

MEMORANDUM

TO: Members of the Committee on Financial Services

FROM: Committee Majority Staff

DATE: September 5, 2025

SUBJECT: September 10, 2025, Full Committee Hearing: “Proxy Power and Proposal Abuse: Reforming Rule 14a-8 to Protect Shareholder Value.”

On Wednesday, September 10, 2025, at 10:00 a.m., EDT, the House Committee on Financial Services will hold a hearing in Room 2128 of the Rayburn House Office Building, titled “Proxy Power and Proposal Abuse: Reforming Rule 14a-8 to Protect Shareholder Value.” The following witnesses will testify:

- **Mr. James Copland**, Senior Fellow & Director of Legal Policy, Manhattan Institute
- **Mrs. Ferrell Keel**, Partner, Jones Day
- **Mr. Ron Mueller**, Partner, Gibson Dunn & Crutcher LLP
- **Mr. Brad Lander**, Comptroller, City of New York

This hearing will examine Rule 14a-8 under the *Securities Exchange Act of 1934*, which governs shareholder participation in corporate governance. The Committee will assess whether the shareholder proposal process, originally designed to provide all shareholders a voice in company oversight, has been co-opted by activist investors who prioritize narrow policy goals over maximizing shareholder value. The Committee will also evaluate the influence of proxy advisory firms on capital markets, specifically their effect on corporate governance and shareholder voting outcomes. The Committee will highlight legislative solutions to limit proposals to material issues, curb misuse by special interests, and enhance the transparency of proxy advisory firms.

Legislation Noticed

1. **H.R. 4098, the *Stopping Proxy Advisor Racketeering Act (Fitzgerald)*:** This bill makes it unlawful for proxy advisory firms to provide voting recommendations under several circumstances: (a) when they offer consulting services to a registered company; (b) when they modify voting recommendations based on a company’s subscription to their services; (c) when they provide advice during periods when they are simultaneously providing stewardship services to a shareholder proponent; or (d) when they are members of organizations supporting shareholder-sponsored proposals related to their voting advice.
2. **H.R. 3402, a bill to amend the *Securities Exchange Act of 1934 to require certain disclosures by institutional investment managers in connection with proxy advisory firms, and for other purposes (Loudermilk)*:** This bill requires institutional investment managers to file an annual report with the Securities and Exchange Commission (SEC) explaining how they voted on shareholder proposals, the percentage of votes that aligned

with proxy advisory firm recommendations, and how they considered these recommendations in their voting decisions. Additional requirements apply to managers with over \$100 billion in assets, including clarifying to customers that shareholders are not obligated to vote on every proposal and performing an economic analysis before voting on shareholder proposals to ensure the vote is in the “best economic interest” of shareholders.

3. **H.R. _____, a bill to amend the Securities Exchange Act of 1934 to provide for the registration of proxy advisory firms, and for other purposes (Steil):** This discussion draft: (1) requires proxy advisory firms to register with the SEC before providing proxy voting advice, research, analysis, ratings, or recommendations to clients; (2) requires that the registration process provide information about their procedures, methodologies, conflicts of interest, and qualifications of staff; (3) allows the SEC to censure, deny, or suspend the registration of a firm if it finds this necessary for investor protection and the public interest; (4) requires registered firms to establish policies and procedures to publicly disclose and manage conflicts of interest, and to ensure the reliability and accuracy of their proxy advice; (5) prohibits firms from engaging in unfair, coercive, or abusive acts or practices related to their proxy advisory services; and, (6) requires registered firms to file annual reports disclosing information about their proxy recommendations, analysis, and compliance.
4. **H.R. _____, a bill to amend the Securities Exchange Act of 1934 to provide for liability for certain failures to disclose material information in connection with proxy voting advice (Steil):** This discussion draft establishes that the failure to disclose, or the misstatement of, material information by a proxy voting advice business would be considered “false or misleading” with respect to a material fact under Section 18 of the *Securities Exchange Act*.
5. **H.R. _____, the Mandatory Materiality Requirement Act of 2025 (Huizenga):** This discussion draft amends the *Securities Act of 1933* and the *Securities Exchange Act of 1934* to require that information required to be disclosed by issuers be material. The discussion draft includes an exception where the materiality requirement does not apply if the SEC determines that the removal or modification of a disclosure requirement does not make the overall disclosure more burdensome for the issuer.
6. **H.R. _____, the Empowering Shareholders Act of 2025 (Huizenga):** This discussion draft requires investment advisers who manage passively managed funds to vote those shares proportionally based on the voting instructions of the fund’s underlying investors. Passive fund managers subject to the draft would have three voting options: (1) vote according to directions from the underlying beneficial owners; (2) vote in line with the recommendations of the company’s board of directors; or (3) abstain from voting.
7. **H.R. _____, the Public Company Advisory Committee Act of 2025 (Lucas):** This discussion draft amends the *Securities Exchange Act of 1934* to establish within the SEC the Public Company Advisory Committee. The Committee’s purpose is to provide the SEC with advice on its rules, regulations, and policies related to protecting investors, maintaining fair and efficient markets, and facilitating capital formation.

