The Investment Lawyer
Covering Legal and Regulatory Issues of Asset Management
VOL. 32, NO. 10 • OCTOBER 2025

REGULATORY MONITOR

SEC Update

By Timothy M. Doyle and Robert G. Eccles, Responsible Business Initiative (RBI)

Reinterpreting Rule 14a-8: The SEC's Renewed Standard for Corporate Purpose and Shareholder Power: Part 2

The second part of this two-part column examines the political and institutional backdrop to SLB 14M, shedding light on the dynamics that led the SEC to reverse course. [Part 1 appears in the September 2025 issue of *The Investment Lawyer*.] By tracing the shift from SLB 14L to SLB 14M—and incorporating the perspectives of asset managers, fiduciaries, and proxy advisers—this section highlights the competing pressures and evolving expectations surrounding the role of shareholder oversight in corporate governance. These developments carry particular significance for registered funds, whose proxy voting obligations are governed not only by the Investment Company Act of 1940 (the 1940 Act) but also by fiduciary standards that may now be tested against a more restrictive Securities and Exchange Commission (SEC or Commission) framework.

The Political Shift from SLB 14L to SLB 14M

By 2023, corporate issuers had grown increasingly concerned that the shareholder proposal process was being used to advance political or ideological objectives rather than matters of financial relevance. Many companies observed a surge in environmental, social, and governance (ESG)-related proposals, often highly specific in their demands, yet disconnected from the issuer's core operations or material risks. The volume and complexity of submissions rose sharply, while exclusions under Rule 14a-8 became harder to obtain. This pattern generated systemic concern about whether the SEC Staff's application of Rule 14a-8 had shifted from legal interpretation to de facto policy endorsement. According to Gibson Dunn's analysis of 2022 figures, environmental proposals rose by more than 50 percent, and social policy proposals increased by 20 percent, while the success rate for no-action requests dropped sharply to 38 percent, down from 71 percent in 2021 and 70 percent in 2020.[1]

Although institutional investors rarely submit proposals under Rule 14a-8, many expressed concern about the declining quality and utility of shareholder proposals during this period, especially as volume increased and exclusions decreased.[2] That concern persisted through the 2024 proxy season, when the total number of proposals rose to 929, the highest since 2015, while average shareholder support fell to just 23 percent, the lowest level in over a decade.[3] While 55 percent of proposals went to a vote, only a small fraction received majority support—highlighting a widening gap between proposal content and investor priorities. This trend underscored growing skepticism, particularly among large asset managers, about the relevance and effectiveness of the shareholder proposal process at the time.[4]

The shift from Staff Legal Bulletin No. 14L to SLB 14M cannot be fully understood without acknowledging the political and institutional dynamics that shaped both documents. Issued in 2021 under Chair Gary Gensler, SLB 14L marked a significant departure from prior Commission interpretations.[5] It expanded the definition of "significant policy" issues, reduced the role of the economic relevance test under (i)(5), and narrowed the micromanagement standard under (i)(7).[6] SLB 14L also rescinded the Staff's prior analytical frameworks set forth in SLBs 14I, 14J, and 14K, which had been issued under Chair Jay Clayton, and it reinterpreted prior policy to elevate "significant social policy" above other exclusion criteria.[7]

As stated in SLB 14L, "proposals that raise significant social policy issues will not be excludable under Rule 14a-8(i)(7), even if they involve ordinary business matters."[8] This language significantly expanded the ability of proponents to advance ESG-themed proposals, even when the subject matter lacked a meaningful connection to a company's core operations or financial performance. It also diluted the relevance of the Staff's prior materiality thresholds, including the 5 percent test and the required "nexus" to business operations. Together, these changes signaled a broader shift in regulatory posture, favoring ideological inclusion over traditional gatekeeping criteria. The bulletin also reversed the Staff's position on micromanagement by stating that proposals requesting "timeframes or targets" would not be excluded merely for their specificity.[9] This guidance prompted a wave of detailed ESG proposals that previously would have been excluded, including Scope 3 emissions targets, racial equity audits, board diversity mandates, and supplier due diligence processes aligned with international human rights principles.[10]

The SLB 14L era was marked by substantial political controversy. Corporate issuers and many institutional investors viewed the guidance as overly permissive, arguing that it allowed shareholders to use the proxy system to advance political or ideological agendas—a concern echoed from the Business Roundtable urging reforms to "restore Rule 14a8 to its original intent by precluding shareholder proposals that advance broad ideological agendas."[11] As noted above, the Staff's declining grant rate under Rule 14a-8(i)(7) between 2022 and 2024[12] underscored this disconnect, as companies increasingly found the Staff's application of the rule unpredictable. This shift deepened tensions between the Staff's interpretive flexibility and issuers' need for procedural consistency and legal certainty.

