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

3 August 2009

PMON/rw

Dear Ms. Murphy,

re. Facilitating Shareholder Director Nominations

I write on behalf of the Association of British Insurers (ABI) with regard to your consultation on proposals to facilitate shareholders access to the proxy in relation to director nomination. The ABI represents the views and interests of many the UK's largest insurers and fund managers. Collectively they have around \$2.4 trillion invested globally and have a strong interest in appropriate investor protection in all markets they invest in, including in the United States. Overseas investors as a whole now hold around 20 per cent of US equities, of which our members hold a significant part. In the present circumstances it is important that the views of overseas providers of capital are considered by the US market.

The ABI and its members strongly support the broad aims of the proposals. In our view, directors are fiduciaries and must be accountable to shareholders. They act as agents for the owners, it must therefore follow that the owners, as the shareholders, should have the ability to propose their appointment and subsequently determine the composition of the board. Given this, we also contend that the SEC, as well promoting access to the proxy should take steps to require majority voting in director elections. In both cases, progressive private re-ordering is not the way forward as both access to the proxy and majority voting are important investor protections, which is a core objective of the SEC.

We do not agree with the objection levelled by others that creating access to the proxy would create instability or empower special interest groups. ABI member institutions, as large investors on behalf of pensioners and savers, have an overriding responsibility to create value for their beneficiaries. Our members, and similar investment institutions, would not be fulfilling their fiduciary duties to these beneficiaries if they engaged in activities via nominating directors that harmed the company.

Experiences in the UK and other markets have shown that the ability to nominate directors does not lead to frivolous nominations. Indeed, a lack of access to the proxy and an inability to vote in a meaningful way (i.e. majority voting) on directors' elections, may have encouraged shareholder requisitioned resolutions on corporate affairs, which are significantly more prevalent in the US than other markets. In our experience, an ability to nominate and majority-vote on directors has created an environment of engagement and consultation between boards and investors, not confrontation through the proxy ballot. However, we do support sensible ownership thresholds to prevent the possibility of frivolous nominations. The current thresholds therefore proposed are in our view set at reasonable levels.

We have concerns that any proposal, once enacted, may require too long a period of prior or subsequent share ownership. There should be no time period holding requirement as it is discriminatory. It is a core principle that the holders of the same capital instruments must have the same rights regardless of the period they have held them. To ensure that all shareholder interests are truly aligned, that is shareholder value, there should be a requirement to disclose any short positions or derivative instruments held that would affect economic interests.

In order to prevent regulatory arbitrage, with companies seeking the most management friendly state to incorporate in, we believe that the SEC rules allowing access to the proxy and amendment company by-laws should be framed in such a way, if possible, that they override any state law in this respect. As stated previously, the ability to access the proxy is an investor protection measure and as such cannot be left to private reordering, it has to fall within the remit of the SEC. Also, given these facts we believe that the proposals should be enacted without undue delay and in time for the 2010 proxy season.

I hope you find these comments helpful.

Yours sincerely

A handwritten signature in black ink that reads "Peter Montagnon". The signature is written in a cursive style and is positioned above a horizontal line.

Peter Montagnon
Director of Investment Affairs