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# Takeaways from the 2026 proxy season

KPMG Board Insights Podcast transcript

**Announcer:** This is the KPMG Board Insights podcast, brought to you by the KPMG Board Leadership Center.

In this episode, BLC Senior Advisor Stephen Brown is joined by Freshfields Partner Pamela Marcogliese for a discussion of trends and outcomes from the recent proxy season and takeaways for board directors.

**Stephen Brown:** Hi everyone. Thank you for joining me today for our KPMG Board Insights podcast.

I'm Stephen Brown, a senior advisor with the KPMG Board Leadership Center. Today, I'm joined by Pamela Marcogliese, a partner with the law firm Freshfields in New York City.

And we're going to talk about what boards ought to take away from the results of the 2026 proxy season and how they should be thinking about the proxy season or corporate governance in general going forward. Pam, thanks for being here and it's a pleasure to have you back.

**Pamela Marcogliese:** Thank you, Stephen. It's always great to do this with you.

**SB:** From year to year, we talk about proxy season, which just ended in the United States, but it's really a good time to talk about governance in general, what we saw over the last 18 months with regulation, and how investors responded to that regulation. And from year to year, governance doesn't change all that much. However, we saw some big movements this year.

And so, if I could first start off in asking you, or declaring, quite frankly, that the themes that we saw in shareholder proposals were pretty much the themes that we thought. So, the themes have stayed the same.

**PM:** Yes, the themes have stayed the same. I think that is absolutely accurate. The themes have stayed the same and the reactions to the themes, largely predictably the same. And to be a little bit less cryptic about what all that means, what it means is that we still saw a lot of environmental proposals, a lot of social proposals. There is not one of them to date that has passed with any kind of majority.

So, they have all failed. That is roughly consistent with what we had seen in the more recent proxy seasons. But the one thing we did see this year is that there was a decent uptick in the number of governance proposals. And while the number of proposals went up for governance, what is also interesting is that fewer of them passed this year than last year on a much larger denominator. So, there are probably a lot of things you can derive from that, but I guess what I would say is that it was relatively quiet from a sort of interest perspective on the part of investors this year in terms of the proposals. They were there, they were available, but in terms of coming out to support them, there was pretty muted support this year.

**SB:** And again, you've referenced ESG, which at this point in our lives, we probably [don't] have to define as environmental, social, and governance. But it's worthwhile saying that there are many in the narrative of ESG who clump it all together and think of it as a big a mixture of things. Whereas, you and I, as technicians or clinicians, if you will, really think about it as proposals that sort of deal strictly with the environment, proposals that deal strictly with social, and proposals that deal with core governance. And we actually saw this year that proponents were eaning into more the core governance than these other proposals.

**PM:** Yep, that's right. They were. The proponents were, but the shareholders themselves in terms of voting were not. It was fairly muted across the board.

**SB:** Now there is one proposal, or one type of proposal, that we saw really come to life this proxy season and we think has a lot of legs in future proxy seasons that actually covered both environmental, the E, social, and separate proposals covered the social part of this, and separate proposals covered the G part of that—the governance proposals—and that's artificial intelligence. So, we saw AI with an environmental lean, AI with a social lean, AI with a governance lean. Can you walk us through that?

**PM:** Yeah, that was a little new this year just because AI more generally is new, but in many ways, this also replicated some of the historic patterns that we've seen, which is that proposals oftentimes replicate or mirror what is going on in society at large. So, the rise of AI was accompanied by the rise of AI-related proposals. And so, for example, we hear all the time in the press about how data centers are putting pressure on all sorts of environmental topics. And so, unsurprisingly, we saw shareholder proposals relating to AI and the impact on the environment. We read all the time about what AI does in terms of surveillance and tracking and what it does on the impact of the workforce, all those kinds of social topics. And so, we saw shareholder proposals relating to AI and those kinds of topics.

And then there is, of course, really keen interest on the part of investors and other stakeholders of what are companies doing about AI, how are they monitoring AI and their usage of AI and the risks relating to AI? So, unsurprisingly, we saw a number of governance proposals about how companies, how the boards are monitoring AI, are there committees dedicated to AI? Are there AI experts on boards? And so, we saw those proposals pop up this proxy season.

**SB:** I always have at least one sports reference, so I'm going to fulfill that obligation here, but I'll do it sort of global style. The entire world is watching football, with the World Cup, the FIFA World Cup. And if you make an analogy to what we saw the SEC do this proxy season, [it] is that the referee has left the pitch and they might take the ball home with them. To what am I referring?

