

RICHARD H. MOORE  
*Treasurer*  
*State of North Carolina*

October 2, 2007

Nancy M. Morris  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

**Re: *Shareholder proposals (File Number: S7-16-07)***

Dear Ms. Morris:

I am writing on behalf of the North Carolina Retirement Systems (“NCRS”) to comment on the Securities and Exchange Commission’s (“SEC”) proposed rule amendments regarding shareholder proposals, File Number S7-16-07 (the “Release”).

The North Carolina Retirement Systems is a consolidated pension fund that holds more than \$75 billion in assets and serves more than 750,000 employees and retirees. As the Treasurer of the State of North Carolina, I am the sole trustee for the NCRS. As a large institutional investor with a long-term investment horizon, the NCRS has a strong history of active and conscientious corporate governance activity. The right and ability to file shareholder resolutions and actively participate in the nomination and election of directors are vital to protecting the NCRS’s investments in the 1,700 publicly-traded domestic companies held in the portfolio.

One of the most important rights afforded to a shareowner is the opportunity to elect directors. The Release allows certain shareowners to file proxy access resolutions that would amend a company’s by-laws to allow for shareowner director nominees to appear directly on the company’s proxy statement. While I applaud the SEC’s efforts to provide such a mechanism, I cannot support the Release as currently drafted. Both the 5 percent holding threshold and the heightened disclosure requirements are restrictive and overly burdensome.

In addition, the Release includes a discussion about the possible adoption of new rules that would allow companies to propose by-laws restricting the ability of shareowners to file precatory, or non-binding, proposals. These non-binding proposals are instrumental to the ability of shareowners to communicate with their representatives - the boards of directors - and new restrictions would severely limit current shareowner rights and negatively impact the quality of corporate governance at these companies.

The Release also includes a discussion of the use of electronic forums. While electronic forums could present a valuable discussion tool to augment current communications amongst shareowners and between shareowners and companies, these forums should not be used to replace any current shareowner rights.

### The Five Percent Holding Requirement

The Release includes a provision that would restrict proxy access proposals to shareowners that hold, individually or collectively, more than 5 percent of a company's shares entitled to vote on the proposal for at least one year prior to its submission. A 5 percent holding requirement is unworkable and would not benefit shareowners.

While institutional investors hold a large percentage of outstanding U.S. equities, the majority of investors do not file shareholder proposals - even though they often support the proposals on the ballot. Those investors that do sponsor proposals, often public pension funds and union funds, would have great difficulty reaching the 5 percent threshold. Even though the NCRS is a large pension fund, it typically does not hold more than .3 percent of a given company's shares. Thus, it would take a large aggregation of pension funds to reach the 5 percent barrier. In fact, according to information compiled by FactSet Research Systems, Inc., if the 10 largest public pension holders of Exxon Mobil Corporation (large-cap), Precision Castparts Corp. (mid-cap) and The Manitowoc Company, Inc. (small-cap) were to combine their shares, they would hold approximately 3.01, 3.59 and 3.56 percent, respectively.

Further, while it is a challenging endeavor to develop a coalition of pension funds to file a shareholder proposal, this is not reflective of actual support for the proposals. The NCRS has participated in such coordinated efforts. NCRS co-filed, along with other large pension funds, a proxy access proposal at Hewlett Packard during this past proxy season. The combined holdings of the filers did not approach the 5 percent threshold. However, according to Institutional Shareholder Services, the proposal received 42.95 percent of the for-and-against votes cast at the annual meeting. A proxy access proposal filed at UnitedHealth received similar support, garnering 45.25 percent of the for-and-against votes cast. It would be inappropriate to restrict a shareowner's ability to present such proposals to the full ownership of a company based on an arbitrary 5 percent barrier.

### Disclosure Requirements

The Release also imposes broad disclosure requirements on potential filers of proxy access proposals. NCRS is not against disclosures per se, but as presented in the Release, the disclosures are overly burdensome, vague and provide little benefit to shareowners in their voting decisions.

As an active institutional investor, NCRS has many communications with companies in which it invests. These occur in various fashions and by a number of different persons. It would be overly burdensome to document each and every communication for the twelve months prior to filing a proxy access proposal. Also, because it is not always possible to predict where engagement efforts will lead, NCRS cannot determine in advance which company

communications would fall under this requirement. Thus, it would require extensive record-keeping for all communications with all companies. Further, and even more troubling, it would likely create a chilling effect on dialogue with directors. NCRS is successful in its engagement efforts because it is able to hold candid discussions on a wide variety of issues important to shareowners. Directors would be less likely to participate in such discussions if they believed that every communication, on every topic, would be subject to disclosure in the proxy statement.

In addition, the proposed disclosure rules are overly vague and could create uncertainty for both proponents and companies about whether the requirements are being met. For example, it is not clear who would be the “person or persons” about whom information would need to be disclosed, whether all co-filers would be subject to the same disclosure requirements, or when the twelve-month period would start for each co-filer.

Further, the disclosure requirements appear to be geared toward a concern about change-of-control situations. While the NCRS supports the disclosure of relationships that may impact shareowners’ decisions on change-of-control matters, it is important to note that the filing of a proxy access bylaw amendment would not necessarily result in the election or even nomination of a director candidate by shareowners. This is a minimum two-year process that would require a shareowner or group of owners to file a separate nomination proposal in a year following the approval of the proxy access policy. Shareowners would have the opportunity to vote directly on the director candidates, at which point background information on the proponents might be more relevant.

### Precatory Proposals and Electronic Forums

While the NCRS is a large institutional investor, it files a small number of shareholder proposals. Despite that fact, the NCRS is able to express its concerns and opinions to directors and management by voting on the proposals that are presented at each annual meeting. This is an extremely important part of the engagement process and should not be tampered with lightly.

Precatory, or non-binding, proposals have proven very effective in communicating to companies the concerns of shareowners. For example, there has been tremendous improvement in corporate governance in the areas of majority voting for directors and board declassification. These changes were brought about because shareowners were able to clearly express their opinions through solid majority passage of non-binding proposals on these topics. Further, non-binding proposals open the door to effective dialogue between shareowners and companies, often resulting in adoption of strong corporate governance reforms without the necessity of a vote.

There are limits in the current Rule 14a-8 that restrict the types of non-binding proposals companies are required to place on the proxy statement. While investors may not always agree with the SEC’s decision on a specific no-action request, the staff has generally been very professional and consistent in applying the exceptions under Rule 14a-8. This is an effective method of limiting the proposals presented for a vote and further curtailing of such rights would not be in the best interests of shareowners.

Finally, the Release discusses the possibility of using electronic forums for communication between companies and shareowners. NCRS salutes the idea and would appreciate further development of a good electronic tool. However, such electronic forums should not replace any current shareowner rights to file non-binding proposals. Items that appear on a proxy statement receive the attention of all shareowners, as owners have a fiduciary responsibility to vote their shares at the annual meeting. Thus, the results of votes at annual meetings provide a clear picture of the beliefs of the majority of shareowners. The limited participation in an electronic forum would not provide the same representation of views of such a broad cross-section.

### Conclusion

As outlined above, the NCRS strongly urges the SEC not to adopt the proposed rule as drafted.

I appreciate the opportunity to comment on the Release. Please feel free to contact me if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink that reads "Richard H. Moore". The signature is written in a cursive, flowing style.

Richard H. Moore