2026 Executive Compensation Reminders for Public Companies

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As companies prepare for the 2026 executive compensation season, the external landscape is shifting less through new SEC rulemaking and more through evolving expectations around disclosure quality, proxy advisor methodologies and investor scrutiny. Set out below are nine key issues and reminders to help compensation committees, in-house legal teams and HR leaders plan for 2026 program design and executive compensation proxy disclosure.

Monitor Ongoing Developments on Executive Compensation Disclosure Rules

In June 2025, the Securities and Exchange Commission (the "SEC") convened a public roundtable to assess whether the current executive compensation disclosure regime continues to provide investors with clear, decision-useful information. Several panelists from issuers, investors, law firms and compensation consultants observed that the length and complexity of current disclosures can obscure the key factors driving compensation decisions and make it harder for investors to identify what is material. Comment letters submitted following the roundtable have urged the SEC to consider simplifying Item 402 of Regulation S-K, streamlining narrative disclosures and focusing disclosures on material information.

The SEC's Spring 2025 Regulatory Flexibility Agenda includes an item titled "Rationalization of Disclosure Practices," which the SEC has described as encompassing, among other things, potential reforms to executive compensation disclosure requirements. In December 2025 remarks, SEC Chair Paul Atkins reiterated that executive compensation disclosure reform, grounded in materiality, remains a priority for the SEC.

While timing of any reforms remains uncertain and will not impact the 2026 reporting season, the SEC's roundtable and related commentary signal continued regulatory and investor focus on the clarity and usefulness of executive compensation disclosures.

Review Executive Security Practices and Related Disclosure Considerations

In the wake of several high-profile security incidents, including the tragic killing of UnitedHealthcare CEO Brian Thompson in December 2024, many public companies have strengthened executive security programs in 2024 and 2025—through expanded residential security, personal security details, cybersecurity protections and enhanced travel protocols. Recent data from Equilar and other compensation consultants indicates that nearly one-third of S&P 500 companies now provide some form of incremental personal security benefit to top executives, with median disclosed costs having approximately doubled since 2021. We expect these trends to continue in 2025 compensation decisions and 2026 proxy disclosures.

The 2025 SEC executive compensation disclosure roundtable and related comment letters highlighted perquisite disclosure as an area where more principles-based, materiality-focused guidance could be considered. Several commenters urged the SEC to clarify how materiality should apply to perquisites, particularly in the context of personal security arrangements that companies increasingly view as business necessities. For the near term, however, the existing disclosure framework continues to apply for 2026 proxy statements.

Under the current disclosure framework, executive security programs are generally treated as perquisites for SEC compensation disclosure purposes, even if the company views them as necessary business expenses. Under Item 402 of Regulation S-K, companies must disclose in the "All Other Compensation" column of the Summary Compensation Table the aggregate incremental cost to the company of providing the perk or personal benefit and provide appropriate narrative disclosure in the footnotes to the table and in the Compensation Discussion & Analysis (the "CD&A").

Institutional Shareholder Services ("ISS") recently posted revisions to its U.S. Executive Compensation Policies FAQs that acknowledge the growing prevalence and cost of security-related perquisites and state that ISS is unlikely to raise significant concerns for "relatively high security-related perquisite values" so long as the company provides a reasonable rationale for such costs. For example, disclosure of an internal or third-party assessment, and a broad description of the security program and its connection to shareholder interests, would generally mitigate ISS concerns regarding relatively large security costs. However, ISS indicates that extreme outliers or programs that are not adequately explained in the proxy may still raise concerns.

In-house legal and HR teams should reevaluate executive security programs in light of evolving risk assessments. To ensure continued compliance, legal and HR teams should review their internal controls for approving and tracking security-related costs and

related disclosures. An increasing number of issuers also disclose in their CD&As the rationale for security programs and the types of services provided to explain increasing costs to investors, and we expect to see this trend continue in light of the ISS FAQs.

Review Proxy Disclosures Around Non-GAAP Measures in Incentive Plans

Non-GAAP financial measures continue to feature prominently in incentive compensation programs, and compensation committees regularly adjust results to "normalize" for events viewed as outside management's control (for example, unusual charges, acquisitions or divestitures or macroeconomic shocks). Most companies use a combination of pre-established adjustment guidelines (for example, excluding specified categories of items such as asset impairments or restructuring charges) and limited end-of-year committee discretion. Although 2025 did not introduce new SEC rules or proxy advisor policies on non-GAAP financial measures, proxy advisors continue to emphasize transparency and robust disclosure of such adjustments, particularly against the backdrop of continued macroeconomic and geopolitical volatility that has made goal setting more challenging for compensation committees.