As discussed in Part I, SLB 14M represents a deliberate recalibration. Rather than serving as an ideological counterweight to SLB 14L, the bulletin reorients the exclusion framework around objective and historically grounded legal standards.[13] It reinstates the 5 percent test under Rule 14a-8(i)(5), revives the two-part test for ordinary business exclusions under (i)(7), and eliminates the expectation that boards assess the significance of proposals. These changes reflect both a shift in Commission leadership and a broader recognition that Rule 14a-8 must operate within legally defined boundaries, not according to subjective judgments about policy or reputational significance.[14] Importantly, SLB 14M also signals a retreat from the Staff's prior posture as an arbiter of corporate policy. By narrowing the focus to a proposal's text, context, and "total mix" of information, rather than political, social, or ideological significance, the bulletin reinforces that Rule 14a-8 is a legal mechanism, not a tool for adjudicating broader political debates.[15]

Taken together, the Staff's revised approach restores procedural clarity and reaffirms Rule 14a-8's original purpose: to balance shareholder access with managerial discretion through clearly defined substantive and procedural standards. Whether this recalibration proves durable may depend not only on future political changes at the Commission, but also on how companies, investors, and courts engage with this evolving framework.[16]

Implications for Registered Funds and Fiduciary Duties

The Expanding Role of Asset Managers

Much of the recent debate over shareholder proposals has focused on the role of issuers and institutional investors. However, SLB 14M's reaffirmation of legal thresholds for proposal relevance also has important implications for registered funds and the asset managers that vote on their behalf. To fully understand the legal and fiduciary framework governing proxy voting, it is necessary to examine how registered investment companies and their advisers operate within the regimes of the 1940 Act and the Investment Advisors Act of 1940 (Advisers Act). This is particularly important given the growing scale and influence of modern asset managers. For example, BlackRock, Vanguard, and State Street collectively oversee more than $26 trillion[17] in assets under management, with BlackRock alone managing over $11.6 trillion.[18] Global exchange-traded fund (ETF) assets recently surpassed $15.5 trillion,[19] and many leading firms are now turning to private markets as the next frontier for investor capital.[20]

While registered investment companies own and hold the legal authority to vote portfolio securities, that authority does not reside with the retail investors who own shares in those funds.[21] Further, as the Investment Company Institute (ICI) has noted, a fund board typically delegates proxy voting authority to an adviser, who must vote proxies "in a manner consistent with their fiduciary duty to manage the fund in the best interests of the fund and its shareholders."[22] The adviser's authority is exercised pursuant to fiduciary duties established under federal law—specifically, the Advisers Act and, for registered investment companies, the 1940 Act.[23] Under Rule 206(4)-6 of the Advisers Act, advisers that vote client securities must adopt and implement written proxy voting policies, ensure those policies are designed to serve the client's best interest, and maintain records of both the policies and actual votes cast.[24] This fiduciary responsibility is not merely aspirational; it is grounded in enforceable legal standards and reinforced by Commission rules.[25]

Legal Authority, Enforcement, and Fiduciary Responsibilities

In practice, while there are thousands of investment advisers that vote proxies on behalf of their clients, a relatively small number of investment advisers manage a disproportionate share of total US registered fund assets. Among the most influential asset managers, BlackRock, Vanguard, and State Street, collectively manage tens of trillions of dollars in assets and are the largest shareholders in roughly 88 percent of S&P 500 companies.[26] Through their discretion over proxy voting, they can shape the outcome of key governance decisions across the market, from board elections and executive compensation to shareholder proposals on environmental, social, and political issues. Although individual fund investors may have strong views on these matters, they do not vote directly; their voting power is exercised by fiduciaries, typically in accordance with internal stewardship policies and, more recently, through "investor choice" initiatives.[27]

This dynamic has led to increased public interest in how asset managers interpret and apply their fiduciary duties when voting on behalf of funds. At the same time, political and regulatory scrutiny has intensified around how such decisions are made and disclosed. As more investors entrust their assets to a concentrated group of large firms, reconciling diverse beneficiary preferences will remain a central challenge.

