

October 26, 2010

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

Re: Concept Release on the U.S. Proxy System, SEC Rel. No. 34-62495  
(Jul. 14, 2010), File No. S7-14-10

Dear Ms. Murphy:

The Independent Steering Committee of Broadridge (the “Steering Committee”) is writing to comment on the recently published Concept Release on the U.S. Proxy System, SEC Rel. No. 34-62495 (Jul. 14, 2010) (the “Concept Release”).

The Steering Committee was formed in 1993 with the support of Linda Quinn, then Director of the Securities and Exchange Commission’s (“SEC’s”) Division of Corporation Finance, to establish and monitor performance measurement criteria for Broadridge, a leading global provider of shareholder communications and proxy voting technologies and services. Broadridge distributes the proxy materials and processes the votes of beneficial shareholders for public company shareholder meetings in the United States and provides outsourcing services to custodian banks, broker-dealers, corporate issuers and institutional investors to help them meet certain of their obligations under SEC and New York Stock Exchange (“NYSE”) rules.

The Steering Committee represents a wide range of stakeholders that are independent of Broadridge based on guidelines established by the Steering Committee, including large publicly traded companies, institutional investors, custodian banks and broker-dealers. Each of the Steering Committee members has had functional responsibility for proxy voting and shareholder communications in his or her organization and has working knowledge of the proxy system. In addition, as members of the Steering Committee, we have approved the performance measurement criteria used by Broadridge, received periodic reports of Broadridge’s performance based on such criteria and recommended periodic changes in the performance criteria, as necessary. The Steering Committee also reviews independent reports of Broadridge’s performance, including reports of its processing of voting instructions and compliance with applicable rules and regulations.

## **Principles of Reform**

Individual members of the Steering Committee, and the organizations they represent, have different perspectives on various aspects of the current system that

could be improved and may file individual comments with the SEC that address each of their organization's point of view. However, we are in agreement that the following four principles should govern any rulemaking that the SEC pursues as a result of its review of the proxy rules:

- *Accuracy* - Ensuring that shareholder votes and voting instructions are accurately collected, tabulated and reported (e.g., through vote confirmation, etc.);
- *Efficiency* - Ensuring that proxy materials, shareholder votes and voting instructions are timely distributed and collected in a manner that is cost-effective and maximizes the use of technology (e.g., mailing timelines are met and proxies are timely distributed in an appropriate cost structure, etc.);
- *Transparency* - Providing participants in the proxy distribution process with transparency regarding their rights and obligations, as well as the mechanics of the proxy distribution process (e.g., greater disclosure regarding NOBO/OBO status as well as reconciliation policies and procedures, etc.); and
- *Integrity* - Ensuring that the system is reliable, independent and accountable to all of the constituencies that participate in the proxy distribution process (e.g., vote confirmation, greater disclosure regarding reconciliation policies and procedures, and required audits of all of the participants in the process, etc.).

Given the wide dispersion of shareholders across the country, the corporate proxy has become the primary means by which shareholders exercise their voting rights. In recent years, the corporate proxy has played a critical role in the development of corporate governance in the United States. Many recent developments in corporate governance, ranging from the widespread adoption of majority voting to the recently adopted rules regarding the right of shareholders to include their nominees in a company's proxy materials, were advanced through shareholder proxy initiatives. In light of these developments, the Steering Committee welcomes the comprehensive review of the proxy system called for by the Concept Release. In this regard, we believe there are a few incremental steps the SEC can take as a result of its review of the proxy rules that can help further the principles of accuracy, efficiency, transparency and integrity.

### **Vote Confirmation**

The Steering Committee supports the concept of vote confirmation as perhaps the most important mechanism of ensuring that all of the principles discussed above are achieved. Vote confirmation can serve as a way of providing participants in the proxy process with greater comfort with the accuracy and integrity of the system as well as a way to increase the system's transparency and efficiency. The ability to

provide confirmation of voting already exists and is widely used by institutional investors in instances where Broadridge acts as the tabulator.<sup>1</sup> The problem, however, is that other tabulators do not offer confirmation. The Steering Committee recommends that the SEC take steps to require or encourage tabulators, transfer agents, issuers and other intermediaries to make vote confirmation available for all meetings, regardless of who is acting as tabulator. We believe that vote confirmation can be achieved with minimal additional costs to the participants in the process. For example, we understand that Broadridge currently provides vote confirmation to users of ProxyEdge at no additional cost. We can see no reason that vote confirmation is not made available by other participants in the process. In light of the importance of the issue, the ease by which it can be achieved and what we believe to be the minimal costs required, we believe that confirmation is an essential element of any proxy reform initiatives that emerge from the Concept Release.

