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BLOG

Recent Executive Orders Are Reshaping DEI Disclosures in 2025 Proxy Statements

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In January 2025, the Trump administration issued a series of executive orders targeting "diversity, equity, and inclusion" (DEI) initiatives. While the orders' explicit targets are mostly limited to the federal government (and federal contractors, as further discussed below), experts have warned that major corporations, foundations, nonprofits, professional organizations, and educational institutions could be implicated as well. As a result, many companies have reconsidered DEI disclosures in their 2025 proxy statements, taking a much more scaled-back approach.

EXECUTIVE ORDERS

The trio of DEI-related executive orders issued by the second Trump administration marked a significant shift in federal policy regarding DEI. Executive Order 14151 directs all federal agencies to eliminate policies and practices that use race, sex, or other identity-based criteria in hiring, contracting, and other decisions. It asserts that many current DEI initiatives violate federal civil rights laws and undermine merit, excellence, and individual achievement. The order mandates a return to color-blind and sex-neutral standards. It also instructs agencies to review and revoke any guidance, programs, or enforcement actions that promote identity-based preferences.

Executive Order 14168 establishes a federal policy that recognizes only two biological sexes—male and female—and rejects gender identity as a basis for legal or policy decisions. It mandates that all federal agencies use sex-based definitions grounded in biology, such as defining "woman" as an adult human female, and directs the enforcement of sex-protective laws accordingly. The order criticizes what it calls the erasure of biological sex in favor of subjective gender identity, arguing that such practices undermine women's rights, safety, and dignity. It also dissolves the White House Gender Policy Council and rescinds prior executive orders that promoted gender identity-based policies.

Finally, Executive Order 14173 directs the termination of all federal DEI programs, mandates, and positions, labeling them as discriminatory and wasteful. It mandates that federal employment and contracting decisions be based solely on individual merit, performance, and qualifications, without consideration of DEI-related factors. The order requires agencies to dismantle DEI offices, eliminate equity action plans, and report any attempts to rebrand such initiatives under different names. It also calls for a comprehensive review of federal employment practices and training programs to ensure alignment with this approach. Failure to comply with these standards could also expose federal contractors to False Claims Act liability. Both the federal government and employees or subcontractors could initiate legal actions against noncompliant government contractors, exposing them to monetary penalties per false claim and even treble damages.

Together, these orders represent a comprehensive rollback of DEI infrastructure in federal governance. For employers and institutions interacting with federal agencies, these changes have spurred a careful review of compliance practices and a reassessment of policies that may now be seen to conflict with the new federal directives.

CHANGES TO PROXY STATEMENTS

These policy shifts also led companies—especially federal contractors—to reassess how they present DEI commitments in their 2025 proxy statements and other public filings. An overwhelming majority (68 out of 74 companies reviewed) of public Fortune 100 companies parsed back references to DEI initiatives in their proxy statements in at least some way.[1] A number of public companies took a literal approach and reduced the frequency with which the words “diversity” or “diverse” appear in their proxy statements. Others chose to qualify any mention of “diversity” with phrases such as “of experiences and backgrounds” instead of explicitly mentioning gender or race. Some companies took deliberate steps to minimize the visibility of their diversity matrices, such as rendering them in gray scale, shrinking their size, or including them in less-prominent sections of the proxy statement. A handful of companies eliminated any mention of diversity entirely, but the more common approach was to repackage the same information in a more scaled-back form, presumably to mitigate legal and regulatory risk. Out of 74 companies reviewed, 38 companies highlighted women directors/general board gender diversity, 33 companies highlighted racially diverse directors, and only two companies highlighted LGBTQ+ directors.

Moreover, following the Fifth Circuit Court of Appeals’ decision in December 2024 to vacate the Securities and Exchange Commission’s order approving the Nasdaq board diversity matrix requirement, many Nasdaq-listed companies removed such matrices in their 2025 proxies, contributing to a decline in the public availability of board diversity data. Of the 14 Fortune 100 companies that we reviewed that are listed on Nasdaq, only three companies maintained the diversity matrix in their 2025 proxy statements.

