board (CARB) also released draft reporting templates[1] and guidance in October 2025, as well as a preliminary draft list of in-scope entities. CARB released draft regulations for certain aspects of SB 253 and SB

261, and additional regulations to clarify other aspects of these news laws are expected but have not yet been released. A public meeting hosted by CARB is scheduled for Feb. 27.

- California has already implemented AB 1305, the Voluntary Carbon Market Disclosures Act, which mandates public disclosures that trigger when a company makes claims of achievement of "net-zero", "carbon neutrality" or claims of "significant reductions" of greenhouse gas (GHG) emissions, as well as disclosures relating to the buying, selling and marketing of carbon credits.

- Other states proposed similar climate-related disclosure rules in 2025, including New York (S.B. 3456), Colorado (H.B. 25-1119), New Jersey (S.B. 4117) and Illinois (H.B. 3673). On Dec. 1, 2025, New York issued its final regulations requiring GHG reporting disclosures starting in 2027 from carbon-intensive businesses located or operating in New York capturing 2026 emissions. While narrower than California's climate disclosure laws and impacting only specific high emissions sectors, the New York regulations are another indication that some states with Democratic party majorities will seek to mandate climate disclosures in the future.

- In step with the broader trend against disclosures relating to environmental factors, the U.S. Environmental Protection Agency proposed a rule that effectively ends the Greenhouse Gas Reporting program and announced plans to rescind some greenhouse gas reporting requirements under the Clean Air Act.

Companies will need to continue tracking these disparate disclosure obligations and publish them in the location that achieves the best outcome for the company (e.g., corporate website, sustainability/impact report, etc.).

EU-Facing Disclosures on Environmental or Social Factors

In a strategic pivot aimed at bolstering EU competitiveness and reducing administrative friction, EU institutions formally approved the "Omnibus I" package in mid-Dec. 2025. This landmark package narrows the scope of companies captured by the Corporate Sustainability Reporting Directive (CSRD) and the Corporate Sustainability Due Diligence Directive (CSDDD).

The CSRD is a mandatory EU regulatory framework for disclosure, measurement and reporting on the sustainability performance of a company. Among other requirements, the CSRD requires a "double materiality" assessment, whereby businesses must disclose both "financial materiality" (how sustainability affects the company's finances) and "impact materiality" (how the company impacts people and the environment). CSDDD is closely linked to CSRD and requires large companies to undertake due diligence to identify and remediate negative human rights and environmental impacts in downstream and upstream operations and supply chains.

For U.S. companies with a presence or significant exposure to Europe, the Omnibus I package delivers:

1. A reduction in scope of both CSRD and CSDDD while still mandating detailed disclosures on environmental and social factors compared to other markets.
2. Simplification of the reporting mechanics.

Furthermore, the CSDDD's controversial requirement for undertakings to create and implement a climate transition plan was deleted in its entirety.

U.S. companies with subsidiaries that will be in scope of the rules from Jan. 1, 2027, should ensure that these subsidiaries develop a compliance plan in 2026 to enable compliance with those EU regulatory reporting obligations. For details of the qualification criteria and a fuller summary of the reforms please see our client alert.

AI

SEC Chairman Paul Atkins recently remarked, "Our principles-based rules were intentionally designed to allow companies to inform investors of material impacts of any new development, including how AI affects their financial results, how AI can be a material risk factor to an investment, and how AI is a material aspect of their business model." In line with his general goal of streamlining required disclosures, Chairman Atkins indicated that he does not currently see a need for the development of AI-specific disclosure rules.

As a result, in preparing its Form 10-K, a company should consider how its use of AI fits into the existing disclosure framework and focus on accurately describing its AI capabilities, avoiding hyperbolic disclosure or claims that AI is more advanced, capable, autonomous or proprietary than it is. The discussion should consider how the technology could improve the company's results of operations, financial condition and future prospects. Descriptions of future AI prospects should be limited to those with an underlying reasonable basis. In addition to accurately describing the AI and its use and capabilities, disclosure should include a discussion of risks associated with the use of AI and limitations of AI tools. All disclosure should be tailored and specific rather than boilerplate and should be commensurate with its underlying materiality to the company.

