“Proxy Season Post-Mortem: The Latest Compensation Disclosures”

Wednesday, June 10, 2026

Course Materials

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2 to 3:30 p.m. Eastern [archive and transcript to follow]

Our annual webcast focusing on the "lessons learned" that companies can start carrying forward into the next proxy season. It's time to analyze what was disclosed and what was not in the 2026 proxy season!

Join our experts:

- **Mark Borges,** Principal, Compensia, and Editor, CompensationStandards.com
- **Dave Lynn,** Partner, Goodwin Procter LLP, and Senior Editor, TheCorporateCounsel.net and CompensationStandards.com
- **Ron Mueller,** Partner, Gibson Dunn & Crutcher LLP

Among other topics, this program will cover:

1. Today’s Incentive Compensation Challenges
2. The State of Say-on-Pay During the 2026 Season
3. Experience with Proxy Advisors' New Pay-for-Performance Analyses
4. Shareholder Engagement Challenges & Responsiveness Disclosures in 2026 Proxy Statements
5. Blackrock, State Street, and Vanguard Stewardship Approaches in 2026
6. Compensation Clawbacks: Evolving Disclosures and the Coming Three-Year “Lookback”
7. The 2026 Shareholder Proposal Process; Executive Compensation-Related Shareholder Proposals
8. Proxy Advisors: Status of Lawsuits and Regulation

9. Waning Proxy Advisor Power, the Rise of AI, Emerging Institutional Investor Policies and Managing Divergent Shareholder Views
10. What's To Come: Musings on Recent SEC Rule Proposals and the Impact on Equity & Compensation Disclosures *(Time Permitting)*
11. What's To Come: Musings on Potential Executive Compensation Disclosure Rulemaking *(Time Permitting)*
12. What's To Come: Musings on the Potential Overhaul of Regulation S-K *(Time Permitting)*

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Course Outline

1. Today’s Incentive Compensation Challenges

- Compensation Advisory Partners recently analyzed how 2026 proxy disclosures on goal-setting and earned compensation addressed the impact of tariffs and reported on their findings in “Tariffs and Incentive Pay: Assessing the Impact on Annual and Long-Term Incentive Payouts” (April 2026). They found that:
  - “Of the 22 companies reviewed, 11 (50 percent) did not reference tariffs impact on incentive plan metrics in their proxy statements.
  - Of the remaining 11 companies (50 percent), 8 disclosed an impact on their annual incentive (AI) plan, while 3 disclosed impacts on both annual and long-term incentive (LTI) plan payouts.
  - Therefore, 8 out of 22 companies (36 percent) made adjustments to annual and/or long-term incentive payouts.”

2. The State of Say-on-Pay During the 2026 Season

- Say-on-Pay votes are required by Exchange Act Rule 14a-21 and Item 24 of Schedule 14A.
- Semler Brossy’s early 2026 Say-on-Pay reports (as of late April) indicate:
  - The current Russell 3000 average vote result of 92.1% is 150 basis points higher than the index’s 2025 full-year average
  - The current S&P 500 average vote result of 91.6% is 220 basis points higher than the index’s 2025 full-year average

- The current Russell 3000 average vote result is 50 basis points higher than the current S&P 500 average vote result
- These initial summary vote results continue a multiyear trend of positive early-season vote support; it is still a small sample and summary results are likely to change over the course of the year
- 6.9% of Russell 3000 companies and 5.0% of S&P 500 companies have received an ISS “Against” recommendation thus far in 2026
- It is still early in the proxy season; the Russell 3000 ISS “Against” recommendation rate started lower (5.0%) at this time last year and increased over the course of the proxy season

3. Experience with Proxy Advisors' New Pay-for-Performance Analyses

- ISS updated its pay-for-performance analysis for annual shareholder meetings held on or after February 1, 2026. Key changes, as described in ISS’s Benchmark Policy Updates Executive Summary published November 25, 2025, include:
  - “Long-Term Alignment in Pay-for-Performance Evaluation: Updates U.S. pay-for-performance quantitative screens to assess pay for performance alignment over a longer-term time horizon, considering a five-year period, above the current three years, while also maintaining an assessment of pay quantum over the short term.
  - Time-Based Equity Awards with Long-Term Time Horizon: This policy update reflects the importance of longer-term time horizons for time-based equity awards and provides for a more flexible approach in evaluating the equity pay mix in pay-for-performance qualitative reviews.”

