



October 20, 2010

Via e-mail (rule-comments@sec.gov)

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

Re: File Number S7-14-10

Dear Ms. Murphy:

Meridian Compensation Partners is pleased to provide these comments to the Securities and Exchange Commission ("Commission") on its concept release ("Release") dated July 14, 2010. In particular, we are commenting on the portion of the Release relating to proxy advisory firms.

Meridian Compensation Partners is one of the largest independent executive compensation consulting firms in North America. We provide trusted counsel to Boards and Management at hundreds of large public and private companies. We consult on executive compensation design issues, corporate governance matters and related disclosures. Our consultants have decades of experience in developing pay solutions that are responsive to shareholders, reflect good governance and align with company performance.

Background

In the Release, the Commission expresses broad concerns with regard to investor and issuer confidence in the legitimacy of shareholder voting under current proxy voting rules. The Commission notes that to the extent that proxy votes are cast by persons lacking an economic interest in the underlying company, confidence in the proxy system could be undermined. The Release examines three areas in which concerns have been expressed about whether regulations promulgated by the Commission play a role in the misalignment of voting power from economic interest: (i) the increasingly important role of proxy advisory firms, (ii) the impediments in Commission rules to allowing issuers to set voting record dates that more closely match the date on which voting actually occurs, and (iii) hedging and other strategies that allow the voting rights of equity securities to be held or controlled by persons without an equivalent economic interest in the company.

The Release identifies the following potential issues regarding the role proxy advisory firms play in the proxy voting process:

- **Conflicts of Interest.** To the extent that conflicts of interest on the part of proxy advisory firms are insufficiently disclosed and managed, shareholders could be misled and informed shareholder voting could be impaired. The Release identifies the following to be the most commonly cited conflicts of interest:

- A proxy advisory firm provides voting recommendations on matters put to a shareholder vote while also offering consulting services to the issuer or a proponent of a shareholder proposal on the very same matter. The issuer in this situation may purchase consulting services from the proxy advisory firm in an effort to garner the firm's support for the issuer when the voting recommendations are made.
- A proxy advisory firm provides corporate governance ratings on issuers to institutional clients, while also offering consulting services to corporate clients so that those issuers can improve their corporate governance ranking.
- When owners or executives of the proxy advisory firm have significant ownership interests in, or serve on the board of directors of, issuers with matters being put to a shareholder vote on which the proxy advisory firm is offering vote recommendations.

■ **Lack of Transparency in Formulating Voting Recommendations.** To the extent that proxy advisory firms develop, disseminate and implement their voting recommendations without adequate accountability for informational accuracy in the development and application of voting standards, informed shareholder voting could be impaired. The Release notes that some commentators have expressed the concern that voting recommendations by proxy advisory firms may be made based on materially inaccurate or incomplete data, or that the analysis provided to an institutional client may be materially inaccurate or incomplete.

■ **Inadequate Oversight.** Proxy advisory firms may be controlling or significantly influencing shareholder voting without appropriate oversight, and without having an actual economic stake in the issuer.

The Commission has asked for public comment regarding the appropriate means of by which the Commission may address these and other relevant issues identified by the public.

Meridian Compensation Partners' Comments

We believe proxy advisory firms significantly influence shareholder vote outcomes. We have observed that many institutional shareholders of our clients have proxy voting policies in place that either explicitly require the shareholder to follow the voting recommendations of a proxy advisory firm or that give significant weight to such voting recommendations. With matters subject to shareholder votes increasing in complexity and number, we believe the reliance upon proxy advisory firms' recommendations by institutional shareholders will continue to grow.

At the same time, we have observed that certain proxy advisory firms' processes and methodologies for developing voting recommendations are not transparent. We have also observed frustration on the part of many issuers in attempting to remedy factual errors that may, in part, form the basis of a proxy advisory firm's voting recommendation. Finally, we have observed that proxy advisory firms' disclosures regarding actual or potential conflicts of interest are, for the most part, inadequate.

For these and the other reasons discussed in the Release, we believe it is appropriate and important for the Commission to promulgate rules overseeing the operations of proxy advisory firms. In that regard, we believe the issues related to proxy advisory firms may be effectively addressed to the benefit of market participants by the Commission adopting rules that require proxy advisory firms to: (i) adopt certain substantive procedures and (ii) disclose these substantive procedures as well as certain other matters, such as vote recommendations. In addition, we recommend that the Commission adopt rules providing for the loss of exemption under Exchange Act Rule 14a-2(b)(3) for any proxy advisory firm that fails to materially comply with the foregoing requirements.

