JPMORGAN CHASE & CO.

Stephen M. Cutler
General Counsel

August 17, 2009

U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
Attention: Elizabeth M. Murphy, Secretary
Via e-mail: rule-comments@sec.gov

Re: File No. S7-10-09
Release No. 34-60089
Proposed Rule: Facilitating Shareholder Director Nominations

Ladies and Gentlemen:

JPMorgan Chase & Co. ("JPMC" or the "Company") appreciates the opportunity to comment on Release No. 34-60089, Facilitating Shareholder Director Nominations (the "Release") issued by the Securities and Exchange Commission (the "Commission"). JPMC is a leading global financial services firm with assets of $2 trillion and operations in more than 60 countries. The Company is a leader in investment banking, financial services for consumers, small business and commercial banking, financial transaction processing, asset management, and private equity. A component of the Dow Jones Industrial Average, JPMC serves millions of consumers in the United States and many of the world's most prominent corporate, institutional and governmental clients under the J.P. Morgan, Chase, and Washington Mutual brands.

Summary

At JPMC, we believe that good governance is essential to effective management and that it is very important that our board be accountable to and aligned with our shareholders. In that regard, our bylaws provide that each nominee must receive a majority of "for" votes to be elected. In addition, JPMC recognizes and supports the fundamental right of shareholders under state law to nominate and elect directors. In furtherance of that right, shareholders that desire to recommend to our Governance Committee a candidate for director may write to our Corporate Secretary; and it is the policy of the Governance Committee that any such candidates will be considered in the

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same manner as other candidates and there are no additional procedures a shareholder must undertake in order for the Governance Committee to consider such shareholder candidates.

As part of a periodic outreach program to shareholders interested in our practices on governance matters and other issues, we have recently contacted a number of our large institutional shareholders to discuss their views on proxy access. Those discussions lead us to believe that our shareholders favor some form of proxy access. However, they also believe that proxy access should be appropriately tailored to avoid undue distractions and nominations that seek to advance agendas that are not in the best interests of the Company's long-term shareholders.

Consistent with the views of our shareholders, we support the Commission's proposed amendment to Rule 14a-8 to enable shareholders to make proposals regarding the election of directors. We believe the proposed amendment facilitates the rights that shareholders have under state corporate law and is consistent with the Commission's statement that "[i]n identifying the rights that the proxy process should protect, the Commission has sought to take as a touchstone the rights of shareholders under state corporate law."[1]

We are concerned, however, that Rule 14a-11, as proposed, precludes shareholders from determining the standards that they believe are best suited to the particular facts and circumstances of their company, and therefore undermines the very principles that animate Rule 14a-8. Accordingly, we urge that the Commission give full consideration to the thoughtful comments provided by the Business Roundtable, the Society of Corporate Secretaries & Governance Professionals and the Securities Industry and Financial Markets Association, including the strong policy arguments why the adoption of a mandatory prescriptive federal rule requiring companies to provide shareholders access to a company's proxy materials is not warranted.[2]

If the Commission nonetheless determines to adopt proposed Rule 14a-11, we suggest the following outline of modifications, which we discuss in more detail below:

- Rule 14a-11 should permit shareholders to determine company-specific proxy access bylaws.
- Rule 14a-11 should be deemed a default procedure and, if applicable, should have eligibility standards based on 5% ownership (10% for groups) and 2 years, not 1% and 1 year, and should incorporate the other changes discussed below.

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[1] See the Release at 9.

[2] JPMC also participated in a proxy access survey to gauge CEO and company views and opinions regarding the Release that was conducted by the Business Roundtable (the "Proxy Access Survey").

- Rule 14a-8 should be available to shareholders on a continuing basis to seek amendment or replacement of either a proxy access bylaw or, if there were none, Rule 14a-11.

Such an approach would permit private ordering through shareholder-determined proxy access procedures (but provide a default procedure, if that were to become necessary) and accord proper substantial deference to the principle of shareholder self-determination and to state law.

Proposed Amendment to Rule 14a-8 Facilitates Shareholder-Determined Proxy Access

We support the adoption of the proposed amendment to Rule 14a-8(i)(8) that would enable shareholders to make proposals regarding the election of directors. The use of amended Rule 14a-8(i)(8) to enable shareholders to propose procedures for access to the company's proxy materials is an appropriate way for companies and their shareholders to determine a proxy access procedure that is tailored for the particular circumstances of the company (including whether, in lieu of such process, proxy reimbursement would work better for the company and its shareholders).