- Glass Lewis also updated its pay-for-performance analysis for 2026. According to its 2026 Benchmark Policy Guidelines:
  - "The 'Pay for Performance' section of these guidelines has been updated to reflect enhancements and modifications to Glass Lewis's proprietary pay-for-performance model. Rather than a single letter grade of "A" through "F", the model will use a scorecard-based approach, consisting of up to six tests. Each test will receive a rating, which will be aggregated on a weighted basis to determine an overall score ranging from 0 to 100."

4. Shareholder Engagement Challenges & Responsiveness Disclosures in 2026 Proxy Statements

- After the SEC Staff's February Schedule 13G guidance (*see* Exchange Act Sections 13(d) and 13(g) and Regulation 13D-G Beneficial Ownership Reporting Corporation Finance Interpretations 103.11 & 103.12), there was widespread concern that:
  - Institutional investors would be reluctant to provide feedback to companies in engagement meetings, and
  - Companies that saw their Say-on-Pay approvals fall below the key 70% threshold for ISS and 80% threshold for Glass Lewis in 2025 (triggering the proxy advisor "responsiveness" policies) may have a harder time making the disclosures proxy advisors expect to see.
- ISS's 2026 benchmark policy updates contemplate this addition to its policy on company responsiveness to low Say-on-Pay votes:

  "If the company discloses meaningful engagement efforts, but in addition states that it was unable to obtain specific feedback, ISS will assess company actions taken in response to

the Say-on-Pay vote as well as the company's explanation as to why such actions are beneficial for shareholders."

- This is a narrow change. The policy still expects companies to put in the same engagement efforts that they have in the past. If anything, this change may result in longer disclosures since presumably many companies will hear specific feedback from some investors, but not others, and, in the absence of extensive, consistent feedback, may need to provide a longer explanation of the "specific and meaningful actions taken" in response."

5. Blackrock, State Street, and Vanguard Stewardship Approaches in 2026

- BlackRock's stewardship team has been split into:
  - BlackRock Investment Stewardship, which utilizes the BIS Proxy Voting Guidelines and
  - BlackRock Active Investment Stewardship, which utilizes the BAIS Global Engagement and Voting Guidelines
- State Street's stewardship team has been split into:
  - State Street Asset Stewardship Team, which utilizes the Global Proxy Voting and Engagement Policy
  - State Street Sustainability Stewardship Service, which utilizes the Sustainability Stewardship Service Proxy Voting and Engagement Policy
- Vanguard's investment management and stewardship functions have been split into:
  - Vanguard Capital Management, which follows Vanguard Capital Management Proxy voting policy for U.S. portfolio companies

- Vanguard Portfolio Management, which follows Vanguard Portfolio Management Proxy voting policy for U.S. portfolio companies

6. Compensation Clawbacks: Evolving Disclosures and the Coming Three-Year "Lookback"

- Dodd-Frank clawback policies have been required under Exchange Act Rule 10D-1, Nasdaq Rule 5608 and Section 303A.14 of the NYSE Listed Company Manual since 2023.
- Item 402(w)(1) of Regulation S-K requires a reporting company that prepared an accounting restatement during or after its last completed fiscal year that required recovery of erroneously awarded compensation pursuant to its Exchange Act Rule 10D-1 clawback policy to disclose certain prescribed information about the restatement and associated compensation clawback.
- Item 402(w)(2) of Regulation S-K requires a reporting company that prepared an accounting restatement during or after its last completed fiscal year and the company concluded that no recovery was required pursuant to its Exchange Act Rule 10D-1 clawback policy to briefly explain why the application of the policy resulted in this conclusion.
    - Since these disclosure requirements became effective, there have now been a number of companies where the completion of a recovery analysis ran up against the filing deadline for the proxy statement. In these instances, the company either filed an amendment to its proxy statement once the result of the analysis was known or, if the investigation went beyond the scheduled annual meeting date, disclosed the result in a current report on Form 8-K. The scenario is still sufficiently rare that a "best practice" has yet to emerge.
        - *See*, for example, the definitive proxy statement of Core Scientific, Inc., which discloses that the company's

recovery analysis is ongoing and it has yet to determine whether a clawback will be required. (*See* Mark Borges's April 1, 2026 Proxy Disclosure Blog.)

