

Three Key Considerations for Companies Heading into 2024 Proxy Season

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The 2024 proxy season is expected to be a challenging period for companies to navigate.

The upcoming U.S. presidential election has fueled further political divide on ESG topics, and that political divide continues to complicate the domestic landscape. Outside of the U.S., Europe and other markets continue to mandate company ESG disclosures irrespective of the U.S. political debate on ESG. So how will this ESG tension impact institutional investors and proxy advisors this proxy season? We offer below three key considerations for companies to help them successfully manage shareholder and proxy advisor expectations.

1. Institutional investors continue to incorporate financially material ESG issues as fiduciaries, including those related to climate and human capital.

- **Blackrock's** 2023 emphasis on their commitment to act as a fiduciary to their clients to advance their long-term financial interests continues to reverberate in their 2024 investment stewardship principles. The asset manager declares that investment stewardship is part of how BlackRock fulfills its fiduciary responsibility.

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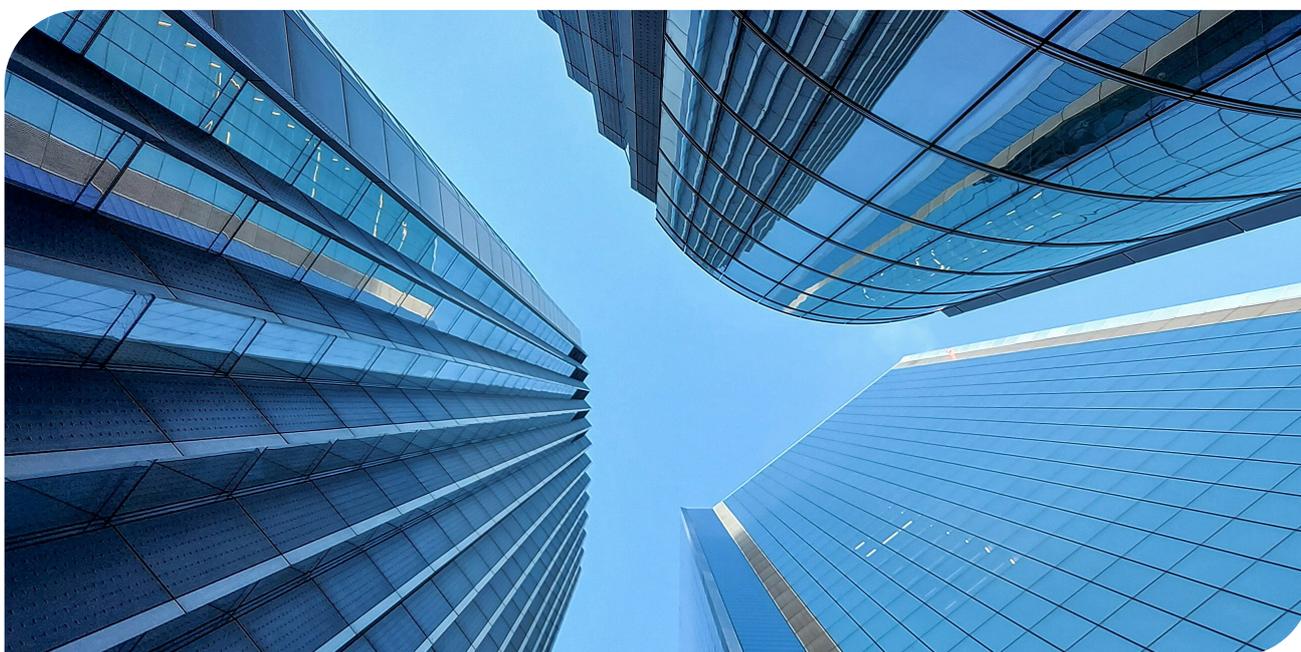
Notably, their support for a more comprehensive clawback policy focused on instances of executive misconduct, in addition to financial restatements in their [2024 Proxy Voting Guidelines](#), reflects Blackrock's heightened focus on executive level accountability. However, their [Engagement Priorities for 2024](#) clarify that they will continue to consider climate and company impacts on people, in addition to board quality, financial resilience and incentives aligned with financial value creation.

