

Hybrid Panel Discussion
Shareholder Engagement: State of Play

September 17, 2026

Key Takeaways

For the second consecutive year, the [Society for Corporate Governance](#), in collaboration with [Kirkland & Ellis LLP](#), convened a hybrid panel discussion on **Shareholder Engagement: State of Play** on September 17, 2026, at Kirkland & Ellis's New York offices and via Zoom.

Building on last year's highly successful [program](#), the session brought together approximately 74 in-person attendees and 212 virtual participants to help prepare for the upcoming 2026-2027 proxy season in light of the SEC's proposed rescission of Rule 14a-8 and the potential implications for the shareholder proposal process; the SEC's recent Schedule 13G guidance on investor engagement; evolving institutional investor stewardship models and increasing shareholder voting fragmentation; mirror voting and the broader debate over the exercise and concentration of voting power; changing dynamics between companies and activists; and continued attention to corporate redomiciliation.

The panel was led by **Sophia Hudson**, Partner, Kirkland & Ellis LLP (moderator), and included **Judah Bareli**, VP, Associate General Counsel & Corporate Secretary, S&P Global; **Anthony Garcia**, Head of BlackRock Active Investment Stewardship Team (BAIS); **Shaun Mathew**, Partner, Kirkland & Ellis LLP (Activism Defense); **John Roe**, Global Co-Head of BlackRock Investment Stewardship (BIS); **Greg Taxin**, Managing Member, Spotlight Advisors; and **Christina Thomas**, Deputy Director, Division of Corporation Finance, U.S. Securities and Exchange Commission (SEC).

The discussion highlighted, among other things, that uncertainty around the future of the shareholder proposal process, together with greater fragmentation in voting and investor perspectives—both within major institutional investors and across the broader shareholder base—makes it more important than ever for companies to know their shareholders, understand the different considerations that drive their investment and voting decisions, and identify and cultivate relationships with investors who understand and support the company's strategy and can serve as credible advocates when needed.

Below are the key takeaways from the session. *These takeaways are not, and should not be construed as, legal advice. Additionally, any views expressed by SEC staff during the program were their own and do not necessarily reflect the views of the SEC, the Commissioners, or other members of the staff.*

Rule 14a-8 and the Evolving Shareholder Proposal Landscape

- **The rescission of Rule 14a-8, as [recently proposed by the SEC](#), would eliminate the federal framework for including shareholder proposals in company proxy materials and leave the process to state law and private ordering through companies' governing documents.** The proposal rests both on the SEC's view that Rule 14a-8 exceeds the scope of its statutory authority under Section 14(a) of the Exchange Act and independent policy reasons for rescinding the rule. If

Rule 14a-8 is ultimately rescinded, shareholders could still pursue proposals through mechanisms available under state law and company governing documents, including advance notice bylaws and independent proxy solicitations.

- **For the 2026-2027 proxy season, while the proposed rescission remains pending, companies may see more shareholder proposals seeking to preserve the existing shareholder proposal framework under Rule 14a-8 through company bylaws.** Some proponents have already submitted such proposals and more may emerge in the coming months. Although it is not yet clear how states such as Delaware will respond, if Rule 14a-8 is ultimately rescinded and companies do not establish a comparable process through their governing documents, shareholders may instead pursue proposals under companies' advance notice bylaws and conduct independent proxy solicitations.
- **Companies should review their advance notice bylaws in anticipation of the possibility that shareholder proposals may increasingly be pursued outside the Rule 14a-8 process.** While significant attention has historically been devoted to how advance notice provisions apply to director nominations, companies may have spent less time considering how those provisions would operate for shareholder proposals. Companies should consider whether their existing bylaws appropriately address the information they may need from proponents, as well as the purpose of and interests underlying a proposal, so they are prepared if shareholder proposals are increasingly pursued through these mechanisms.
- **The SEC's proposed amendments to Rule 14a-4 would expand the circumstances in which companies may exercise discretionary voting authority on "floor proposals"—shareholder proposals that are not included in the company's proxy materials but that a shareholder intends to present at the shareholder meeting through its own proxy solicitation.** The proposed amendments would expand companies' ability to exercise discretionary voting authority on such proposals, while providing shareholders with a means to prevent the company from exercising that authority with respect to their shares. The proposed amendments are independent of the proposed rescission of Rule 14a-8 and may be adopted whether or not Rule 14a-8 is rescinded.
- **While the rescission of Rule 14a-8 would not eliminate shareholder engagement on financially material issues, it could change where and how those issues are raised and discussed.** Financially material issues are generally known and discussed independently of whether they are the subject of a shareholder proposal, and those conversations would continue through other corporate-investor communication channels. Without the Rule 14a-8 process, shareholders that have relied on the proposal process may turn to other channels to raise issues with companies.
- **While companies will need to reassess their approach to shareholder proposals entirely if Rule 14a-8 is ultimately rescinded, recent [SEC guidance](#) ending the staff's substantive review of no-action requests may not materially change the approach for many companies in the upcoming proxy season, with continued shareholder engagement remaining an important part of the process.** While the appropriate approach will depend on each company's circumstances—including the number and nature of shareholder proposals it receives and the existence of any clear

