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16 September 2009 Via E-Mail: rule-comments@sec.gov

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

Dear Ms. Murphy,

Re: File Number S7-13-09: Proposed Rule on Proxy Disclosure and Solicitation Enhancements

I am writing on behalf of the California Public Employees' Retirement System (CalPERS), the largest public pension fund in the United States with approximately $198.5 billion in global assets, and equity holdings in over 9,000 companies. We welcome the opportunity to provide our initial comments upon the SEC's proposals to improve the quality and timing of information to investors through proxy disclosure.

CalPERS strongly supports the Commission's proposals to improve disclosure by public companies on issues which we regard as critical to our investment strategy: risk management; incentives; conflicts of interest for compensation consultants; board leadership, experience, skills and diversity; clarity of reporting on stock options; and measures to speed up the announcement of proxy voting results. These are issues of vital importance to long term shareowners, and we applaud the Commission for initiating the reform process. Disclosure underpins decision making by shareowners, be it for engagement, voting or investment purposes. It therefore needs to be comprehensive, timely and clear.

We offer the following comments:

A. <u>Enhanced Compensation Disclosure</u>

1. <u>Compensation Discussion and Analysis (CD&A) Disclosure</u>

CalPERS agrees that investors would benefit from an expanded discussion and analysis of how companies reward and incentivize their employees, executives and directors, with particular consideration of the impact upon their risk profile.

We agree that companies should provide an explanation of the basis and the context for granting different types and levels of compensation, not just for the board and senior executives, but where relevant and material, other employees. These disclosures should be written in plain English to ensure that all users (be they providers of capital, regulators, or other interested parties) can understand the risks and rewards that are embedded in compensation plans. We agree with the Commission's outline of the policies and practices upon which companies should report, particularly those addressing long term value creation. We think it especially important that these disclosures address the time horizon over which risk and reward are to be judged, as a basis for improving long term incentives, avoiding payment for failure and allowing for retention or clawbacks as appropriate.

We consider that these improvements should apply across all sectors, not just financial companies, and given that CDA provisions are principles based, should apply to all companies with a public listing. We agree that other elements of compensation that may encourage excessive risk taking should be highlighted in the CD&A, which should be filed in line with requirements for the Compensation Committee Report.

2. Revisions to the Summary Compensation Table

CalPERS agrees with the Commission's proposal to require disclosure of full grant date fair value of equity awards in the Summary Compensation Table and Director Compensation Table. We note that proposed Rule 14a-20 will not modify the substantive executive compensation disclosure requirements that are set forth in Item 402 of Regulation S-K, which allows smaller reporting companies to provide scaled disclosure. CalPERS does not agree with this and as expressed in previous letters to the SEC we support high standards of corporate governance across the capital markets, rather than a tiered approach, including the CD&A with the new compensation discussion.

B. Enhanced Director and Nominee Disclosure

CalPERS supports the proposed amendments to Item 401 of Regulation S-K to expand the disclosure requirements regarding the qualifications of directors and nominees. Specifically, we agree that this should include past directorships held by directors and disclosure of relevant legal proceedings for the stipulated periods of time. It will be especially valuable for investors to be provided annually with information regarding experience, qualifications, attributes or skills that qualify that person to serve or continue to serve as a director of the company. We would not confine this disclosure to corporate directorships, but would expand to include other relevant professional affiliations, which may be relevant to assessing both independence and competence.

These proposals will help investors form a view in individual cases in relation to the board's overall composition. Hence it is valuable if a company puts forward their case to support why a nominee is qualified to serve on the company's board and how their skillsets, experience and background complement the team and thereby contribute to the board's effectiveness.

In addition, CalPERS supports amending Item 407(c)(2) (v) to require disclosure of the additional factors that a nominating committee should consider in recruitment, such as diversity.

