SEC Fully Withdraws from Rule 14a-8 Shareholder Proposal No-Action Process

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"[M]y greatest takeaway is that the Commission staff's interposition between companies and shareholder proponents is unnecessary to effectively and efficiently resolve whether shareholder proposals should be included in proxy statements."

—SEC Chair Paul Atkins, July 9, 2026, reflecting on the 2025–2026 proxy season

Key Points

- Effective immediately and "unless and until the Division announces otherwise," the SEC's Division of Corporation Finance (Division) will no longer respond to any Rule 14a-8 shareholder proposal no-action requests, including requests under Rule 14a-8(i)(1)—improper under state law—which had been carved out of last season's guidance for continued staff review.

- Unlike last proxy season, the Division will also no longer respond to Rule 14a-8(j) notices with "no-objection" letters, even where a company includes an unqualified representation that it has a reasonable basis to exclude a proposal.

- A company that intends to exclude a shareholder proposal must still submit a Rule 14a-8(j) notice to the SEC through the online Shareholder Proposal Form no later than 80 calendar days before filing a definitive proxy statement, and must simultaneously provide the proponent with a copy.

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- The Division's dedicated shareholder proposal email address is no longer functional. Companies and proponents should submit any questions or other correspondence through the same Shareholder Proposal Form.

On August 14, 2026, the Division issued a statement announcing that it has determined to discontinue responding to all Rule 14a-8 shareholder proposal no-action requests, "unless and until the Division announces otherwise." The Division attributed its decision to the need to focus staff resources on the review of Securities Act and Exchange Act filings and to the "extensive body of guidance from the Commission and the staff available to both companies and proponents on Rule 14a-8." The statement continues and expands the approach taken in the Division's November 2025 statement, which applied only to the 2025–2026 proxy season (October 1, 2025 through September 30, 2026) and cited resource constraints following the late-2025 government shutdown and the volume of registration statements awaiting staff attention. Under that prior guidance:

- The Division would not respond to no-action requests or express any views regarding companies' intended reliance on any basis for excluding shareholder proposals, other than requests submitted under Rule 14a-8(i)(1)—not a proper subject for shareholder action under state law.

- For Rule 14a-8(i)(1) requests, the Division would follow the traditional no-action process and continue to review and express its views "until such time as it determines there is sufficient guidance available to assist companies and proponents in their decision-making process." That carve-out reflected Chair Atkins's suggestion that non-binding, or "precatory," proposals (typically framed as recommendations to the board) may not be proper subjects for shareholder action under Delaware law, and his invitation to companies to seek to exclude such proposals under paragraph (i)(1).

- If a company wished to receive a response regarding a proposal it intended to exclude on a basis other than Rule 14a-8(i)(1), the company or its counsel could include in its Rule 14a-8(j) notification an unqualified representation that the company had a reasonable basis to exclude the proposal based on the provisions of Rule 14a-8, prior published guidance and/or judicial decisions. In that case, the Division would respond with a letter indicating that, based solely on the representation, it would not object if the company omitted the proposal from its proxy materials. The Division would not, however, assess the merits of the exclusion.

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Effective immediately, the Division will stop responding to Rule 14a-8 no-action requests entirely, including those submitted under paragraph (i)(1) (the statement notes that the Division did not receive any requests under that basis during the 2025–2026 proxy season). It will also no longer respond to Rule 14a-8(j) notices with a letter indicating that it will not object if a company omits a proposal from its proxy materials. Although the staff "has for many years engaged in the informal practice of expressing its enforcement position" in response to Rule 14a-8(j) notices, the Commission has also long recognized that "[n]o response or other action by the Commission or its staff is required in regard to such communications."

Companies intending to exclude shareholder proposals remain required under Rule 14a-8(j) to submit notices to the SEC containing the information specified by the rule no later than 80 calendar days before filing a definitive proxy statement, and to simultaneously provide the proponent with a copy of the submission. That information still includes an explanation of why the company believes it may exclude the proposal, referring where possible to the most recent applicable authority, along with a supporting opinion of counsel where the asserted basis rests on state or foreign law. The notices should be submitted using the online Shareholder Proposal Form. Because the Division's shareholder proposal email address is no longer functional, companies and proponents should also submit any questions or other correspondence through that form.

The Division of Investment Management, which is responsible for reviewing Rule 14a-8 requests related to investment companies, will take a substantially similar approach.

Practical Implications

Exclusion decisions now rest entirely with the company and its counsel. That was largely true during the 2025–2026 season as well, but the 2025 statement narrowed the staff's role in the no-action process, while the 2026 statement ends it. The state-law path no longer produces a staff response, and the "no-objection" letter—the last remaining form of staff acknowledgment—is gone. Companies excluding a proposal this coming season will do so without staff involvement of any kind.

Atkins has encouraged companies to proceed on that basis. In July, he observed that companies, shareholders and their advisors "make difficult judgement calls all the time—largely without no-action letters or staff guidance—on many federal securities law issues." Applying Rule 14a-8, he said, "should be no different." His illustration was the ordinary business exclusion: "companies do not need a no-action letter to

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reasonably conclude that what was once extraordinary—and perhaps constituted a significant social policy issue—may now be treated as ordinary."