### **The Importance of Independent Testing and Auditing of Proxy Systems**

In order to ensure that the proxy voting system achieves the principles described above, we believe that the key participants in the proxy distribution process should submit their processes to independent testing and auditing. For example, the Steering Committee has been intimately involved in helping identify the performance criteria used for the regular reviews of Broadridge's processes and systems. These reviews focus on vote reporting accuracy, tabulation, efficiency and other criteria. We believe that similar testing should be required of every participant in the proxy distribution process, including transfer agents, tabulators and other intermediaries. These processes have led to constant improvements in Broadridge's performance and have given us greater confidence in the accuracy, efficiency, transparency and integrity of the system. We believe that it is essential that all stakeholders in the process receive comparable assurances from other participants in the proxy distribution process.

### **Disclosure of Reconciliation Standards**

The Steering Committee believes that an effective reconciliation process is essential to the accuracy, transparency and integrity of the system. Reconciliation refers to the process by which a broker or bank verifies the number of shares that a beneficial owner is entitled to vote. Pre-reconciliation refers to when a broker or bank compares the number of shares it holds at DTC against its aggregate customer account positions before it sends voting instruction forms ("VIFs") to its beneficial

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<sup>1</sup> Broadridge provides vote confirmation to over 3,500 users of its ProxyEdge platform – in all cases where Broadridge serves as an issuer's tabulator. In calendar year 2009, over 1,600 corporate issuers chose Broadridge as the tabulating agent.

owner clients. Post-reconciliation refers to when a broker or bank compares the number of shares it holds at DTC against its aggregate customer positions after receiving VIFs from its beneficial owner clients. The Steering Committee is agnostic as to whether brokers and banks should adopt a pre-reconciliation, post-reconciliation or hybrid reconciliation model. Ultimately, we believe that a broker or bank should be able to choose the system that works best for it and its clients as long as clients and issuers are provided with adequate disclosure about the method that the broker or bank has selected. We believe that this disclosure will further the principles of accuracy, transparency, efficiency and integrity. Along similar lines, we believe that tabulators should be required to disclose how they resolve questions relating to over-reporting of voting instructions.

### **The Importance of Flexibility With Respect to Technology**

The capital markets recently have experienced advances in technology that have exponentially outpaced changes that occurred in previous years. From the increased ubiquity of the Internet, advances in the speed of communications through instant messaging, e-mail, web-based communication platforms and cellular phone networks, the opportunities for companies and shareholders to communicate with each other are increasing every day. We believe the SEC historically has tried to create opportunities for companies, shareholders and intermediaries to maximize the use of emerging technologies through interpretive guidance and rulemakings. Recent efforts permit the delivery of proxy materials over the Internet, facilitate the use of electronic shareholder forums and provide guidance regarding the use of the Internet by issuers to communicate material information to their investors. We applaud these efforts, and strongly urge the SEC to keep these issues in mind with respect to any rulemaking that follows the Concept Release. It is essential that future amendments to the proxy rules give issuers, shareholders and intermediaries sufficient flexibility to maximize the use of new technologies as they become available without compromising investor protection. With recent changes in corporate governance demanding that issuers and shareholders be able to communicate with each other more frequently, and with respect to a greater number of issues being considered, providing flexibility as to how these communications take place will go a long way in ensuring that the proxy rules achieve their fundamental purpose - that is, permitting the efficient exercise of the shareholder franchise created by state law.