bases for exclusion under the existing Rule 14a-8 regime—continuing to engage on the underlying issues with the proponent and, if the proposal is not withdrawn, with an appropriate set of shareholders may be preferable to treating the absence of SEC review as an opportunity simply to exclude the proposal where no clear basis for exclusion exists. This includes explaining the company’s position, even where a company believes a proposal is unlikely to receive meaningful shareholder support. Shareholders may value that continued engagement regardless of whether they support the proposal.

Shareholder Engagement Following the SEC’s Updated Schedule 13G Guidance

- **The SEC’s recently updated [Schedule 13G guidance](#) may provide investors with greater clarity and comfort around portfolio company engagement without necessarily requiring changes to existing engagement practices.** The updated Corporate Finance Interpretations (CFIs) address frequently asked questions arising from the February 2025 guidance and state that issuer-initiated discussions and responses to an issuer’s request for an explanation of a prior voting decision are generally less likely to be viewed as problematic under 13G. For investors whose engagement protocols already align with the SEC’s interpretations, the guidance will largely reinforce existing practices, including engaging with companies after votes are cast to explain voting rationale. Such discussions should remain focused on exchanging information rather than conditioning future voting decisions on particular company actions.
- **From a company perspective, the updated Schedule 13G guidance may similarly reinforce rather than materially change existing engagement practices.** Companies can continue initiating substantive discussions with shareholders, including by providing an agenda that identifies the topics they would like to address and asking investors to explain prior voting decisions. In practice, issuer-led agendas may also help create greater comfort around the scope of engagement and facilitate more useful dialogue.

Evolving Stewardship Models, Vote Fragmentation, and Mirror Voting

- **Separate stewardship models within the same institutional investor can result in different voting decisions on the same proposal, even when those decisions are grounded in the same fundamental governance principles.** The separation of stewardship teams may reflect structural or business considerations rather than differing views on governance. Differences in voting may nevertheless arise based on the investment strategy, time horizon, and objectives of the portfolios represented. For example, in evaluating an executive compensation proposal, an active stewardship team may consider whether performance goals and incentives align with portfolio managers’ investment theses, expected milestones, and anticipated sources of outperformance. An index stewardship team, by contrast, may place greater emphasis on factors affecting long-term value creation, such as leadership continuity, succession, and the company’s ability to sustain performance over an extended period, reflecting the expectation that index portfolios will continue to hold the company rather than trade in and out of the position.

- **Greater fragmentation of voting authority within major institutional investors may require companies to take a more tailored approach to shareholder engagement, particularly in contested situations.** The fundamental exercise remains the same: understand who holds the shares, the policies and priorities that inform their voting decisions, and how best to make the company's case. However, where voting authority that was previously viewed more as a single block is divided among separate stewardship teams or funds, companies may need to understand and engage with multiple decision-makers that can reach different conclusions on the same matter. While this may create additional opportunities to build support across a broader group of decision-makers, it also requires greater attention to the individuals, policies, and investment perspectives underlying their votes.
- **As share ownership and voting become more dispersed, expanding engagement beyond a company's largest shareholders can provide a more complete picture of the issues and priorities across its shareholder base.** Shareholders with relatively small positions may raise the same issues as a company's largest investors or offer different perspectives on the company's risks, opportunities, and future performance. Broader outreach can therefore provide additional data points to help companies identify recurring themes and better understand the considerations driving investment decisions. Close coordination between governance, compensation, and investor relations teams can further strengthen that understanding by bringing together insights from different shareholder interactions and helping companies prepare to explain the rationale for key decisions from multiple perspectives.
- **The debate over mirror voting¹ reflects competing considerations regarding the appropriate exercise of voting authority associated with index fund holdings and the potential consequences of reducing index fund managers' independent voting discretion.** Proponents of mirror voting have argued that investors generally select index funds to obtain broad market exposure rather than to endorse the fund manager's stewardship philosophy or voting positions, and that mirror voting could therefore reduce concerns about concentrated voting influence among a small number of large index managers. Critics respond that index funds represent the long-term economic interests of millions of underlying investors—largely retirement savers—and that requiring those funds to mirror other shareholders' votes would effectively disenfranchise a significant portion of the shareholder base and increase the relative influence of activist hedge funds and other shareholders with shorter time horizons or more concentrated agendas. Index funds have historically served as a stabilizing force in contested situations, frequently supporting incumbent boards against activist campaigns. Commentators have also questioned whether "passive" status provides a principled basis for treating one class of shareholders differently from others, and

