

SEC Modifies Shareholder Proposals Framework

Alert

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On September 23, the Securities and Exchange Commission (SEC) [adopted rules](#) altering the shareholder proposals submission framework under Rule 14a-8 of the Exchange Act for the first time in over 20 years.

The share ownership thresholds for eligibility to submit an initial shareholder proposal have been revised to employ a sliding scale based on the amounts of securities owned as follows:

- Holders of at least \$2,000 worth of company securities must have held those securities for an extended period of three years (instead of one year, as under the current formulation of the rule).
- Holders of at least \$15,000 worth of company securities must have held those securities for at least two years.
- Holders of at least \$25,000 worth of company securities must have held those securities for at least one year.

The revised rules also modified the resubmission thresholds under Rule 14a-8 to increase the required support necessary to resubmit a proposal. Under the amendments, a shareholder proposal would be excludable from a company's proxy materials if it addressed substantially the same subject matter as a proposal, or proposals, previously included in the company's proxy materials within the preceding five calendar years if the most recent vote occurred within the preceding three calendar years and the most recent vote in favor of the proposal was:

- Less than 5% of the votes cast if previously voted on once
- Less than 15% of the votes cast if previously voted on twice
- Less than 25% of the votes cast if previously voted on three or more times

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The amendments also adopted modifications to Rule 14a-8 consistent with the proposing release to:

- Require certain documentation to be provided when a proposal is submitted on behalf of a shareholder proponent
- Require shareholder proponents to identify specific dates and times they can meet with the company in person or via teleconference to engage with the company with respect to the proposal
- Provide that a person may submit no more than one proposal, directly or indirectly, for the same shareholders' meeting

The new thresholds become effective 60 days after being published in the Federal Register and will apply to any proposal submitted for an annual or special meeting to be held on or after January 1, 2022. The amendments also include transition rules permitting shareholders to submit proposals in reliance on the prior initial submission threshold for meetings held prior to January 1, 2023.

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