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

Re: Proposed Rule Release No. 33-9046  
Facilitating Shareholder Director Nominations

Dear Ms. Murphy,

I am writing to voice my strong approval for the long overdue changes to the proxy process. In a corporate environment where too often directors seem to act as agents for management at the expense of the company's owners, I find it no surprise that those who benefit in the current environment are strongly in favor of maintaining the status quo. Recent events indicate that, in some instances, the status quo has not served owners very well over the last decade. Outrageous pay packages, poor company performance, option backdating scandals, accounting frauds are all indicators of weaknesses in management oversight and strength of corporate boards. One doesn't have to look far to find a company that has a share price lower than the level it was at ten years ago. At the same company, management has often walked off with exceedingly generous pay packages.

Many of the comment letters submitted to date make specious arguments both in support of maintaining the status quo and by those in favor of making change. Unsupportable statements are tossed around on both sides. In my opinion, the strongest reason for making change is the ills that plague corporate governance. Inherent conflicts of interest with many CEOs acting as Chairman of the Board, in effect giving management a role in selecting those charged with overseeing them. Director overlap on multiple Boards, where the CEO serves on his own board and that of another one of his fellow board members. The conflict of interest involved in having a CEO/Chairman selecting directors who will be setting his pay.

This continues without efficient means to address these issues. Launching a proxy battle is cost prohibitive even for many shareholders with significant ownership stakes in smaller companies. This disparity is outrageous in light of the entrenched directors having access to corporate funds to support their candidacy and the means already being in place to add the name of a shareholder candidate at minimum cost. I have seen references to outrageous numbers mentioned as a burden the approval of this rule would impose on companies from prior comment letters. One submitter cited a survey that stated including a shareholder nominee would cost \$1.3 million.

The survey that was cited allocated \$75,000 in company personnel time for 78 hours of work, \$23,000 for director's time of 21 hours and \$1.2 million for outside counsel, proxy solicitor and printing and mailing costs. If company personnel and directors time is worth \$1,000 per hour and a company is willing to spend \$1.2 million on outside lawyers and the ink to add the extra candidate to the proxy that is going to be mailed anyways, then it is a good indication that this is a company out of touch with reality and is in dire need of new directors.

Comments on the nominating committees' current role have appeared in several letters. Here is my favorite;

“The Commission, in its proposing release, apparently does not trust (or even allow) the existing independent directors on nominating committees to exercise their fiduciary duties in constructing a board.”

Since when have directors been charged with constructing a board? I thought their role was to nominate directors to be voted on by the owners. Isn't it the owner's vote that provides the construction of the board, or are the owners just supposed to act as the rubber stamp for the existing board suggested candidates? I for one don't find it that big of a stretch to think that those who own the company should play a role in determining who they wish to oversee management. Shouldn't those who have the most to lose have a role in determining who will best protect their interests? Arguments that have been put forward imply that the entrenched directors act independently and that a shareholder nominated director if elected may not be able to act independently. All of the arguments based on could, might or may are nothing more than speculation and I have seen many of them. Also put forward has been the argument that the nominating committee best knows the company, the board and their needs. Based on what? Opinion. I am sure that there are many candidates that shareholders could propose that would make beneficial additions to corporate boards. Just as there are many candidates available that would make beneficial additions to boards that could be proposed by a nominating committee. The implication that only current nominating committees can propose beneficial candidates is laughable.

Very few of the comment letters reference the fact that the proposed rules only reflect the ability of shareholders to propose a candidate for inclusion on the proxy; it does not provide the votes necessary to win a director seat. The shareholder proposed candidate still needs to convince enough shareholders that they are worthy of their vote. If by chance they manage to win, then isn't this alone justification for the ability of shareholders to propose a candidate for inclusion on the proxy. And, if a candidate has no chance of winning, then the status quo has nothing to be concerned about. In our democratic society citizens are responsible for choosing the President of our country. Some don't trust shareholders to choose the directors that are charged with protecting their interests. If shareholders can propose a candidate that can win an election to oversee the management of the company they own, then it will act as confirming evidence of the value of this proposed rule change. It will be the will of the shareholders, not the shareholder

who proposed the candidate. If a board proposed candidate can't garner enough votes to be elected, then the owners of the company have chosen someone they feel is better qualified to represent their interest. If the current directors are doing an outstanding job then they should have no concerns in running against the shareholder proposed candidate, they will be the obvious choice of the voters and easily win. In effect it turns into a measure of accountability. The same directors who are supposed to hold management accountable and management who hold those beneath them accountable, will be held accountable to those who are supposed to be charged with overseeing them, the owners. The directors will be pushed a bit further in the direction of being accountable to those that own the company. Why, in a Democratic country, would a democratic process be frowned upon by certain constituencies?

The proposed restrictions on share ownership, length of ownership, anti takeover measures, disclosure, priority of access and others appear to be reasonable checks that will provide integrity to the process. These appear to be reasonable measures considering the magnitude of the changes proposed. If the proposed changes prove insufficient to address current weaknesses in corporate governance, this issue should be revisited to nudge changes further in the direction of accountability, democracy, and fairness.

There are those who imply that shareholder confusion will result by the inclusion of shareholder proposed candidates in the proxy material. Again no facts are offered, just the terrible consequences of "significant possibility". I can list many things that could fall under significant possibility, like there is the significant possibility that few if any shareholders will be confused at the choice between two candidates. In the realm of things that have significant possibility, baseless conjectures for a position carry as much weight as those opposed to the position. Many shareholders are also citizens that can accomplish that mind bending task of choosing between two presidential candidates...without confusion (even when they appear on the same ballot). Shouldn't shareholders be interested in choosing the best candidate, not the nominating committee's proposed candidate or a shareholder proposed candidate? The rules should be tilted in favor of presenting a level playing field, not protecting the current board and management's interests.

As with any rule change you hear outrageous projections of the calamities that will follow. Oftentimes these near certain disasters never occur. The shareholder access proposal is not perfect and I have seen many proposed adjustments, like priority given to the largest shareholder, that seem to make sense. Waiting for the perfect amendment or until a rosy consensus develops will never occur. Overall, it appears to me to be an acceptable first step. To no surprise, many of those to be held accountable do not like the idea of any new accountability; the same standard so many others are expected to adhere to. Shareholders are supposed to have the right to elect a corporation's directors. It seems they should at least have the ability to decide who some of the candidates are without undue expense.

As a shareholder (owner) of 5 to 15 companies at any point in time, when I have a choice in a proxy contest, I am looking for directors who I think have the best chance of maximizing stakeholder values over the long term. I have not been confused at the choice and am perfectly capable of choosing the best candidate, be they management or shareholder nominated. There are companies I own that I would not consider voting for a shareholder proposed candidate and others that could use the light of day shined upon them.

If corporate governance was perfected and had no chance for improvement this discussion would be unnecessary. Many would opine this is not the case and that shareholder access to the proxy of the company they own is long overdue. I fully support the changes proposed to Rule 14a-11 and Rule 14a-8(i)(8). I would ask that you carefully sift some of the proposed tweaks for those items that seem to have an empirical basis and quickly discard those based solely on supposition. The list will narrow quickly. The main thrust of the rule changes has been well put together and I commend you for the progress to this point. I eagerly await the finished product.

Warm Regards,

  
*Brett J. Davidson /s/*

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