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October 9, 2009

Via Email: rule-comments@sec.gov

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

Re: Proposed Rule: "Facilitating Shareholder Director Nominations"
[Release Nos. 33-9046, 34-60089, IC-28765; File No. S7-10-09]

Dear Ms. Murphy:

This letter supplements the July 24, 2009 comment letter of the Council of the Corporation Law Section of the Delaware State Bar Association. In particular, we wish to address the Commission's recent decision to postpone repeal of the so-called "election exclusion" embodied in Rule 14a-8(i)(8). We understand that when the Commission decided to defer consideration of proposed Rule 14a-11, it also decided to withhold any action on Rule 14a-8(i)(8). We are writing this letter to urge the Commission not to delay repeal of the election exclusion as it relates to proxy access proposals.

We are aware that the Commission received many comment letters - including our own previous letter - opposing or suggesting further study of proposed Rule 14a-11. On the other hand, many comments urged implementation or strengthening of the proposed rule. In light of the complexity of the issues raised in the comments, we respect and understand the need to extend the time period for consideration of Rule 14a-11.

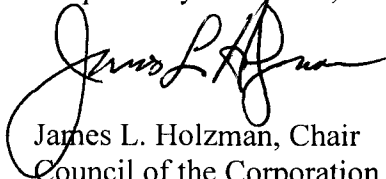
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In contrast to the varied responses to proposed Rule 14a-11, however, it appears that something close to a consensus did emerge as to the election exclusion, at least as it relates to proxy access. Specifically, it appears that a significant majority believe that Rule 14a-8(i)(8) should be amended to provide stockholders of publicly traded corporations with a right to implement proxy access bylaws, to the extent such bylaws are consistent with state law. At the same time, a consensus to clarify state law has also emerged, as illustrated by Delaware's adoption of a proxy access statute, and the publication of proposed access provisions for the Model Business Corporation Act.

We believe that the consensus with respect to the election exclusion can complement not only the state corporate law developments, but also the Commission's extension of the time period for consideration of Rule 14a-11. Allowing access proposals for the upcoming proxy season will focus corporations, investors and other constituencies on drafting and workability issues, and may promote the adoption of broadly accepted models for proxy access. A similar process led to the workable majority voting models that have been widely adopted following enabling amendments to the Delaware General Corporation Law and the MBCA. Similarly, amending Rule 14a-8(i)(8) will encourage rapid evolution of workable access models acceptable to all constituencies. At a minimum, this focused activity would provide the Commission with additional valuable data, which it can utilize in its further study of proxy access.

For the foregoing reasons, we respectfully urge you to reconsider amending 14a-8(i)(8) to permit proxy access proposals for at least the upcoming proxy season.

Respectfully submitted,



James L. Holzman, Chair
Council of the Corporation Law Section
Delaware State Bar Association

JLH/slm

cc: Honorable Mary L. Schapiro, Chairman (via Federal Express)
Honorable Kathleen L. Casey, Commissioner (via Federal Express)
Honorable Elisse B. Walter, Commissioner (via Federal Express)
Honorable Luis A. Aguilar, Commission (via Federal Express)
Honorable Troy A. Paredes, Commission (via Federal Express)
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