



Colorado Public Employees' Retirement Association
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January 19, 2010

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

RE: Facilitating Shareholder Director Nominations (File No. S7-10-09)

Dear Ms. Murphy:

I am writing on behalf of The Colorado Public Employees' Retirement Association ("COPERA"), a pension fund with approximately \$36 billion in assets and a duty to protect the retirement security of 450,000 plan participants and beneficiaries. On behalf of COPERA's plan participants and beneficiaries, I welcome the opportunity to provide additional comments on the Securities and Exchange Commission's (SEC) proposed rule *Facilitating Shareholder Director Nominations*. On August 17, 2009, COPERA submitted our comments concerning shareholder access to the proxy. Our comments from that letter remain unchanged. For ease of reference, I am attaching a copy of our August 17, 2009, letter.

I would like at this time to briefly reiterate several key points regarding the important need and positive aspects of access to the proxy.

- Amending proxy access rules will provide for the exercise of shareowners' fundamental rights to nominate and elect directors.
- In light of two market meltdowns in the past decade, it is essential that investor confidence be restored in the system. Proxy access will provide a meaningful avenue to restore lost confidence.
- If dissatisfied with management of a company, a shareowners only recourse is to mount a proxy contest. Proxy contests are extremely expensive and very complex in nature. As such, few shareowners are able to mount a proxy contest. The end result is the disenfranchisement of many shareowners. Proxy access will provide more shareowners a voice in the director nomination process.

During the original comment period a number of opponents to proxy access suggested "Private Ordering" as a better method for allowing shareowners a voice in director nominations. Two different schemes were proposed: an opt-in method where shareowners would approve a proposal requiring the company to allow for proxy access; an opt-out method where the default would be a proxy access rule as established by the SEC. A company could then opt-out of proxy access if shareowners adopted management's proposal or if shareowners adopt a bylaw providing that the proxy access procedure would not apply.

COPERA finds the private ordering methods troubling for the following reasons:

- Private ordering does not allow for a uniform, federalized approach to proxy access.
- Like the shareowner proposal rule (Rule 14a-8), proxy access is a disclosure matter most appropriately handled by the SEC, who is the gatekeeper responsible for setting uniform disclosure standards for proxy statements.
- If the SEC decides that information should be disclosed in order to allow shareowners to make an informed voting decision, the information should be disclosed by all companies. The opt-out method would be a very radical departure from the investor protection that has been afforded through SEC regulations to shareowners over the past 75 years.
- Contrary to some arguments, the need for a Commission proxy access rule to facilitate the exercise of shareowner rights has not been diminished by recent changes to state corporate law. Although Delaware recently adopted a change to its corporation statute that allows companies or shareowners to adopt a proxy access rule, the change is very unlikely to result in any significant proxy access reform for shareowners for the following reasons:
 - The cost of addressing proxy access via individual company petitions would be prohibitive.
 - A shareowner's ability to provide a meaningful discussion of a proxy access bylaw provision would be virtually impossible with the suggested 500-word limit.
 - Supermajority vote requirements required by many companies for amending bylaws would make shareowner proposals to amend bylaws nearly impossible to implement.
- If proxy access reform were left to Delaware and other states, the end result would most likely be an vast assortment of standards that would differ from company to company and state to state. This in turn would create a structure that could prove to be overly burdensome, costly and complex to shareowners. Most affected by multiple standards would be institutional investors, such as COPERA, with diversified portfolios of thousands of companies.
- Companies most in need of corporate governance improvements and reform are most likely to opt-out of proxy access rules. Even companies that adopt a proxy access bylaw may circumvent the effectiveness of the bylaw by setting ownership thresholds so high proxy access could rarely – if ever – be exercised by long-term institutional investors.
- Any rule that would allow for an opt-in or opt-out proxy access method cannot be defined as an “investor choice” model. These methods are more appropriately defined as “management choice” as they would still allow public companies to continue to deny their shareowners the fundamental right to nominate directors for election.

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Again, I thank you for the opportunity to voice opinions and concern about shareowner access to the proxy. The SEC certainly has a difficult task ahead in formulating rules for proxy access that balances the needs of shareowners with the concerns of the boards of directors at public companies. As I stated in our November 16, 2007, letter to Chairman Cox concerning proxy access, at the end of the day it is important to realize that the goal of COPERA and other shareowners is not to step in and run a company. Rather it is the goal of COPERA and other shareowners to build relationships with a board that work to strengthen the company and increase profits. When shareowners have been unable to build a relationship there must be other methods for shareowners to voice concern. Meaningful proxy access that provides one set of rules and standards for all will provide a long-overdue method for shareowners to nominate directors.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Williams', followed by a horizontal line.

Meredith Williams
Executive Officer