More than just drawing an SEC comment, "AI-washing" can give rise to enforcement. In April 2025, the SEC brought its first AI-washing enforcement action under the Trump administration against Albert Saniger, the founder and former CEO of Nate, Inc., a privately held technology startup, alleging that Saniger violated Section 17(a) of the Securities Act, Rule 10(b) of the Exchange Act and Rule 10b5-1 thereunder through misrepresenting to investors the extent of AI integration into the company's app.[2]

Cybersecurity

Companies are now accustomed to their disclosure obligations under the SEC's cybersecurity disclosure regime adopted in 2023 but should nevertheless review their Item 106 disclosure with a critical eye.[3] These disclosures are intended to provide investors insight into companies' cybersecurity risk management and strategy as well as governance oversight, which in turn inform whether a company is reasonably disclosing cybersecurity risks.

The SEC has issued a limited number of Item 106-related comments, generally focused on ensuring companies' technical compliance with the rule. When drafting Item 106 disclosures, companies should ensure they disclose the relevant experience of each member of senior management (i.e., members of an information security oversight committee) responsible for assessing and managing material risks from cybersecurity threats, not just the relevant experience of their chief information security officer, and be sure to include disclosure responsive to each subsection of Item 106(b) to avoid drawing a comment.[4]

In addition, some companies are going beyond the items specifically delineated by the SEC to incorporate responses applicable to the Governance QualityScore issued by ISS (e.g., whether they have information security risk insurance, how many directors have information security skills and whether the company experienced an information security breach in the last three years).

Annual reporting season also provides a good time for a company to review what "materiality" means for the company. As a reminder, in determining materiality, the SEC instructed public companies to evaluate both quantitative and qualitative factors, considering immediate fallout and any longer-term effects on its operations, customer relationships, financial impact, reputational or brand perception, and the potential for litigation or regulatory action.[5] / [6]

DEI

There was a contraction in DEI-related disclosure in the 2025 annual reporting season with companies reducing or reframing disclosure to focus on terms such as "belonging," "inclusion," or "equal opportunity," instead of "diversity" and "equality," and pivoting to more explicit emphasis on merit-based decision-making practices. Now that companies have had a chance to gauge investor reaction and to benefit from

their peers' 2025 annual disclosure, we expect that many companies will continue to move away from DEI-related disclosures in their Form 10-Ks, proxy statements and standalone ESG report.

Counsel should carefully review any disclosures to ensure that they comply with legal requirements and align with company programs and policies. Consideration should be given to feedback from shareholders, recent court decisions, a shift in federal strategy regarding enforcement of antidiscrimination laws and the threat of shareholder litigation.[7]

ISS and Glass Lewis have not changed their approach toward board diversity disclosures for the 2026 proxy season. For a second year, ISS will not take diversity factors into account in its voting recommendations while Glass Lewis will continue to flag if its recommendations for director election proposals are based on, at least in part, diversity considerations and offer an alternative recommendation not taking into account diversity considerations.

Other Macro Trends

Companies should keep in mind the following pertinent matters and reflect any necessary changes throughout their annual report:

- **Government Shutdown:** What impact did the extended duration and uncertainty of the recent government shutdown have on the company's operations, if any? Is the prospect of future prolonged government shutdowns and full scope of related impacts adequately accounted for in the company's risk factor and MD&A discussion?

- **Tariffs:** Throughout 2025, U.S. trade policy fluctuated, introducing a myriad of new challenges from increased costs of goods to interruptions in supply chains and changes in consumer sentiment. Companies should continue to assess the impact of the shift in U.S. trade policy and tariffs on their business section, MD&A, risk factors and financial statements.

- **Geopolitical Conflict:** Though changing in scope, ongoing geopolitical conflict is a well-worn disclosure topic. As companies review their existing disclosure regarding geopolitical risks, not only should they consider updates related to the protracted nature of the Russia/Ukraine conflict and the evolving conflict in the Middle East but also should consider the potential impacts of U.S. military action in South America.

