

GIBSON DUNN

Securities Regulation & Corporate Governance  
Update

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## President Trump Issues Executive Order Addressing Proxy Advisors and Shareholder Proposals

*While having no immediate impact on ISS and Glass Lewis, the Executive Order heightens the regulatory scrutiny of and pressure on proxy advisory firms' practices and on the actions of their clients.*

On December 11, 2025, President Trump signed an Executive Order<sup>[1]</sup> directing the Securities and Exchange Commission (SEC), Federal Trade Commission (FTC) and Department of Labor (DoL) to take various actions “to end the outsized influence of proxy advisors that prioritize radical political agendas over investor returns.”<sup>[2]</sup> The Executive Order specifically calls out Institutional Shareholder Services (ISS) and Glass, Lewis & Co. (Glass Lewis) and alleges that they “control more than 90 percent of the proxy advisor market.”

### Rationale for the Executive Order

The Executive Order's stated aims are to “increase oversight of and take action to restore public confidence in the proxy advisor industry, including by promoting accountability, transparency, and competition.” The cited reasons for increasing oversight include that ISS and Glass Lewis are both “foreign-owned,” have “enormous influence over corporate governance matters” and “regularly use their substantial power to advance and prioritize radical politically-motivated agendas.” The Executive Order also notes that the practices of ISS and Glass Lewis “raise

significant concerns about conflicts of interest and the quality of their recommendations.”

### **Actions Directed by the Executive Order**

*The Executive Order directs the SEC to take the following actions with respect to proxy advisors:* (a) review all rules, regulations, guidance, bulletins, and memoranda relating to proxy advisors and consider revising or rescinding any that are inconsistent with the purpose of the Executive Order, especially to the extent that they implicate diversity, equity and inclusion (DEI) or environmental, social and governance (ESG) policies; (b) enforce the Federal securities laws’ anti-fraud provisions with respect to material misstatements or omissions contained in proxy advisors’ proxy voting recommendations; (c) assess whether to require proxy advisors whose activities fall within the scope of the Investment Advisers Act of 1940 (IAA) to register as Registered Investment Advisers;[\[3\]](#) (d) consider requiring proxy advisors to provide increased transparency on their recommendations, methodology, and conflicts of interest, especially regarding DEI and ESG factors; and (e) analyze whether and when a proxy advisor serves as a vehicle for investment advisers to coordinate and augment their voting decisions with respect to a company’s securities such that they form a group for purposes of Sections 13(d)(3) and 13(g)(3) of the Securities Exchange Act of 1934 (the “Exchange Act”).

*The Executive Order also directs the SEC to:* (a) consider revising or rescinding all rules, regulations, guidance, bulletins, and memoranda relating to shareholder proposals, including SEC Rule 14a-8, that are inconsistent with the purpose of the Executive Order; and (b) examine whether the practice of Registered Investment Advisers engaging proxy advisors to advise on (and following the recommendations of such proxy advisors with respect to) non-pecuniary factors in investing, including DEI and ESG factors, is inconsistent with their fiduciary duties.

*The Executive Order directs the FTC, in consultation with the Attorney General, to:* (a) review ongoing state antitrust investigations into proxy advisors and determine if there is a probable link between conduct underlying those investigations and violations of Federal antitrust law; and (b) investigate whether proxy advisors engage in unfair methods of competition or unfair or deceptive acts or practices that harm U.S. consumers.[\[4\]](#)

*The Executive Order directs the DoL to take appropriate actions to:* (a) revise its regulations and guidance regarding the fiduciary status of individuals who manage, or (like proxy advisors) advise those who manage, the rights appurtenant to shares held by plans covered under the Employee Retirement Income Security Act of 1974 (ERISA), including proxy votes and corporate engagement, consistent with the policy of the Executive Order; (b) act to strengthen the fiduciary standards of pension and retirement plans covered under ERISA, including by assessing whether proxy advisors act solely in the financial interests of plan participants and the extent to which any of their practices undermine the pecuniary value of the assets of ERISA plans; and (c) enhance transparency concerning the use of proxy advisors, particularly regarding DEI and ESG investment practices.