The proxy statements for PepsiCo, Inc. (Pepsi) and Equifax, Inc. (Equifax) exemplify what the retreat from DEI disclosure can look like in practice. The below table compares key sections of each company’s 2024 and 2025 proxy statements, highlighting the changes they chose to make.

	2024	2025
PepsiCo, Inc.	“The Nominating and Corporate Governance Committee and the Board are keenly focused on ensuring that a wide range of backgrounds and experiences are represented on our Board. 60% of our director nominees are ***women and/or racially/ethnically diverse*** individuals.”	“While not a formal policy, PepsiCo’s director nomination process calls for the consideration of backgrounds, viewpoints, skills and experiences. The Nominating and Corporate Governance Committee endeavors to actively seek out candidates with ***diverse backgrounds, viewpoints, skills and experiences***, to include in the pool from which Board nominees are chosen.”
Equifax, Inc.	“33% of our director nominees identify as ***female*** and 11% of our director nominees identify as ***racially diverse***”	*Omitted.*

	(included under section titled "Board Diversity")	
	"Since 2020, we have refreshed our Board with three new ***female*** directors who bring valuable perspective and expertise, including one member who is also ***racially diverse."*** *(included under section titled "Board Refreshment")*	"Since 2020, we have refreshed our Board with four new directors who bring valuable perspective and expertise." *(included in section titled "Board Refreshment")*
	"Although the Committee does not have a formal diversity policy for Board membership, it considers whether a director nominee contributes or will contribute to the Board in a way that can enhance the perspective and experience of the Board as a whole through, among other things, diversity in ***gender, age, race and ethnicity***…" *(included under section titled "Process for Identifying Director Nominees")*	"Although the Committee does not have a formal diversity policy for Board membership, it considers whether a director nominee contributes or will contribute to the Board in a way that can enhance the perspective and experience of the Board as a whole through, among other things, diversity in ***professional background, education, gender, age, race and ethnicity***…" *(included under section titled "Process for Identifying Director Nominees")*

On the other hand, not every company chose to scale back disclosures. A handful of companies chose to continue to present their diversity statistics from the previous year, and some even went so far as to criticize the rollback of DEI. For example, The Progressive Company (Progressive) maintained its disclosure of director diversity statistics and commitment to DEI.

While Progressive's approach suggests that DEI-related disclosures may not disappear entirely, its decision to ignore the potential impact of the executive orders is the exception to the rule. The changes that Pepsi and Equifax made are discreet, but most companies have followed a similar path and will likely continue to do so in the future without a large-scale rollback of the administration's anti-DEI actions. Removal of DEI-related disclosures could have an impact on voting outcomes for many companies. While ISS has announced that it will no longer consider board gender and racial diversity when making voting recommendations related to election or re-election, Glass Lewis maintains its use of diversity factors in its voting guidelines for director elections. For more on proxy advisor and institutional investor voting guidelines in light of the administration's anti-DEI activities, please refer to this blog post.

KEY TAKEAWAYS

- **The Trump Executive Orders Have Dramatically Shifted Approaches to DEI-Related Disclosures**: The recent executive orders issued by the Trump administration have eliminated most federal DEI programs, compelling many private and public companies to reevaluate their own DEI programs and how they are disclosed.

- **Companies Have Scaled Back Diversity Disclosures in their Proxy Statements**: Against this backdrop, companies have begun paring back disclosure related to DEI in their proxy statements this year compared to years past.
- **The Market May Be Moving Toward a Reality in Which DEI Is No Longer a Priority**: The decision by many companies to reframe DEI in response to these executive orders may suggest the market is moving toward a reality in which DEI statistics and initiatives are no longer disclosed for fear of retribution or some form of government action.

Information related to securities litigation risk in the evolving DEI landscape can be found here.

Winston's Capital Markets & Securities Law Watch will continue to monitor developments related to the Trump administration's executive orders, and we will provide our readers with additional updates as they become available.

For more information, or if you have any questions, please contact the authors of this blog post or your regular Winston contacts.

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[1] For the purposes of this article, "companies" refers only to the 74 public Fortune 100 companies. We did not review private Fortune 100 companies.

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