¹Mirror voting exists in different forms—here, we are referring to an approach under which an index fund would be required to vote its shares in the same proportions as shares voted by other shareholders, rather than independently determining how to vote its full position. For example, if 60% of the other shares voted supported a proposal and 40% opposed it, the index fund would vote 60% of its shares for and 40% against the proposal. Another variant would require an index fund to vote in proportion to the instructions of its own investors who participate in pass-through voting programs.

whether ongoing changes to the shareholder proposal process already address some of the concerns that have motivated calls for mirror voting.

Activism and Reincorporation Trends

- **A decline in the number of activist campaigns proceeding to a shareholder vote does not necessarily indicate a decline in shareholder activism overall.** The number of Schedule 13D filings, public letters, and private interactions in which investors call for change suggests that activism remains robust. However, fewer campaigns may be proceeding to a vote as activists face greater difficulty securing support from the broader shareholder base and therefore seek to settle matters earlier in the process, providing companies with greater negotiating leverage and more confidence to resist changes they view as unwarranted. Measuring activism by proxy contest outcomes can also be misleading: for activists, “winning” is ultimately about generating returns, not prevailing in a proxy fight. Activists generally prefer not to incur the significant cost of a full proxy contest and often find it easier to accomplish their objectives through a consensual settlement where one is available. Activist activity also appears to be shifting from director-focused campaigns toward M&A.
- **Despite significant attention to reincorporations, there has not been a broad shift among widely held companies from Delaware to Texas or Nevada.** Several prominent companies have reincorporated, but many have been controlled companies, and initial shareholder opposition may be a factor for widely held companies considering a move. Similarly, there has not been a widespread shift toward Texas or Nevada among companies completing initial public offerings. Nevertheless, reincorporation remains an active boardroom topic as states continue to differentiate their corporate law frameworks, and companies may continue to evaluate developments across Delaware, Texas, and Nevada.

Tips to Prepare for the 2026-2027 Proxy Season

- **Consider how AI tools may interpret your company’s proxy and other disclosure materials, particularly as investors increasingly incorporate these tools into their own analysis.** As more investors use AI to analyze company disclosures and inform their understanding of a company, governance teams should consider doing the same—using these tools to assess how their disclosures may be read and interpreted, including whether the company’s compensation program, strategy, and disclosed risks tell a consistent story across the proxy statement and Form 10-K.
- **Look for opportunities to make proxy statements more concise, accessible, and focused on the information most relevant to investors.** While disclosure requirements have contributed to longer proxy statements, companies should consider whether information added over time remains necessary, whether less important information can be streamlined, and whether the most salient information is sufficiently prominent and easy for investors to find.

- **Seek to ensure that your company's shareholder base includes investors—including, ideally, among its top 10 holders—who understand and support the company's strategy and can serve as credible advocates if activism arises.** The absence of significant shareholders with strong conviction in the company's strategy and communications may leave the company more vulnerable in an activist situation. Companies should therefore identify and cultivate relationships with investors who understand the company's story, want to own the stock, and can provide meaningful support if the company's strategy is challenged.
 - **Develop a comprehensive understanding of AI risks and opportunities and ensure that the board is equipped to understand and oversee them as well.** AI should not be viewed solely as a technology risk; it can present both risks and opportunities for the business and require companies to consider proactive and reactive measures. Governance teams should understand how the company is approaching these issues and how the board is overseeing them, particularly as shareholders increasingly raise questions about AI risk and oversight during engagement.
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Conclusion

Companies can't control how the landscape for shareholder proposals, voting, and engagement evolves, but they can control how well prepared they are to navigate it. That preparation is particularly important heading into the 2026-2027 proxy season, which presents a different mix of opportunities and challenges than companies faced a year ago. On the one hand, the SEC's updated Schedule 13G guidance may provide greater clarity and comfort around engagement with major institutional investors. At the same time, greater fragmentation in voting and investor perspectives, uncertainty around the future of the shareholder proposal process, and the rapidly evolving role of AI may make the overall engagement environment more complex.