■ **Recommended Substantive Procedures Applicable to Proxy Advisory Firms.** We recommend that the Commission adopt rules to address concerns that proxy advisory firms' voting recommendations and corporate governance ratings may be based on materially inaccurate or incomplete data and that these firms may not have adequate procedures in place to identify and manage conflicts of interest.

- Proxy advisory firms should be required to develop, implement and disclose conflicts of interest policies. The purpose of a conflicts of interest policy would be to protect the interests of market participants by requiring proxy advisory firms to identify, manage, mitigate and, to the extent possible, eliminate potential and actual conflicts of interest that may compromise (or be seen as compromising) such firms' voting recommendations and corporate governance ratings. The policy should impose a duty on employees of proxy advisory firms to disclose the existence of any actual or possible conflicts of interest to the firm's chief compliance officer (see discussion below regarding designation of chief compliance officer). In addition, the policy should set forth procedures for identifying whether a conflict of interest exists, procedures for addressing conflicts of interests and ramifications for violating the conflicts of interest policy.

We recommend that the Commission identify circumstances that, as a matter of law, would be considered as giving rise to conflicts of interest. At a minimum, we recommend that the Commission identify the three circumstances described in the Release and set forth on pages 1 and 2 of this letter as conflicts of interest.

- Proxy advisory firms should be required to develop and implement policies regarding interactions with issuers. The policy should set forth specific protocols for interacting with management of an issuer. In addition, the policy should include procedures for informing issuers of voting recommendations and corporate governance ratings at least three business days in advance of their publication and issuance to institutional clients and for offering issuers a reasonable opportunity to review and appeal such voting recommendations and corporate governance ratings. The policy should require the proxy advisory firm to provide an issuer with the information, data and considerations upon which a voting recommendation or corporate governance rating was based. This would afford issuers the opportunity to identify and to have corrected any factual mistakes made by the proxy advisory firm. Finally, the policy should require proxy advisory firms to document the process and disposition of an issuer's objections to a voting recommendation or corporate governance rating. This documentation of issuers' objections should be open and subject to Commission inspection.

- Proxy advisory firms should be required to develop and implement policies regarding internal controls used to ensure the accuracy of information which forms the basis for voting recommendations and corporate governance ratings. Additionally, these control policies should ensure that revisions to voting recommendations or corporate governance ratings are properly reflected in republished reports to clients and, in the case of voting recommendations, are properly executed by the proxy advisory firm on behalf of their clients, when applicable.
- A proxy advisory firm should be required to designate a chief compliance officer responsible for administering its conflicts of interest policy, issuer interaction policy and internal control procedures and for ensuring compliance with applicable securities laws, rules and regulations.

■ **Recommended Disclosure Requirements Applicable to Proxy Advisory Firms.** To permit market participants to evaluate the quality of proxy advisory firms' vote recommendations and corporate governance ratings, we believe it is critical for the Commission to adopt rules requiring proxy advisory firms to make certain public disclosures. As suggested in the Release, these rules could be largely patterned after the Commission rules that govern Nationally Recognized Statistical Rating Organizations. In particular, we recommend proxy advisory firms be required to publicly disclose the following information:

- Vote recommendations and corporate governance ratings;
- Potential and actual conflicts of interest relating to a particular vote recommendation or corporate governance rating;
- Policies and procedures established, maintained and enforced by the proxy advisory firm to address and manage conflicts of interest;
- Internal control policies and procedures used to ensure the accuracy of information which forms the basis for voting recommendations and corporate governance ratings;
- Procedures and methodologies used to determine vote recommendations and corporate governance ratings (including, but not limited to, sources of information, mathematical models and policies); and
- Policies and procedures governing the interaction with issuers.

Proxy advisory firms should be required to file their voting recommendations, and potential and actual conflicts of interest relating to such voting recommendations with the Commission as soliciting material, on a delayed basis. In cases where vote recommendations are based on a material exception to the published voting policy guidelines of a proxy advisory firm, such exception and the rationale for the exception should be included in the foregoing soliciting material. A similar filing should be required for corporate governance ratings issued by proxy advisory firms.

Additionally, proxy advisory firms should be required to file their policies on conflicts of interest, interaction with issuers, internal controls and determination of voting recommendations and corporate governance ratings with the Commission and to promptly amend such filing if the information described therein becomes materially inaccurate.

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We appreciate the opportunity the Commission has afforded the public to comment on the Release. We welcome the opportunity to discuss with the Commission and its staff our comments provided herein.

Best regards,

Meridian Compensation Partners, LLC

Donald G. Kalfen
Partner

Michael Powers
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Jim Wolf
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