ExxonMobil Breaks New Ground with Retail Voting Program Authorized by SEC

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ExxonMobil has announced a new shareholder voting initiative aimed at increasing participation by retail investors in annual meetings. The program enables shareholders to give standing instructions to vote in line with the company's board recommendations, offering a simplified and more accessible proxy voting option for retail holders.

This development encourages voting by retail shareholders, who have historically low participation rates in corporate governance decisions. ExxonMobil's approach may serve as a model for others looking to increase voting engagement with their retail shareholders.

The Problem: Low Retail Voting Rates
Public companies in the U.S. routinely face the challenge of low shareholder engagement in proxy voting, especially from retail shareholders. While retail participation in the equity markets has grown substantially in recent years, studies consistently show that fewer than 25% of retail shareholders cast votes at annual meetings.

ExxonMobil's own experience reflects this broader trend. Despite retail shareholders holding nearly 40% of the company's outstanding shares at its most recent annual meeting, the company did not hear from 75% of retail voters. Through shareholder engagement, ExxonMobil learned that many individual investors feel overwhelmed by the volume and complexity of proxy materials and are looking for simpler ways to participate meaningfully in corporate governance.

The Solution: Standing Board-Aligned Voting Instructions
In response, ExxonMobil developed a **Retail Voting Program** allowing retail investors to voluntarily authorize the company to vote their shares in accordance with the board's recommendations for each meeting of shareholders. Participating shareholders will be given the opportunity to elect their standing voting instruction to apply to either (a) all matters; or (b) all matters except contested director elections or any acquisition, merger or divestiture transaction that legally would require the approval of company shareholders. Separately, retail shareholders will be able to opt out of the Retail Voting Program at no cost or override their standing instruction by voting at the meeting.

SEC No Action Letter
In a letter dated September 15, 2025, the SEC confirmed that it would not recommend enforcement action under Exchange Act Rules 14a-4(d)(2) or 14a-4(d)(3) if ExxonMobil proceeds with the Retail Voting Program as described. This is significant because proxies that grant authority to vote for more than one meeting are generally prohibited by the Exchange Act Rules. In making its final determination, the SEC relied on several key representations by ExxonMobil, including:

- The program is available to all retail shareholders, whether registered holders or beneficial owners through intermediaries.

- Shareholders may cancel or override standing instructions at any time and at no cost.
- Participants will receive annual reminders outside the proxy solicitation period.
- The program will not restrict access to proxy materials or other voting mechanisms.
- The company will provide full disclosure in its proxy statements and on its website.

Implications for Public Companies
Public companies with a substantial percentage of retail shareholders may want to explore whether a standing instruction voting program can provide a scalable, transparent way to improve governance engagement without creating new burdens for shareholders or boards.

Companies that plan to adopt retail voting programs with the same features as ExxonMobil's do not need to seek their own SEC no-action relief letter, but they are encouraged, although not required, to speak to the SEC before proceeding with their own program. If a company wants to adopt a program before its 2026 annual meeting, it will need to coordinate the timing of enrollment invitations with its transfer agent and vote processing agent well in advance of program implementation and consider its meeting calendar and agenda.

State law should also be considered. Companies that do not wish to be first movers may want to wait and see how similar programs are timed, implemented, disclosed, and maintained as well as the cost associated with such programs.

Jeffrey T. Haughey and Jeni Stallings are attorneys in GableGotwals' Corporate & Securities Law Group. For help in establishing a similar retail voting program, please contact your GableGotwals attorney or a member of our Corporate & Securities Group.

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