

# Memorandum

## SEC Division of Corporation Finance Announces Limited Engagement on Exclusion of Shareholder Proposals for the Upcoming Proxy Season

November 17, 2025

On November 17, 2025, the SEC's Division of Corporation Finance announced that, during the 2025–2026 proxy season, due to resource constraints following the government shutdown and the breadth of existing guidance issued by the staff, the SEC staff will not respond to no-action requests or express views on companies' intended reliance on Rule 14a-8 for exclusion of shareholder proposals in their proxy materials, except for requests related to state-law based exclusions under Rule 14a-8(i)(1).<sup>1</sup> Pursuant to the statement:

- **Notification of exclusion is still required.** Companies seeking to exclude proposals submitted pursuant to Rule 14a-8 will still be required to notify the SEC staff and proponents under Rule 14a-8(j) no later than 80 days before filing their definitive proxy statement. That said, the SEC staff will not be providing substantive feedback on those notifications.
- **Companies can voluntarily seek a formal response from SEC staff.** To the extent a registrant desires to receive a formal response from the SEC staff, the statement indicates that such companies or their counsel can include in their submission an unqualified representation that the company has a reasonable basis to exclude the proposal under the rule, prior guidance or judicial decisions. In such cases, the SEC staff will issue a letter stating it will not object to the exclusion without assessing the validity of the basis itself.
  - Importantly, the statement asserts that prior SEC staff responses to no-action requests are not binding and any prior negative response to a request for no-action relief would not preclude a company from forming a reasonable basis to exclude a proposal based on similar grounds.
- **Approach applies for the duration of the 2025–2026 proxy season.** According to the statement, this updated approach applies to the current proxy season (October 1, 2025 – September 30, 2026) and any pending no-action requests submitted before the government shutdown on October 1, 2025. Companies that have already submitted such requests and wish to receive a formal response must now include the required representation to trigger a reply from the SEC staff.

<sup>1</sup> See [SEC.gov | Statement Regarding the Division of Corporation Finance's Role in the Exchange Act Rule 14a-8 Process for the Current Proxy Season](#).

## Key Takeaways

This announcement will likely have a significant impact on the upcoming proxy season, with the expectation that many issuers will avail themselves of this increased flexibility which would force proponents to evaluate their options with respect to excluded proposals. We anticipate that many companies will elect to exclude proposals and receive a formal SEC response through the process outlined above, while other companies may be more reticent in the face of optics or other considerations. Even in cases where issuers do not elect to receive a formal SEC response, we would anticipate that companies looking to exclude shareholder proposals under Rule 14a-8 will document their analysis and reasoning in their files in order to support a conclusion that there is a reasonable basis for exclusion, as well as in preparation for possible future challenges.

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For further information regarding this memorandum, please contact one of the following authors:

### NEW YORK CITY

**Karen Hsu Kelley**  
+1-212-455-2408  
[kkelley@stblaw.com](mailto:kkelley@stblaw.com)

**Charles Mathes**  
+1-212-455-2258  
[charles.mathes@stblaw.com](mailto:charles.mathes@stblaw.com)

**Joshua Traube**  
+1-212-455-7469  
[joshua.traube@stblaw.com](mailto:joshua.traube@stblaw.com)

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