Most companies are willing to engage with their shareholders in discussions of corporate governance issues, including potential nominees for director. Many public companies also have procedures in place for shareholders to submit recommendations for director nominations to the board of directors or nominating committee. Discussions regarding proxy access procedures would be a natural extension of these activities and procedures. Moreover, Delaware has recently adopted amendments to expressly recognize the authority of shareholders to adopt access and expense reimbursement bylaws, and the ABA Corporate Laws Committee has taken steps to adopt similar amendments to the Model Business Corporation Act, upon which over 30 state corporation statutes are based.

The proposed amendment to Rule 14a-8 would not only build on the existing right of shareholders to nominate directors under state law but would also provide flexibility to accommodate (i) differences among companies in terms of their capital structures, public float, share ownership profiles, board structures and industry, (ii) the multitude of issues that arise in fashioning a proxy access procedure and the range of alternative solutions to those issues, (iii) changing circumstances that can occur, and (iv) changes based on the trial-and-error process that will inevitably develop as companies and shareholders work through a variety of approaches to proxy access. We believe that when it comes to an issue such as nominating persons for the board of directors of a company, a mandatory prescriptive federal rule that fails to take into account these matters could have numerous unintended consequences, including failing to take into consideration legal standards applicable to a director nominee in a particular industry.

Private ordering by companies and shareholders has worked well in other situations, such as majority voting in the election of directors, and we believe it will work well with proxy access. In addition, we believe that the concept of private ordering is consistent with the deference due a company's shareholders; if shareholders have the right to elect their directors (or determine to vote against, or withhold their vote), the same shareholders should have the right to determine the appropriate manner and process by which such director-nominees are brought before them for their consideration.[3]

Under our suggested approach, a company could propose a proxy access procedure to its shareholders, or shareholders could propose a proxy access procedure pursuant to the proposed amendment to Rule 14a-8. In either case, if such proxy access proposal receives the affirmative vote of a majority of the shares of stock present in person or by proxy and entitled to vote on the proposal, the proxy access proposal would apply. In this regard, we would note that it would be possible for shareholders to vote affirmatively that they do not want proxy access. We believe that requiring shareholder approval of a board's proposed proxy access procedures should alleviate concerns that boards might attempt to overreach in proposing such procedures, as shareholders would refuse to ratify such board proposed proxy access procedures.

We believe that the Commission should also amend the ownership threshold in Rule 14a-8(b) and resubmission thresholds in Rule 14a-8(i)(12). A proxy access proposal could have a significant impact on a company, and therefore the ownership threshold for a shareholder that may require the company to include a proxy access proposal and the resubmission thresholds should be significantly beyond the current thresholds under Rule 14a-8. We believe that the ownership threshold should be at least 1% of the company's voting stock and a company should be able to exclude a proposal from its proxy materials for any meeting held within 2 years of the last time the proposal was included if the proposal received less than 25% of the vote.

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[3] *See, e.g.*, Joseph A. Grundfest, Stanford Law School, May 7th Roundtable, at 226 ("If you really believe in corporate democracy, then doesn't it inevitably follow that we can look to the shareholders of the corporation and the corporation itself to set the rules by which it wants to govern access to the corporation's own proxy?"); and Joseph A Grundfest, *Internal Contradictions in the SEC's Proposed Proxy Access Rules*, Rock Center for Corporate Governance at Stanford University Working Paper No. 60 (July 24, 2009), available at http://ssrn.com/abstract=1438308 at 2 (Professor Grundfest notes that the proposed rules contain an inherent contradiction: "A fundamental premise of every proxy access proposal is that the majority of shareholders are sufficiently intelligent and responsible that they can be relied upon to nominate and elect directors other than the nominees proposed by an incumbent board. . . . But the Proposed Rules prohibit the identical shareholder majority from establishing a proxy access regime, or from amending the Proposed Rules to establish more stringent access standards.").

Proposed Rule 14a-11 Should be Substantially Modified.

As discussed above, there are strong policy reasons why the Commission should not now adopt a mandatory prescriptive federal rule granting shareholders access to a company's materials. If the Commission were to proceed with adoption of proposed Rule 14a-11, we believe that the Commission should ensure that it is designed to fulfill the stated purpose for proxy access, is workable, and does not unduly infringe upon matters that should be left to the states to determine. We propose the following additional modifications.

