

Texas Targets Proxy Advice Based on Nonfinancial Factors With SB 2337

Update

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On June 20, 2025, Texas Governor Greg Abbott signed into law Senate Bill 2337 (SB 2337), which imposes new regulations on proxy advisory firms — such as ISS and Glass Lewis — when providing voting recommendations and other proxy advisory services concerning Texas public companies. The new law, which takes effect on September 1, 2025, applies to proxy advisory services involving any public company that is incorporated in Texas, has its principal place of business in Texas, or has proposed redomiciling in Texas. SB 2337 requires proxy advisors to provide detailed disclosures when their recommendations are based, in whole or in part, on nonfinancial factors — including environmental, social or governance (ESG) principles or diversity, equity and inclusion (DEI) considerations — or when they diverge from management's recommendation or provide conflicting advice across clients. Any violation of the new law constitutes a deceptive trade practice under the Texas Business & Commerce Code and is actionable by the company that is the subject of the recommendation, any of its shareholders, advisory clients, and the Texas Attorney General.

Scope and Applicability of SB 2337

SB 2337 will apply to “proxy advisory services” provided in connection with or in relation to any public company that:

- is organized or created under the laws of Texas;
- has its principal place of business in Texas; or
- has made a proposal in its proxy statement to redomicile in Texas.

SB 2337 defines “proxy advisory services” as:

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- advice or a recommendation on how to vote on a shareholder proposal or company proposal;
- proxy statement research and analysis regarding a shareholder proposal or company proposal;
- a rating or research regarding corporate governance; or
- development of proxy voting recommendations or policies, including establishing default recommendations or policies.

Disclosure Triggers for Nonfinancial Voting Recommendations

Under SB 2337, a proxy advisory service is subject to enhanced disclosure requirements if it:

- is wholly or partly based on or, or otherwise takes into account, one or more nonfinancial factors, including those based on environmental, social or governance (ESG) principles, diversity, equity or inclusion (DEI), social credit or sustainability factors or scores or membership in or commitments to groups that wholly or partly bases its evaluation on non-financial factors;
- involves providing a voting recommendation with respect to a shareholder proposal that (A) is inconsistent with the voting recommendation of the board of directors or a board committee composed of a majority of independent directors and (B) does not include a written economic analysis of the financial impact on shareholders of the proposal;
- is not based solely on financial factors and subordinates the financial interests of shareholders to other objectives, including sacrificing investment returns or undertaking additional investment risk to promote nonfinancial factors; or
- advises against a company proposal to elect a director unless the proxy advisor affirmatively states that the proxy advisory service solely considered the financial interest of the shareholders in making such advice.

Mandatory Disclosure Obligations for Proxy Advisors

If a proxy advisor provides a proxy advisory service that meets any of the foregoing qualifications, the proxy advisor must:

- disclose to each shareholder (or entity acting on behalf of a shareholder receiving the service) a conspicuous statement that the service is not being provided solely in the financial interest of the company's shareholders and explain, with particularity, the basis of the proxy advisor's advice concerning

each recommendation and that the advice subordinates the financial interests of shareholders to other objectives, including sacrificing investment returns or undertaking additional investment risk to promote one or more nonfinancial factors;

- immediately provide a copy of the disclosure to the company that is the subject of the recommendation; and
- include a conspicuous disclosure on the home or front page of the proxy advisor's website that its proxy advisory services include advice and recommendations that are not based solely on the financial interest of shareholders.

Notice Requirements for Conflicting Voting Recommendations

SB 2337 also includes enhanced notice requirements for a proxy advisor that recommends that one or more clients vote on a proposal in opposition to the recommendation of the company's management or that one or more clients who have not expressly requested services for a nonfinancial purpose vote differently from one or more other clients on a proposal or director nominee. If so, the proxy advisor is required to:

- if applicable, comply with the disclosure requirements for proxy advisory services not solely based on financial interests (as described above);
- provide written notice to each shareholder receiving the recommendation, the company that is the subject of the recommendation and the Texas Attorney General; and
- disclose which of the conflicting advice or recommendations is provided solely in the financial interest of the shareholders and supported by any specific financial analysis performed or relied on by the advisor.

Enforcement and Remedies

SB 2337 provides that any violation of its provisions is a deceptive trade practice under the Texas Business & Commerce Code, and names the recipient of the proxy advisory services, the company that is the subject of the proxy advisory services and any of the company's shareholders as affected parties that are entitled to bring a claim for injunctive relief. The bill also authorizes the Texas Attorney General to intervene in such a claim. Additionally, the consumer protection division of the Attorney General's office may pursue civil penalties for violations of SB 2337.

Legislative Context

SB 2337 is the latest in a series of pro-business corporate governance reforms, which we discussed in our two previous alerts concerning [Senate Bills 29 and 1057](#) and [Senate Bill 2411](#), aimed at positioning Texas as a jurisdiction of choice for public companies. By requiring proxy advisory firms to disclose when their voting recommendations are based on ESG, DEI or other nonfinancial factors, the Texas Legislature has reaffirmed its commitment to a business-first approach that prioritizes transparency and shareholder financial interests.

Considering Reincorporation in Texas?

Bracewell has recent, extensive experience guiding major corporations through the reincorporation process. If your company is considering a move to Texas, or would like to better understand how these legislative developments may impact your governance, charter documents or litigation exposure, our team is here to help.