8. **H.R. _____, the *Performance over Politics Act* (Fitzgerald):** This discussion draft authorizes the exclusion of shareholder proposals from proxy or consent solicitation material if such proposals substantially implement, substantially duplicate, or are substantially similar to previously included proposals.
9. **H.R. _____, the *Businesses Over Activists Act* (Norman):** This discussion draft amends the *Securities Exchange Act of 1934* to prohibit the SEC from compelling the discussion of shareholder proposals or proxy or consent solicitation materials. The SEC does not have the authority to preempt state regulation of shareholder proposals or proxy/consent solicitation materials.
10. **H.R. _____, *Protecting American's Savings Act* (Nunn):** This discussion draft prohibits institutional investors from outsourcing voting decisions related to proxy or consent solicitation materials and establishes that no person can be required to cast votes related to such materials.
11. **H.R. _____, *a bill to clarify that an issuer may exclude a shareholder proposal pursuant to section 240.14a-8(i) of title 17, Code of Federal Regulations, without regard to whether such proposal relates to a significant social policy issue* (Rose):** This discussion draft provides more flexibility to exclude shareholder proposals that deal with social policy matters, without being required to consider whether those matters are deemed “significant” under title 17 of the Code of Federal Regulations.
12. **H.R. _____, *a bill to authorize the exclusion of shareholder proposals from proxy or consent solicitation material if the subject matter of the shareholder proposal is environmental, social, or political* (Donalds):** This discussion draft gives companies more discretion to decide which shareholder proposals they include in their proxy materials for shareholder meetings.
13. **H.R. _____, the *Corporate Governance Examination Act* (Wagner):** This discussion draft requires the SEC to conduct comprehensive studies every five years on shareholder proposals, proxy advisory firms, and the proxy process. The studies will cover issues such as the financial and other incentives of groups involved in the proxy process, whether the process serves the economic interests of long-term retail investors, the influence and impact of proxy advisors, the costs incurred by issuers in responding to certain shareholder proposals, and the extent to which the politicization of the shareholder proposal process affects public companies. The SEC is required to issue reports on the findings of these studies to the relevant congressional committees.
14. **H.R. _____, *a bill to amend the Securities Exchange Act of 1934 to require the Securities and Exchange Commission to disclose and report on non-material disclosure mandates, and for other purposes*:** This discussion draft requires the SEC to report on its website each required disclosure of non-material information under federal securities laws and regulations and a justification for the disclosure. The SEC must also report this information to Congress every five years. The discussion draft also establishes that a

person's failure to disclose such nonmaterial information is not a liability in a private action.

- 15. H.R. ___, a bill to amend the Securities Exchange Act of 1934 with respect to prohibitions relating to the solicitation and influence of proxies:** This discussion draft prohibits proxy advisory firms from furnishing, or offering to furnish, to the holder of a security (other than an exempted security) any recommendation, advice, analysis, or rating relating to the vote of such holder in respect to such security. The SEC is required to issue final rules implementing the prohibition.