Proxy Advisor Policy Updates

ISS and Glass Lewis updated guidelines for the 2026 proxy season do not contain substantive changes from the prior year. Both firms updated their executive compensation policies and pay-for-performance models. Notably, ISS updated its approach to board responsiveness to a low say-on-pay vote (i.e., a vote supported by less than 70% of votes cast), providing grace for companies that are unable to obtain specific shareholder feedback despite their disclosed meaningful efforts to engage. Furthermore, ISS will now consider significant corporate activity (e.g., a merger or proxy contest) and any other relevant compensation action or other factor when assessing board responsiveness. ISS also shifted its policy regarding high non-employee director pay to provide that adverse recommendations may be warranted in the first year presenting egregious director pay rather than only if there is an established pattern. On the other hand, Glass Lewis adopted a scorecard approach in lieu of a grading system in its pay-for-performance policy and consolidated its policy regarding charter and bylaw amendments into a single section, specifying that proposed amendments will be reviewed on a case-by-case basis and highlighting its opposition to the bundling of amendments in one proposal.

Please see **Annex A** for a year-over-year comparison of ISS' and Glass Lewis' major policy updates.

The Shifting Proxy Advisor Environment

ISS and Glass Lewis have both announced important changes to their business models that will impact the 2026 proxy season:

- *Glass Lewis.* 2026 will be the last year in which Glass Lewis issues single proxy research reports that include vote recommendations and analysis based on "in-house" proxy voting guidelines. Starting in 2027, Glass Lewis will issue separate research reports covering a given company, reflecting the multiple viewpoints of its clients. When announcing this shift, CEO Bob Mann stated, "[a]s institutional investors take increasingly different approaches to voting preferences, the traditional one-size-fits-all model of proxy advice no longer meets the needs of a diverse client base. Instead, investors want proxy voting frameworks and guidance that reflect their own unique investment strategies, stewardship goals and voting preferences." By 2028, Glass Lewis commits to moving all clients to custom voting advice, aligned with their needs. Furthermore, Glass Lewis announced that it will register as an investment adviser.

- *ISS.* ISS will continue to issue its proxy research report and voting recommendations, but has introduced two new products, Gov360 and Custom Lens. Gov360 will provide research reports divorced from voting recommendations, and Custom Lens will enable customers to customize research reports based on their proprietary voting policies. ISS is already a registered investment adviser.

There are a number of legislative, executive and judicial actions pending or being considered that may also impact proxy advisor recommendations in the coming year (likely after proxy season):

- **Federal:** Recent administrations, both Republican and Democratic, have sought to regulate proxy advisors over the past decade through SEC rulemaking and guidance. In Dec. 2025, President Trump issued an executive order outlining a multi-pronged approach to curtail proxy advisors' influence through rule making and enforcement by the SEC, Federal Trade Commission (FTC) and Department of Labor. There are also multiple bills pending in Congress that seek to regulate proxy advisors. For example, the Corporate Governance Fairness Act would require "major" proxy advisory firms to register as investment advisers under the Investment Advisers Act of 1940, H.R. 3402 would require institutional investment managers to file an annual report with the SEC disclosing certain information when they engage with proxy advisory firms and the Stopping Proxy Advisor Racketeering Act would amend the Exchange Act to prohibit proxy advisory firms from providing advice if they have a conflict of interest. It was reported in Nov. 2025 that the FTC launched an investigation into whether ISS and Glass Lewis violated antitrust laws, with the FTC focused on the firms' competitive practices and guidance on DEI and ESG issues.

- **State:** A number of states including Arkansas, Florida, Kansas, Oklahoma and West Virginia have adopted laws regulating how state entities vote their interests in public company investments, limiting what information (like proxy advisor recommendations) can be taken into account.

  Texas has gone further with the signing into law in June 2025 of Senate Bill 2337, which regulates proxy advisors providing voting recommendations or other proxy advisory services to public companies headquartered or incorporated in, or redomesticating to, Texas. The law imposes mandatory disclosure and other obligations on proxy advisory services "not provided solely in the financial interest of the shareholders," including advice based on ESG or DEI factors, and recommendations that are inconsistent with a board's recommendation. The law is currently stayed pending judicial review.[8]

  In July, the Missouri Attorney General launched an investigation into and filed lawsuits against ISS and Glass Lewis seeking compliance with demands for information regarding their promotion

of "radical" ESG and DEI agendas. In September 2025, the Texas Attorney General announced its investigation of Glass Lewis and ISS alleging their potential misdirection of investors and public companies through prioritizing "radical political agendas" over "sound financial principles." In November 2025, the Florida Attorney General filed an enforcement action against ISS and Glass Lewis alleging that the firms misled Florida consumers, used their influence to impose an ESG agenda and agreed to move in lockstep to prevent competition.

