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October 25, 2010

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

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

Dear Ms. Murphy:

Morgan Stanley Smith Barney LLC ("MSSB" or "the Firm")[1] appreciates the opportunity to comment on the Securities and Exchange Commission's ("SEC" or "the Commission") Concept Release. With over 17,000 Financial Advisors, MSSB is the nation's leading retail brokerage firm. Accordingly, we have considerable experience with the current system of proxy voting and shareholder communications – and a significant stake in any future revisions to that system. MSSB has shared its views with regulators and other industry participants through collaborative efforts with the Securities Industry and Financial Markets Association ("SIFMA"), and MSSB endorses the views expressed in SIFMA's Report on the Shareholder Communications Process with Street Name Holders and the NOBO-OBO Mechanism, and in SIFMA's comment letter on the Concept Release (the "SIFMA Letter"). We also played an active role in the development of the Suggested Practice Guidelines for Proxy Processing issued by the Securities Industry Association (now SIFMA), and in the Report and Recommendations issued by the New York Stock Exchange Proxy Working Group ("PWG"), both of which were issued in 2006, and the Firm's professionals have participated in the New York Stock Exchange's ("NYSE") Commission on Corporate Governance and an SEC roundtable on proxy topics.[2]

As we have emphasized throughout our industry efforts – and as reflected in this letter – MSSB believes that the current proxy system is robust, reliable, accurate, and efficient. It has evolved to meet the shifting needs of investors and securities issuers, to deploy new technologies, to meet new regulatory mandates and standards of effective corporate governance, and to incorporate additional participants such as third party investment advisers. It has also evolved in parallel with many of the innovations that promote the efficiencies of the U.S. securities trading and settlement systems. It is our hope that any changes to this system will preserve these important attributes.

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[1] References to "MSSB" or "the Firm" in this letter include references to one or both of MSSB's contributing firms (the Smith Barney business of Citi and the Global Wealth Management Group of Morgan Stanley).
[2] See SEC Press Release 2007-99, *SEC Announces Agendas and Panelists for Final Roundtables on the Proxy Process.*

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I. Accuracy, Transparency, and Efficiency of the Voting Process

a. Advantages of the Current United States Proxy System

The U.S. proxy system is of necessity complex, given the need to find balance between the many participants in the process. While naturally there are differences of opinion amongst these constituencies, and room for improvement exists in any large, complex system, fundamentally the system is sound. Overall we share the view expressed in the SIFMA Letter that certain alternatives discussed in the Concept Release to overhaul the system do not adequately address the impact to investors nor the costs and benefits of other models. When factors such as cost and investor convenience are properly weighed, proposals to, for example, create a new service provider as a data aggregator, or require intermediaries to issue omnibus proxies to beneficial owners, become much less compelling.

b. Vote Balancing and Controls

MSSB takes seriously its responsibility to properly allocate votes to our clients. As part of our pre-reconciliation methodology, MSSB reconciles our customers' account positions to our holdings at the Depository Trust Company ("DTC") and elsewhere before proxy materials are provided to those customers. Our process employs a number of controls that integrate data from the DTC and Broadridge Financial Solutions, Inc. ("Broadridge"), and that are effective in identifying and resolving potential over-vote conditions. The Firm implemented its current pre-reconciliation procedures in 2007 and informed clients about this transition.[3]

We believe that the safeguards of our pre-reconciliation process best meet our goals of accuracy, reliability, and client service, while minimizing the possibility of adjustments to an investor's votable shares subsequent to the delivery of proxy materials to the investor. We also believe that requiring brokers to change reconciliation methods in response to rulemaking would impose costs and implementation difficulties that would far outweigh the advantages of imposing one method to the exclusion of the other.

c. Proxy Distribution Fees and Client Experience

As a member of the PWG, MSSB endorsed the PWG's 2006 proposal to create an independent body to review proxy distribution fees. MSSB supports the appointment of an independent third party to analyze and make recommendations regarding the structure and amount of proxy-related fees. This third party analysis should include a review of notice and access fees, the costs of and available categories for requesting Non-Objecting Beneficial Owner

[3] Pre-reconciliation was adopted in 2007 by the legacy Morgan Stanley side of MSSB (see footnote 1). Since the formation of MSSB, the Morgan Stanley channel of MSSB continues to use the pre-reconciliation method.

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("NOBO") lists, and incentives for paper elimination. Following completion of this review, regulators should consider revising the existing fee schedule and related issues based on its findings. Commencing this study is especially timely given developments in technology, greater complexities introduced by the notice and access system, the potential increased use of dual-record dates, and the impact of rule changes regarding proxy access.

One of the possibilities discussed in the Concept Release to address proxy distribution fees would allow multiple service providers to contact shareholders directly on behalf of issuers. Although such a system is intended to foster competition, we believe it would have the unintended consequences of increasing overall costs and diminishing the investor experience. As the SIFMA Letter notes, incentives in the current centralized system result in significant savings to issuers, while implementing an alternative, more-fragmented system would impose heavy start-up costs and impair efficiencies that have taken many years to achieve. Even if the migration to such a system was cost-neutral, the Commission must also consider the impact this decentralization would have on investor experience. Investors look to their financial advisor for guidance and service in all aspects of investing, including the proxy process. Today, a financial advisor can be a single point of contact for a client's proxy needs, including e-delivery preferences, notice and access preferences, voting delegation, issuance of a legal proxy to attend a shareholder meeting in person, and assistance with accessing online or phone vote channels across all accounts and investments.[4] MSSB urges the Commission to carefully consider the convenience that this system offers to investors when weighing the merits of any alternative.