Proponents have concentrated their litigation on that same ground. Five of the six suits filed during the 2025–2026 season challenged ordinary business exclusions, and litigation at this scale is new—fewer than 30 exclusion suits were brought over the 50 years preceding the SEC's policy shift. Four ended in the proponent's favor: three via settlements that involved including or implementing the disputed proposals, and one via court order compelling inclusion of the proposal. One proponent voluntarily dismissed after losing a preliminary injunction motion, and one challenge remains pending.

Even so, many companies took a cautious approach last season, choosing to include proposals voluntarily rather than risk the cost, uncertainty and reputational exposure of aggressive exclusions. Advance engagement with proponents also increased, with several investor groups reporting more agreements reached than in prior years.

A company that intends to exclude a proposal this coming season should carefully document its exclusion analysis. That analysis now stands on its own, without the staff's view on it, and will be the company's account of the decision if the exclusion is later tested. Companies should also expect to explain their reasoning to investors and proxy advisors. ISS and Glass Lewis had signaled they would scrutinize exclusion notices, but adverse recommendations in connection with exclusions were rare last season, with both firms generally deferring to companies that offered substantive explanations. Neither has yet announced how it will approach exclusions following the 2026 statement.

The SEC's broader Rule 14a-8 reform proposal is targeted for October 2026. Final rules would not be adopted in time to affect proposals submitted for the 2026–2027 season, but the rulemaking could ultimately displace the staff's current approach. In the meantime, the Division's position rests on staff discretion rather than Commission rulemaking, and absent intervening amendments to Rule 14a-8, a future Commission could restore the no-action process as readily as this one abandoned it.

A pending legal challenge could resolve sooner. Two shareholder advocacy groups have sued over the 2025 statement, arguing that a change of this magnitude required notice-and-comment rulemaking; the case was briefed on summary judgment in June, and a ruling could issue before the coming proxy season is underway. The reasoning of a ruling against the Commission would apply with at least equal force to the 2026 statement.

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A Season That Served as "Proof of Concept"

Chair Atkins previewed the Division's updated position in July remarks at the Society for Corporate Governance conference, calling the 2025–2026 proxy season "both a turning point and a proof of concept" and concluding that companies and proponents had resolved exclusion questions efficiently without the staff between them. The staff's absence, he said, "did not create the chaos that many feared," and "the world did not end simply because the Commission staff stopped responding to no-action requests." Rather, "[t]he system—when left to function without regulators calling balls and strikes—functioned as it should, impelling companies and shareholders to engage with one another directly."

"In a sense," he continued, "the Division's decision to not issue non-binding no-action letters was akin to removing the training wheels from the shareholder proposal bicycle. Over the years, companies and shareholder proponents have grown all too comfortable leaning on that support simply because it was there—not because they needed it. As it turns out, both can pedal just fine on their own."

Atkins also noted that, "[m]uch to [his] surprise," the Division did not receive a single no-action request under paragraph (i)(1)—which likely explains why the state-law carve-out has now been eliminated. Citing the significant time and costs the SEC expended in prior proxy seasons, he said it would be difficult "to order our talented staff to return to a tedious, and evidently ineffectual, task in future years when so many other vital filings and issues lie unattended awaiting a delayed resolution."

Broader Rule 14a-8 Reform and the Role of State Corporate Law

Beyond the staff's role in the Rule 14a-8 process, the SEC is also "holistically evaluating" the rule itself, consistent with Atkins's broader deregulatory and capital-formation priorities. The Commission's 2026 rulemaking agenda includes a "Shareholder Proposal Modernization" initiative—currently targeted for October 2026—expected to include amendments to Rule 14a-8's eligibility requirements alongside other changes intended to ease compliance burdens on public companies. Atkins has called for "a fundamental reassessment" of the rule, questioning whether the agency's original 1942 rationale remains applicable.

In his July remarks, Atkins observed that he has long considered the relationship between Rule 14a-8 and state corporate law, including whether the federal rule "inappropriately infringes upon state laws that govern the relationships among shareholders and between shareholders and the corporations that they own." Past

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amendments have increased the rule's complexity, he said, but have not given serious consideration to the more fundamental question of the federal government's appropriate role in regulating shareholder proposals. He added that the Commission's authority to prescribe rules "in the public interest" "is not plenary, as some glibly assert," cautioning that "[g]overnment agencies may not add to their powers by adverse possession."

Politicization of Shareholder Meetings

Atkins also returned to what he views as the politicization of shareholder meetings, imploring "all who have a role in the shareholder proposal process to not let it be weaponized by those who represent fringe interests." Companies, he said, "have mechanisms at their disposal to help them fight for themselves—on behalf of those shareholders that represent the strong majority. But if companies remain lackadaisical and refuse to pick up the substantial tools that we have laid on the table to help them do so, then I do not know what more we can do to intervene in their stead in the years to come."

He also urged vigilance to ensure that the shareholder proposal process does not result in "the tyranny of the minority." Noting that this past season one individual was the sole or lead proponent for approximately 41% of the proposals voted upon, with only 8% of those proposals receiving majority support, he concluded that "when a single shareholder can seize annual meetings to present scores of proposals on issues that are not generally supported by other shareholders, the system is woefully ineffective and in desperate need of reformation."

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