In addition, the SEC has brought enforcement actions against advisers who voted proxies in ways that conflicted with client interests or failed to implement their stated voting policies.[28] As asset managers grow in size and scope, fulfilling their fiduciary obligations in a politically polarized environment has become increasingly complex. This tension is especially pronounced in index funds and other pooled investment vehicles, where individual preferences cannot be easily reflected.[29] Large asset managers must therefore navigate complex stewardship decisions in a way that reconciles divergent views while remaining anchored in fiduciary principles.

SLB 14M reinforces the legal boundaries of fiduciary obligations by clarifying that shareholder proposal review must rest on financial materiality and operational relevance, not on social, political, or ideological concerns. This supports the view that proxy voting by fund advisers is a legal obligation guided by objective standards, not a discretionary exercise in public policy engagement. In response, large fund managers such as BlackRock, Vanguard, and State Street have continued to evolve their stewardship frameworks—emphasizing transparency, materiality, and alignment with investor outcomes—to meet rising market expectations.[30]

Stewardship Principles and Diverging Views

The Investment Company Institute (ICI) also underscores that fiduciary duty requires fund advisers to vote in the best interest of the fund, consistent with the fund's stated investment focus or strategy.[31] BlackRock has explained in its stewardship guidelines that voting decisions must be made through the lens of "financial materiality" and the long-term economic interests of clients.[32] Vanguard similarly states that it evaluates proposals based on their relevance to long-term shareholder value.[33] State Street emphasizes a duty to support sustainable performance aligned with fiduciary obligations.[34]

In light of these principles, asset managers have begun exploring new approaches to reconcile diverse investor expectations. Some have piloted client-directed voting options for institutional clients, allowing them to express their own views on certain proxy matters.[35] Others have prioritized engagement over escalation, emphasizing sustained dialogue with portfolio companies rather than prescriptive proposals.[36] These evolving practices reflect a more complicated landscape—not only as a legal mandate, but as a practical challenge in navigating divergent investor priorities while maintaining alignment with long-term financial objectives.

Controversies Over Proxy Advisory Firms

Despite longstanding obligations, fiduciary voting remains subject to evolving legal standards and operational complexity. In 2019, the SEC adopted proxy voting guidance directed at investment advisors, requiring advisers to disclose how they use proxy voting advice and the circumstances under which they may refrain from voting due to relevance or burden concerns.[37] These amendments were accompanied by supplemental guidance clarifying that advisers must vote in a manner consistent with their fiduciary obligations and in the best interest of their clients.[38]

In 2020, the SEC adopted amendments to its proxy rules regulating proxy advisory firms, and issued supplemental guidance clarifying that investment advisers should disclose how they use proxy voting advice and under what circumstances they may choose not to vote, particularly where proposals are immaterial or impose disproportionate burdens.[39] In 2022, however, the SEC rescinded certain aspects of the 2020 amendments, (and the 2020 supplemental guidance directed to investment advisers), such as issuer notification and client awareness tools, but reaffirmed that proxy voting advice constitutes a solicitation subject to Rule 14a-9 and must be exercised consistent with fiduciary standards.[40] This evolving guidance leaves asset managers navigating a dual challenge: determining not only how to vote, but when not to vote, while managing regulatory expectations and mitigating legal risk.

For the largest asset managers, translating fiduciary obligations into proxy voting decisions requires robust governance infrastructure and policy frameworks. Firms such as BlackRock, Vanguard, and State Street have developed internal voting guidelines, issue-specific principles, and decision-making committees to ensure votes are cast consistently and aligned with long-term shareholder value.[41] These systems often include research from proxy advisory firms, internal analysts, and engagement with portfolio companies.[42]

However, the role of proxy advisory firms—particularly Institutional Shareholder Services (ISS) and Glass Lewis—has become increasingly controversial. Some market participants have raised concerns that these firms may exert disproportionate influence over proxy outcomes, particularly when their recommendations shape fund votes without robust internal deliberation or transparency. In his 2023 shareholder letter, JPMorgan Chase CEO Jamie Dimon criticized the firms for driving politicized outcomes and announced that the bank would cease using both ISS and Glass Lewis.[43]