**PM:** Oh, so this was really a major development this proxy season. So, for those in your audience who may be less familiar with this, historically, the way it would work is that a shareholder would bring a proposal, a company would evaluate it, and if it wanted to exclude it from its proxy statement—which means that shareholders then wouldn't get to vote on it—what it would need to do is ask the SEC for permission. What that was called was technically the no-action process.

This proxy season, the SEC said, 'You know what, we're not going to do that anymore. We don't want you to come to us and ask us whether or not you can get permission to exclude the proposal.' Instead, what the SEC suggested is that you all could look at all of these prior no-action letters that we've issued, and you can all decide for yourselves whether or not your proposal is sufficiently similar such that you can exclude it without asking for permission.

And that really sent shockwaves across the entire corporate landscape because all of a sudden, a process that had been tried and tested and true stopped being available for companies. And so, there was a lot of uncertainty as to whether or not companies were actually going to avail themselves of this new accommodation and just exclude proposals without getting formal SEC permission. And what we saw was that in fact, companies did not do that. They did not just simply exclude proposals, even when it was clear from all the prior years that the SEC would easily have granted them permission to exclude those proposals. And then what buttressed this trend was the fact that a number of companies that did try to exclude the proposals then got sued. And so, I think it had a really chilling impact on this, which is probably to the dismay of the SEC, who really, I'm sure, thought it was doing companies a great favor by just allowing them to take advantage of prior pronouncements on these proposals and just follow the same patterns.

**SB:** Which is typically in a no-action process how companies work. And we should note for folks that the no-action process does not simply apply to shareholder proposals, which under the '34 Act is Section 14-a8. It applies all over when you would like the SEC to give you some indication to not take action because you're going to do something which may technically look like it violates the written rules, but it doesn't because we explain it to you and we ask for a no-action. And that's how we in the securities law world sort of operate in other parts of securities law. But here, where the SEC said, 'Hey, you're on your own and there's enough 'case law' out there for you to decide just like you use the other parts of securities law,' on this one, where some folks would think that companies would say, 'Great. Okay. We're going to exclude everything that we see,' companies were rather cautious. Maybe too cautious.

**PM:** Very cautious. In my view, too cautious, although I obviously understand the stakes and you know, a lot of these topics are emotional. And so, if you exclude a proposal, you're almost certainly going to make whatever shareholder proponent unhappy and that in and of itself can have ramifications. And so, I think companies tried to be very thoughtful, and so did not exclude all the proposals that I guess I personally would have anticipated would have gotten excluded but did not this proxy season.

**SB:** You know, Pam, I was just going to say that just it's just a fascinating thing, particularly for securities law geeks or folks who are deeply interested in it. And I guess we'll see if a pattern continues over the years. But one of the things that I think makes this process, this part of the securities laws, different from the other part of securities laws is that this shareholder process is rather user-friendly. The SEC about 20 years ago changed the language so that the average Joe and Joan can read it and understand it—they don't have to be a lawyer—and use it. So, it's very consumer friendly. And that probably is why boards were cautious and not simply going the 'legal route' and relying on past letters, but quite frankly, just putting it to a vote, knowing that many things did not fare well at all with shareholders.

**PM:** Right. The related topic, of course, is that I think the SEC most likely put forward this accommodation because it had heard all the feedback about how cumbersome all of these shareholder proposals are year after year. And so, I think it really thought it was doing the corporate community a massive favor by pointing in this direction.

And all of this is against a backdrop of the SEC wanting to be much more accommodating to companies going public. And of course, when you think about SEC reporting, when you think about shareholder proposals, these are the kinds of things that keep coming up over and over and over again about why companies are delaying, and possibly avoiding, in some cases, ever going public—which, of course, is much to the detriment of the public shareholder. So, I mean the SEC definitely tried, they gave it its best shot this year.

I think that the one thing for your listeners to keep in mind is that there is now a potential rulemaking endeavor around the shareholder proposal rules. So, what the SEC tried, but did not accomplish to do via just informal guidance, there is a very high likelihood, I think, that the SEC will try to do by official rulemaking.

**SB:** Mm-hmm. And indeed, speaking of the SEC and its impact on how shareholders were behaving, earlier in the year or last year, really, the SEC changed its interpretation of what it thought to be influencing a vote or influencing activities at a company. And that change in interpretation was a lot stricter. And in response, we saw institutional shareholders, who in the past 10 years had very robust engagement processes with their portfolio companies, indeed, reaching out to those companies saying, 'We want to talk to you, we want to talk to the board, here's the issue.' We saw a retreat from that because, in part, because of this interpretation.

