

Railways Pension Trustee Company Limited

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

20th October 2010

Dear Ms Murphy

Re: File Number S7-14-10 (Concept Release on the U.S. Proxy System)

We write in response to the recent Concept Release on the US Proxy System, File Number S7-14-10, from the perspective of a pension fund which invests globally and takes a keen interest in corporate governance in the many markets in which we invest.

Railpen Investments is the investment monitoring arm of the Railways Pension Trustee Company Limited, one of the UK's largest pension fund with assets under management of approximately £18 billion (\$28 billion), with \$1.6 billion in exposure to US equities. The Trustee Company, as a major institutional investor, is committed to ensuring good corporate governance in respect of all of its holdings and in the many countries we invest in. Our stance has been nurtured over the longer term and we have had an active voting policy for UK companies since 1992, with a bespoke policy introduced for the USA in 2005. It follows that we have a keen interest in policy changes that the SEC is currently considering to ensure better rights for investors in US companies.

We welcome the Concept Release on the US Proxy System and the opportunity to respond to the various areas proposed for commentary. We agree that the "U.S. proxy system is the fundamental infrastructure of shareholder suffrage since the corporate proxy is the principal means by which shareholders exercise their voting rights. The development of issuer, securities intermediary, and shareholder practices over the years, spurred in part by technological advances, has made the system complex and, as a result, less transparent to shareholders and to issuers. It is our intention that this system operate with the reliability, accuracy, transparency, and integrity that shareholders and issuers should rightfully expect."

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This intention is well-received; and whilst we present our views from the perspective of a global institutional investor, any improvements in the existing system will serve the interests of **all** participants in the complex proxy voting system.

As a member of the International Corporate Governance Network (ICGN) and having provided input into the response of the ICGN's Cross-Border Voting Practices Committee, we endorse fully the ICGN's response and do not consider it necessary to re-iterate all of the points in their entirety here, given the fullness of the ICGN's response. However, we would like to highlight a few areas of importance and elaborate further on those:

Global perspective: any improvements to the US Proxy Voting System will be welcomed but will only be fully effective if proxy voting systems *on a global scale* are reviewed and improvements in transparency, disclosure and vote delivery are implemented.

Dematerialization: given that the USA uses a system of shares being held in a central depository as opposed to full dematerialisation of holdings into separate accounts, we agree with the ICGN's view that addressing this issue would serve to solve some of the other barriers which serve as a hindrance to effective proxy voting, as identified in the Concept Release.

Majority voting: whilst not a specific issue of the Concept Release, we agree with the ICGN that it is appropriate to raise this as we consider that improvements to the proxy system are not just improvements of process, but improvements to the system of governance that it underpins. We would echo the ICGN's position in urging the Commission "to explore ways to implement this critical standard at the federal level so that it is applicable to all issuers regardless of their state of incorporation." We are strong advocates of key corporate governance reforms such as proxy access, Say on Pay and independent Chairman. However, majority voting is the fundamental governance reform needed in the USA for there to be true accountability of directors to their shareholders.

Duties and responsibilities of institutional investors, agents and intermediaries: we agree with the ICGN's recommendation that the Commission establish guidelines governing "transparency, disclosure and share voting by institutional investors under its authority who are acting in a fiduciary capacity as well as by their agents and intermediaries." It is entirely appropriate that there are duties and responsibilities stipulated for shareholders and their intermediaries. By way of example, and as an extension of the concept of setting out the duties of investors, the UK has recently introduced a Stewardship Code for institutional investors, both asset owners and their intermediaries, the asset managers, which seeks to improve the behaviours of investors in terms of voting, engagement and disclosure of such activities and policies.

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Blank voting: One further issue we would like to comment on is 'blank voting'. We support the recommendation of James McRitchie, Publisher of Corporate Governance (CorpGov.net) to amend Rule 14a-4(b)(1) to "remove the provision that confers discretionary authority to matters where choice has not been specified by the security holder or beneficial owner and should make similar amendments to other rules that may provide such authority." It is a concern that, when investors do not indicate their voting intent, that decision gets transferred to individuals who will automatically support management. Such prohibition to giving discretionary authority to issuers with respect to non-votes on the voter information form or proxy would serve to make the voting process a truer reflection of the interests of the participants. When a vote is shown as blank, it should be cast as such. In the UK, proxy cards

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provide the option for shareholders to 'abstain' on voting; such voting positions are seen as a legitimate part of the voting process and discretion is not given to others, such as the Chairman of the meeting, to determine the voting position. We would urge the Commission to not allow that such discretion be granted in instances where blank votes are registered as the ultimate vote cast may not be a reflection of the position of the underlying beneficial owner; it may contrary to their interests that their vote be cast in favour of management. Furthermore, we consider that a voter information form (VIF) should be recognised as a proxy form and therefore afforded the same voting rights as those receiving a proxy. Given the proliferation of electronic voting, such forms that facilitate electronic voting should be recognised as a proxy card for all purposes.

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We urge the Commission to continue its good work in this area and we look forward to hearing the outcome of this review and the changes that will be implemented. It is in the interests of all parties that the US proxy system be more transparent, such that there is accountability for the actions taken. Proxy voting is an important part of the relationship between companies and their shareholders; in the wake of the Dodd-Frank Act and the wider corporate governance reforms to enhance both the rights of shareholders and the engagement and dialogue process between companies and shareholders, it is vitally important that the accuracy and integrity of the proxy voting process be enhanced. The success of the relationship between a shareholder and a company depends upon it.

Please do not hesitate to contact me if you have any further questions on the points we have raised in this response.

Yours sincerely



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Railpen Investments