

# BOWNE

## **BY E-MAIL**

February 13, 2006

Nancy Morris  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549-9303

**Re: *File No. S7-10-05, Release No. 34-52926***  
***Internet Availability of Proxy Materials***

Dear Ms. Morris:

Bowne & Co., Inc. ("Bowne") appreciates the opportunity to comment on the proposal for an alternative method of disseminating proxy materials.

### ***Bowne's role in the process***

Bowne provides services that help companies manage their investor communications, including regulatory and compliance documents. Our services span the entire document lifecycle and involve both electronic and printed media: we help our clients typeset their documents, finalize the documents, prepare the documents for filing, personalize the documents, and print and distribute the documents, both through the mail and electronically. Bowne believes the proposed proxy delivery rules are not in the best interest of shareholders and should not be implemented at this time. While the proposed rules would have an effect on the role we play in the final stage of the document lifecycle, that is not the primary reason for our opposition to the proposed rules. We believe the proposed rules will interfere with investor communications and unfairly shift the burden of proxy costs to the individual investor. This will erode the individual investor's role in corporate governance and, ultimately, the health of the capital markets.

Since Bowne was founded, we have taken a long-term view of our business – a perspective that has enabled us to thrive for more than 230 years. To endure in the constantly evolving regulatory environment, we have changed our service delivery model as necessary, often in accordance with changing SEC regulations. In fact, we have been at the forefront of many regulatory changes, including the development of EDGAR. Although commenters suggested that EDGAR would lead to the demise of financial printing, Bowne embraced the concept and developed technology to simplify and speed the EDGAR filing process for our clients.

Clearly, we have embraced technology in our business model; however, we are not in favor of employing Internet technology simply for technology's sake. In the case of these proposed rules, we do not believe Internet technology is the appropriate solution at this point in time. While the Internet is an excellent vehicle for transmitting information, the printed page remains a superior system for reading and understanding information. It is difficult to read long documents on a computer screen (as demonstrated by the long-standing practice of issuers providing SEC staff with printed "courtesy" copies of documents filed electronically on EDGAR). Most investors who read the proxy materials today will certainly not read them in electronic form. Many will not read them at all, while others will be burdened with having to print them out on home computers or be obligated to request the material from the issuer on a document-by-document basis. Whatever the savings to the issuer, the costs to investors will be greater.

***This proposal must be viewed in a larger context***

The goal of proxy delivery reform should be two-fold. Reform should promote greater investor participation in the proxy balloting by simplifying and reducing complexity in the voting process, and it should promote more informed participation by making materials easily accessible and understandable. We believe that this proposal fails on both grounds.

The rule amendments proposed by the Commission are, of course, processing rules rather than substantive policy rules. We note this distinction because the decision on whether to adopt these rules, ultimately, should be based upon whether they improve or enhance the policy goals and objectives of the proxy voting system. In our opinion, the record to date demonstrates that this proposal will not improve the process but will interfere with efforts to strengthen sound corporate governance practices and increase inequality in investor education.

The proposing release notes that electronic proxy has been a concept that has been evolving for nearly ten years. As such, there is a record of experience. However, that record does not, in our experience, support a move to electronic proxy in the manner proposed. For several years, Bowne has given our shareholders the option to receive their proxy electronically; in that time, approximately 10% of our registered shareholders have chosen not to receive the printed proxy, but would have electronic access only. Other surveys and anecdotal evidence indicate that the majority of investors are aware of the electronic option and still choose to receive paper proxies. In the interest of maintaining or improving investor education, we believe it is essential the SEC acknowledge the record of the recent past and provide individual investors with an easily executed mechanism by which they can continue to receive printed copies of all of the proxies and annual reports of the companies of which they are shareholders.

***If the proposal is to promote sound corporate governance through greater participation by better informed shareholders, the proxy process must be designed to improve investors' access to information and must make proxy voting simpler, faster and cheaper for beneficial owners***

It is important to remember that proxy materials are more than just an adjunct to a voting process. They are a core component of the total mix of information that companies disclose to investors. As such, any proposal should be designed not just to reduce company costs, but to maximize the likelihood that investors will read and understand the information. The goal should be aimed at facilitating greater knowledge and higher voting participation by simplifying the process. Unfortunately, this proposal likely will not accomplish this goal. The proposal notes that in 2005 only 44% of the accounts of individual beneficial investors voted on proxy items. Experience suggests that the adoption of this proposal will lead to a further decrease in the percentage of investors voting.