- Observations from recent (2026) disclosures (as shared in Mark Borges's Proxy Disclosure Blogs) include:
  - One 2026 proxy disclosed the application of the "impracticability" exception of Rule 10D-1(b)(iv). *See* the definitive proxy statement of Pathward Financial, Inc.
  - Some companies chose to include the related disclosure outside the Compensation Discussion & Analysis (and instead, for example, placed it in a separate section following the Compensation Committee Report).
  - In the definitive proxy statement of Barnes & Noble Education, Inc., the company disclosed that the cost of goods sold metric that instigated the financial restatement did not affect the EBITDA-related bonus received by the former CEO, and that, once the Board committee investigation was launched, it appears that the time-based vesting requirement for the purportedly earned Fiscal 2025 PSU awards was suspended pending the outcome of the investigation. Further, having determined that the stock price target for the award's first tranche had not, in fact, been achieved, no amounts were actually recovered — instead, the executive and employee award recipients were put back in their original position; that is, eligible to earn the awards assuming the stock price target was either met or exceeded and the continued service requirement satisfied before the end of the performance period.
    - This may be the first disclosure where the financial restatement had an impact on the conditions for

earning an incentive award, but no actual clawback was required given the Board's quick action once it became clear that the restatement was going to change the understanding of the PSU award outcomes. We may see this fact pattern pop up again.

- In the definitive proxy statement of Genworth Financial, Inc. (at page 105), the clawback disclosure is one of the few disclosures where the affected financial performance measure involved total shareholder return which, as disclosed, caused the company to engage a third party expert to conduct an event study. The disclosure offered specific information on the items evaluated. Also, the company's accounting restatement triggered a recovery analysis under its broader supplemental clawback policy that (as described in its Compensation Discussion and Analysis (at page 86)) covers service-based, as well as performance-based, equity awards.
    - In response to the enhanced clawback policies of ISS (at Question No. 50) and Glass Lewis (at page 62), various companies have added time-based equity awards to the scope of their preexisting clawback policy or adopted a supplemental policy for acts and omissions that go beyond the accounting restatements covered by Exchange Act Rule 10D-1 and the applicable national securities exchange listing standards. As underscored by the Genworth Financial disclosure, depending on how this secondary policy is worded, multiple recovery analyses may be necessary when an accounting restatement occurs, raising a question as to whether additional disclosure should be provided when a supplemental clawback policy is triggered even though not required by Item 402(w)(1) or (2) of Regulation S-K.

- In the definitive proxy statement of Core Laboratories Inc., the company disclosed that its recovery analysis resulted in a finding that more, rather than less, compensation had been earned; albeit a nominal amount. It's a bit unclear whether an additional payment to the executive officers impacted by the recalculation was forthcoming (but it appears unlikely). For the time being, we'll continue to wait for the first disclosure revealing the fate of a significant underpayment resulting from the recalculation of an incentive award.
- In the definitive proxy statement of Mohawk Industries, Inc., the clawback covered both current and former executive officers, two of the latter who had yet to repay the company by the time the proxy statement was filed. This situation is likely to be a common one, particularly as the full three-year lookback goes into effect.
- Disclosures are getting longer. Generally, the initial disclosures from 2024 were much shorter, which may have been a function of the then-shorter look-back period required by Item 402(w). The full three-year look-back will begin this October, which will probably mean longer disclosures will quickly become the norm.

7. The 2026 Shareholder Proposal Process; Executive Compensation-Related Shareholder Proposals

- Alliance Advisors reports in its 2026 US Proxy Season Preview that "For the first time in six years, the volume of governance and compensation-related resolutions may outflank E&S filings, which as of April 10 stood at an estimated 344 and 289, respectively."
    - John Chevedden continues to be the most prolific shareholder proposal proponent. He filed at least two proposals seeking an annual SOP vote at companies that currently submit SOP for a

vote every three years. One company (Alphabet) omitted that proposal as substantially implemented because it provides shareholders with the required say-on-frequency vote every six years. (Exchange Act Rule 14a-21(b) requires that companies provide a separate shareholder advisory vote in proxy statements for annual meetings to determine whether the vote on the compensation of executives required by Section 14A(a)(1) of the Exchange Act "will occur every 1, 2, or 3 years.")

