



BNY MELLON
SHAREOWNER SERVICES

Samir M. Pandiri
CEO

October 20, 2010

Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Re: Concept Release on the U.S. Proxy System
SEC Release Nos. 34-62495; IA-3052; IC-29340; File No. S7-14-10

Dear Secretary Murphy:

The Bank of New York Mellon Corporations (BNY Mellon) strongly supports the Commission's review of the proxy voting and shareholder communications system and appreciates the opportunity to share its thoughts on this issue. BNY Mellon is a leading asset management and securities services company, uniquely focused on helping clients manage and move their financial assets in the global marketplace. BNY Mellon has a unique perspective on the proxy system as, through its varied businesses, it supports virtually all parties involved in the proxy process, including issuers, registered shareholders, beneficial shareholders, broker-dealers, institutional investors and others. Changes to the proxy voting process may have varying impacts on these different market participants and on BNY Mellon's businesses. However, the overall position of BNY Mellon is to support changes that are in the best interests of all investors and other market participants, and to support good corporate governance.

The following comments are organized in line with the general subject areas of the concept release:

Over-Voting and Under-Voting

BNY Mellon endorses the adoption of a processing requirement that would make pre-reconciliation the industry standard. BNY Mellon believes that pre-reconciliation is the most effective means of addressing over-voting or under-voting. Universal acceptance of pre-reconciliation of share ownership records by broker-dealers would ensure that the appropriate shareholders are able to vote their shares without concerns that such votes may be truncated (which could occur under the post-reconciliation method or if no reconciliation method is used at all). BNY Mellon's Pershing business currently performs pre-reconciliation, resulting in more accurate shareholder votes by accounting for borrowed shares and failed deliveries. Based on the foregoing, BNY Mellon believes that it is in the best interests of investors for all securities houses to use pre-reconciliation.

BNY Mellon's Shareowner Services business estimates that, in the mid-2000's (before reconciliation processes were widely used by brokerage firms and other proxy processing providers), it received attempts to over-vote in more than half of the proxy events for which it served as proxy tabulator. With the widespread adoption of reconciliation, the over-vote issue has been largely remediated for proxy tabulators. However, proxy tabulators do not know which type of reconciliation method is used by intermediaries to remove the possibility of an over-vote. If such intermediaries have used the pre-reconciliation method, then the proxy tabulator would never see an over-vote attempt and the votes applied would be only those of shareholders with voting rights. In contrast, if such intermediaries use the post-reconciliation method, then proxy tabulators could potentially see over-vote attempts (unless the intermediaries or their representatives truncate the over-vote attempt prior to transmission to the proxy tabulator).

Vote Confirmation

If investors have confidence in the system and are comfortable that voting rights are properly allocated, then concerns regarding vote confirmation should largely disappear. However, to the extent that such certainty does not exist and such concerns linger, then there should be a mechanism for both issuers and investors to be able to confirm that shareholder votes were properly received and counted.

While BNY Mellon supports a requirement for every proxy service provider to be able to confirm, upon shareholder request, that such shareholder's vote has been properly counted, it does not support a requirement that written vote confirmations be returned to all shareholders. Across-the-board written confirmations would add significant costs into the proxy process. BNY Mellon's Shareowner Services business alone tabulated approximately two million votes in 2010, primarily from physically scanned proxy cards. At an estimated cost of \$0.70 per mailing, written confirmations would have led to an additional \$1.4 million in expenses to be passed through to issuers. Such costs would increase dramatically when spread across the industry as a whole.

Proxy Distribution Fees

If the Commission chooses to retain the concept of regulated proxy distribution fees, BNY Mellon supports moving administration of those fees to FINRA or to the SEC.

Currently, proxy distribution fees are indirectly regulated by the SEC pursuant to rules submitted by the New York Stock Exchange. Those rules entitle broker-dealers to be reimbursed for the reasonable costs associated with the distribution of proxy-related materials, plus an appropriate margin. BNY Mellon agrees with the Proxy Working Group that a review of these fees, including the margins being charged, is advisable. One of the primary purposes of this review should be to determine reasonable fees for proxy support.

We also suggest to the Commission two additional topics for review. First, the SEC should review the current environment of regulated fees, in which brokerage firms select the proxy service provider, but issuers are responsible for such provider's fees. A particular emphasis of this review should be to clarify for all parties what expenses are

currently covered by the NYSE-regulated fee of \$0.50 per shareholder and what ancillary services and fees are added to that amount as “out of pocket” charges.

Second, the SEC should assess the feasibility of eliminating regulated fees and allowing issuers to select their proxy service providers. The purpose of such a review should be to determine the impact such a model would have on the costs and the efficiency of the proxy distribution system.

The results of these analyses would assist the Commission in determining how revised regulations can best serve the interests of investors and all market participants.

Issuer Communications with Shareholders

BNY Mellon understands that there is a benefit to issuers in being able to communicate with their shareholders.

Under recently-enacted NYSE rule changes, brokers can no longer submit votes on behalf of security holders who do not direct their vote on issues of central importance to the management of a public company (e.g., election of directors and executive compensation matters). The loss of such broker votes increases the importance of the retail vote and thus heightens the need for issuers to be able to communicate with their shareholders directly prior to their annual meeting.

Concerns have been raised that issuers might inappropriately use their shareholders’ data, such as for marketing of a company’s products or services. However, these concerns can be addressed by the SEC placing specific limits on issuers’ ability to use such data.

Means to Facilitate Retail Investor Participation

BNY Mellon fully supports efforts to better educate retail investors and increase their participation in the proxy process.

As noted in the SEC’s concept release, one method of encouraging retail voter participation would be to allow issuers who elect the “notice-only option” to provide shareholders a printed proxy card and return envelope with the initial Notice of Internet Availability of Proxy Materials. Although current regulations allow a proxy card to be included with a second mailing of such notice, there are few such second mailings, primarily due to the increased mail and postage expense. Allowing a proxy card in the initial mailing would give shareholders the convenience of voting through all the same channels that the recipient of a full set of printed materials is afforded without the need to request a full set of the materials or for a second mailing.

In the experience of BNY Mellon’s Shareowner Services business, a majority (approximately 60%) of all votes received from a full-set proxy mailing are submitted via a traditional paper proxy card. Shareowner Services estimates that the lack of a paper proxy card option on the initial notice mailings has contributed to a 20% reduction in retail voting participation among registered shareholders.

BNY Mellon is a key party directly involved with many aspects of the proxy process and is prepared to assist the Commission with its efforts to conduct further analysis of the mechanics of the proxy voting system. Representatives of BNY Mellon would be pleased to meet with the Commission Staff to provide insights, data, and analytic support to the Commission's efforts to improve corporate governance by addressing needed changes to proxy voting and other market issues.

Sincerely,

A handwritten signature in black ink, appearing to read 'Samir Pandiri', with a stylized flourish at the end.

Samir Pandiri
CEO
BNY Mellon Shareowner Services