SEC Chairman Paul Atkins has signaled that the Commission may revisit proxy advisory oversight, following remarks at the SEC's Investor Advisory Committee meeting on June 5, 2025, where he emphasized the importance of protecting fiduciary voting integrity and warned that advisers must not allow their own priorities to override the best interests of their clients.[44] While these debates are distinct from SLB 14M's core guidance, they underscore the need for proxy voting frameworks grounded in legal standards rather than subjective ideological influences. For the moment, many asset managers continue to rely on these firms to help manage the scale and logistics of proxy voting. While imperfect, proxy advisors play a functional role in the "proxy plumbing" system, offering structure and research support that may be particularly useful for firms with broad and complex voting mandates.[45]

The Path Forward for Registered Funds

The scale of proxy voting—encompassing thousands of proposals annually across global markets—places increasing operational and legal demands on registered fund advisers.[46] These fiduciaries must navigate complex stewardship decisions that reconcile efficiency, client expectations, and legal compliance. As registered funds now account for over $30 trillion in assets under management and a growing share of public equity ownership, the legal standards governing their proxy voting activities are under heightened scrutiny.[47]

By clarifying that shareholder proposal relevance hinges on operational materiality and issuer-specific nexus, the bulletin helps better align voting decisions with investor interests and applicable law. Although SLB 14M does not apply directly to registered funds or their advisers, it reinforces legal principles, such as materiality, company-specific relevance, and fiduciary duty, that may inform how regulators, courts, or policymakers evaluate fund stewardship practices in the future. It also mitigates potential legal exposure by reinforcing an objective, legally defensible basis for excluding shareholder proposals, a consideration made even more pressing by the *Loper Bright* decision. This interpretive discipline is particularly timely amid growing political and regulatory pressures to define whether proxy voting should be treated as a fiduciary obligation or a discretionary act, especially in contexts involving *non-financial* ESG themes.[48]

Going forward, asset managers will continue to assess and articulate the regulatory, operational, and fiduciary frameworks for proxy voting by registered fund advisers and funds. This will increasingly include broader issues such as proxy reform, market structure, systemic risk, technological change, and capital formation.[49] These areas are now being shaped by the growing economic scale, policy changes, and governance influence of registered funds. As the SEC considers future reforms, including the role of proxy advisory firms, vote disclosure practices, and modernization of proxy plumbing, industry stakeholders will need to engage constructively. This engagement will be critical to ensure that stewardship obligations remain grounded in law, aligned with investor interests, and adaptable to a rapidly changing market.

Conclusion to Parts 1 and 2: Rebalancing the Shareholder Proposal Process

SLB 14M marks a critical recalibration in the SEC's administration of Rule 14a-8. Though styled as informal guidance, its practical impact is substantial: It restores a defensible legal boundary between shareholder oversight and managerial discretion, reinforcing that not every ESG-labeled proposal warrants proxy inclusion, simply due to topical relevance.[50]

By returning to interpretive tools found in SLBs 14A and 14C, SLB 14M does more than restore precedent, it reaffirms a governance framework rooted in legal clarity, financial materiality, and board-level accountability. In doing so, it reorients the shareholder proposal process around genuine investor concern rather than advancing issues disconnected from a company's long-term financial interests.

This shift arrives at a moment of rising pressure on public companies and asset managers from regulators, political actors, and activists alike. Yet this return to legal discipline comes with heightened responsibility. Companies must now support proposal exclusions with legal rigor. Fund managers must likewise ensure that voting rationales align with investor interests—not ideological leanings. And the SEC Staff must uphold the integrity of its no-action process by anchoring guidance in law, not politics.[51]

In sum, SLB 14M challenges all parties to elevate the quality of shareholder engagement by placing legal standards, economic relevance, and institutional legitimacy at the center of the proxy process.

Mr. Doyle and **Mr. Eccles** co-founded the Responsible Business Initiative (RBI) to help depoliticize the capital markets and refocus regulatory and legislative discourse on issues of material importance to issuers, asset owners, asset managers, and investors.

NOTES

1 Gibson Dunn, "2023 Proxy Season Review: Shareholder Proposals" (July 25, 2023), *https://www.gibsondunn.com/wp-content/uploads/2023/07/shareholder-proposal-developments-during-the-2023-proxy-season.pdf*; Melissa Sawyer *et al.*, "Shareholder Proposal Developments During the 2023 Proxy Season," *Harv. L. Sch. F. on Corp. Governance* (Aug. 3, 2023), *https://corpgov.law.harvard.edu/2023/08/03/shareholder-proposal-developments-during-the-2023-proxy-season/*.