- **Recent Court Decision:** In July 2025, the U.S. Court of Appeals for the District of Columbia Circuit ended more than five years of uncertainty and confusion by ruling that proxy voting advice issued by proxy advisors is not a "solicitation" under the Exchange Act. Absent an appeal to the Supreme Court, the court's decision effectively ends the SEC's long-running regulatory effort to hold proxy advisors accountable based on the theory that their recommendations constitute a "solicitation" under the proxy solicitation provisions of the Exchange Act.

Rule 14a-8 Shareholder Proposal Exclusion Process

The impact of the SEC's statement on the Division of Corporation Finance's role in the Rule 14a-8 process during this year's proxy season is uncertain and could result in a greater number of shareholder proposals being included in public companies' proxy statements.[9] In the absence of an SEC no-action letter, companies may be reluctant to conclude that they can rely on an exemption to exclude a shareholder proposal from their proxy materials due to the risk of a shareholder bringing a challenge in court. On the other hand, the new process could also impact negotiation tactics with proponents, shifting power back to companies in light of the SEC's position.

ISS addressed the SEC's position in a new FAQ, highlighting the longstanding importance of the shareholder proposal process as a right embedded within state law and the federal securities statutes. In the absence of the SEC's guidance, ISS directs companies to utilize the extensive body of precedent regarding shareholder proposal topics and their appropriateness of being presented for a shareholder vote. ISS further instructs companies to clearly explain their decision to exclude a proposal on the "ordinary business" grounds or pursuant to the "substantial implementation" or "directly conflicts" exclusions and provides for cascading consequences in the absence of a clear and compelling argument for a proposal's exclusion, ranging from highlighting the exclusion in a proxy research report to issuing a contentious flag to recommending against one or more of a company's agenda items.

Glass Lewis weighed in on the SEC's position in its policy guidelines, providing that the shareholder proposal process is a fundamental component of the corporate governance process, responsible for bringing about important corporate governance reforms like declassified boards and highlighting the importance of providing shareholders the opportunity to vote on all matters of material importance. Despite these benefits, Glass Lewis also noted that not all shareholder proposals serve shareholders' long-term interests and can place undue burden on companies. The proxy advisor reserved the right to update its approach to shareholder proposals mid-season, as developments arise.

Reminders

There are a few additional housekeeping items companies should add to their list this year.

- **SOX Certifications:** Principal executive and financial officers are required to certify annual and quarterly reports pursuant to Sections 302 and 906 of the Sarbanes-Oxley Act. In the SEC's 2024 AI Use Case Inventory it revealed that it plans to use AI to help identify non-compliant Section 302 certifications. Companies should review their SOX certifications to ensure the language matches the statute to avoid drawing an SEC comment.

- **Rule 405 Proxy Disclosures:** Reporting companies are required to disclose in their proxy statements (or Form 10-K if it includes Part III information) any delinquent reports to be filed

under Section 16(a) for Section 16 filers. It is expected that the volume of late Section 16 reports may have increased in 2025 because of the transition to EDGAR Next. Companies should review the timeliness of Section 16 reports to accurately capture any delinquencies.

- **XBRL Tagging:** The SEC made an announcement in July 2025 reminding reporting companies to ensure proper scaling of public float figures in XBRL tagging and to check for consistency between the date reported and the date tagged. Companies should be sure that their public float figures are accurately tagged, particularly if they elect to spell out "millions" rather than disclose the full number.