8. Proxy Advisors: Status of Lawsuits and Regulation

- In December, the White House issued an Executive Order that specifically targets the proxy advisory firms ISS and Glass Lewis. The Executive Order states:

> "Unbeknownst to many Americans, two foreign-owned proxy advisors, Institutional Shareholder Services Inc. and Glass, Lewis & Co., LLC, play a significant role in shaping the policies and priorities of America's largest companies through the shareholder voting process. These firms, which control more than 90 percent of the proxy advisor market, advise their clients about how to vote the enormous numbers of shares their clients hold and manage on behalf of millions of Americans in mutual funds and exchange traded funds. Their clients' holdings often constitute a significant ownership stake in the United States' largest publicly traded companies, and their clients often follow the proxy advisors' advice.
>
> As a result, these proxy advisors wield enormous influence over corporate governance matters, including shareholder proposals, board composition, and executive compensation, as well as capital markets and the value of Americans' investments more generally, including 401(k)s, IRAs, and other retirement investment vehicles. These proxy advisors regularly

use their substantial power to advance and prioritize radical politically-motivated agendas — like "diversity, equity, and inclusion" and "environmental, social, and governance" — even though investor returns should be the only priority. For example, these proxy advisors have supported shareholder proposals requiring American companies to conduct racial equity audits and significantly reduce greenhouse gas emissions, and one continues to provide guidance based on the racial or ethnic diversity of corporate boards. Their practices also raise significant concerns about conflicts of interest and the quality of their recommendations, among other concerns. The United States must therefore increase oversight of and take action to restore public confidence in the proxy advisor industry, including by promoting accountability, transparency, and competition."

- The Executive Order goes on to direct the Chairman of the SEC, the Chairman of the FTC and the Secretary of Labor to take a number of rulemaking and investigative actions. The Executive Order specifically directs the SEC Chairman to:
  - Consistent with the APA, "consider revising or rescinding those rules, regulations, guidance, bulletins, and memoranda that are inconsistent with the purpose of this order, especially to the extent that they implicate 'diversity, equity, and inclusion' and 'environmental, social, and governance' policies;"
  - Consistent with the APA, "consider revising or rescinding all rules, regulations, guidance, bulletins, and memoranda relating to shareholder proposals, including Rule 14a-8 (17 CFR 240.14a-8), that are inconsistent with the purpose of this order;"

- Enforce the antifraud provisions of the federal securities laws with respect to material misstatements or omissions contained in proxy advisors' proxy voting recommendations;
- Assess whether to require proxy advisors whose activities fall within the scope of the Investment Advisers Act of 1940 to register as registered investment advisers;
- Consider requiring proxy advisors to provide increased transparency on their recommendations, methodology, and conflicts of interest, "especially regarding 'diversity, equity, and inclusion' and 'environmental, social, and governance' factors;"
- Analyze whether, and under what circumstances, a proxy advisor serves as a vehicle for investment advisers to coordinate and augment their voting decisions with respect to a company's securities and, through such coordination and augmentation, form a group for purposes of sections 13(d)(3) and 13(g)(3) of the Securities Exchange Act of 1934; and
- Direct the SEC staff to 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, as appropriate, "diversity, equity, and inclusion" and "environmental, social, and governance" factors, is inconsistent with their fiduciary duties.

- The Executive Order directs the FTC Chairman to "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," as well as to "investigate whether proxy advisors engage in unfair methods of competition or unfair or deceptive acts or practices that harm United States consumers."

- The Executive Order also directs the Secretary of Labor to "take steps to revise all 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) (29 U.S.C. 1001 et seq.), including proxy votes and corporate engagement, consistent with the policy of this order." Further, the Secretary of Labor is directed to "take all appropriate action to enhance transparency concerning the use of proxy advisors, particularly regarding "diversity, equity, and inclusion" and "environmental, social, and governance" investment practices."

- Texas enacted a law last year that imposes regulations on proxy advisory firms, and other states have enacted their own "copycat" laws. Lawsuits challenging the validity of these laws are ongoing.

9. **Waning Proxy Advisor Power, the Rise of AI, Emerging Institutional Investor Policies and Managing Divergent Shareholder Views**

    - In January, the Wall Street Journal reported that JP Morgan's asset management group will immediately stop using proxy advisory firms and instead use an internal AI-powered platform to analyze data from the more than 3,000 shareholder meetings it votes at each year — plus provide recommendations to portfolio managers and manage votes. JPM believes it is the first large investment firm to stop using proxy advisors entirely.