2 *Id*.

3 Gibson Dunn, "2024 Proxy Season Review: Shareholder Proposals" (July 29, 2024), *https://www.gibsondunn.com/wp-content/uploads/2024/07/shareholder-proposal-developments-during-the-2024-proxy-season.pdf*.

4 *Id*.

5 SLB No. 14L (SLB 14L), SEC (Nov. 3, 2021), *https://www.sec.gov/rules-regulations/staff-guidance/staff-legal-bulletins/shareholder-proposals-staff-legal-bulletin-no-14l-cf*.

6 *Id*.

7 *Id*.

8 *Id*.

9 *Id*.

10 *See id*; also, Gibson Dunn, *2023 Proxy Season Review*, *supra* n.1.

11 Business Roundtable, "SEC Takes Important Step Toward Improving the Shareholder Proposal Process" (Feb. 13, 2025), *https://www.businessroundtable.org/business-roundtable-sec-takes-important-step-toward-improving-the-shareholder-proposal-process*; *see* Business Roundtable, Comment Letter on SEC Proposed Amendments to Rule 14a-8 (Sept. 2022), *https://www.businessroundtable.org/business-roundtable-comment-letter-re-sec-proposed-amendments-to-rule-14a-8*; *see also* Business Roundtable, Comment Letter on Staff Legal Bulletin No. 14L (Mar. 14, 2022), *https://www.sec.gov/comments/s7-11-21/s71121-20122394-270254.pdf*.

12 See *supra* n.1.

13 Staff Legal Bulletin (SLB) No. 14M (SLB 14M), US Securities & Exchange Commission (SEC

or Commission) (Feb. 12, 2025), *https://www.sec.gov/about/shareholder-proposals-staff-legal-bulletin-no-14m-cf*.

14 *Id*.

15 *Id*.

16 *Id*.

17 *See* Suzanne McGee & Ross Kerber, "BlackRock Seeks to Push FDIC Bank Oversight Deadline to March," *Reuters* (Jan. 9, 2025) (reporting that BlackRock, Vanguard, and State Street collectively manage approximately $26 trillion in assets), *https://www.reuters.com/business/finance/blackrock-seeks-push-fdic-bank-oversight-deadline-march-2025-01-09/*.

18 BlackRock, "Our Approach to Investment Stewardship" (2024), *https://www.blackrock.com/corporate/about-us/investment-stewardship*.

19 ETFGI, "ETFGI reports that assets invested in the global ETFs industry reached a new record of US $15.50 trillion at the end of February," Press Release (Mar. 18, 2025), *https://etfgi.com/news/press-releases/2025/03/etfgi-reports-assets-invested-global-etfs-industry-reached-new-record*.

20 BlackRock, "Private Markets: Unlocking New Investment Frontiers," (Jan. 2025), *https://www.blackrock.com/institutions/en-us/insights/private-markets-outlook*.

21 *Disclosure of Proxy Voting Policies and Proxy Voting Records by Registered Management Investment Companies*, Investment Company Act Release No. 25922, 68 Fed. Reg. 6564, 6566 (Feb. 7, 2003), *https://www.federalregister.gov/documents/2003/02/07/03-2951/disclosure-of-proxy-voting-policies-and-proxy-voting-records-by-registered-management-investment*.

22 ICI, Proxy Voting Resource Center, (last visited July 7, 2025) ("A fund's board typically (but not always) delegates proxy voting responsibilities to the fund's investment adviser but maintains oversight…"), *https://www.ici.org/proxy_voting*; also, Oversight of Fund Proxy Voting (2008), (last visited July 7, 2025) ("…in a manner consistent with their fiduciary duty to manage the fund in the best interests of the fund and its shareholders.), *https://www.ici.org/pdf/ppr_08_proxy_voting.pdf*.

