

August 15, 2018

Mr. Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File Number 4-725; SEC Staff Roundtable on the Proxy Process

Dear Mr. Fields:

The American Business Conference(ABC) is a Washington-based coalition of midsize growth companies founded in 1981 and chaired by Alfred P. West, Jr. Chairman and CEO of SEI Investments, Oaks, Pennsylvania.

We applaud the formation of the Staff Roundtable on the Proxy Process. We hope that participants will familiarize themselves with the many public comments, filed over the years, in regard to the proxy process so that this newest exercise can break new ground rather than merely travel down well-trodden roads.

ABC itself has been a frequent commenter on aspects of the proxy process. Two of our many letters seem immediately relevant to the upcoming Roundtable: our 2010 letter on the Commission's Concept Release on the U.S. Proxy System, (<https://www.sec.gov/comments/s7-14-10/s71410-48.pdf>), and our more recent Petition for Rulemaking in regard to Advanced Voting Instructions (<https://www.sec.gov/rules/petitions/2018/petn4-721.pdf>).

The 2010 letter develops three main ideas to which we still adhere:

- ABC believes that Advanced Voting Instructions (also known as Client Directed Voting) is the best tool available to meet the Commission's desire to raise the abysmally low percentage of individual shareholders who vote in corporate elections.
- ABC regards proxy advisory firms as legitimate entities whose relationship to their shareholder clients requires more transparency. Their use by institutional investors has, in our view, undermined the assumption that the criteria for voting decisions compliment and reinforce investment decisions, with shareholder value the bedrock goal of both. The letter offers ideas for correcting this problem.
- ABC opposes a massive overhaul of street side proxy mechanics because it would put at risk the current, reliable, turn-key process with its proven track record of benefitting investors and issuers alike.

The second letter, the Petition for Rulemaking, further makes the case for Advanced Voting Instructions (AVI), cites ABC's past work on the issue, and, drawing on the work of Professor Jill Fisch of the University of Pennsylvania Law School, outlines how AVI might be implemented.

Along with the letters cited above, we would make two additional points that flow from them.

First, as index funds continue to grow, ABC is very concerned about the influence of passive shareholder voting.¹ We hope the Staff Roundtable will address the challenge that the rise of index funds, and the voting of shares by the managers of those funds, present for the entire proxy process.

¹According to one source, index funds today total 29% of all equity investment in America and are the largest shareholders in 40% of public US companies. Phil Gramm and Mike Solon, "Keep Politics Out of the Boardroom," *Wall Street Journal*, July 18, 2018.

For ABC, there is a certain irony about this matter. For years, opponents of efforts to make it easier for individual shareholders to vote via Advanced Voting Instructions have done so on the grounds that such shareholders would not be sufficiently “well-informed” to utilize this tool. We reject this argument.²

Meanwhile, regulators have green-lighted the voting of shares by passive fund managers who have not themselves “skin in the game” or the means to evaluate every vote for every company their funds own.

Consequently, they must rely on what the University of Chicago’s Dorothy Lund calls “low-cost voting strategies, such as following a proxy advisor’s recommendation or voting ‘yes’ to any shareholder proposal that meets pre-defined qualifications.”³ We ask: is this “informed voting” cast by people -- fund governance managers -- with no direct economic stake in the outcome of the vote? And if not, should the current mandate that index funds participate in corporate elections be rescinded?

On a second matter, ABC hopes that the Roundtable will at least touch on the issue of technology and the proxy system. The proxy system is already technology-intensive. Looking ahead, it seems clear that new technologies, blockchain most obviously, are likely to alter proxy voting, tallying, and record-keeping profoundly. And with those changes, it is also possible that the corporate players implementing the proxy system will also change.

². See letter of John Endean to Elizabeth M. Murphy, Secretary, United States Securities and Exchange Commission, Re: File No. S7-22-09, Amendments to Rules Requiring Internet Availability of Proxy Materials, November 25, 2009. “The more important question...is not whether investors are “informed” but whether they are true to the assumptions underlying our system of corporate governance. We think individual investors are in this sense exemplary. They cast their votes with the simple, direct economic motivation that all shareholders are assumed to have in common under corporate law....It is a fair assumption that individuals know why they own the stock and are motivated to maximize the value of their investment in the company’s shares.”

³ Dorothy S. Lund, “The Case Against Passive Shareholder Voting,” *The Journal of Corporation Law*, Vol. 43, No. 3, Spring 2018

Rather than refereeing yesterday's squabbles over a proxy system destined to change, we hope that the Staff Roundtable will focus on the future. It is in the future that a wide-awake regulatory agency's attention should be focused and where the real challenges lie.

Sincerely,

A handwritten signature in black ink, reading "John Endean". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John Endean
President