## The Executive Order is the Latest Salvo Aimed at Proxy Advisors

The Executive Order is the latest in a series of regulatory, legislative and legal initiatives directed at the policies and practices of proxy advisory firms. Other recent examples include:

- Texas legislation seeking to impose certain requirements on proxy advisory firms, which legislation is subject to ongoing litigation;[\[5\]](#)
- Florida's attorney general filing a lawsuit against ISS and Glass Lewis alleging that both firms misled Florida consumers, abused their dominance over the shareholder-voting market, and "weaponized" their influence to impose an ideological agenda on American companies and Florida retirees in violation of Florida's consumer protection and antitrust laws.[\[6\]](#)
- Congressional action, including proposed legislation seeking to regulate proxy advisors[\[7\]](#) and institutional investors' use of the proxy advisors' services,[\[8\]](#) as well as hearings in the U.S. House of Representatives titled "Exposing the Proxy Advisory Cartel: How ISS and Glass Lewis Influence Markets"[\[9\]](#) and "The Proxy Advisor Duopoly's Anticompetitive Conduct";[\[10\]](#)
- several state attorneys general sending letters to ISS and Glass Lewis requesting information regarding the firms' priorities relating to climate and DEI, and accusing the firms of prioritizing nonpecuniary goals over companies' financial performance;[\[11\]](#)
- several state attorneys general subsequently announcing investigations into whether ISS and Glass Lewis violated various states' consumer protection statutes by making misleading representations regarding their consideration of ESG and DEI factors;[\[12\]](#) and
- the FTC investigating whether ISS and Glass Lewis violated antitrust laws through their business of guiding shareholder votes on contentious topics.[\[13\]](#)

## Proxy Advisor Responses

Responses by proxy advisors to the rising tide of federal and state-level scrutiny and actions provide insight into how they will likely address the impacts of the Executive Order. For example, proxy advisors challenged a new Texas state law that subjects the firms to extensive public and directed disclosure obligations when their recommendations or services are deemed to be based on alleged non-financial factors.[\[14\]](#) The proxy advisors may adopt a similar posture in response to regulatory actions that emerge from the Executive Order.

Additionally, in response to the enhanced scrutiny they are facing, proxy advisors recently announced changes to their benchmark policies and proxy voting recommendations. For example, Glass Lewis is moving away from its standard voting guidelines to instead offer more customized voting frameworks for its institutional clients. Similarly, ISS updated its proxy voting guidelines for meetings after February 1, 2026, to (among other changes) move away from generally recommending votes "for" environmental and social shareholder proposals to a case-by-case assessment and recommendation. It is likely that proxy advisors will continue to strategically and preemptively evolve their business models in response to the rulemaking actions that emerge from the Executive Order.

## What's Next?

While having no immediate impact on ISS and Glass Lewis, the Executive Order heightens the regulatory scrutiny of and pressure on their practices and on the actions of their clients. Although rule amendments and enforcement investigations will take time before having any impact and face other hurdles,<sup>[15]</sup> the Executive Order's call for agencies to revise or rescind guidance, bulletins, and other interpretations that are inconsistent with the rationale and objectives of the Executive Order opens the possibility for additional near-term pronouncements that could further scramble what already will be a unique proxy season. Among other things, we expect the SEC staff to revisit the guidance in Staff Legal Bulletin No. 20,<sup>[16]</sup> which provides Staff guidance about investment advisers' responsibilities in voting client proxies and retaining proxy advisory firms and the availability and requirements of two exemptions to the federal proxy rules for proxy advisory firms. Similarly, much of the practice around shareholder proposals under Rule 14a-8 is founded on Commission and Staff interpretive guidance and, as Commissioner Uyeda recently observed, internal Staff memorandum.<sup>[17]</sup>

There may also be near-term effects on proxy advisors' clients, which could impact public companies' shareholder engagement strategies during the 2026 proxy season. While most large institutional investors do not rely on the proxy advisors' voting recommendations (whether or not they subscribe to the firms' analyses), and instead operate under their own voting policy guidelines, these firms increasingly are passing voting decisions through to the beneficial owners, and remain cautious while engaging with portfolio companies in order to protect their Schedule 13G passive investor status. Other institutional investors that follow or rely heavily on the proxy advisors' voting recommendations may alter their voting practices out of concern of being viewed as part of a Section 13(d) group.<sup>[18]</sup> Those institutional investors might change their voting practices, at least to the extent that in the past they automatically or by default voted in line with a proxy advisor's recommendation promptly after the recommendation was issued, and some may be less inclined to follow a proxy advisor's voting recommendation, particularly in the context of "vote no" campaigns or proxy contests that target incumbent directors. As a result, public companies may be less able to forecast voting outcomes, placing a greater premium on companies clearly and concisely communicating their perspective on matters being put to a vote, both through their proxy statements and through on-going shareholder engagement.