23 *See* SEC v. Capital Gains Research Bureau, Inc., 375 U.S. 180, 191–192 (1963), *https://supreme.justia.com/cases/federal/us/375/180/*; *see also* Investment Company Act of 1940 § 36(a), 15 U.S.C. § 80a-35(a); *Compliance Programs of Investment Companies and Investment Advisers*, Investment Company Act Release No. 26299, 68 Fed. Reg. 74,714, and 74,715 (Dec. 24, 2003), *https://www.federalregister.gov/documents/2003/12/24/03-31544/compliance-programs-of-investment-companies-and-investment-advisers*.

24 Rule 206(4)-6, Proxy Voting by Investment Advisers, 68 Fed. Reg. 6585 (Feb. 7, 2003), *https://www.sec.gov/rules/final/ia-2106.htm*.

25 *See* 17 C.F.R. § 270.30b1-4; see also SEC, Form N-PX.

26 *See* Suzanne McGee & Ross Kerber, *supra* n.17; Benjamin Kessler, "The Power of Passive Investors Is a Double-Edged Sword," *George Mason Univ. Bus. News* (Feb. 27, 2025) (noting the Big Three "constitute the largest shareholder in … 88 percent of the S&P 500"), *https://business.gmu.edu/news/2025-02/power-passive-investors-double-edged-sword*; Jan Fichtner *et al.*, "Hidden Power of the Big Three? Passive Index Funds, Re-Concentration of Corporate Ownership, and New Financial Risk," 19 *Bus. & Pol.* 298, 306 (2017) ("When restricted to the pivotal S&P 500 stock index, the Big Three combined constitute the largest owner in 438 of the 500 most important American corporations, or roughly in 88 percent of all member firms. These 438 co-owned corporations account for about 82 percent of S&P 500 market capitalization."), *https://doi.org/10.1017/bap.2017.6*.

27 *See* ICI, 2025 Investment Company Fact Book (65th ed. 2025*), https://www.ici.org/system/files/2025-05/2025-factbook.pdf*; SEC, *Final Rule: Disclosure of Proxy Voting Policies and Proxy Voting Records by Registered Management Investment Companies*, Investment Company Act Rel. No. 25922 (Jan. 31, 2003), *https://www.sec.gov/rules/final/33-8188.htm*.

[28] SEC, *Proxy Voting by Investment Advisers*, Advisers Act Release No. 2106 (Jan. 31, 2003), *https://www.sec.gov/rules/final/ia-2106.htm*, 68 Fed. Reg. 6585 (Feb. 7, 2003), *https://www.federalregister.gov/documents/2003/02/07/03-2952/proxy-voting-by-investment-advisers*.

[29] Lucian A. Bebchuk & Scott Hirst, "Index Funds and the Future of Corporate Governance: Theory, Evidence, and Policy," 119 *Colum. L. Rev*. 2029, 2045–49 (2019) (Discussing the inability of index funds to reflect the diverse preferences of their individual investors in corporate governance decisions.), *https://columbialawreview.org/content/index-funds-and-the-future-of-corporate-governance-theory-evidence-and-policy/*.

[30] *See* BlackRock, *supra* n.18; Vanguard, "Proxy Voting Policy for U.S. Portfolio Companies" (Feb. 2025), *https://corporate.vanguard.com/content/dam/corp/advocate/investment-stewardship/pdf/policies-and-reports/us_proxy_voting_policy_2025.pdf*; State Street Global Advisors, "Asset Stewardship" (2025), *https://www.ssga.com/us/en/about-us/what-we-do/asset-stewardship*.

[31] *See* ICI, *2025* Investment Company Fact Book (65th ed. 2025) ("Funds normally delegate proxy voting responsibilities to fund advisers, which have a fiduciary duty to vote in the best interest of fund shareholders.*"); https://www.ici.org/system/files/2025-05/2025-factbook.pdf*.

[32] BlackRock, *supra* n.18.

[33] Vanguard, How We Evaluate Shareholder Proposals (2023), *https://about.vanguard.com/investment-stewardship/*.

[34] State Street Global Advisors, Asset Stewardship Report (2023), *https://www.ssga.com/us/en/institutional/ic/capabilities/esg/asset-stewardship*.

[35] BlackRock, Empowering investors through BlackRock Voting Choice (2024), *https://www.blackrock.com/corporate/about-us/investment-stewardship/blackrock-voting-choice*.

[36] *See id*.; *see also,* Vanguard, Stewardship Annual Report (2023).

