Professor John C. Coates IV
John F. Cogan Professor of Law and Economics
Harvard Law School
1525 Massachusetts Avenue, Griswold 400
Cambridge, MA 02138

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Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, Northeast
Washington, D.C. 20549

Re: File No. 4-637, Petition for rulemaking to require public companies to disclose to shareholders the use of corporate resources for political activities

Dear Ms. Murphy:

I am not among the group of professors who petitioned the SEC for the rulemaking on the use of corporate resources for political activities. Indeed, I have no settled views on what precisely the best public policy on corporate political activity should be. However, a recent comment letter filed by the U.S. Chamber of Commerce and 28 other trade organizations (Chamber's comment letter) requires correction, particularly if the staff were to take it seriously in its deliberations on the rule proposal. As I explain below, the Chamber's comment letter contains multiple errors of fact and analysis. I respectfully urge the staff not to draw any conclusions about the best public policy based on the description of research contained in the Chamber's comment letter.

The Chamber's Comment Letter Relies For its Description of Research on a Lobbyist White Paper by the Manhattan Institute. The Chamber's comment relies primarily on – and indeed, largely tracks – a non-peer-reviewed, privately published white paper from the Manhattan Institute written by a lobbyist (the MI-lobbyist paper) who concludes, perhaps not surprisingly, that lobbying is worth paying for. However, neither the MI-lobbyist paper nor the Chamber's comment present any new evidence, nor does either advance any new thinking relevant to corporate political activity, nor could either be fairly described as a "comprehensive study of the economic literature in this area" (as they describe their work). Instead the MI-lobbyist paper selectively reviewed other's research on the topic, and misreported the tenor of prior research. None of that prior research demonstrated, and little even supported, the claim that corporate political activity benefits shareholders. Rather, the vast bulk of that research occasionally supported the much weaker claim that corporate political activity can sometimes generate favorable political results. But this conclusion is not the important one for the SEC's purposes. The SEC should want to know whether corporate political activity is benefiting shareholders, not whether it's producing results that benefit others, or producing benefits that are below the cost of that activity.

Risk adjusted net results are the correct way of considering shareholder interests. More generally, it should be clear that the correct way of considering shareholder interests in any investment is on a ***net*** basis – benefits less costs – and to ***risk-adjust*** the investment, a task that in the political area is exceedingly difficult.[1] The research methods and design of most of the studies reviewed by either the MI-lobbyist paper or the Chamber's comment were not capable of doing either of those things, and thus are simply beside the point that is most important to the rule petition.

Examples of Biased Descriptions in the Manhattan Institute Paper and Picked up in the Chamber's Comment Letter. As examples of how both the MI-lobbyist paper and the Chamber's comment present a biased description of the existing research on corporate political activity, and as detailed more in a response I wrote to the Manhattan Institute paper last summer,[2] consider the following:

- Neither the MI-lobbyist paper nor the Chamber comment cite numerous other studies of political activity[3] that were in print or in circulation in working paper form on the internet at the time of the report. The bulk of this work contradicts or is inconsistent with the claims of both the MI-lobbyist paper and the Chamber's comment. The bulk of this work presents evidence or theory that corporate political activity is or could reasonably be viewed as sometimes or often not in shareholders' interest.

- The MI-lobbyist paper cited a highly regarded survey by Harvard Government Professor Stephen Ansolabehere,[4] but failed to note one of Ansolabehere's core conclusions, that numerous prior studies of corporate politics were more consistent with the view that such activity represented a form of executive

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[1] See, e.g., Smith, Mark 2000. American Business and Political Power (U. Chi. Press); Tetlock, Philip E. 2005. Expert Political Opinion (Princeton: Princeton U. Press).