II. Communications and Shareholder Participation

a. Investor Choice and Privacy Concerns

MSSB strongly supports the Commission's goal of encouraging shareholder participation in the corporate decision-making process, and fully cooperates with issuers who seek to contact the large number of our clients who have not chosen Objecting Beneficial Owner ("OBO") status. MSSB's account opening forms currently include a default to NOBO (i.e., if a client does not check the OBO box, he or she is automatically deemed to be NOBO) – that said, we oppose any new regulations that would interfere with the legitimate choice of our clients to safeguard their privacy. MSSB cannot support any forced disclosure of our OBOs to issuers and their

[4] MSSB's brokerage clients have, on average, 7.25 equity positions per account, and many clients have more than one account with the Firm. In addition, Morgan Stanley Smith Barney has managed accounts of different types including those managed by third party managers. Based on our experience with third party managers, we estimate that the number of securities in a managed account has generally ranged from approximately 20-100 securities. There are a number of factors that may determine the number of securities including (but not limited to) asset class, investment philosophy and process as well as portfolio construction and diversification guidelines. If each position in a brokerage or managed account involved a separate service provider with respect to the proxy process, an average MSSB client would have to deal with numerous issuer agents on proxy matters.

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agents – even if only once per year – especially given the increased sensitivity of clients' privacy concerns. In fact, a number of our clients who initially default to NOBO status subsequently elect to switch to OBO status due to privacy concerns.

Although we are open to encouraging clients to review their current status, this may result in a greater imbalance in favor of OBO status than currently exists among our clients. New regulations that would deny clients the right to choose OBO status, or that would impose a financial penalty for making such a choice (or require setting up special custodian arrangements), would unfairly disadvantage retail clients and are contrary to our goals of client service. While we feel our current disclosure is quite clear, MSSB is amenable to working with the SEC and industry participants to develop uniform disclosure language that could appear on all account opening or similar documents.[5]

The Commission should consider as part of its OBO/NOBO review the avenues that issuers already have available for contacting shareholders and the actual potential benefit to issuers of denying OBO protections to investors. While issuers are not permitted to contact retail shareholders who have chosen OBO status directly by telephone, they may nonetheless work with securities intermediaries such as MSSB to reach these investors. It is not clear that issuers would value or would take advantage of the ability to contact this relatively small group of retail investors at the expense of these investors' privacy.[6]

b. Investor Education

We agree with SIFMA that securities intermediaries such as MSSB have a key role to play in making the proxy voting process more accessible to investors. MSSB has been active in communicating proxy-related content to our clients, including in newsletters that are mailed to clients with their account statements. Related articles over the past few years include: proxy pre-reconciliation procedures, adoption of proportional voting, introduction of the notice and access model, the impact of securities lending on voting rights, and the elimination of the broker vote for election of directors. We encourage the preparation of general investor education content to be hosted on the websites of the Commission or FINRA to which MSSB and other financial services firms could direct investors.

c. Proxy Materials and Notice and Access

We endorse the Commission's examination of how the complexity of proxy materials may result in reduced retail investor participation. While the enhanced disclosure requirements

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[5] MSSB's account agreements contain a disclosure as follows, or substantially similar: "SEC rules require us to disclose to an issuer, upon the issuer's request, your name, address and the number of shares of the issuer's securities that we hold for you in 'street' name, unless you have objected to such disclosure. The issuer would be permitted to use this information for shareholder communications only. If you object to us providing this information to issuers, please check this box."
[6] The SIFMA Letter, citing data from Broadridge, notes that only about 13% of shares outstanding held by OBOs are held by retail investors.

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promulgated over the past several years have increased the information available to investors, retail investors may be less likely to read proxy statements that at some companies are now over one hundred pages in length. In the Concept Release, the Commission has asked if the greater use of plain English or some form of summary proxy materials would increase retail vote participation. We agree that the Commission should examine distribution of summary materials with the proxy statement or, as applicable, with the initial notice in the notice and access model, as a way to increase retail vote participation.

Additionally, we support enhancements to the notice and access model, such as permitting issuers to include a voting instruction form ("VIF") with the initial notice, as a means to boost retail investor participation. We also endorse examining the reduction of additional advance time required under the notice and access model (currently, at least 40 days) as a barrier to issuer adoption and the impact that mailing of a VIF with the notice could have on harmonizing the timeframe with the current full delivery system and encouraging adoption by issuers.

d. Client-Directed Voting

MSSB believes that adopting a straightforward system of client-directed voting could meaningfully increase the informed participation by retail clients in the voting process. We support a model that would broadly mirror that discussed in the Concept Release: clients, either at account opening or subsequently, could instruct their financial intermediary to set up standing proxy instructions with respect to all companies in which they invest. When such an instruction is on file, the client would receive the proxy materials and a VIF indicating the votes that will be cast on the client's behalf in the absence of any other returned vote, thus efficiently maximizing retail shareholder participation. We believe that requiring clients to adopt such standing instructions on a company-by-company basis would complicate the process for both customer and intermediary, and would dilute the effectiveness that simple account-wide instructions provide.

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MSSB appreciates the opportunity to provide comments on the Concept Release. If you have any questions, or would be interested in more data about MSSB's proxy distribution and voting process, please contact me at (212) 276-0765.

Respectfully submitted,

Thomas Gooley

Thomas Gooley
Morgan Stanley Smith Barney LLC
Managing Director and Global Head of Operations