    - This year, Wells Fargo announced the launch of its proprietary proxy voting service for client assets and its use of Broadridge's technology platform to support the administration of that service.

10. **What's To Come: Musings on Recent SEC Rule Proposals and the Impact on Equity & Compensation Disclosures *(Time Permitting)***

    - The SEC released its semiannual reporting proposal on May 5, 2026. The SEC's proposal would permit semiannual reports on Form 10-S for

all Exchange Act reporting companies that file Form 10-Q today, regardless of filer status, revenues, market capitalization, or other criteria.

- The proposing release contemplates adding a check box to the cover page of certain forms that would allow an issuer to elect to provide semiannual reports if the box is checked. If the box is not checked, the issuer will be subject to the "default" reporting regime of filing one Form 10-K and three Form 10-Qs for each fiscal year. The check box would be added to Form 10-K, as well as registration statements on Forms S-1, S-3, S-4, and S-11 and Form 10.
- Recognizing the possibility that a company may mistakenly leave the check box unmarked or incorrectly mark the check box, the SEC proposes to amend Rule 13a-13(b) and Rule 15d-13(b) to permit companies to amend their Form 10-K to correct any such inadvertent mistakes. The proposing release notes that the corrective amendments would be required to be filed as soon as practicable after discovery of the mistake, but no later than the due date by which the company's first Form 10-Q report would be required to be filed for the fiscal year in which the initial Form 10-K with the erroneous election was filed.
- The proposed optional semiannual reporting approach would permit a change in interim reporting frequency (either from quarterly to semiannually or vice versa) to be indicated on a Form 10-K by checking the box on the cover page to file semiannually or leaving the box unchecked to file quarterly. The proposal contemplates that the determination to report semiannually or quarterly would thus be made on an annual basis and may not be changed until the next Form 10-K annual report is filed. Companies would be required to file interim reports based on the chosen frequency, beginning with the

report for the first interim period of the fiscal year in which the Form 10-K with the election was filed. The proposing release includes a number of examples explaining how this would work if the proposed amendments were adopted.

  - The proposing release includes numerous specific questions about a wide range of topics concerning the move to optional semiannual reporting, as well as more general requests for comment. Comments will be due July 6, 2026.

- The SEC released its proposals for registered offering reform and filer status on May 19, 2026.
  - The registered offering reform proposal is intended to encourage public capital formation by increasing efficiency, flexibility, and cost savings for public companies.
  - The proposal on emerging growth company accommodations and filer status is intended to simplify the public company reporting framework and recalibrate disclosure obligations to align with a company's size and maturity.
    - This proposal, if adopted, would have a significant impact on executive compensation disclosures obligations because it contemplates the expansion of smaller reporting company and emerging growth company accommodations — including scaled executive compensation disclosure requirements and an exemption from the requirement to solicit advisory Say-on-Pay votes — to a much larger group of registrants.

11. **What's To Come: Musings on Potential Executive Compensation Disclosure Rulemaking *(Time Permitting)***

    - In 2025, the SEC launched a retrospective review of its executive compensation disclosure requirements, beginning with a roundtable discussion in June with representatives from public companies and investors as well as other experts in the field — The retrospective review is focused on clarity, conciseness, and materiality in disclosures (particularly those required by Item 402 of Regulation S-K), plus investor protection, cost-effectiveness, and plain English o Key issues discussed at the roundtable include:
        - Complexity and length of current disclosures
        - Materiality of information for investors
        - Engagement between companies and investors driving disclosure trends
        - Dodd-Frank Act provisions: Say-on-Pay, pay-versus-performance, clawbacks
        - Executive security as a perquisite: SEC guidance and recent enforcement actions
    - When the roundtable was announced, SEC Chairman Paul Atkins encouraged members of the public to provide views on the executive compensation disclosure requirements to inform its retrospective review. Corp Fin Staff has been digesting comment letters and roundtable feedback.

12. **What's To Come: Musings on the Potential Overhaul of Regulation S-K *(Time Permitting)***

    - Chairman Atkins also issued a Statement on Reforming Regulation S-K, kicking off the Commission's efforts toward a comprehensive review of its disclosure requirements for public companies in January 2026. The

Corp Fin Staff continues to review comment letters on a potential overhaul of Regulation S-K.