Proposed Rule 14a-11 Should Permit Shareholder-Determined Proxy Access. Consistent with the principles discussed in the preceding section, companies and their shareholders should be permitted to choose alternatives to proposed Rule 14a-11. A company could propose a proxy access procedure to its shareholders, or shareholders could propose a proxy access procedure pursuant to the proposed amendment to Rule 14a-8, which could be more or less restrictive than under proposed Rule 14a-11. In either case, if such proxy access proposal receives the affirmative vote of a majority of the shares of stock present in person or by proxy and entitled to vote on the proposal, the proxy access proposal would apply in place of proposed Rule 14a-11. In order to encourage private ordering, proposed Rule 14a-11 should only apply to those companies whose shareholders did not approve a proxy access procedure at their regular annual meeting of shareholders in the year following the Commission's adoption of proposed Rule 14a-11. Subject to shareholder approval, companies could amend their proxy access procedures from time to time to address, among other things, changes in their corporate structure or their experience working with proxy access. In addition, shareholders would be permitted to propose amendments to the proxy access procedures pursuant to the proposed amendment to Rule 14a-8. However, in this regard, we believe that the Commission should establish clear guidelines for determining whether a proposal has been "substantially implemented" pursuant to Rule 14a-8(i)(10) so that companies and their shareholders do not have to bear the cost and disruption that could be caused by incremental changes to the company's proxy access procedures.

Shareholder Nominee Requirements. We agree with the Commission that only shareholders who are not intending to seek control of the company should be eligible to use proposed Rule 14a-11.[4] However, we believe that proposed Rule 14a-11 does not provide sufficient protection to a company and its shareholders, and that the following additional objective safeguards are necessary:

[4] "We do not believe that an election contest conducted by a shareholder to change the control of the issuer or to gain more than a limited number of board seats should be funded out of corporate assets. Further, extensive changes in board membership, or the possibility of such changes as a result of additional nominees being included in the proxy statement, have the potential to disruptive to the board, while also potentially being confusing to shareholders." See the Release at 75.

- *One nominee per nominator.* Each nominating shareholder should be permitted to nominate only one director, rather than up to 25% of the board of directors as proposed (shareholders who intend to nominate a bloc of directors should be required to conduct a traditional proxy contest pursuant to Regulation 14A).[5]
- *Maximum 15% of Board.* The maximum number of directors nominated by shareholders should constitute no more than 15% of a board (25% represents a significant portion of the board, and can have a strong influence on control of the company).
- *No access coupled with a traditional proxy contest.* Shareholders should not be permitted to nominate directors pursuant to proposed Rule 14a-11 if a company becomes subject to a traditional proxy contest (including a short slate proxy contest) in that same year (otherwise proposed Rule 14a-11 could have the effect of changing control of the company).[6]
- *Independence from nominating shareholder.* The nominee may not be (i) a nominating shareholder, (ii) a member of the immediate family of any nominating shareholder, or (iii) a partner, officer, director or employee of a nominating shareholder or any of its affiliates (this independence requirement will make it more likely that the shareholder nominee will discharge his or her director's fiduciary duties to all shareholders and not be unduly obligated to represent the interests of the nominating shareholder and will help ensure the confidentiality of board meetings).[7]

Eligibility to Use Rule 14a-11 Should be Based on 5% (10% for Groups) and 2 Years. Shareholder access nominations will require substantial attention and resources of a company, including its internal legal and investor relations staff, outside securities and state-law counsel, senior management and the board of directors. Therefore, the thresholds for eligibility to use proposed Rule 14a-11 should be set at a level that ensures that a shareholder that seeks to take actions that will impose costs on the rest of the shareholder base has a substantial long-term interest in the company. We

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[5] In the BRT Survey, 61% of the survey participants stated that the nominating shareholder should only be able to nominate one director.

[6] The possibility of a change of control is a particular concern in light of the recent Amylin Pharmaceuticals no-action letter issued by the staff of the Division of Corporation Finance (letter to Eastbourne Capital LLC dated March 30, 2009, and letter to Icahn Associates Corp. dated March 30, 2009) and the Commission's proposed amendment to Rule 14a-4(d)(4), as set forth in "Proxy Disclosure and Solicitation Enhancements" (Proposing Release No. 33-9052, dated July 10, 2009), which would allow a traditional dissident shareholder to "round out" its short slate proxy card by including proxy access shareholder nominees.