[37] SEC, *Guidance Regarding Proxy Voting Responsibilities of Investment Advisers*, Investment Advisers Act Release No. IA-5325 (Aug. 21, 2019), *https://www.sec.gov/files/rules/interp/2019/ia-5325.pdf*.

[38] SEC, *Supplement to Commission Guidance Regarding Proxy Voting Responsibilities of Investment Advisers*, Advisers Act Release No. 5547 (July 22, 2020), 85 Fed. Reg. 55,155 (Sept. 3, 2020), *https://www.federalregister.gov/documents/2020/09/03/2020-16338/supplement-to-commission-guidance-regarding-proxy-voting-responsibilities-of-investment-advisers*.

[39] SEC, *Final Rule: Amendments to Exemptions From the Proxy Rules for Proxy Voting Advice*, Exchange Act Release No. 89372, 85 Fed. Reg. 55,082 (Sept. 3, 2020), *https://www.sec.gov/rules/final/2020/34-89372.pdf*.

[40] SEC, *Final Rule: Proxy Voting Advice*, Exchange Act Release No. 34-95266, 87 Fed. Reg. 43,168 (July 19, 2022), *https://www.federalregister.gov/documents/2022/07/19/2022-15311/proxy-voting-advice*.

[41] BlackRock, Proxy Voting Guidelines for U.S. Securities (2024), *https://www.blackrock.com/corporate/about-us/investment-stewardship*.

[42] Vanguard, Investment Stewardship 2024 Annual Report (2024), *https://about.vanguard.com/investment-stewardship*.

[43] *See* Jamie Dimon, Letter to Shareholders, in JPMorgan Chase & Co. Annual Report 2023, at 36–38 (Apr. 2024), *https://www.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/investor-relations/documents/ceo-letter-to-shareholders-2023.pdf*.

[44] *See* Paul Atkins, Remarks at the SEC Investor Advisory Committee Meeting (May 2025) (suggesting further review of proxy advisory firm influence and transparency is under consideration), *https://www.sec.gov/newsroom/speeches-statements/remarks-atkins-iac-060525*.

[45] SEC, *Proxy Voting by Investment Advisers*, Advisers Act Rel. No. 2106 (Jan. 31, 2003), *https://www.sec.gov/rules/final/ia-2106.htm*.

[46] State Street Global Advisors, Stewardship Report 2024 (May 6, 2025), *https://www.ssga.com/library-content/assets/pdf/global/asset-stewardship/2025/inst-2024-asset-stewardship-report-generic.pdf*.

47 SEC, "Enhanced Reporting of Proxy Votes by Registered Management Investment Companies; Reporting of Executive Compensation Votes by Institutional Investment Managers," 86 Fed. Reg. 57,478, 57,481 (Oct. 15, 2021), *https://www.federalregister.gov/documents/2021/10/15/2021-21549/enhanced-reporting-of-proxy-votes-by-registered-management-investment-companies-reporting-of*.

48 *See* SEC, *Commission Guidance Regarding Proxy Voting Responsibilities of Investment Advisers*, Advisers Act Release No. 5325, 84 Fed. Reg. 47,420 (Sept. 10, 2019), *https://www.federalregister.gov/documents/2019/09/10/2019-18342/commission-guidance-regarding-proxy-voting-responsibilities-of-investment-advisers*; House Financial Services Committee, Republican ESG Working Group, Final Staff Report: The Failure of ESG: An Examination of Environmental, Social, and Governance Factors in the American Boardroom and Needed Reforms (Aug. 1, 2024), *https://financialservices.house.gov/uploadedfiles/hfsc_esg_working_group_staff_report.pdf*.

49 ICI, Reimagining the 1940 Act – Key Recommendations for Innovation and Investor Protection 3 (Mar. 2025*), https://www.ici.org/system/files/2025-03/25-ppr-reimagining-the-40-act.pdf*.

50 SLB 14M, *supra* n.13, at 2–3 (distinguishing legal standards from reputational or policy preferences).

51 *See id*. at 3–4; *also* SEC v. Chenery Corp., 318 U.S. 80, 95 (1943), (holding that agency action must be judged solely on the basis of the rationale offered at the time of the decision), *https://supreme.justia.com/cases/federal/us/318/80/*; *see* Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024*),* at 27-30 (overruling *Chevron* deference and holding that courts must independently interpret statutes under the APA), *https://supreme.justia.com/cases/federal/us/603/22-451/*.

Wolters Kluwer