Item 402 of Regulation S-K already requires companies to disclose how incentive target levels that are non-GAAP financial measures are calculated from their audited financial statements. However, disclosure practices remain inconsistent, particularly around the specificity of adjustments and their quantitative impact on payouts.

Both ISS and Glass Lewis view clear line-item reconciliations of non-GAAP incentive plan measures to GAAP results as a best practice. Where adjustments to non-GAAP measures *materially* increase incentive payouts, ISS and Glass Lewis expect the proxy statements to include *enhanced* disclosures explaining the nature of the adjustment and its impact on payouts, whether expressed as a dollar amount or percentage. ISS also expects disclosure regarding the board's rationale for the adjustment. Insufficient disclosure of significant non-GAAP adjustments—especially where GAAP results lag—may be viewed as a negative factor in evaluating say-on-pay proposals.

Companies should inventory all non-GAAP financial measures used in 2025 incentive plans and confirm that each is explained and reconciled in the CD&A at an appropriate level of detail. Where adjustments materially increased payouts, companies should consider disclosing the nature of the adjustments, their approximate effect (in dollars or percentage terms) and the committee's rationale, including how the outcome aligns with overall shareholder experience. Clear, detailed explanations of how and why adjustments were made can help foster investor confidence and mitigate the potential for adverse voting recommendations from ISS, Glass Lewis and institutional investors.

Looking ahead, compensation committees should evaluate strategies to enhance the resilience and durability of incentive plans, given the significant volatility experienced in recent years. Practical approaches include emphasizing relative performance metrics, maintaining broader performance bands to account for forecasting uncertainties, incorporating strategic or operational metrics or modestly increasing the proportion of time-vested equity.

Review 2025 Say-on-Pay Voting Trends Heading into 2026

The 2025 say-on-pay season remained characterized by historically high overall support and low failure rates, albeit with modest softening compared to recent years. Median support for say-on-pay proposals across the Russell 3000 was approximately 94.5% in 2025, down slightly from approximately 94.9% in 2024, while failure rates remained near 1.2%.

Notable failures and "close calls" continued to cluster around familiar themes, including (i) perceived misalignment between pay outcomes and company performance, particularly where TSR or key financial metrics lag behind those of peers; (ii) large one-time or "special" awards, including front-loaded or retention equity grants with limited performance conditions or weak disclosure of rationale; (iii) repeated or significant upward non-GAAP adjustments that increased payouts without clear explanation; and (iv) insufficient responsiveness to prior low say-on-pay results or to investor feedback on program design and disclosure.

Ahead of the 2026 proxy season, companies should review their 2025 voting results (including disaggregated by major shareholders where available) and any proxy advisor reports to identify themes that may raise concerns under ISS's and Glass Lewis's updated pay-for-performance frameworks. Companies that received an "Against" recommendation or support below typical thresholds should consider enhanced disclosure around program changes, rationale for pay decisions and shareholder engagement.

Stay Current on Proxy Advisory Firm Developments for the 2026 Season

Both ISS and Glass Lewis made several notable updates to their executive compensation policies for the 2026 proxy season. Although much of each advisor's overall framework remains consistent with 2025, several targeted methodological changes may affect pay-for-performance outcomes, qualitative assessments and disclosure expectations.

Compensation Policy Changes

ISS recently released its 2026 Proxy Voting Guidelines and posted revisions to its U.S. Executive Compensation Policies FAQs, effective for meetings on or after February 1, 2026, which include, among others, the changes described below:

- **Longer pay-for-performance lookback periods**. ISS has extended its quantitative pay-for-performance screens to a five-year horizon from three years. In the Executive Compensation Policies FAQs, ISS also updated the list of factors typically considered by ISS in conducting the pay-for-performance qualitative evaluation.

- **New treatment of time-based equity in the pay mix**. ISS has adopted a more flexible qualitative approach toward time-based equity. ISS will not view a pay mix consisting primarily or entirely of time-based equity as a negative factor if those awards are subject to a minimum five-year total time horizon (through vesting and/or post-vesting holding requirements).

- **Clarification of responsiveness expectations after a low say-on-pay vote**. When a say-on-pay proposal receives less than 70% support of votes cast, ISS will review the compensation committee's responsiveness to shareholder opposition at the next annual meeting. New for 2026, if a company discloses meaningful engagement efforts but was unable to obtain specific investor feedback, ISS will still 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. ISS further clarifies in its FAQs that the absence of any meaningful positive actions in such cases will generally be viewed as insufficiently responsive because the low vote itself evidences investor concerns.