Looking Ahead

There are a number of ongoing legislative and regulatory priorities that could impact 2026. The SEC's Spring 2025 Regulatory Flexibility Agenda previewed the SEC's intent to rationalize disclosure practices, modernize the shelf-registration process, enhance accommodations available to EGCs and update exempt offering pathways, among other things. The SEC is also considering feedback received during the Roundtable on Executive Compensation Disclosure Requirements and in response to its concept release on foreign private issuer eligibility.[10]

Furthermore, following remarks by President Trump regarding the unduly burdensome nature of quarterly reporting obligations, Chairman Atkins has suggested that the SEC will propose rules allowing reporting companies to make financial disclosures on a semiannual basis, rather than quarterly.

On the legislative side, the recently adopted Holding Foreign Insiders Accountable Act subjects the directors and officers of foreign private issuers to Section 16(a) reporting obligations and there are a number of pending bills that could impact capital raising and disclosure like the Expanding WKSI Eligibility Act which, if adopted, would reduce the public float required for an issuer to achieve WKSI status to $400 million.[11]

With well-established disclosure obligations in the crosshairs of potential change, it will be important for companies to stay abreast of legislative and regulatory changes during 2026.

Annex A

The following tables summarize the primary changes each proxy advisor made to its voting standards for the 2026 proxy season.

ISS Updates		
	2025 Policy	**2026 Policy**
Unequal Voting Rights	Generally vote withhold or against directors of a company with a common stock structure with unequal voting rights, with some limited exceptions.	Revised to apply to any multi-class capital structure with unequal voting rights. Exceptions to this policy have been expanded to include convertible preferred shares that vote on an as-converted basis and situations where high voting stock is limited in duration and applicability, such as to overcome low voting turnout and approval of non-controversial agenda items. There is no change to the exception to the policy for newly public companies with a sunset provision of no more than seven years.
Dual Class Structure	Generally vote against the adoption of a new class of common stock in the absence of a compelling rational.	Expanded to specify that it will also generally recommend against the creation of a new class of preferred stock that has voting rights superior to common unless certain conditions are met.
Pay-for-Performance	ISS considers alignment of a CEO's pay relative to its peer group as well as relative to the company's total shareholder return (TSR).	Increased the measurement period for the alignment between a company's peer group TSR rank and CEO pay rank to five years from three years. Adjusts the measurement period for the CEO's total pay relative to peers to include a one- and three-year measurement period rather than looking at the most recent fiscal year. If the primary analysis demonstrates significant unsatisfactory long-term pay-for-performance alignment, additional qualitative factors will be considered, which have been updated to include: vesting and/or retention requirements for equity awards that demonstrate long-term focus.
Compensation Committee and Board Responsiveness	If there is a failure to adequately respond to the company's previous say-on-pay proposal that received less than 70% of the votes cast, ISS will consider enumerated factors, including a discussion of the company's levels of engagement with major institutional investors, those investors' specific concerns leading to a lack of support for the say-on-pay proposal and other meaningful actions taken in response to shareholder concerns.	The board responsiveness policy was updated to note that if a company is unable to obtain specific feedback from shareholders, but discloses meaningful engagement efforts, ISS will make an assessment based on the company's actions in response to the say-on-pay vote as well as the company's explanation as to how it benefits shareholders. Furthermore, the additional factors ISS will consider were updated to include recent significant corporate activities like a merger or proxy contest. The compensation committee responsiveness policy was updated to cross-reference the factors set forth in the

ISS Updates		
	2025 Policy	**2026 Policy**
		board responsiveness policy rather than to list them separately.
High Non-Employee Director Pay	Generally vote against directors on the committee setting non-employee director compensation when there is a two or more year pattern of excessive non-employee director compensation that is not outweighed by a compelling rationale or other mitigating factors.	Revised to note that the pattern does not have to be shown through consecutive years of high pay and to specify that an adverse recommendation could be made in year one if director compensation is considered egregious.
Equity Plan Scorecard	Equity compensation plans are evaluated using an equity plan scorecard, which includes three pillars with each pillar containing several factors to be considered. The three pillars are: Plan Cost, Plan Features and Grant Practices.	Revised the factors under Plan Features to include "cash-denominated award limits for non-employee directors" as a factor for evaluation. Revised the factors under Grant Practices to: (i) remove the three-year lookback when evaluating the vesting schedule for CEO equity grants; (ii) remove the reference to how the estimated duration of the plan is calculated; and (iii) modify the factor related to the proportion of the CEO's equity grants that are performance-based to note that whether they are performance-based shall be determined by ISS. In addition, ISS specified that a plan's lack of positive Plan Features could be an overriding factor causing it to provide an adverse recommendation.
Political, Social and Environmental Shareholder Proposals	Generally vote for proposals requesting that a company disclose information on risks related to climate change, provide a report on greenhouse gas emissions, provide a report on company or supplier human rights standards or provide disclosure regarding a company's political contributions. Vote on a case-by-case basis on proposals that call for greenhouse gas reduction goals, based on a variety of factors.	Revised the policy to provide that proposals related to disclosure on climate change risks, reports on greenhouse gases, reports on company or supplier human rights practices and requests for political contribution disclosure will be assessed on a case-by-case basis, taking into account additional factors.