### **Proxy Distribution Fees**

The Concept Release calls for a review of proxy fees. Proxy fees are of interest to all parties involved in the process, and it is appropriate that they are reviewed periodically. In the opinion of the Steering Committee, any review should address such questions as:

- Should uniform fees be assessed to issuers regardless of their size?
- Should fees be recommended, but allowed to be individually negotiated between issuers and intermediaries? If so, how specifically is this to be accomplished, i.e., would issuers negotiate directly with brokers, banks and their intermediaries about the services that each provides in any given proxy solicitation?
- How do the fees associated with the distribution of proxy materials to beneficial owners compare to the fees associated with the distribution to registered shareholders?
- Should the SEC regulate the proxy distribution fees that transfer agents charge for distributions to registered shareholders?
- Are the national securities exchanges the appropriate forum for the resolution of these issues?

In conducting its review of these issues, we believe that it is important that the SEC distinguish between the costs of a proxy distribution (i.e., postage, printing) from the fees charged for the services associated with the proxy distribution process (i.e., suppression fees, nominee fees, notice and access fee, etc.). Further, we believe that the SEC should focus on the reasonableness of proxy distribution fees and not on whether any entity derives any profit from such fees. The current system includes incentives for brokers, banks and their intermediaries to drive costs to issuers down as much as possible and still look for opportunities to introduce new technologies to improve the process. In this regard, the introduction of the notice and access rules, householding and other requirements of the proxy rules have increased the number of services that must be provided in any given proxy solicitation. Recent legislative developments as well as SEC initiatives will further increase the services that will be required. Any changes to the system that result from the SEC's fee review should keep these developments in mind.

### **The Importance of Data**

We strongly support the SEC's efforts to obtain data in connection with its review. We believe that obtaining data is critical to appropriately addressing overvoting and undervoting, proxy distribution fees, investor preferences with respect to OBO/NOBO status, and the ability of issuers to communicate with investors. With respect to overvoting and undervoting, we believe that data is essential in assessing the scope of the problem to the extent that a problem exists. Similarly, we believe that there is a dearth of data regarding the preferences of investors with respect to OBO/NOBO status and related privacy issues. Finally, we believe that there is little

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data, outside of the information included in the Compass Lexecon Report, regarding the fees charged for proxy distributions. In particular, we are aware of no studies that have been conducted regarding the fees paid by companies to transfer agents in connection with the distribution of proxy materials to registered shareholders. We believe that this information would be essential to any review of the fees associated with the proxy distribution process.

Under the Dodd-Frank Act, the SEC has been granted new authority to conduct surveys and gather information. We believe that this authority will ultimately serve as a critical tool in the SEC's efforts to review the proxy system. In addition to any surveys conducted by the SEC, we believe that the major constituencies in the proxy system would be prepared to assist the SEC in obtaining the kind of current, relevant and independent information that would be needed before undertaking some of the proposals described in the Concept Release.

## **Conclusion**

While we believe the current proxy system functions well, as with any system, there is always room for improvement. The Concept Release provides a useful summary of how the system works and catalogs some areas where improvement will be useful. Any such improvements should have the goal of ensuring that the system carries out its fundamental purpose of ensuring that proxy materials are timely distributed, that shareholder votes are timely and accurately recorded and that the 14,000 companies that conduct shareholder meetings each year receive the necessary quorum. As noted above, we believe that this goal is best served by having any rulemaking that emerges from the Concept Release focus on the principles of accuracy, efficiency, transparency, and integrity. We are confident that the SEC will advance these principles and would like to express our willingness to work constructively with the SEC to ensure that this is accomplished.

Very truly yours,

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Rhoda Anderson  
President, Rhoda Anderson Associates  
Facilitator, The Independent Steering Committee of Broadridge  
Investor Communication Solutions

On behalf of the Broadridge Steering Committee members whose names are listed herein in their individual capacities ("Steering Committee Members")

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cc. Honorable Mary L. Schapiro, Chairman  
Honorable Luis A. Aguilar, Commissioner  
Honorable Kathleen L. Casey, Commissioner  
Honorable Troy A. Paredes, Commissioner  
Honorable Elisse B. Walter, Commissioner  
Meredith Cross, Director, Division of Corporation Finance  
Felicia Kung, Chief, Office of Rulemaking, Division of Corporation Finance

Steering Committee Members:

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