[7] In 2003, the Commission proposed a limitation on relationships between a nominating shareholder and the director nominee in response to concerns about the possibility of "special interest" or "single issue" directors that would advance the interests of the nominating shareholder over the interests of shareholders as a group.

believe that the ownership thresholds under proposed Rule 14a-11 are too low and fail to ensure that that the nominating shareholder or group (the "nominating shareholder") have a substantial economic interest in the company.

We believe that the appropriate thresholds should be (i) the beneficial ownership of 5% of the company's securities for individual nominating shareholders, held for at least two years as of the date of the shareholder notice on Schedule 14N, and (ii) the beneficial ownership of 10% of the company's securities where a group of shareholders are nominating the director, held for at least two years as of the date of the shareholder notice on Schedule 14N.[8] The Commission itself noted that (i) when the Commission in 2003 proposed a two-year minimum holding period as a requirement for proxy access, the majority of commentators that addressed the topic supported the proposed holding period and (ii) nearly all large accelerated and accelerated filers have two or more shareholders that meet that threshold. Thresholds at the 1% or 3% level would mean companies could have multiple nominating shareholders, without taking into consideration any aggregation at all and, when shareholders aggregate into groups, the numbers of potential nominating shareholders could be quite large.[9] In addition, if a nominating shareholder cannot find like-minded shareholders holding 10% of a company's stock, it is hard to justify why the company and more than 90% of its shareholders should be required to finance the nominating shareholder's election campaign. We believe that our proposed thresholds are not so high as to impose undue impediments to proxy access, while being sensitive to the real costs that such proposals impose on a company and its shareholders.

Beneficial Ownership Should be Based on a Net Long Position. The concept of beneficial ownership for purposes of proposed Rule 14a-11 should be clearly specified. Given the prevalence of derivatives in the equity markets and the ability to de-couple economic interest from voting rights, proposed Rule 14a-11 should require possession and disclosure in Schedule 14N of the full voting interest in the securities and should specify that the nominating shareholder have a net long beneficial ownership position during the entire two-year holding period for the purpose of submitting a

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[8] In the BRT Survey, (i) roughly 36% of the survey participants stated that the appropriate ownership eligibility threshold (based on outstanding shares) for nominating shareholders should be 5%, while 25% favored a threshold of 10%, and 22% favored a threshold in the range of 15-25% and (ii) 54% of the survey participants stated that the minimum holding period should be two years, while 30% thought it should be three years or longer.

[9] Viewed from the perspective of the potential reach of institutional investors, an analysis of investors holding 1% or more of constituent companies of the S&P 500 showed, assuming that the 1% eligibility standard would apply to all such companies, that 14 institutional investors could submit shareholder access proposals to more than 100 companies in the S&P 500; 8 could submit proposals to more that 200 companies; 5 could submit proposals to more than 300 companies and 3 institutional investors could submit shareholder access proposals to 499 companies in the S&P 500 – effectively all of them. While all such institutions are highly responsible, one questions the wisdom of a rule that would authorize such scope. (JPMC's analysis is based on data provided by Morrow & Co. and FactSet Research Systems. The data reflects only required filers and may understate the number of entities with positions at or greater than 1%).

nominee. In addition, we believe that the nominating shareholder should be required to continue to hold the amount of securities necessary to meet the ownership thresholds through the date of the shareholders' meeting.

A Shareholder Should Not be a Member of More Than One Group. We support the right of shareholders to aggregate their holdings for the purpose of nominating a director. However, we believe a shareholder should not be permitted to be a member of more than one nominating group. In the absence of such a prohibition, shareholders could form multiple groups, claiming that so long as the identity of each group was not precisely identical each group was a different proponent. We believe the proposed modification is consistent with the fundamental construct of Rule 14-8(c) that a shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

Nominating Shareholders and Nominees Should be Excluded for 2 Years if the Nominee Receives Less Than 25% of the Vote. In 2003, the Commission solicited comment on whether a proxy access rule should include a provision that would deny eligibility for any nominating shareholder that has previously had a nominee included in the company's proxy materials and where such nominee did not receive a sufficient percentage of votes. We believe that proposed Rule 14a-11 should similarly include a "resubmission threshold." If the nominating shareholder's nominee fails to receive 25% of the vote at the meeting at which such nominee's nomination is being voted upon, the nominating shareholder (and, if applicable, all of the members of the nominating group) should be prohibited from submitting another nominee for a period of two years. We believe this is appropriate, as that nominating shareholder would not have demonstrated sufficient support from other shareholders to indicate that it would in the following year be successful in having its nominee elected to the board and thereby justify repeated use of the company's proxy materials at the expense of the company and other shareholders. In addition, the nominee should not be eligible for nomination for a similar two-year period. The resubmission threshold would also ensure that other shareholders would be given a chance to suggest nominees who may be more satisfactory to the company's shareholders and who therefore might garner a larger vote.

