

SEC Staff Grants Broad Relief for Board-Aligned Retail Shareholder Voting Programs

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“By giving retail investors access to a no-fee, client-directed process similar to those currently available to institutional investors, [issuer voluntary retail voting programs] will remove time and other burdens borne by retail investors in the voting process, enabling greater participation in shareholder democracy by ultimate asset owners.”

—*Tesla Framework Letter, September 29, 2026*

On September 29, 2026, the Office of Mergers and Acquisitions in the SEC’s Division of Corporation Finance (Division), in response to a request from Tesla, issued a **no-action letter** stating that it would not recommend enforcement action to the Commission if Tesla implements a voluntary retail voting program enabling individual shareholders to authorize revocable standing instructions to vote their shares in line with the recommendations of the company’s board of directors, as described in Tesla’s request. In Tesla’s words, such a standing instruction “does not ‘lock in’ the proxy or the vote but instead merely facilitates a shareholder’s choice to establish a streamlined and automated voting process.” The Division also expressly confirmed that **other companies operating such a program in the same manner described in Tesla’s request may rely on this position without obtaining separate no-action relief.**

Tesla follows in the footsteps of [ExxonMobil](#), which in September 2025 became the first company to receive no-action relief for a voluntary retail voting program. That program lets participating individual shareholders establish revocable standing voting instructions aligned with the recommendations of ExxonMobil's board of directors while retaining the ability to override their instructions on any proposal or opt out of the program. Tesla also follows [Goldman Sachs](#), which received no-action relief one day earlier, on September 28, for a proposed retail voting program modeled on ExxonMobil's. Goldman's program adds supplemental enrollment and communications features designed to increase participation by current and former Goldman partners and employees, including an option for current employees to enroll through an internal Goldman system. (Goldman noted that its current employees and partner alumni held more than 7.6% of its outstanding common stock as of the record date for its most recent annual meeting.) Unlike the Tesla no-action letter, neither the ExxonMobil nor the Goldman letter states that other issuers may rely on it. See also Goldman's [press release](#) announcing its new Voting Instruction Program.

Also on September 29, the SEC's Division of Investment Management granted analogous [no-action relief](#) to any registered fund or business development company that implements a "Directed Voting Program" as described in a request from the Mutual Fund Directors Forum—extending the approach taken in the ExxonMobil, Goldman and Tesla letters to funds and their shareholders. Such a program would permit fund shareholders to give revocable standing instructions to vote in line with recommendations approved by the fund's board, including all of its independent directors, and would incorporate various other fund-specific governance safeguards.

ExxonMobil Litigation Status

ExxonMobil's retail voting program, which remains operational, is the subject of a putative shareholder class action filed in October 2025 by the City of Hollywood Police Officers' Retirement System against ExxonMobil and its directors. The complaint alleges that the program violates the federal proxy rules, impairs the shareholder franchise and constitutes an unlawful entrenchment device, and that the directors therefore breached their fiduciary duty of loyalty under the law of New Jersey (the company's state of incorporation at the time). The complaint characterizes the program as an effort to "weaponize a largely disengaged body of retail shareholders" to suppress dissent and dilute the influence of shareholders voting independently of the board's recommendations. Among other relief, it seeks an injunction barring the program's continued operation. The action was filed in the

District of New Jersey but was transferred in August 2026 to the Southern District of Texas, where ExxonMobil is headquartered. No court has ruled on the merits.

Background: The ‘Mission to Empower Retail Voting’

Tesla’s letter (Framework Letter)—the product of months of discussions among the company, its counsel and SEC staff—outlines a framework for the development and broader issuer adoption of what it calls “issuer voluntary retail voting programs” (IVRVPs). These programs, which share similarities with ExxonMobil’s program and raise some of the same legal considerations, also take into account market and technological developments since 2025.

The Framework Letter opens by noting that, while institutional investors have access to voting platforms that facilitate client-directed voting by permitting them to authorize the voting of their shares in advance, retail investors do not have access to these services and, before IVRVPs were developed, had no user-friendly means to ensure their votes were cast on most matters at shareholder meetings. Tesla asserts that retail investors’ lack of access to client-directed voting has led to “retail disenfranchisement.” It cites Broadridge data showing that, in the 2025 proxy season, retail investors voted only 28% of the shares they owned, compared with 76.6% of shares held by institutional investors.

According to Tesla, IVRVPs “will offer retail investors user-friendly options for exercising their voting rights while preserving all their current rights under the Federal proxy rules.” Tesla adds that the cost of retail participation, which can represent significant expenses for issuers, “would be meaningfully reduced” with broader issuer adoption. (Tesla notes that it spent more than \$2 million on proxy solicitor costs alone to drive retail voting at its two most recent annual meetings.) Tesla also points to retail uptake of ExxonMobil’s program, which it says had more than 100,000 participating shareholders as of March 1, 2026. ExxonMobil, for its part, stated in May 2026 soliciting materials that participation “remains limited (~3%).” At ExxonMobil’s annual meeting later that month, a shareholder proposal requesting that the company modify the program “to provide multiple options not aligned with the Board’s recommendations” was not approved, receiving 23.5% of votes cast.