Glass Lewis Updates		
	2025 Policy	**2026 Policy**
Mandatory Arbitration	No standalone section.	If a company includes mandatory arbitration provisions for claims under federal securities laws in its governing documents upon completion of its IPO, spin-off or direct listing, and alongside other restrictive provisions, Glass Lewis may recommend voting against members of the governance committee.

Glass Lewis Updates		
	2025 Policy	**2026 Policy**
		Glass Lewis will generally recommend against any proposal seeking to adopt such provisions unless the company meets certain requirements.
Pay-for-Performance	Glass Lewis evaluated a company's pay-for-performance using a scorecard approach pursuant to which companies were assigned a letter grade of A, B, C, D or F based on the alignment of pay and performance.	Glass Lewis adopted a scorecard approach assigning points to companies through six tests, including: (i) Granted CEO Pay vs. TSR; (ii) Granted CEO Pay vs. Financial Performance; (iii) CEO STI Payouts vs. TSR; (iv) Total Granted NEO Pay vs. Financial Performance; (v) CEO Compensation-Actually-Paid vs. TSR; and (vi) Qualitative Factors, with a company's final score the weighted sum of the six tests. Total points are further viewed through the lens of five categories, each indicating a corresponding level of concern with scores between 0-20 warranting severe concern and scores between 81-100 of negligible concern.
Rule 14a-8 Procedures	Glass Lewis voting recommendations consider: • The nature of the underlying issue. • The benefit to shareholders. • The materiality of the differences between the terms of the shareholder proposal and management proposal. • The context of a company's shareholder base, corporate structure and other relevant circumstances. • A company's overall governance profile and, specifically, its responsiveness to shareholders. Glass Lewis may recommend voting against members of the governance committee if a company has excluded a shareholder proposal that Glass Lewis views as detrimental to shareholders.	Glass Lewis continues to consider the same factors and views the right of shareholders to file proposals as critical to the proper functioning of corporate governance. Glass Lewis has, however, removed the language regarding recommending against members of the governance committee and has instead noted that it will monitor the impact the SEC's changes to the no-action request process have on the 2026 proxy season and may update its guidelines.
Board Diversity	Introduced a supplemental statement on diversity considerations given the federal government's stated goal to end illegal discrimination and preferences, including DEI, pursuant to which Glass Lewis announced it will flag all recommendations on director election proposals that are based, at least in part, on diversity	No change since the 2025 Supplemental Statement on Diversity Considerations at US Companies.

Glass Lewis Updates		
	2025 Policy	**2026 Policy**
	considerations and offer a second recommendation disregarding diversity.	
Shareholder Rights	Glass Lewis evaluates the performance of the governance committee based on the protections of shareholder rights. Glass Lewis will consider recommending that shareholders vote against the chair of the governance committee or the entire committee when the board has amended the company's governing documents to reduce or remove certain shareholder rights.	Glass Lewis broadened the list of reductions in shareholder rights that will cause them to consider a recommendation against the governance committee chair or entire committee to include amendments to governing documents that (i) limit the ability of shareholders to submit shareholder proposals or file derivative suits or (ii) implement a plurality voting standard for the election of directors, rather than a majority voting standard.
Supermajority Voting	Glass Lewis believes that a simple majority is generally the appropriate standard to approve all matters presented to shareholders.	Glass Lewis will review proposals to eliminate supermajority vote requirements on a case-by-case basis. In cases where there is a large or controlling shareholder, Glass Lewis believes that a supermajority requirement may be appropriate to protect the interests of minority shareholders.
Amendments to Governing Documents	No standalone section.	Proposed amendments will be evaluated on a case-by-case basis. Glass Lewis is opposed to bundling several amendments to governing documents into a single proposal, and in such cases will recommend voting for the proposal only when, on balance, the amendments are in the best interests of shareholders. In general, Glass Lewis will recommend voting for amendments that are unlikely to have a material negative impact on shareholders' interests.