1. *The proposed process would not be simpler.* Under the existing proxy voting rules, a shareholder receives a single mailing containing all materials needed to vote. This is a simple and uncomplicated process. As proposed, the new rules would require two or more steps before voting: step one, a notice must be sent, either directly to the shareholder or via an intermediary to the shareholder; step two, the shareholder must either access the proxy materials on the Internet and print them out on a home computer or call a toll-free number to request a printed copy; step three, upon receipt of the printed copy, or after printing a copy from the Internet, the investor may vote.

As the proposal notes, the existing process for distribution of proxy materials through intermediaries is complicated. It appears that the proposed approach will make this process even more complicated and cumbersome. It also introduces a new potential problem -- the possibility of multiple voting sites. If the shareholder receives materials through a broker-dealer, the broker-dealer may have the option of creating its own website system for collecting votes. In other words, there could be multiple voting sites for the same proxy, inevitably creating confusion and likely resulting in disqualified votes.

2. *The proposed process would not be faster.* Under the current process, all voting materials are available in one mailing. Under the proposal, the possibility of two mailings (more, if through an intermediary) will lead to time delays that might cause votes to be delivered too late. Consider for example, mailings through an intermediary. Under the proposal, the intermediary would be required to forward the Notice within five business days of receipt. If the beneficial owner requests paper copies, the broker has two business days to forward the request to the issuer, which in turn has two business days to respond to the broker, which then has two business days to forward to the beneficial owner. Factoring in weekends, this process could take ten or more calendar days to complete. If the shareholder didn't immediately open the original Notice and make an immediate request (or if the beneficial owner was unavailable for a period of time) and if the shareholder then requires a few days to review the proxy material, the shareholder may miss his or her 30-day deadline.

3. *The proposed system may be more costly than the current system.* The proposal includes an estimate of cost savings to issuers and concludes that these savings will benefit the shareholders who own the issuer. This cost saving is based largely on the assumption that participation by individual shareholders will decline below the current 44% response rate; in other words, the cost savings will be achieved by creating a cumbersome process that discourages shareholder participation.

Even the savings to the issuer may be illusory. The current process benefits from economies of scale. Currently, proxies generally go through a single commercial printing run, with a single mass mailing, at discounted rates. Under the proposal, issuers will have to make both an initial mass mailing of the Notice and, subsequently, they will have to either print a reserve stock of proxies or employ a print-on-demand solution; finally, they will have to develop a fulfillment operation to meet the two-day delivery requirement – all of which is more costly than the existing process of a single commercial print run and subsequent mass mailing.

***If the Commission decides to adopt the proposal, it should consider including performance standards for issuer Internet sites.*** In the case of electronic delivery, investors must be able to access and download the necessary documents easily and within the allotted timeframes. If performance standards are not put into place, some issuer websites may not have the appropriate bandwidth to accommodate high Internet traffic volume or excessively large data files, which would inevitably further discourage shareholder participation.

The release seeks comment on the subject of “cookies,” which enable an issuer to identify who accesses documents on its website. This is a serious issue that raises questions of investor confidentiality and protection of investors’ personally identifiable information, and which requires careful consideration. The investor should be given the option to enable or disable the issuer’s cookie. Also, consideration should be given to whether an issuer that maintains a file of cookies should be required to share it with third parties who are engaged in a proxy solicitation. Finally, the Commission should carefully consider restricting an issuers’ right to use this information for other purposes, such as selling it commercially.

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Congress, the SEC and those institutions involved in the capital markets have struggled in the past few years to reestablish capital market credibility with the investing public. Making the proxy process more difficult for investors is a step backward. We suggest that the Commission reconsider the alignment of this proposal with its broader mission. As we stated previously, we consider this to be an issue of process rather than policy: while the Commission aims to improve corporate governance and increase transparency, as evidenced by its proposal to improve the information on compensation contained in proxy materials, these proposed amendments to the process will directly interfere with the accessibility of proxy materials. Thus, while we are in full agreement with the Commission’s goals, we strongly disagree with the proposed proxy rules.

Sincerely,

David Copenhafer  
Director, EDGAR Services  
Bowne & Co., Inc.