- **Vanguard** frames its 2024 stewardship approach around corporate governance. The term “governance” is notably underscored compared to the prior year. This reinvigorated focus on governance mirrors its peers' emphasis on fiduciary duty and top-level accountability for its portfolio companies. However, Vanguard also steadfastly assures its continued consideration of material environmental and social elements as part of its investment process. In its [2024 U.S. Proxy Voting Policy](#), Vanguard declares that “the disclosure of material risks to a particular business – which can arise from a range of factors, including environmental and social factors – results in a more accurate valuation of the company.”
- Although **State Street** has not yet published its 2024 stewardship guidelines, the asset manager also reinforced its fiduciary duty to consider elements that could impact long-term value creation. Accordingly, State Street declares that

it considers the reasonableness and long-term shareholder value creation aspects of the ask before determining its vote on environmental and social shareholder proposals in its most recent [Proxy Voting and Engagement Guidelines](#).

2024 also marks the inaugural year for State Street to begin implementing its [announced plan](#) for S&P 500 companies on holding nominating and governance committee chairs accountable regarding director capacity. Specifically, the asset manager expects companies in scope to publicly disclose their internal policy on director time commitments that include i) numerical commitment limits, ii) confirmation of each board member's compliance with the policy and iii) a description of the annual policy review process. Overall, State Street signals its focus on the fundamental tenets of corporate governance, including board accountability and risk oversight as a fiduciary, in alignment with its peers. We expect that State Street's 2024 stewardship policies will mirror this theme without dramatic changes.

Significant U.S. asset owners continue to declare their intent to promote climate or diversity through their investments. In November 2023, [CalPERS](#) announced its commitment to invest \$100 billion toward climate solutions by 2030 as part of its efforts to advance the fund's portfolio towards Net Zero emissions. The Illinois State Board of Investment and Ohio Public Employees Retirement System continue to be part of the [Midwest Investors Diversity Initiative](#), which provides annual



disclosure on how the cohort's engagements with their portfolio companies have resulted in progressing board diversity in the region. Despite the anxiety on how long ESG will remain relevant amidst political division, institutional investors continue to consider ESG issues as part of their investment process for a more comprehensive valuation of portfolio companies.

2. Proxy advisors remain focused on ESG, executive pay and board accountability from a risk oversight perspective.

While Institutional Shareholder Services (ISS) made no significant changes to its U.S. voting policy, the dominant proxy advisor offered further insights on how it assesses executive pay plans through its [FAQ document](#). Notably, ISS clarified that companies must disclose actions taken "following ISS's research report to address pay-related concerns"¹ through public filing in order to have such actions considered by ISS. ISS also provided further guidance on expected disclosure around the use of Non-GAAP metrics in executive incentives, particularly if adjustments had a material impact on payouts. The formalization of expectations on executive compensation from the proxy advisor mirrors institutional investors' increased scrutiny on the topic. The advisor remained generally supportive of promoting greater transparency on companies' efforts around managing climate related risks in absence of notable changes on its stance toward ESG-related shareholder proposals.

Glass Lewis made several changes to its [U.S. Benchmark Policy Guidelines](#), zooming in on board's oversight on cyber risk in addition to environmental and social issues. Board accountability on climate-related issues was highlighted as a notable update. The advisor described its plan to recommend a negative vote towards responsible directors when companies fail to disclose "clearly defined board-level oversight responsibilities for climate-related issues."² Companies in scope for this policy are those in the S&P 500 that are in industries where Sustainability

Accounting Standards Board (SASB) defined GHG emissions as a financially material risk. Glass Lewis also pushed for stronger executive level accountability by expressing a preference for expanded clawback policies that include instances of executive misconduct, even if it did not lead to a financial restatement.

