American Bankers Association
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October 22, 2010

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

Re: Concept Release on the U.S. Proxy System; File Number S7-14-10; 75 Federal Register 42982 (July 22, 2010).

Dear Ms. Murphy:

The American Bankers Association (ABA)[1] appreciates this opportunity to comment on the Securities and Exchange Commission's (Commission) concept release on the U.S. proxy system. ABA supports the Commission's review of the proxy system for purposes of promoting greater efficiency and transparency, as well as enhancing the accuracy and integrity of the shareholder vote. Many of our member institutions act as securities intermediaries for fiduciary and agency accounts and thus are very interested in potential changes to the existing system. In 2009, banks managed $3.4 trillion in 1.38 million fiduciary accounts and held $57 trillion in 9.8 million custody and safekeeping accounts.[2]

**The Rights of Objecting Beneficial Owners**

Of particular interest to our members is the preservation of the right of shareholders to object to the disclosure of their names and addresses to the issuers of securities that they own. The Commission cites a number of "concerns about the cost and efficiency of the current system of communications between issuers and investors" as a rationale for conducting this review of the objecting beneficial owner (OBO) and non-objecting beneficial owner (NOBO) system – all of which are made from the perspective of the issuer and not the shareholder.[3]

Since this idea first arose many years ago, ABA has strongly supported the right of shareholders to determine whether their names and addresses should be disclosed to the companies in which they have invested. Bank customers, especially fiduciary account customers, particularly seek the

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[1] The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's $13 trillion banking industry and its 2 million employees. ABA's extensive resources enhance the success of the nation's banks and strengthen America's economy and communities. Learn more at www.aba.com.

[2] FDIC Quarterly Banking Profile, Table VIII-A (Fourth Quarter 2009).

[3] 75 Federal Register 42999 – 42300.

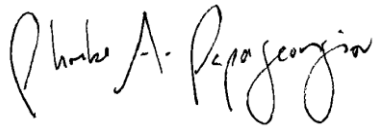
services of bank trust departments with privacy and investment management services in mind. These customers generally do not want to be inundated with communications from issuers. This is especially important for those bank trust and fiduciary customers who have vested the bank with investment discretion over their account. These account holders generally do not follow on a day-to-day basis the investments held in their account and would not, we would submit, welcome unauthorized communications from the companies in which their trusted adviser has invested on their behalf. We would urge the Commission to continue allowing shareholders to decide whether their identities should be disclosed to corporations in which they have invested.

**Liability under State Fiduciary and Privacy Laws**

Not only do bank trust departments want to provide the privacy that their customers demand, but also they are subject to state fiduciary and privacy laws that prohibit the disclosure of personal information to third parties. For example, if a bank is acting as co-trustee on a trust account, it has a fiduciary obligation to uphold the privacy of the third-party co-trustee, including one who may be considered a "beneficial owner" as defined in 17 CFR 240.14b-2 (i.e., a co-trustee who has the power to vote or direct the voting of a security). We, furthermore, assume that the limitations in Section 14 of the Securities Exchange Act of 1934 (15 USC §78n (b)(2)) still apply to those bank customer accounts that were opened on or before December 25, 1985.[4] The potential liability to banks from any change to the OBO/NOBO system must be considered thoroughly before moving forward.

If you have any questions about the comments made in this letter, please do not hesitate to call or write the undersigned.

Sincerely,



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[4] 15 USC §78n (b)(2) reads in part: "With respect to banks, the rules and regulations prescribed by the Commission under paragraph (1) shall not require the disclosure of the names of beneficial owners of securities in an account held by the bank on December 28, 1985, unless the beneficial owner consents to the disclosure."