



Ohio Public Employees Retirement System

August 17, 2009

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Via Email: rule-comments@sec.gov

Re: Facilitating Shareholder Director Nominations (File Number: S7-10-09)

Dear Ms. Murphy:

I am writing on behalf of the Ohio Public Employees Retirement System (“OPERS” or “System”), a public pension fund that provides retirement, disability and survivor benefit programs for public employees. OPERS is the 12th largest public retirement system in the country, manages approximately \$59.3 billion in assets as of December 31, 2008 and serves more than 936,000 members.

OPERS appreciates the opportunity to provide comments on the Securities and Exchange Commission’s (“SEC” or “Commission”) proposed rule *Facilitating Shareholder Director Nominations* (“Proposed Rule”). OPERS believes that the adoption of a meaningful proxy access rule would be one of the most significant and important investor reforms adopted by the SEC since it adopted Rule 14a-8, which provides shareowners the opportunity to have proposals placed alongside management’s proposals in companies’ proxy materials. Long-term shareowners should be permitted to utilize a proxy access rule, when appropriate, to hold ineffective directors accountable when they fail to properly monitor and prevent management misconduct.

As a fiduciary, OPERS exercises its shareowner rights solely in the economic interests of the System’s participants and beneficiaries. The OPERS’ Board recognizes that the election of a company’s board of directors is an important shareowner right. In most companies, the only way that the election of individual director nominees may be effectively challenged is when a shareowner assumes the risk and expense of nominating a candidate or slate of candidates and running a contested election. Such ventures are onerous and cost-prohibitive, even in today’s world of e-proxy technology.

OPERS generally supports the Proposed Rule and applauds the Commission for fulfilling its role as the investor’s advocate by developing reforms to allow shareowner access to company-prepared proxy materials relating to the nomination and election of directors. With the adoption of the rule, we believe contests for board seats will be a rare occurrence because companies will have an incentive to address shareowner concerns. Directors will also be more responsive to shareholders, more thoughtful about whom they nominate to serve on the Board, and more vigilant in their oversight of companies.

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In addition, OPERS' supports the substantive comments in the August 4, 2009 letter submitted to the Securities and Exchange Commission by the Council of Institutional Investors ("CII"), including the detailed responses to questions raised by the SEC.

OPERS' specific areas of interest are as follows:

Timeliness of Rule Implementation

OPERS has long supported shareowner access to companies' proxies for the election of directors. We believe the SEC should promptly adopt proxy rule revisions to allow nominees by shareowners to be included in companies' proxy materials.

Exemptions

OPERS does not support exemptions to the final rule. Although majority vote standards for director elections are considered best practices, this standard should not be considered as a viable substitute or impediment to proxy access. Majority votes standards, coupled with plurality vote provisions in the event of a contested election, would complement the Proposed Rule. The rule adopted by the SEC should be the minimum proxy access standard that governs companies. Only state laws or company bylaws that provide greater proxy access rights should over-ride the SEC's rule. OPERS does not support an exemption for smaller issuers because the cost of including director candidates on the already existing management proxy would be minimal and not a financial burden.

Triggering Events

OPERS does not support limiting the application of the rule to triggering events that would have to occur in order to require operation of the rule. Trigger requirements would only serve to delay shareowners' attempts to effect change from companies' unresponsive Boards of Directors.

Shareowner Nominee Requirements

Length of Ownership – As a long-term investor, OPERS believes the length of ownership is the most important aspect for facilitating shareowner director nominations. While the Proposed Rule states that only holders with a "long-term interest" in a company should be able to rely on Rule 14a-11 to add their director nominees to company proxy materials, the Proposed Rule sets the continuously beneficial ownership threshold at one year. OPERS is committed to company engagement and believes a more appropriate continuous ownership period is two-years. A one-year ownership period could potentially hamper communication between the company's management, directors and shareowners, as well as facilitate director nominations from shareowners with a short-term focus. OPERS would also support further provisions that would extend the ownership requirement to require the nominating shareowner(s) to continue to own the minimum threshold securities requirements for a minimum of one year after the annual or special meeting rather than through the date of the annual or special meeting.

Minimum Ownership Threshold – As mentioned above, OPERS believes that length of ownership is paramount when determining shareowner(s) nominee requirements regarding access to the company's proxy. Although the ownership thresholds could restrict the potential universe of investors that could qualify under the proposed requirements, OPERS generally supports the

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ownership thresholds in the Proposed Rule as a means to accomplish the Commission's objective. The specific numeric formula in the proposed rule, 1%, 3%, or 5% ownership for one year depending on net asset value is different from the Council of Institutional Investors' proxy access policy, 3% ownership for two years. The ability for an institutional investor to aggregate its holdings with other shareowners to reach the thresholds will be an important part of the rule, given the current level of ownership that many institutional investors have in these companies. OPERS encourages the Commission to clarify the calculations for determining ownership percentages as outlined in CII's Attachment to Comment Letter, Questions and Responses, C.2.

Independence/Disclosure Requirements – OPERS believes that shareowner(s) nominees should meet the same independence and disclosure requirements as the Board's nominees. OPERS believes that all director nominees should be required to fully disclose all relationships between the director candidates and the company and company executives and directors, as well as with the nominating shareowner(s) if applicable.

First-In Approach – OPERS does not support a first-in approach where the first nominating shareowner(s) or group from which the company receives timely notice is permitted access to the company's proxy for the inclusion of its nominees, followed by each subsequent shareowner(s) or groups' nominees until the maximum number of directors allowed by the rule is reached. OPERS requests that the Proposed Rule be modified to replace the first-in standard with a two-fold approach based on 1) length of ownership, and 2) the largest beneficial ownership.

Limits on Number of Shareowner Nominees – OPERS agrees that the Commission should limit the use of the rule to shareowners that are not seeking to change the control of the company or to gain more than a limited number of seats on the board of directors. However, OPERS believes to truly affect change, the 25% limit in the Proposed Rule is too restrictive. OPERS would support limits of less than 50% majority of seats on the board or at least two shareowner nominees, whichever is greater. Too few shareowner directors, or a lone shareowner director, on a company's board, have the potential for a shareowners' voice to remain unheard. The limits should be based on the total board size and not the number of board seats available due to a staggered board structure.

OPERS appreciates the opportunity to express its views on shareowner access to company-prepared proxy materials relating to the nomination and election of directors. If you have any questions, please contact Carol Drake, Chief External Affairs Officer, at cdrake@opers.org or (614) 222-0398.

Sincerely,



Chris DeRose

Chief Executive Officer

c: OPERS' Proxy Policy and Corporate Governance Committee Members, Board of Trustees
Corporate Governance Department