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Trump Executive Order Targets Proxy Advisors Over DEI and ESG Influence

Posted in: Glass Lewis, ISS, Proxy Advisors, SEC
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Executive Order Overview

President Trump signed an executive order Thursday titled *Protecting American Investors from Foreign-Owned and Politically-Motivated Proxy Advisors* (see related fact sheet) seeking "to end the outsized influence of proxy advisors that prioritize political agendas over investor returns." The order follows *Wall Street Journal* reporting last month that the administration was preparing such an action to curb proxy advisors' influence on shareholder votes at public companies.

The order does not directly address broader issues reportedly under consideration, including voting restrictions on major index-fund managers such as BlackRock, Vanguard and State Street, or heightened ownership and holding period requirements for shareholder proposals.

It has been previously reported that ISS and Glass Lewis, which together control over 90% of the proxy advisory market, are under investigation by the Federal Trade Commission (FTC) for possible antitrust violations over how they influence shareholder votes. The early-stage probe focuses on their competitive practices and advice regarding environmental and social shareholder proposals, following a House Judiciary Committee antitrust review launched this spring.

SEC Chair Paul Atkins has long criticized proxy advisors' influence on corporate governance and advocated for heightened oversight. In a recent Fox Business Network interview, he said the SEC plans to propose reforms next year addressing the disproportionate influence of proxy advisors and large asset managers on the shareholder voting process. He contended that asset managers position themselves as passive investors but “get out of line” by attempting to influence management of the companies in which they invest. While declining to elaborate, Atkins indicated the SEC will be “looking at this entire area and come out with proposals and clarifications.”

Atkins has also committed to “a fundamental assessment” of the shareholder proposal rules, with “shareholder proposal modernization” identified as a priority on the SEC’s rulemaking agenda. This effort is expected to include a reexamination of the Rule 14a-8 ownership thresholds and other measures to reduce compliance burdens on companies. He further outlined a potential roadmap in an October speech for companies to exclude from their proxy materials non-binding proposals that may be improper under state law (see our earlier discussion for details).

The executive order specifically targets ISS and Glass Lewis, emphasizing their combined 90% market share and foreign ownership (ISS by Germany’s Deutsche Börse and Glass Lewis by Canadian private equity firm Peloton Capital Management). It directs the SEC, FTC and Labor Department to strengthen oversight and take specified measures “to restore public confidence in the proxy advisor industry, including by promoting accountability, transparency, and competition.”

According to the administration:

- ISS and Glass Lewis routinely recommend votes for racial equity audits and aggressive emissions reductions, which the administration characterizes as advancing “radical politically-motivated agendas like [diversity, equity and inclusion (DEI)] and [environmental, social and governance (ESG)].”
- Clients frequently adopt proxy advisory recommendations without independent analysis, granting these firms substantial sway over shareholder proposals, board composition, executive compensation and other corporate governance matters at major U.S. corporations.
- Proxy advisory recommendations have prioritized ideological goals over maximizing returns for middle-class retirement investors.
- Undisclosed conflicts of interest, opaque methodologies and one-size-fits-all voting policies have undermined investor confidence and diminished retirement account values.

SEC Directives

Section 2 directs the SEC chair to "review and, as appropriate, rescind or revise all rules and regulations related to proxy advisors that implicate [DEI] and [ESG] priorities, as well as rules related to shareholder proxy proposals [including Exchange Act Rule 14a-8] that are inconsistent with the policies in the Order."

The SEC must also:

- Enforce the federal securities laws' anti-fraud provisions against proxy advisors for material misstatements or omissions in voting recommendations;
- Consider requiring all proxy advisors to register as investment advisers (ISS has been SEC-registered as an investment adviser since 1997; Glass Lewis's new CEO has committed to pursuing SEC registration, which Glass Lewis previously held until relinquishing it in 2005);
- Consider requiring proxy advisors to increase transparency on recommendations, methodology and conflicts of interest, especially regarding DEI/ESG factors;
- Examine whether proxy advisors facilitate coordination among registered investment advisers, potentially forming Section 13 groups; and
- Assess whether registered investment advisers breach fiduciary duties by engaging proxy advisors on non-pecuniary factors (DEI/ESG) and adopting their recommendations without independent analysis.

FTC Antitrust Review

Section 3 directs the FTC chair, in consultation with the Attorney General, to investigate whether proxy advisors engage in unfair competitive practices or deceptive conduct, and to review ongoing state antitrust investigations into proxy advisors for potential federal law violations (probes are currently underway in Florida, Texas and Missouri).

ERISA Compliance and Fiduciary Duties

Section 4 directs the Labor Secretary to strengthen ERISA fiduciary standards and require increased transparency regarding fiduciaries' use of proxy advisors, particularly on DEI/ESG investment practices, to ensure proxy advisors and plan managers prioritize workers' and retirees' financial interests.

Initial Industry Response

ISS issued a statement saying it will carefully review the order and work to mitigate impacts on clients. “Our clients are sophisticated institutional investors, who determine how they wish to vote by selecting from a range of voting policies that guide our work on their behalf, or by creating customized policies for advice tailored to their own particular needs,” a spokesperson said. “ISS does not dictate or set corporate governance standards and remains firmly committed to operating professionally, ethically, independently and in the best interests of our clients, as we have done historically.”

Glass Lewis did not immediately respond to the order. However, the order comes as Glass Lewis already pursues a broader shift in its business model, following its October announcement that it will discontinue its standard benchmark proxy voting recommendations by 2027 and instead provide customized research aligned with clients’ specific investment philosophies and stewardship priorities. Glass Lewis noted that most clients already use custom or thematic voting policies and aims to offer all clients tailored advice by 2028.

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