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via e-mail: rule-comments@sec.gov

Ms. Elizabeth M. Murphy
Secretary
U.S. Security and Exchange Commission
100 F. Street, NE
Washington, DC 20549-1090

RE: File Number S7 – 14 – 10; Concept Release on the U.S. Proxy System

Dear Ms. Murphy:

On behalf of New York City Comptroller John C. Liu, I welcome this opportunity to offer comments on the Securities and Exchange Commission Concept Release, S7-14-10, on the U.S. Proxy System.

The Comptroller of the City of New York is a trustee of four of the five New York City pension funds (the "Funds"), and the investment adviser to the five Funds, with combined assets of more than \$100 billion, invested substantially in the securities of publicly-traded companies. In accordance with the Funds' proxy voting policies and guidelines, the Comptroller's office votes proxies at over 3,500 domestic companies in which the Funds are shareowners.

New York City Comptrollers and Trustees of the New York City pension funds have long affirmed that proxies appurtenant to shares of stocks owned by the Funds are assets and must be managed in accordance with their fiduciary responsibility. Ensuring the accuracy and integrity of the proxy voting system is therefore essential.

I commend the Commission for undertaking such a thorough review of the entire U.S. proxy system and appreciate its structuring of the Concept Release around topics that are extremely important to fiduciaries of public pension funds: the efficiency, transparency, and accuracy of the proxy voting system; the linkage between voting power and economic interest; and communication with shareholders and shareholder participation in proxy voting.

I submit the following comments for your consideration:

Over-Voting and Under-Voting of Shares

The over-voting and under-voting of shares, and the imprecise means by which those votes may be reconciled, threaten the integrity of the proxy voting system. The restructuring of the proxy system should include measures to ensure not only that the number of shares cast by broker-dealers correctly reflects the number of shares they actually hold, but also that the votes cast accurately reflect the intent of the shareholders authorized to vote. I support the concept of including a provision under which broker-dealers and other intermediaries would be required to publicly disclose their allocation and reconciliation methods, and publicly issue annual reports on compliance with such methods.

Vote Confirmation

Both record owners and beneficial owners should be able to confirm that the votes they cast have been timely received, accurately recorded, and included in the tabulation of votes. In addition, the integrity of the proxy voting system would be strengthened if issuers are able to confirm that the votes they receive from securities intermediaries, proxy advisory firms, and proxy service providers, on behalf of beneficial owners, correctly reflect the votes of those beneficial owners.

The system should include an accessible, user-friendly means for companies and shareholders to confirm that votes properly cast were included in the final tally, and as directed. It must also respect the confidentiality of those beneficial owners who do not wish to disclose their identity to the issuer. I therefore support the concept of a system that could assign each beneficial owner a unique identifying code, which could then be used to create an audit trail from beneficial owner to proxy service provider to transfer agent/vote tabulator.

Proxy Voting by Institutional Securities Lenders

Consistent with their fiduciary responsibility, some public pension funds seek to enhance investment returns and reduce custodial fees through security lending. However, in order to vote the proxies of shares on loan, the loan must be terminated and the shares recalled before the record dates set by companies. A recent study¹ found that at the time of a proxy vote, there is a significant reduction in the supply of shares available for lending because institutions restrict or call back their loaned shares prior to a vote. The study also found that the reduction in supply of more than 1.64% of market capitalization on the record date is economically significant, and opportunities for revenue gains are missed.

To enable public pension funds and other institutional investors to decide whether to lend, and to recall shares in time to vote on important proxy matters without having to forgo opportunities for increasing returns, the system should include a provision under which stock exchanges would require listed companies to disseminate notices, in advance of record dates, containing information about record and meeting dates, and specific description of all matters to be voted.