**PM:** Yeah, that's right. And so, when you add all of these things together, it made for a very uncertain proxy season. Whereas a lot of these themes kind of had been settled for a very long time—everybody knew exactly how proxy season worked. You knew that you did off-season engagement, you knew that in the fall/beginning of the winter you got the proposal, you knew that you got the no-action letter, you knew that you then excluded the proposal, you knew that you got the ISS recommendation and the vote. It was a very familiar process.

This year, all of a sudden, a number of those things that were completely reliable got turned upside down and I think caused companies, but I'm sure other stakeholders as well, to really wonder what the future of proxy season will be.

**SB:** And I think you said earlier that it seems like shareholders, the large institutions are just taking a pause. Let me stick with the world athletic football theme—they're taking a water break, hydration break, perhaps, and just slowing down to really focus and not get involved with a lot of the sort of issues that they've been dealing with, including being sued from the different various state attorney generals and then dealing with this interpretation by the SEC. One of the things that's interesting too, which is somewhat related, is that … we talked about AI hitting proxy proposals this year, but AI is thoroughly in the grasp of every investor relations and investment stewardship house. So, they're able to analyze and read proxies, quarterly reports, anything over any length of time from the company, making their analysis even that much quicker and that much [more] detailed. That's a very interesting fact. That really is the state of the world going forward.

**PM:** Yes, I think that's exactly right. And we saw that with a number of investors this year announcing that they were no longer going to be relying [on] or even using the proxy advisory firm reports. So, all of those voting guidelines or voting recommendations, they weren't going to be looking at those, and instead what they would be doing is using AI to do their own analyses. And I think what that basically means is that now you're going to have investors who are going to come up with their own really individualized set of criteria in terms of what they care about and don't care about when it comes to voting and governance, which has the potential, candidly, to make it more unpredictable for companies.

Before, when you got the proxy advisory reports, you could figure out roughly how many of your shareholders follow them, how many of your shareholders just look at them but are highly influenced by them. And you can come up with some rough math to guesstimate where the vote might come out. Now if you start having a whole host of investors that are going to do their own thing and not in a homogeneous way, I think trying to guess what the outcome of the vote might be, will be, I think, a little bit more challenging. But I also think that it'll put a premium on really understanding the fundamentals on both sides and what is really relevant to the company. Because that I think is where a lot of the investors are going to focus and there's going to be a lot less default to a set of voting guidelines that were put together by people whose views you may or may not share completely.

**SB:** And indeed, one of the interesting points for this proxy season and going forward is that if we think of the last 10 to 15 years, even 20 years, the 'diplomacy' between investors and boards and companies have greatly improved, where there was transparency. It used to be that you'd have to look at a statement of additional information in an investor's securities filing to find their voting policies, Voters put it on the website. They promoted it. They did very glossy pieces talking about how they voted last year, why they voted. A fair amount of information was shared and that was transparent. And that really helped the dialogue with companies and shareholders at the time.

But these interpretations, these new rules, these lawsuits, these happenings that we've seen over the last 18 months have really sort of put a damper in that process, which is really interesting going forward. To that point, your largest investors in the world are aggregated pools of money. They're your institutional investors, and we all know the names of those firms. They have splintered their stewardship teams. Can we talk about how they are now doing stewardship differently?

**PM:** Yeah, I think that it's a lot less homogeneous in terms of how they're approaching it. They have different sort of pools of money that are overseen by different stewardship teams. And the other big thing that they're doing is implementing—to greater or lesser extents, depending on the investor—pass-through voting. So that means that you don't have one person who controls the vote for all of the shares that are represented in the pool, but rather they give the opportunity to the person whose money they manage, the opportunity to vote on their own behalf. And whether or not that's actually going to get any traction, I don't know. I will confess I don't vote the shares that I own, but maybe others will. But this too, I think, has the potential to have a pretty significant impact on the proxy season. Because whereas before, if you had one large investor that aggregated funds on behalf of many, you could figure out which way they would vote and count on a monolithic vote for the entire block. Now, if that block is splintered among different stewardship teams who may have their own views on how to vote them, and in fact, in addition, you have pass-through voting that allows the ultimate holder to have a say on how the shares get voted, it becomes a lot less predictable to figure out how the how the block will vote because it can be voted in all sorts of different ways.

**SB:** It is so much easier, if you are head of shareholder engagement for a company or the general counsel or the CFO or the head of IR, to call five people at the five largest asset management firms to to get their vote instead of calling or trying to contact, which you will not be able to do, 50,000 people, individuals. It's tougher. So, we are in interesting times to see how this plays out. And if we can go to something, which for the last 10 to 15 years has been an up and to the right conversation around hedge fund shareholder activism and that process. What did we see this year with activism?