3. Recent court rulings add intrigue to the 2024 Proxy Season.

This year, the U.S. is already observing multiple court actions relevant to proxy season. Exxon is pursuing legal action against shareholder proposal proponents who have been requesting the company to establish scope 3 emissions reduction targets over the past few years. Exxon's decision to pursue the case, even after the proposal proponents withdrew their requests, is seen as a challenge to the SEC's existing rule 14a-8 no-action process and the newly limited ability for companies to filter shareholder proposals off the ballot. The court's decision may establish a precedent, if it proceeds to make any declaration despite the proponents' withdrawal of their proposals. Apart from the court's decision, it will be notable to observe whether any major institutional investors express discontent at Exxon's 2024 annual shareholder meeting on the company's decision to take a court route against its own shareholders for exercising their right to submit proposals. This may impact other companies' considerations on pursuing legal actions going forward.

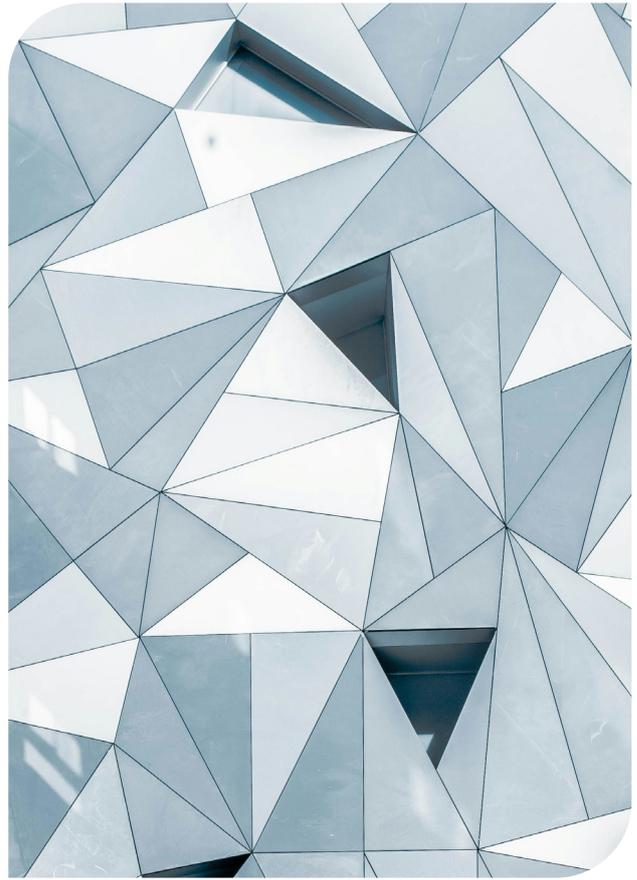
The Delaware Court's decision to void Elon Musk's \$55 billion pay package is another hallmark case that will heat up discussions on executive compensation through the 2024 proxy season. Stakeholders question whether this sets an upper bound on executive pay and whether other shareholders may pursue more binding action than say-on-pay votes. The vote outcome at Tesla's upcoming annual shareholder meeting may also be a notable response from institutional investors for companies in designing executives' pay plans.

1. "United States FAQ: Compensation Policies", ISS, www.issgovernance.com/file/policy/active/americas/US-Compensation-Policies-FAQ.pdf.

2. "2024 US Benchmark Policy Guidelines", Glass Lewis, www.glasslewis.com/wp-content/uploads/2023/11/2024-US-Benchmark-Policy-Guidelines-Glass-Lewis.pdf?hsCtaTracking=104cfc01-f8ff-4508-930b-b6f46137d7ab%7C3a769173-3e04-4693-9107-c57e17cca9f6. Accessed 15 Feb. 2024.

2024 is not any easier than 2023 for managing shareholder and proxy advisor expectations.

While managing conflicting interests isn't necessarily new, heightened political tension around the globe and expected U.S. court decisions add to the variables companies need to manage. Anticipation around the finalization of the SEC's climate disclosure rule and the enforcement of the EU's Corporate Sustainability Reporting Disclosure (CSRD) makes 2024 more complex. The emergence of controversial shareholder proposals on topics such as managing risks around operating in China, political lobbying practices in alignment with a company's published goals, and collective bargaining rights (which has turned into an expected proxy contest at Starbucks), will further drive investors to assess the proposal's value from a financial materiality lens as they manage their stakeholder expectations. Accordingly, companies should stay on course and demonstrate how their existing policies and disclosures satisfy expectations around robust oversight and management for enhancing sustainability of their business performance.



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