IVRVP Design

In its response, the Division specifically noted the following representations made in the Framework Letter about the design and operation of Tesla’s planned IVRVP:

- **Continued Receipt of Proxy Materials.** All shareholders, including participating retail shareholders, will continue to receive all proxy materials filed and distributed to shareholders for upcoming shareholder meetings.
- **Vote Overrides.** Participating shareholders will be able to override their standing instruction on any particular proposal or proposals at no cost. They will not be limited or restricted from voting using the proxy materials received for each meeting, and any such vote will override any previously provided standing instruction.
- **Opt-Out and Cancellation.** Participating shareholders will be able to opt out and cancel their standing instruction at any time and at no cost for future meetings (i.e., meetings for which the company has not yet filed a definitive proxy statement).
- **Annual Reminders.** Participating shareholders will receive, at a minimum, annual reminders: (1) that they have opted into the IVRVP, (2) of the standing instruction they previously selected and (3) of their ability to opt out and cancel their standing instruction at any time and at no cost for future meetings.
- **Website and Proxy Disclosures.** The issuer will make full disclosure of the IVRVP and the preceding features on its website and in its proxy statements.

Tesla's relief covers seven federal proxy rules: two that generally limit a proxy to a single meeting (Exchange Act Rules 14a-4(d)(2) and (d)(3)); four governing solicitations and proxy cards delivered before shareholders receive a proxy statement (Rules 14a-3(a), 14a-4(f), 14a-6(o) and 14a-12(a)); and one prohibiting undated or postdated proxies (Rule 14a-10). ExxonMobil's relief covers only the two single-meeting rules.

The Division expressly states that its position "applies to any issuer operating an IVRVP in the same manner described" in the Framework Letter, while adding several caveats: its position is based on the representations made in the Framework Letter; different facts or conditions may require a different conclusion; and the response expresses no legal conclusion on the questions presented. It also expresses no views on other questions, including compliance with other provisions of the federal proxy rules, the Investment Company Act, the Investment Advisers Act or the federal securities laws.

Additional Key Features

Other key IVRVP features described in the Framework Letter include:

- **Eligible Shareholders.** The IVRVP will be available at no fee to participating retail shareholders, including any participating registered owner or beneficial owner (through their bank, broker or plan administrator). A footnote states Tesla's understanding that the relief would apply whether an issuer makes its IVRVP available to all retail shareholders or to only a subset of them.
- **Program Communications and SEC Filings.** The issuer will file materials describing its IVRVP and any material changes to them (together, Program Communications) under cover of Schedule 14A pursuant to Rule 14a-12(b), no later than the date they are published or sent to retail shareholders. The Program Communications will include a prominent legend directing shareholders to read the proxy statement when it is available. The voting platform for any issuer's meeting may also include or reference the opportunity for retail shareholders to enroll in the IVRVP for future meetings, including on the screens that appear after a proxy or voting instruction is submitted.
- **Inapplicability to Action by Written Consent.** The requested relief covers only voting by retail shareholders at duly called annual or special meetings. It does not cover corporate actions that may be taken by shareholder written consent.
- **State Law Compliance.** Tesla notes that it has confirmed that a shareholder's grant of a standing voting instruction is permitted under and governed by Texas law (its state of incorporation) and that it has obtained a legal opinion to that effect.
- **Voting Options.** Participating shareholders will be able to choose between two options for the matters to which their standing instruction will apply: (1) all matters or (2) all matters except contested director elections or any acquisition, merger or divestiture transaction that requires shareholder approval under applicable state law or stock exchange rules (a special matter). Participating shareholders will receive a reminder before any meeting involving a special matter, giving them a further opportunity to opt out of the IVRVP or override a standing instruction before that meeting.
- **Householding and Temporary Exits.** The issuer may give participating shareholders the option to submit a standing instruction for all shares of the issuer's securities held in (1) all accounts under the shareholder's name (i.e., on a "householding" basis) and/or (2) a particular account under the shareholder's

name from time to time (i.e., with enrollment preserved through temporary exits from the issuer's stock, so the shareholder need not opt in again after reacquiring shares). The Framework Letter explains that a householding option would both enhance the accessibility of retail voting and allow shareholders to execute a unified voting strategy across accounts under their name. Shareholders who choose the second option will be notified after reacquiring shares, and before their votes are cast, that their votes will be submitted under a pre-existing standing instruction.

- **Centralized Hubs.** Tesla notes that it has been working with providers of shareholder communication services to establish a user-friendly option for retail investors to opt into the IVRVPs of all issuers offering such programs, including through centralized management platforms for standing voting instructions hosted by these providers (Hubs). A Hub may offer retail shareholders who are beneficial owners the opportunity to opt into the IVRVP of a specific issuer. Alternatively, it may offer them the opportunity to opt into all IVRVPs established by issuers whose shares are held in their accounts and that operate their IVRVPs in the same manner described in the Framework Letter. Rather than receiving Program Communications and subsequent reminders directly from an issuer, a retail shareholder may access that information and provide a standing instruction through one or more Hubs. The Framework Letter contemplates that, once a Hub exists and the required Program Communications have been filed, retail shareholders could be offered enrollment in a particular issuer's IVRVP when, or shortly after, they first become shareholders of that issuer (or at any later time while the issuer maintains its program).

Practical Considerations

Companies seeking to rely on the Tesla no-action letter without obtaining their own relief will need to operate their programs in the same manner described in the Framework Letter; features outside that framework may warrant consultation with the SEC staff. Each company will also want to confirm that standing voting instructions are permitted under applicable state law (as Tesla did under Texas law) and monitor the pending ExxonMobil litigation. Because shareholders may enroll at any time, companies hoping to have a program in place for their 2027 annual meetings can begin preparing now.

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