CalPERS Global Principles of Accountable Corporate Governance argue that the core attributes of the board should include a range of skills and experience which will provide a diverse and dynamic team to oversee the company's strategy, risk mitigation and management performance. The Principles comment that these attributes will include the usual areas of expertise such as finance, management experience and strategic planning, but that boards will also benefit from input from a diverse team which can challenge the "group think" which undermines the ability to challenge and innovate. For that reason we consider it important that nominating committees recruit from the broadest pool of talent. In February 2009, CalPERS commissioned a report by the consulting firm Virtcom, "Board Diversification Strategy: Realizing Competitive Advantage and Shareowner Value", which concluded that "Research suggests that companies with more diverse boards….have higher performance on key financial metrics, such as return on equity, return on sales, and return on invested capital".

We also support the suggestion that disclosure should be improved for all of the committees which a board establishes, regardless of whether these are required by law or regulation. Shareowners will benefit from understanding the terms of reference for each, the membership and interrelation between the committees, and with the board.

CalPERS also considers that disclosure of the policies in place for evaluation of the board and its individual directors should be required. Shareowners need to understand how the board evaluates its own performance, and where responsibility lies for carrying this out and ensuring progress on measures for improvement. This is a critical process for succession planning, both for the Chief Executive, but also for board members and future recruitment, especially to ensure a diverse range of relevant talent and experience.

C. New Disclosure about Company Leadership Structure and the Board's role in the Risk Management Process

CalPERS views board leadership as an important issue. We therefore fully support the proposal to introduce a new requirement which would require companies to disclose and justify their leadership structure.

CalPERS believes that when selecting a new chief executive officer, boards should re-examine the traditional combination of the "chief executive" and "chair" positions and separate the role unless a compelling reason supports the combined position. We also agree that it would be useful to include disclosure regarding the specific duties performed by the board's chair or its independent lead director. To supplement this, we support the suggestion that there should be disclosure on other issues such as how the board determines the number of independent directors and the appropriate size for the board.

CalPERS strongly supports the proposal to require additional disclosures in the proxy and information statements about the board's role in the company's risk management process. We believe the Board should at a minimum define and disclose the roles and responsibilities of risk oversight.

We also consider it would be valuable for shareowners to understand the process the board has to identify, elevate and monitor risks at the company on a holistic basis, particularly interdependence and cascade effects. We would also consider that disclosure of policy and management of risk would include an explanation of how risk mitigation is embedded throughout the organization, with a connection back to reward structures, as discussed above. This should include the reporting lines and incentives for the chief risk officer or team, plus the role of external consultants. It is important materiality is kept in mind throughout, and also that a risk averse culture does not become an end in itself. To balance this, the disclosure should be linked clearly to the company's strategy for value creation and the board's complement of skills and experience for overseeing risk.

D. New Disclosure Regarding Compensation Consultants

CalPERS supports the proposal that companies should be required to disclose in full the fees and services provided by compensation consultants to allow for better management of conflicts of interest in relation to their work advising the board.

We agree this should include a description of services rendered, plus payment of fees for both board and other forms of consulting work to the company or its affiliates. CalPERS also supports the proposal that companies should disclose whether the decision to engage the consultant was made by, recommended or reviewed by management and whether the compensation committee has approved all of the services offered.

We agree that other categories of consultants or advisors should be subject to disclosure requirements, and will address this more fully in relation to credit ratings agencies in the relevant comment letter in due course.

E. Reporting of Voting Results on Form 8-K

CalPERS agrees that timely disclosure of proxy voting results is important and therefore agrees with setting a new filing schedule for reporting results of shareowner votes from

Forms 10-Q and 10-K to Form 8-K. We caution against allowing for initial results in particularly sensitive situations, such as contested elections, as where the vote is close there may be significant uncertainty. It is better to set a deadline which calls for prompt release of results without compromising certainty of outcome.

Thank you for considering our comments. If you would like to discuss any of these points, please do not hesitate to contact me directly at (916) 795-9672 or Mary Hartman Morris at (916)-795-4129.

Yours sincerely,

Anne Simpson
Senior Portfolio Manager, Global Equity

cc: Joseph A. Dear, Chief Investment Officer - CalPERS
Eric Baggesen, Senior Investment Officer - CalPERS

Ref: Board Diversification Strategy: Realizing Competitive Advantage and Shareowner Value http://www.calpers-governance.org/docs-sof/marketinitiatives/initiatives/board-diversity-white-paper.pdf