<sup>[1]</sup> The White House, [Protecting American Investors from Foreign-Owned and Politically-Motivated Proxy Advisors](#) (Dec. 11, 2025).

<sup>[2]</sup> The White House, [Fact Sheet: President Donald J. Trump Protects American Investors from Foreign-Owned and Politically-Motivated Proxy Advisors](#).

<sup>[3]</sup> ISS is currently registered as an investment adviser, and Glass Lewis recently announced its intention to also register. See Glass Lewis, [A Personal Commitment to Change Proxy Voting Practices](#) (Nov. 25, 2025).

<sup>[4]</sup> Such acts or practices include "(i) conspiring or colluding, explicitly or implicitly, to diminish the value of consumer investments (including pensions and retirement accounts); (ii) failing to adequately disclose conflicts of interest; (iii) providing misleading or inaccurate information; (iv)

undermining the ability of consumers to make informed choices; or (v) otherwise engaging in conduct that violates the antitrust laws.”

[5] See Gibson Dunn, [Texas Court Blocks Enforcement of New Texas Proxy Advisor Law Against ISS and Glass Lewis](#) (Aug. 30, 2025) (August 2025 Alert).

[6] See Office of the Attorney General, State of Florida, [Attorney General James Uthmeier Sues Proxy Advisory Giants for Deceiving Investors and Manipulating Corporate Governance](#) (Nov. 20, 2025).

[7] See [H.R. 4098](#), the Stopping Proxy Advisor Racketeering Act, which would prohibit proxy advisors from providing proxy voting advice while facing a “conflict of interest.”

[8] See [H.R. 3402](#), which would require “institutional investment managers” that use proxy advisors to disclose the percentage of their votes on shareholder proposals that are consistent with proxy advisors’ recommendations and explain how they consider such recommendations in making voting decisions. For institutional investment managers with at least \$100 billion in assets under management, the bill would also require an economic analysis of each shareholder proposal on which they cast votes inconsistent with the recommendations of boards composed of a majority of independent directors.

[9] Hearing held by the U.S. House Committee on Financial Services, Subcommittee on Capital Markets on April 29, 2025. See, e.g., [Testimony of Elizabeth Ising Before the U.S. House Committee on Financial Services, Subcommittee on Capital Markets](#).

[10] Hearing held by the U.S. House Committee on the Judiciary, Subcommittee on the Administrative State, Regulatory Reform, and Antitrust on June 25, 2025.

[11] Sean D. Reyes, Utah Att’y Gen., et al., [Letter to Gary Retelny, President & Chief Exec. Officer, ISS, and Kevin Cameron, Exec. Chairman, Glass, Lewis & Co.](#) (Jan. 17, 2023).

[12] See, e.g., Office of the Attorney General, State of Texas, [Attorney General Ken Paxton Investigates Proxy Advisors Glass Lewis and ISS for Misleading Public Companies to Push Radical Agenda](#) (Sept. 16, 2025).

[13] See Wall Street Journal, [Proxy Advisers ISS and Glass Lewis Are Facing Antitrust Probes](#) (Nov. 12, 2025).

[14] See August 2025 Alert.

[15] Of note is the need to consider the ability of the SEC to regulate proxy advisors under the Exchange Act in light of the July 1, 2025, ruling by the U.S. Court of Appeals for the D.C. Circuit that proxy voting advice issued by proxy advisory firms does not constitute a “solicitation” under the Exchange Act. *ISS v. SEC*, 142 F.4th 757 (D.C. Cir. 2025), available at <https://media.cadc.uscourts.gov/opinions/docs/2025/07/24-5105-2123183.pdf>.

[16] Staff Legal Bulletin No. 20, [Proxy Voting Responsibilities of Investment Advisers and Availability of Exemptions from the Proxy Rules for Proxy Advisory Firms](#) (June 30, 2014).

[17] Comm'r. Mark T. Uyeda, [Remarks at the 2025 Institute for Corporate Counsel](#) (Dec. 3, 2025)

[18] *Id.* (stating that “funds and asset managers using [proxy voting advisory businesses] for voting decisions may have formed a group for purposes of Section 13(d)(3) or Section 13(g)(3) of the Securities Exchange Act”).

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