¹ Aggarwal, R., P. A. C. Saffi, and Jason Sturgess, 2010, Does Proxy Voting Affect the Supply and/or Demand for Securities Lending? Working Paper, McDonough School of Business, Georgetown University

Issuer Communications with Shareholders

As you know, the current proxy system is organized largely around Broadridge Financial Solutions, a third-party intermediary that disseminates proxy materials and processes votes of beneficial holders on behalf of banks and brokers. The involvement of an independent intermediary in the proxy system provides shareholders with a reliable and uniform proxy voting process. It also ensures that shareholders can communicate with each other on the same terms as issuers. Any rule changes to the proxy system should preserve the use of independent intermediaries.

In addition, the right of beneficial owners to object to having their identities disclosed to issuers should not be abridged. Notwithstanding concerns of issuers regarding their limited ability to communicate directly with their shareholders whose shares are held in street name, infringement on this right of shareholders would not be an appropriate response. The current OBO/NOBO distinction serves an important purpose and that NOBO status is the appropriate default choice for beneficial owners.

Rather than compromise the confidentiality afforded shareholders under the current system, issuers could increase their communication with institutional investors through effective outreach via public forums and investor organizations, such as the Council of Institutional Investors (CII), the International Corporate Governance Network (ICGN), and Ceres; increase constructive engagement and dialogue with proponents of shareholder proposals and large shareholders; and allow reasonable shareholder access to, and direct communication with, their independent directors.

Facilitating Retail Investor Participation/Client-Directed Voting

Encouraging retail investor participation in the voting process is a worthwhile objective, but it must be properly defined. The objective should be to increase the number of retail investors making intentional, company-specific and/or issue-specific voting decisions that reflect their informed preferences. To that end, I encourage the Commission to explore ways to enhance retail investor education about the voting process and specific voting issues.

I am concerned, however, that proposals for client-directed voting—which call for automatically voting retail client shares based on standing instructions (e.g. always for management, against management, abstain or in accordance with third-party recommendation) —may merely seek to increase the number of retail shares cast, not the number of retail investors making informed voting decisions. The Commission should ensure that any move toward client-directed voting is consistent with the above objective.

Data Tagging Proxy-Related Materials

In order to make the proxy voting system more shareholder-friendly, and to improve its efficiency and effectiveness, the Commission should require issuers to provide proxy statements and voting information in interactive data format in addition to traditional format. Proxy voting information from issuers could be aggregated on a publicly available and

accessible website. Increase transparency and disclosure would better enable shareholders to research and compare the policies and practices of companies and make better-informed proxy voting decisions.

Proxy Advisory Firms

In response to the Commission's question about whether proxy advisory firms control or significantly influence shareholder voting, based on the effective approach and experience of the New York City pension funds, I am confident that the answer is no. The proxy voting decisions of the New York City pension funds are based on our extensive review of available information, including the analyses of proxy service firms, analyses of issuers, proponents of shareholders proposals, and other independent perspectives; and internal assessments, consistent with our fiduciary responsibility to protect the assets of the Funds.

The current standard of disclosure of conflicts of interest by proxy advisory services, however, is inadequate. Currently, the disclosure provided by proxy advisory firms is generally limited to a disclaimer that they provide consulting or other advisory services to an issuer. The integrity of the system would be strengthened if proxy advisory services are required to provide full disclosure of all conflicts of interest, particularly regarding relationships with issuers on which proxy analyses are conducted and vote recommendations are provided.

"Empty Voting" and Related "Decoupling" Issues

The potential to decouple voting rights from economic interest raises concerns for both corporations and their long-term shareholders. These concerns are especially acute in situations in which an investor acquires shares for the sole purpose of influencing or controlling the outcome of a vote, but takes steps to achieve a negative economic interest. I applaud the Commission for its impressive efforts to identify empty voting strategies and believe regulation is likely warranted. At a minimum, I support rule changes that would provide more public disclosure and transparency, irrespective of the means used to accomplish empty voting. Such disclosure would enable investors and the Commission to better assess its prevalence and impact, and determine the need for further regulation.

Conclusion

Once again, I would like to thank the Commission for the opportunity to comment on its Concept Release on the U.S. Proxy System, and look forward to the Commission's rule-making to improve the efficiency, transparency, and accuracy of the System.

Sincerely,



Michael Garland
Executive Director for Corporate Governance