Non-Discriminatory Director Qualifications and Board Service Guidelines Should be Applicable to all Shareholder Nominees. Proposed Rule 14a-11 requires a representation that, to the knowledge of the nominating shareholder, the nominee meets the objective criteria for independence set forth in the rules of the relevant national securities exchange or national securities association. However, most state laws permit companies to establish qualifications for directors in their bylaws. Many companies have adopted such additional non-discriminatory director qualifications in their bylaws, which provisions are different from and, in some cases more stringent than, the objective criteria of the applicable securities exchange or association. For instance, a bank holding company is subject to the Depository Institution Management Interlocks Act, which generally prohibits a bank or bank holding company management official (including a director) from simultaneously serving as a management official of an unaffiliated depository institution or depository institution holding company. We believe that such non-discriminatory director qualifications should be applicable to all shareholder nominees. We also believe that a shareholder nominee, once elected to the board, should be required to comply with a company's non-discriminatory board service guidelines. For instance, JPMC's Corporate Governance Principles contain an expected retirement age for non-management directors and limits on board and audit committee memberships. Once elected to the board, a shareholder-nominated director has the same fiduciary obligations to the company's shareholders as any other director; again, we see no basis for there being any different standards among directors with respect to valid, non-discriminatory board service guidelines.

The Maximum Number of Shareholder Nominees Should be Limited to One per Nominating Shareholder and 15% of the Board in Total. As we discussed above, under "Shareholder Nominee Requirements", we believe that a nominating shareholder should not be permitted to nominate more than one director and the maximum number of directors nominated by shareholders should constitute no more than 15% of a board. The proposed limit of 25% is simply too high. As a point of comparison, for many bank regulatory purposes, a bank may be deemed to control an entity if it owns 25% of the shares of the entity.

Board Endorsed Proxy Access Nominees Should Continue to be Treated as Proxy Access Nominees for Purposes of Determining the Maximum Number of Shareholder Nominees. We believe that proposed Rule 14a-11 (i) is likely to have a chilling effect on desirable negotiations between nominating shareholders and boards or nominating committees regarding shareholder nominees since directors nominated pursuant to agreements with shareholders would not count against the 25% limitation (15% in our formulation) and (ii) may incentivize the nominating committee or the board not to re-nominate the director in order to avoid that person becoming a "management" director and thereby allowing another nominee to be put forth by shareholders under proposed Rule 14a-11. We believe that proposed Rule 14a-11 should encourage the integration into the board of directors elected pursuant to proposed Rule 14a-11. Therefore, we propose that if, at any time prior to the shareholders' meeting, the board decides to endorse the nominating shareholder's nominee and include the nominee on the board's slate, the nominee should nevertheless continue to be treated as a proxy access shareholder nominee for purposes of determining the maximum number of proxy access shareholder nominees to be included in the company's proxy materials for that year. This will help facilitate and encourage discussions between boards and nominating shareholders, as a board may be more likely to come to an accommodation concerning a nominating shareholder's nominee knowing that, if it were to do so, it would not need to then begin the process of negotiating all over with yet another nominating shareholder. We also propose that any company nominee that was initially elected as a shareholder nominee shall be deemed a proxy access director and shall reduce the number of nominees that may be nominated for a period of an additional two years; provided that such director is nominated by the nominating committee or the board in each such additional year.

The Largest Shareholder Should be Accorded Priority, Not "First In". We believe that where there is more than one eligible nominating shareholder, the nominating shareholder with the largest holdings should be entitled to include its nominee in the company's proxy materials. This approach would ensure that those shareholders with the greatest economic interest in the company (which are more likely to be aligned with the interests of the other shareholders) should have the right to have its nominee included in the company's proxy materials. In contrast, the Commission's proposed "first-in" approach would likely result in unintended consequences, such as a race to submit nominees as early as possible, as described below. We note that our recommendation is also consistent with the Commission's approach in its 2003 proposal. Under our approach, share ownership would be determined as of the last day permitted for a shareholder nomination.