**PM:** Right. So, this year, what we saw is that it wasn't the busiest of proxy seasons in terms of, massive campaigns or anything like that, but shareholder activism definitely continues. I think there is definitely a reversion here to fundamentals, of course, but that is always a common theme. A new theme though that did emerge is this idea of insiders becoming activists at their own companies, which was a new phenomenon. It happened at several companies in the last 12 months or so, this idea of insiders who had either moved on or just moved away from the company that all of a sudden decided that they wanted to re-engage. And what makes this kind of activism very interesting is that the balance of information is not the same as when you have a complete outsider. These insiders are very familiar with the company, may have, in certain cases, been founders of the companies or otherwise very familiar with the operations of the company. And so, when they decide to pursue an activist strategy, they obviously are intimately familiar with the workings of the company. The other thing about these campaigns is that they tend to be incredibly personal. So, they are not only about returns and financial engineering, but they tend to be points of pride. And so, when you think about the dynamics and the end goals and how you possibly diffuse some of these insider activism campaigns, the playbook can be very different.

**SB:** Indeed. And before we go, I want to tackle something which I think is an extraordinary occurrence or possibility as we see a proposal being suggested or put out there by the SEC, which is a reform to filer status. And I hate to get too geeky and legal on this, but I think it's so important for folks to understand that this is an extraordinary change, or it would be a change, to how the SEC and how corporate America thinks about who's an accelerated filer or a non-accelerated filer. Can we talk about that?

**PM:** Yes. Before I delve into that specifically, the thing to remember is this is against a backdrop of the SEC, this current incarnation of the SEC, wanting to make IPOs great again. And by that I don't just mean IPOs. I think what the commission means is really just public companies great again, meaning to say it wants to encourage the number of public companies because having more public companies just means that more investors, more retail investors, can get access to public company investments. Right now, there has been such an incredible dip in the number of public companies that you see that a lot of the wealth creation is done when companies are private, which are investments to which most regular people just will never really have access to. And so, in an effort to encourage that, the SEC has been looking at a whole host of rules that have been around for a very long time trying to figure out whether it is time to streamline them, make it easier for corporate America to comply, so that it is not yet one more reason why companies are delaying or avoiding going public. And as part of that this year, it took a look at these rules relating to filer statuses. And in a nutshell, there are various filer statuses that exist, but what they really say is that if you are a large company, defined however it's defined, you are subject to a much more stringent, onerous set of rules. If you are a smaller company, you get a whole host of accommodations on the theory that you're smaller, have fewer resources. We need to make it a little bit easier for smaller companies to get started in the public markets. What the SEC has done is that it has increased the thresholds of what is considered to be a large company, which means it has vastly increased at the same time the number of companies who are not in the biggest category.

So that means that now, assuming these rules pass and I think there's a lot of support for them to pass, what you will have done is you will have made it such that a far, far, far greater number of companies will be able to get the benefit of a more streamlined set of requirements. Again, on the theory that therefore, hopefully, you encourage a lot more companies to go public because it is less onerous to be public.

**SB:** Well, thank you, Pam. This is great. And if I can think of summarizing all your great points. There were fewer E and S proposals and more of a concentration on the core governance. AI is on the pitch, if you will, for E, S, and G, and I think we're going to see those types of proposals quite frequently for years to come, even if the SEC as a referee of those proposals decides not to be the referee, I think we're going to see those proposals. And activism is still a good business for those activists, for hedge fund activists. In fact, we're seeing different activists as they are born. Some of them are founders of the company, heavily controlled, but for some reason, there's a disagreement and they were pushed out. And they figured out that the age old activism, that they can use that to get back in, which sums up that, with the changes that we've seen, shareholder engagement by companies is still extremely important. It's just harder to do today, given the change in landscape.

**PM:** I think that is spot on Stephen.

**SB:** Well, I'm all out of sports references. That's not true. I'm just going to stop. I can give it to you all day with sports references. But with that, I am so happy to talk to you, Pam. It's a great conversation. We get geeky like this, but I think it's really important for folks to understand the lay of the land today as we go forward. So, thanks for joining us at the Board Leadership Center for our podcast. And I appreciate that and hope you have a great and safe summer.

**PM:** Thank you, Stephen. Thanks everyone.

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**kpmg.com/us/blc**

**T:** 800-808-5764
**E:** us-kpmgmktblc@kpmg.com

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