[2] http://blogs.law.harvard.edu/corpgov/2012/07/03/update-on-corporate-political-activity/

[3] Bebchuk, Lucian, and Robert J. Jackson, Corporate Political Speech: Who Decides?, subsequently published in 124 Harv. L. Rev. 83-117 (2010); Chaney, Paul K., Mara Faccio, and David Parsley, 2011. The Quality of Accounting Information in Politically Connected Firms, 51 J. Acc't & Econ. 58-76 (2011); Faccio, Mara, Differences between Politically Connected and Non-Connected Firms: A Cross-Country Analysis, 39 Fin. Mgt. 905-927 (2010); Faccio, Mara, Ronald W. Masulis and John J. McConnell, Political Connections and Corporate Bailouts, 56 J. Fin. 2597-2635 (2006); Hadani, Michael, and D. Schuler, In Search of El Dorado: The Elusive Financial Returns on Corporate Political Investments, 34 Str. Mgt. J. 165-181 (2013); Smith, supra; Tetlock, supra. In addition to these articles, which the Chamber's comment ignores, the staff should also note work by Rajesh Aggarwal and co-authors, which the Chamber's comment addresses, but misleadingly describes as a working paper, when in fact it too was published in a peer-reviewed journal last year. See Aggarwal, Rajesh K.; Meschke, Felix; and Wang, Tracy Yue, Corporate Political Donations: Investment or Agency?, Business and Politics : Vol. 14: Iss. 1, Article 3 (2012). I do not agree with the Chamber's comment in how it describes or critiques the Aggarwal study, but I leave it to its authors to respond as regards their own work.

[4] Ansolabehere, Stephen, John M. de Figueiredo, and James M. Snyder Jr. "Why Is There So Little Money in U.S. Politics?" The Journal of Economic Perspectives 17, no. 1 (winter 2003): 105–30.

consumption – a type of perk – than with the view that such activity benefits shareholders.

- The MI-lobbyist paper listed in its bibliography a published article by economist Jin-Hyuk Kim,[5] which found that weak shareholder rights correlate positively with corporate political activity. But nowhere did the MI-lobbyist paper discuss the Kim article or summarize its findings, or reconcile them with its purposed synthesis and review of the literature. A balanced submission from the Chamber would have addressed Kim's findings.

While I do not here attempt to summarize all of the literature on corporate political activity, you could, and I would respectfully recommend you examine, the peer-reviewed article that is my principal contribution to research on corporate political activity, which contains a summary of a broader range of research on this topic, as well as presenting my own findings. That summary is superior to the one-sided summaries contained in the MI-lobbyist paper and the Chamber's comment. That article is available at the website in the footnote to this sentence.[6] The article was published months ago, and has been mentioned in prominent publications such as the New York Times and the Boston Globe, but is not mentioned in the Chamber's comment letter. The SEC staff may wish to consider the failure of the Chamber's comment letter to comment on the final peer-reviewed publication, and on the other peer-reviewed articles listed above, in assessing the reliability of the Chamber's comment letter more generally.

Several outright falsehoods about my research in the Manhattan Institute Paper are Picked up in the Chamber's Comment letter. Worse, the MI-lobbyist paper contained outright falsehoods about my research, some of which have now been picked up by the Chamber's comment. For example:

- The MI-lobbyist paper states that the measure of value used in my research – Tobin's Q – is not used in prior research as a "primary variable of interest." This statement is quite surprising and, in many academic circles, would disqualify the authors from being taken seriously. The variable – named for James Tobin, a Nobel prize winner – has been used for over 20 years in peer-reviewed finance and accounting journals to measure managerial quality and shareholder value, because the measure relates the value of a company's stock to the value of its assets, relative to industry peers. Numerous authors have used the variable, including R. Glenn Hubbard (Columbia), Andrei Shleifer (Harvard), and Xavier Giroud (MIT).[7] The MI-lobbyist paper – which the Chamber's comment touts as

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[5] Kim, Jin-Hyuk. "Corporate Lobbying Revisited." Business and Politics 10, no. 2 (2008).

[6] http://onlinelibrary.wiley.com/doi/10.1111/j.1740-1461.2012.01265.x/abstract. A working paper version, with minor editorial differences, is available here: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2128608.