- In addition, ISS expanded its existing policy that addresses high nonemployee director pay. ISS also issued other clarifying FAQs on security-related perquisites (see #2 above), the evaluation of carried interest/profit-sharing programs and annual bonuses based on the compensation committee's discretionary assessment of company and individual performance. ISS also included an FAQ describing how ISS evaluates management proposals seeking shareholder approval to reprice or exchange stock options.

These changes—particularly the extended lookback periods, enhanced disclosure expectations and the revised treatment of time-based equity—may affect both the initial ISS quantitative concern level and the qualitative analysis applied in close cases.

Glass Lewis's 2026 U.S. Benchmark Policy Guidelines introduced a new scorecard-based pay-for-performance methodology. Replacing the prior A–F letter-grade system, Glass

Lewis now evaluates pay alignment using six separately rated tests, which are aggregated into an overall 0–100 score mapped to concern levels ranging from "severe" to "negligible." This is a methodological shift intended to provide more nuance and transparency.

In light of Glass Lewis's announced new business model rolling out over the next two years to provide individualized voting advice to its clients, the guidelines also emphasize that the 2026 Benchmark Policy represents only one of several policy frameworks and that an increasing proportion of institutional clients now employ custom policies, which may diverge meaningfully from Glass Lewis's Benchmark Policy.

"Say-on-Equity" Methodologies

Companies seeking approval of new equity incentive plans or additional shares under existing plans will want to consider ISS's and Glass Lewis's equity compensation plan approaches. ISS revised its Equity Plan Scorecard ("EPSC") in 2026 by (1) adding a new scoring factor under the Plan Features pillar to assess whether plans that include nonemployee directors disclose cash-denominated award limits, and (2) introducing a new negative overriding factor for equity plans found to be lacking sufficient positive features under the Plan Features pillar despite an overall passing score. ISS has not yet posted updated FAQs for equity compensation plans for the 2026 policy year.

For 2026, Glass Lewis has not announced any material changes specific to its equity compensation plan methodology; its analysis will continue to emphasize overall plan cost, potential dilution and burn rate, the presence of problematic plan features (such as evergreen provisions, repricing authority, or single-trigger change-in-control vesting), and the company's historical grant practices.

Recent Executive Order on Proxy Advisors

Separately, the recent White House Executive Order directing the SEC, FTC and Department of Labor to increase oversight of ISS and Glass Lewis does not itself change the 2026 voting policies on executive compensation or equity plans. Over time, however, these directives may lead to further changes in how proxy advisors structure and disclose their methodologies and how institutional investors rely on proxy advisor recommendations in voting on executive pay and equity plans.

Views of Other Institutional Investors

Companies should also of course be cognizant of the voting policies related to executive compensation programs and equity incentive plans of any large institutional shareholder.

Ensure Operational Readiness for Potential Clawbacks

Now that listed public companies have adopted Dodd-Frank-mandated clawback policies under the exchange listing standards implementing Exchange Act Rule 10D-1, the focus has turned to operational readiness and administration. Companies should evaluate their compensation programs to determine whether any elements are "incentive-based compensation" within the meaning of their Dodd-Frank clawback policy and applicable exchange rules. The compensation committee's decisions should be documented appropriately, particularly where discretion is used to determine amounts, so that it is clear what amounts are incentive-based compensation covered by the policy in the event of a future recovery obligation. Companies should review clawback provisions in their existing compensation plans and programs to ensure they are consistent with (and refer explicitly to) the Dodd-Frank clawback policy.

Companies should further assess whether their governance and administrative frameworks can support timely and accurate clawback calculations, including coordination among finance, legal, human resources, compensation consultants and other outside advisors. Particular attention should be paid to controls for identifying triggering restatements, tracking incentive-based compensation across multiple plans and time periods, and ensuring consistent application across affected executive officers.

Evaluate CEO Succession Planning and Related Disclosure

CEO transitions remain an area of significant investor attention and media scrutiny. Global CEO turnover reached record levels in 2024, and data from the first three quarters of 2025 indicates that CEO turnover remains elevated, with particularly high turnover in the technology sector and other fast-evolving industries. Recent Conference Board data further shows that CEO succession rates remain noticeably higher among bottom-quartile TSR performers and that turnover among better-performing companies has also increased as boards take a more proactive approach to leadership changes.

In this environment, investors expect boards to demonstrate robust CEO succession planning, thoughtful use of transition-related compensation and clear disclosure. Companies should review and, where needed, update formal CEO succession plans and emergency succession protocols. When undergoing a CEO transition, companies should ensure that compensation arrangements for incoming, outgoing and interim CEOs (and other key executives) are aligned with market practice and clearly tied to transition objectives. From a disclosure perspective, companies should provide transparent disclosure in the CD&A and related tables of transition-related awards, severance

arrangements and any special one-time grants, including the board's rationale and how these arrangements align with shareholder interests.

