ICGN
International Corporate Governance Network

Paul Atkins, Chairman
Mark Uyeda, Commissioner
Hester Peirce, Commissioner
Caroline Crenshaw, Commissioner
Securities and Exchange Commission (SEC)
100 F Street, NE
Washington, DC 20549

10.12.2025

Dear Chairman Atkins, and Commissioners Uyeda, Peirce and Crenshaw,

Subject: Comments on the SEC Statement on Rule 14a-8 - No-Action Requests

The International Corporate Governance Network (ICGN) would like to offer its perspective on the SEC Division of Corporation Finance statement, published on November 17, 2025, regarding no-action requests under Rule 14a-8.[1]

Led by investors responsible for assets under management of over US$ 90 trillion, ICGN promotes high standards of corporate governance globally. Our members – both asset owners and asset managers – have significant exposure to the U.S. market.

We are deeply concerned by the Division of Corporation Finance's announcement that it will not substantively respond to most Rule 14a-8 no-action requests for the 2025–2026 proxy season. We are concerned that the narrowing of shareholder proposal rights appears part of a broader shift that reduces the avenues through which investors can engage with portfolio companies - compounded by recent changes to interpretations of Section 13D and 13G. Taken together, these developments risk adding tensions between company owners and management, and diminish investor confidence in U.S. corporate governance standards and thereby weaken the appeal of U.S. capital markets globally.

Why shareholder resolutions are an important mechanism

Shareholder resolutions are a vital mechanism for company owners to surface ideas and raise concerns with company management and all shareholders. They have been a key driver of corporate governance improvements in the United States. For example, shareholder resolutions have been successful in promoting annual director elections and establishing simple majority vote requirements. Shareholder proposals helped these good governance practices to become norms, based on a market-led approach, without regulation or standards. Hundreds of constructive dialogues, resulting in increased corporate transparency and improved governance, have been facilitated by shareholder resolutions at minimal cost to issuers and investors.

[1] https://www.sec.gov/newsroom/speeches-statements/statement-regarding-division-corporation-finances-role-exchange-act-rule-14a-8-process-current-proxy-season

Each investor has their own approach to decide how to vote on a shareholder resolution. Across the market, resolutions that obtain significant shareholder support tend to be those that are not overly prescriptive for company management and that concern issues investors deem financially material for the success of the company. Shareholders tend to support proposals that can catalyse improvements in governance, reporting, risk management, and long-term strategic thinking. Academic research shows that governance provisions restricting shareholder rights, such as limits on the ability to propose resolutions, are associated with lower firm valuation and weaker stock performance.[2]

Shareholder resolutions can help provide accountability when other mechanisms fail. They also signal investor sentiment to the company. High support levels for a proposal can drive rapid governance improvements, but even modest levels of support can prompt constructive engagement between boards and investors.

Why the SEC No Action Process should be protected

ICGN believes that the ability to file shareholder proposals is a fundamental ownership right.

For decades, issuers and investors have relied on SEC staff guidance and - although purely advisory - it has served as an independent, impartial, trustworthy check that provided procedural clarity and curbed potentially arbitrary exclusion of shareholder proposals by boards of directors.

According to the Statement, a company will be able to obtain an SEC 'no-objection' based solely on the company's unqualified representation that it has a reasonable basis to exclude the proposal based on the provisions of Rule 14a-8, SEC guidance and/or judicial decisions. Without conducting an evaluation of the adequacy of the representation, the SEC's staff will not object to the company omitting the proposal from the ballot.

By stepping back from the process, the SEC risks significantly diminishing shareholder voice and reducing important checks and balances that exist to protect the long-term interest of the company and its owners. Without the traditional buffer of a staff no-action determination, boards of directors may face increased opposition from investors concerned that relevant shareholder proposals may have been omitted without a valid reason. Furthermore, without SEC staff guidance, companies may be exposed to increased litigation, as proponents of shareholder resolutions that have been omitted by companies may seek judicial clarification in the absence of SEC staff assessment.

We regret to hear that the SEC intends to withdraw from substantive 14a-8 review. Rule 14a-8 has facilitated a critically important private ordering process - but private ordering only works with regulatory oversight.

A call for the SEC to reconsider its Statement and launch a public consultation

ICGN recognises the resource pressures the Division faces, but the shareholder proposal process plays a vital role in surfacing material risks and enabling constructive investor-company dialogue. We believe that the existing process is well understood and has been supportive of well-functioning markets, and therefore we strongly support the SEC No Action Process being protected.

[2] Lucian A. Bebchuk, Alma Cohen & Allen Ferrell, What Matters in Corporate Governance?, 22 Rev. Fin. Stud. 783 (2009).

The Division's independent review has historically provided transparency, predictability and a neutral reference point for both companies and investors. Removing or significantly narrowing that role risks eroding investor voice, imposing disproportionate burdens on minority and smaller proponents, and increasing costly litigation. **As we believe this is not in the interest of efficient and fair capital markets, we respectfully ask that the SEC reconsider its statement.**

We are concerned that this shift is occurring through staff announcements and public remarks, rather than through the formal rulemaking process. As highlighted in our 20 October letter, **we encourage the Commission to consider returning to public consultation processes on matters that substantively alter policy,** following a formal notice-and-comment process under the Administrative Procedure Act. We believe that the absence of public consultations on important announcements which may negatively affect shareholder rights, risks lowering the quality of the highly regarded due process and governance standards in the United States, thereby presenting a risk to the attractiveness of U.S. capital markets and impact the valuation of U.S. companies by investors.

We would welcome the opportunity for further dialogue on these issues. Should you have any question, please contact Severine Neervoort, Global Policy Director at policy@icgn.org.

Yours faithfully,

Jen Sisson
Chief Executive Officer, ICGN