

KEY POINTS FROM BCLP'S RECENT 2026 PUBLIC COMPANY UPDATE PROGRAM

Feb 18, 2026

BCLP HOSTED ITS ANNUAL CLE EVENT, "PUBLIC COMPANY UPDATE AND OTHER TRENDING TOPICS," IN ST. LOUIS ON FEBRUARY 4, 2026.

Some of the key issues covered by the event, along with some takeaway considerations for companies, include the following:

- **Diversity, Equity and Inclusion.** Companies should consider trends in DEI practices given recent shifts in perception and the operating environment.
 - Recent Supreme Court opinions that struck down race-based admission practices in higher education did not technically apply to most corporations and private employers. Nevertheless, companies should consider the potential for increased legal scrutiny of DEI programs and increased litigation risk for race-based hiring or promotion.
 - Companies may face reactions from key stakeholders—institutional shareholders, employees, customers and business partners—which may include backlashes for maintaining, or retreating from, DEI programs and their disclosure about such programs.
 - Companies may consider whether to maintain their current programs or rework, roll back, or even eliminate, their programs, or public disclosures about such programs, in light of these events and the current environment.
- **Securities Law Update.** Tips on dealing with the SEC's position to not review most shareholder proposal no-action letters, recent developments on insider trading and confidentiality, California climate rules, foreign private issuers and Section 16, risk factors and other annual updates.
 - On shareholder proposals, companies should consider whether to seek an SEC no-objection letter in connection with shareholder proposals for which they cannot reach a negotiated settlement with the proponent. Companies should consider whether they have a reasonable basis to request such a letter and the potential reactions of the proponent, the

SEC, other shareholders, proxy advisors and activists. For further discussion please see our November 19, 2025 post.

- On insider trading policies, companies should consider reviewing how their policies compare to other public companies now that such policies must be publicly filed as exhibits. Items for consideration include the timing of blackout periods and divergent approaches to topics like gifts, hedging and pledging, option exercises, share withholding, employee benefit plan transactions and shadow trading. Companies should consider best practices in handling confidential information as discussed in our July 14, 2025 post.
- On risk factors and other annual updates, Companies should consider addressing recent trends and risk factor disclosure by peers in the areas of artificial intelligence, government shutdown risks, tariffs, cybersecurity, supply chain and other risks. Companies should avoid boilerplate disclosure and issues on “hypothetical” risk disclosure. Foreign private issuers should be aware that Section 16(a) reporting now applies to FPIs. Please see our December 18, 2025 post and our December 29, 2025 post.
- **Human Resources in the Age of Artificial Intelligence.** Considerations regarding human resources and the intersection of AI and HR.
 - Companies should consider the extent to which HR departments use AI, including in recruiting, development and retention, and performance management.
 - Use of AI is subject to extensive federal oversight, including by the FTC, EEOC, CFPB and SEC. Most states also passed AI related laws and many others are pending.
 - Areas of particular interest include using AI for automated decision making in employment, potential biases in algorithms and potential liability issues when third parties are involved, including the need for vendor due diligence. Developing areas include the potential need to make certain disclosures about the use of AI and the impact on employment decisions and potential rights to opt out of, or to appeal, such decisions.
 - Companies should consider conducting an AI audit and inventory of their use of AI, including evaluating potential risks with the advice of technical experts and vendors.
- **M&A/Corporate.** Tips from recent case law affecting mergers and acquisitions, including:
 - Companies should consider giving additional scrutiny to indemnification and “advancement” rights in M&A and other agreements, including the potential need to insert limits or exceptions for fraud or other cases of severe conduct, especially where the potential liability risk may be higher.

- Companies should consider whether provisions in shareholder agreements that provide an unusual amount of power to a shareholder, especially in areas that are typically handled by boards of directors, may be too broad such that a court could consider invalidating such provisions.

The program also reviewed the recent and current political landscape. The presentation slides are available [here](#).

The event was hosted by BCLP partners Jack Oliver, Nelson Williams, Bill Cole, Rob Endicott, Ofir Klein, Amy de La Lama, Goli Mahdavi, and Stephanie Hosler. Russ Carnahan was a special guest speaker in the political discussion.

RELATED CAPABILITIES

- Securities & Corporate Governance

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