Please see our recent Debevoise In Depth for more information about handling senior executive transitions.

Prepare for the Expansion of Section 162(m) Covered Employees in 2027 and the New Aggregation Rule

Section 162(m) of the Internal Revenue Code generally limits the amount a publicly held corporation may deduct for compensation paid to certain "covered employees" to $1 million per taxable year. Under the American Rescue Plan Act of 2021, beginning with taxable years starting after December 31, 2026, the definition of covered employee will expand to include, in addition to the CEO, CFO and three other most highly compensated officers whose compensation is required to be disclosed for SEC purposes, the next five highest-paid employees who are not otherwise covered—bringing the total potential covered group to 10 individuals (plus anyone who was a covered employee in any prior year after 2016).

In addition, the One Big Beautiful Bill Act (the "OBBBA"), enacted in 2025, has introduced an aggregation rule effective for tax years beginning after December 31, 2025. Under this rule, compensation paid to "specified covered employees" by any member of a publicly held corporation's controlled group (determined by reference to Code Section 414(b), (c), (m) and (o)) is aggregated in applying the $1 million deduction limitation. The effect of the new rule is to tighten up the application of the Section 162(m) deduction limit where compensation is paid to a specified covered employee by multiple entities within the same controlled group.

Companies should identify employees who are likely to fall within the expanded covered-employee group in 2027, including employees who may not currently be a primary focus of compensation committee deliberations (for example, highly paid business unit leaders or key revenue generators). Before 2027, companies should consider potential structural adjustments—such as the timing of bonus payments and equity vesting and deferral arrangements—to mitigate adverse tax consequences in coordination with legal, tax, finance and human resources. For the 2026 tax year, public companies should review how existing controlled-group structures and intercompany arrangements affect which entity bears compensation cost and how Section 162(m)'s deduction limitation will apply across the group.

Monitor Noncompete Developments

Following court decisions in 2024 invalidating the Federal Trade Commission's nationwide noncompete rule and setting it aside on a nationwide basis, the FTC has withdrawn its appeals and publicly shifted to a case-by-case enforcement strategy under Section 5 of the FTC Act. In early September 2025, the FTC announced that it would no longer pursue appeals of the decisions vacating its noncompete rule and, at the same time, brought a targeted enforcement action and proposed consent order restricting a company's ability to enter into or enforce noncompetes with most employees. These actions reinforce the FTC's stated intention to pursue "aggressive" enforcement against noncompete practices it views as unfair methods of competition. In tandem with this enforcement posture, the FTC issued a Request for Information ("RFI") seeking data on the use and competitive effects of noncompetes across industries, with particular emphasis on healthcare and healthcare-adjacent roles. This focus suggests that industry-specific enforcement—especially in healthcare—may be an early priority, even absent further rulemaking. Our prior Debevoise Update provides more information on the FTC's noncompete enforcement action and RFI.

State developments continue to evolve rapidly and inconsistently. Several states—including California, Minnesota and Washington—have enacted or expanded broad restrictions or bans on noncompetes in recent years. In contrast, Florida's 2025 CHOICE Act, which became effective in July 2025, has strengthened noncompete enforceability for certain employees, increasing permissible durations and shifting aspects of the burden of proof in favor of employers.

In New York, the legislature continues to advance a revised noncompete bill (S4641), which passed the Senate in June 2025 and is now pending before the Assembly Labor Committee. The bill would prohibit most post-employment noncompetes except for "highly compensated individuals" earning at least $500,000 annually (subject to adjustment) and would impose a salary continuation (garden leave) requirement during the restricted period. Although the timing remains uncertain and the bill may be further amended, if enacted, the law would materially alter the restrictive covenant framework for companies with executives or operations in New York.

Even where noncompetes remain permissible, a more cautious and targeted approach—focusing these agreements on employees with access to trade secrets, customer goodwill or uniquely valuable skills—can bolster enforceability. Employers should consider reviewing and updating their form restrictive covenants, adjusting scope and duration, refining protections for confidential information and trade secrets, and incorporating state-specific modifications where needed. Employers should also continue to monitor

regulatory and legislative developments, including the FTC's enforcement activity and pending state legislation, including in New York.

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As the executive compensation landscape continues to evolve, careful planning, sound governance structures and thoughtful proxy disclosures will help companies meet regulatory, investor and market expectations. By taking these nine issues into account, public companies can position themselves for a smoother and more successful 2026 executive compensation season.

For more information about disclosure considerations for the 2025 annual reporting season, see our recent Debevoise In Depth, Key Considerations for the 2025 Annual Reporting Season.

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Please do not hesitate to contact us with any questions.

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