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If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings lawyers:

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[1] These templates are voluntary for the 2026 reporting cycle.

[2] The Division of Enforcement has also brought actions against companies for AI-washing made in disclosure documents filed with the SEC. For example, on Jan. 14, 2025, the SEC accepted a settlement offer from Presto Automation Inc., a formerly publicly listed restaurant technology company, which the SEC alleged had violated Section 17(a)(2) of the Securities Act, Section 13(a) of the Exchange Act and Rules 13a-11 and 13a-15 thereunder through making materially false and misleading statements regarding the ownership and autonomy of the company's AI-powered automated voice ordering technology in its SEC filings and related securities offerings.

[3] *See* The SEC Adopts Cybersecurity Disclosure Regime for Public Companies for an overview of the cybersecurity disclosure regime.

[4] The SEC issued comment letters seeking disclosure regarding the integration of a company's processes for assessing, identifying and managing material risks from cybersecurity into the company's overall risk management system or processes; the levels of engagement with assessors, consultants, auditors or other third parties in connection with a company's processes for assessing, identifying and managing material cybersecurity threats; and a company's processes to oversee and identify risks from threats associated with the use of third party services.

[5] Erik Gerding, *Disclosure of Cybersecurity Incidents Determined To Be Material and Other Cybersecurity Incidents* (May 21, 2024), https://www.sec.gov/newsroom/speeches-statements/gerding-cybersecurity-incidents-05212024.

[6] *See* SEC Cybersecurity Incident Disclosure Report for additional insights.

[7] *See* What Employers Need to Know about the SCOTUS Affirmative Action Decision, Public Company Update: Fifth Circuit Vacated Nasdaq Board Diversity Rules, The "Ending Illegal Discrimination" Executive Order: What Does it Mean for Employers?, Federal Contractors With DEI Policies at Increased Risk of False Claims Act Liability, Maryland District Court Enjoins Portions of Anti-DEI Executive Order: What Does This Mean, Fourth Circuit Court of Appeals Stays Preliminary Injunction of Anti-DEI Executive Order and EEOC and DOJ Guidance on 'DEI-Related Discrimination' for an overview of the shifting legal and regulatory context shaping the evolving DEI landscape.

[8] *See* Regulating Proxy Advisors: Court Rules Advice Is Not a 'Solicitation' and Texas Enacts Its Own Law for additional information on the Texas law.

[9] On Nov. 17, 2025, the SEC released a statement that it will not respond to no-action requests for companies' planned exclusions of shareholder proposals brought under Rule 14a-8, *except* for no-action requests based on an exclusion pursuant to Rule 14a-8(i)(1), which allows companies to exclude shareholder proposals that are improper under state law in the jurisdiction of organization. If a company plans to exclude a shareholder proposal from its proxy materials, it must still notify the SEC of its intention to do so no later than 80 days before it files its definitive proxy statement and form of proxy, regardless of whether the company was eligible to request no-action relief from the SEC for such exclusion. The SEC is willing to provide a letter indicating it will not object to the exclusion of a proposal if the company includes in its notification an unqualified representation that the company has a reasonable basis to exclude the proposal from its proxy materials pursuant to Rule 14a-8, prior published guidance or judicial decisions.

[10] *See* SEC Concept Release on Foreign Private Issuer Eligibility: A Portent for the Foreign Private Issuer Regulatory Framework? for an overview of the concept release and Public Company Watch: Q2 2025 for a summary of the SEC Roundtable on Executive Compensation.

[11] *See* Foreign Private Issuers to Be Subject to Section 16(a) Reporting Obligations for additional information.