Proxy Access Nominations May Only be Made During a 30-Day Window Period. Pursuant to proposed Rule 14a-11, the nominating shareholder that first provides notice to the company will be permitted to include its nominee in the company's proxy materials. However, proposed Rule 14a-11 does not specify the earliest date that a nominating shareholder can file a notice on Schedule 14N. We believe that, as proposed, Rule 14a-11 could have the unintended consequence of resulting in a race by shareholders to be the first to provide their notice to the company. This dynamic could (i) discourage potential nominating shareholders from engaging in constructive dialogue with the board in an effort to achieve their objectives without a proxy access election contest and (ii) result in additional costs and burdens for boards and companies, as they could potentially be in the position of having to address shareholder nominations throughout the year. We believe that there should be 30-day window period within which nominating shareholders can make a nomination pursuant to proposed Rule 14a-11.

The Deadline for Submitting a Nomination Should be 150 Calendar Days. The timetable outlined in proposed Rule 14a-11 by which a company could seek a no-action letter from the staff of the Commission in order to exclude a shareholder nominee could take at least 120 calendar days. Many companies will not be able to comply with this timetable. For example, JPMC has a 90 calendar-day advance notice bylaw provision and files, mails and makes available its proxy statement at least 30 calendar days prior to its annual meeting of shareholders. Under proposed Rule 14a-11, JPMC would have, at most, 60 calendar days to resolve any issues with respect to a shareholder nomination, including attempting to exclude a nomination that did not comply with proposed Rule 14a-11. As a result, JPMC would not be able to comply with the timetable outlined in proposed Rule 14a-11, which, among other things, requires a company to file a no-action request at least 80 calendar days before the company files its definitive proxy statement. We do not believe that we could amend our advance notice bylaw provision to comply with the proposed timetable, as increasing the minimum notice period might well be held invalid under Delaware law as unduly constraining shareholders' right to nominate directors. To resolve the almost certain conflict between standard advance notice bylaws and the no-action letter dispute resolution process, we recommend that the Commission provide that the deadline for submitting a nominee pursuant to proposed Rule 14a-11 be 150 calendar days before the date the company mailed its proxy materials for the prior year's annual meeting, or in any event at least as long as the deadline for submitting a proposal pursuant to Rule 14a-8(d), which does not include a reference to other time periods provided in advance notice bylaws.

A Universal Proxy Card Should be Consistent with Current Practice. We are concerned that there is a significant possibility of shareholder confusion in any election in which a shareholder nominee is included in the company's proxy materials as a result of the use of a "universal proxy card". To address any confusion that would result from the use of a universal proxy card, we recommend (i) requiring a clear delineation in the proxy statement and in the proxy card of the company slate and the shareholder nominees, (ii) permitting shareholders to vote for the company's nominees as a group if they so desire, and (iii) providing that any proxy cards that include shareholder nominees that are voted in blank (that is, without checking the boxes for the nominees) continue to be deemed to be a vote for the entire board-nominated slate. We believe that these recommendations will help reduce confusion by making the proxy card, and voting thereof, as consistent as possible with current practice.

Other Rule Changes

Application of the Liability Provisions of the Federal Securities Laws to Statements Made by a Nominating Shareholder or Nominating Shareholder Group. The Release indicates that the company would have liability if it "knows or has reason to know that the information is false or misleading." To the extent that this language suggests that companies have some duty to investigate or otherwise confirm the accuracy of the information provided by the nominating shareholder or group, we believe this is an undue shifting of liability to companies for statements made by nominating shareholders or their nominees. In addition, we believe that this is inappropriate, as the company may not have sufficient time to investigate the statements made by the nominating shareholder and the nominee, and it also does not necessarily have the means to determine whether the statements are false or misleading. We also note that the Commission's 2003 proxy access proposal provided that the company had no liability for the statements of the nominating shareholder or group. Further, the stated purpose of proposed Rule 14a-11 is

to provide "access" – a means by which shareholders may use the company's proxy materials to facilitate their nomination of directors. This purpose is not undermined by Securities and Exchange Commission
providing that the company has no liability for the nominating shareholder's statements that the company is required to include in its proxy materials.

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We appreciate the opportunity to comment on these important proposals and would be happy to provide you with further information to the extent you would find it useful.

Respectfully submitted,

JPMorgan Chase & Co.

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