Against this backdrop, preparation starts with knowing your shareholders—not just the largest—and understanding what drives their investment and voting decisions. Companies should cultivate relationships with investors who understand and support their strategy and can serve as credible advocates when needed, while encouraging close coordination between governance and investor relations teams to develop a fuller picture of shareholder priorities, concerns, and sentiment.

Preparedness also means looking ahead. Companies should review their governing documents with potential changes to the shareholder proposal process in mind and prepare for a proxy season that may bring an increase in shareholder proposals, including proposals seeking to preserve shareholders' ability to include proposals in company proxy materials. They should ensure that their proxy statements communicate a clear, concise, and coherent story about the company's strategy, opportunities, and risks. And they should account for AI on both sides of the engagement equation: considering how investors may use AI to analyze corporate disclosures while ensuring that management and the board understand the AI-related risks and opportunities that may increasingly arise in shareholder conversations. How AI ultimately affects engagement may depend significantly on how effectively both companies and investors use and oversee these tools.

By taking a proactive and coordinated approach across these areas, companies can strengthen shareholder relationships, anticipate emerging challenges, and position themselves to navigate the 2026-2027 proxy season—and beyond.

More on Shareholder Engagement

Society public company members across market caps responding to a recent [benchmarking survey](#) provided insights on how companies are navigating recent developments in shareholder engagement and preparing for what's ahead. These insights helped inform the September 17 panel discussion and provide valuable benchmarking information for companies to compare their practices with those of their peers.

Among the key takeaways:

- **Institutional investor engagement following Schedule 13G guidance**—Since the SEC staff published its Schedule 13G guidance in February 2025, 44% of respondents report no meaningful change in the quality of their companies' engagement with institutional investors. Another 44% report lower-quality engagement and less insight into investor perspectives, but no unexpected voting outcomes, while 2% report that reduced-quality engagement resulted in unexpected voting outcomes because investor concerns were not identified. Just 2% report improved engagement quality and the same or better insights into investor perspectives.
- **Voting behavior within institutional investors**—During the past proxy season, 75% of respondents did not observe meaningful differences in voting behavior among different funds, investment teams, or stewardship groups within the same institutional investor, while 6% did. Another 10% reported that their companies do not analyze voting at this level of detail.
- **Proxy advisor company evaluations**—During the past proxy season, 76% of respondents did not observe meaningful changes in how ISS and/or Glass Lewis evaluated their companies, including the rationale supporting voting recommendations, while 14% did.
- **Use of AI in shareholder engagement**—39% of respondents indicated that their companies are not currently considering AI for shareholder engagement, while 35% are discussing potential use cases but have not yet begun using it for this purpose. By contrast, 16% are actively using AI to support shareholder engagement planning, preparation, and/or execution, and another 4% are piloting its use.
- **State of incorporation changes**—82% of respondents report that their boards have not discussed changing the company's state of incorporation since the beginning of the year. Another 16% have discussed the issue for educational or informational purposes only, and none report actively considering, approving, or completing a change.

- **Vulnerability to activism**—62% of respondents do not believe their companies have become more vulnerable to activism or an unsolicited bid since the beginning of the year, while 26% believe they have. Of all respondents, 18% report increased vulnerability but no consideration, discussion, adoption, or updating of a “shelf” poison pill or other defensive measures, while 8% report both increased vulnerability and consideration, discussion, adoption, or updating of such measures.

About the Society for Corporate Governance

The Society for Corporate Governance (the Society) is a professional membership association of more than 3,700 corporate and assistant secretaries, in-house counsel, outside counsel, and other governance professionals who serve approximately 1,700 entities, including approximately 1,000 publicly held companies of almost every size and industry. Society members are responsible for supporting the work of corporate boards of directors and the executive managements of their companies on corporate governance, disclosure matters, and mergers and acquisitions.

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