[7] E.g., Giroud, X. and H. Mueller, Does Corporate Governance Matter in Competitive Industries?, 95 J. Fin. Econ. 312-331 (2010) (using Tobin's Q to measure relationship between corporate governance and corporate value); Himmelberg, Charles P., R. Glenn Hubbard, and Darius Palia, 53 J. Fin. Econ. 353-384 (1999) (using Tobin's Q to measure relationship between management ownership and firm value); Morck,

having been written by an economist (now a lobbyist) – seems to be unfamiliar with the core focus on academic research on shareholder value and if taken seriously would imply that readers should dismiss the value of the work of many of America's leading economists.

- The MI-lobbyist paper and the Chamber's comment state that my results "largely disappear" when I include controls for size and industry.[8] In fact, the negative relationship between corporate political activity and corporate value ***increases*** when those controls are included (see Table 6 of the published article, which was also in the working paper discussed by the Chamber's comment). As with the unfamiliarity with Tobin's Q, this misreading of data-tables suggests a basic lack of familiarity with academic research.

- The MI-lobbyist paper and the Chamber's comment claim that the "actual effect" I observe is so small it "could very well be zero."[9] The Chamber's statement is incorrect. My results are that one can be 95% confident that the average effect of corporate political activity on shareholder value lies between negative $13 billion and $195 billion within the S&P 500 over the period 2008 to 2010, with an average estimate of negative $104 billion. It takes an unusual perspective to turn negative $100 billion into "almost zero." Here, again, the misreading suggests a failure to understand elementary statistics.

The MI-lobbyist paper concluded that my work contained "inconsistencies and technical problems" that it would be "reject[ed] by any peer-reviewed journal." That conclusion is perfectly understandable, once the reader understands that the author of MI-lobbyist paper was unfamiliar with basis concepts used in academic research on shareholder value, did not understand how to tell whether an effect increased or decreased after controls were introduced, and did not understand how to think about a 95% confidence interval. It would also be useful to the SEC staff had the Chamber's comment gotten the basic facts right. The paper ***was*** published in a peer-reviewed journal. I do not know if that basic and material omission is typical, but the SEC staff might check the rest of the "facts" presented in the Chamber's comment letter before relying on any of them.

Reliance on Public Data and Inferences is Necessary and Appropriate. A final broader point might be usefully made. The Chamber's comment criticizes all research on corporate political activity because that research only uses publicly available data. The irony of that argument – in a letter from the Chamber seeking to block a rule that would increase the amount of public information about political activity – should not be lost on the SEC staff. ***All*** previous research has confirmed, repeatedly, that different channels of political influence are ***complements***, and that a company that is active in one channel is more likely to be active in other channels. Even if not all political activity is publicly disclosed, reliable inferences about the

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R., A. Shleifer and R. Vishny, Management Ownership and Market Valuation, 20 J. Fin. Econ. 293-315 (1988) (using Tobin's Q to measure effect of management ownership on firm value).

[8] See page 11 of the Chamber's comment.

[9] Id.

effects of that activity can be made, consistent with the best standards of research on the topic. Our knowledge would be greatly improved, of course, if corporations made better disclosure, and shareholders, in particular, would certainly benefit by having that information. But inferences based on partial information are commonly drawn in and indispensable to science, and to the kind of cost-benefit analysis that the Chamber in other settings has been pushing every regulatory agency to use. Neither the Chamber's comment nor any other work that it cites provides any reason to reject findings because they are based on inferences, rather than direct observation, and most of the research papers that the Chamber's comment cites favorably also rely on such inferences.

Conclusion. I would have preferred that my research, once published in a peer-reviewed journal, be able to speak for itself. But, when any description, however mistaken or biased, is available to all via the Internet, it is, unfortunately, impossible not to respond. I realize that the SEC staff may not have the time to research fully all of the academic work in this area and that comment letters which survey the current literature perform an important function. But, I hope that at the very least, I have demonstrated in this letter that those who choose to read my research will find it very different from the mischaracterization in the MI-lobbyist paper and the Chamber's comment. Whatever the SEC decides to do, or not to do, in this area should not be influenced by the description of my research, or that of others, in the Chamber'scomment.

If I can be of further assistance as you consider the rule petition, please contact me at **jcoates@law.harvard.edu**.

Very truly yours,

John C. Coates IV