



January 19, 2011

Elizabeth M. Murphy
Secretary
Securities 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 (the "Concept Release")**

Dear Ms. Murphy,

I am writing in follow-up to our December 22, 2010 meeting with representatives from the Division of Corporate Finance and Division of Trading and Markets, and to further supplement our October 20, 2010 Comment Letter (<http://www.sec.gov/comments/s7-14-10/s71410-126.pdf>). The two areas addressed in this letter are: **1)** existing capabilities in the marketplace to provide proxy distribution and other shareholder communications services; and **2)** reduction in fees paid by issuers resulting from leveraging the existing capabilities in the marketplace.

Merrill Corporation has been a service provider to corporate issuers, mutual funds, investment bankers and securities attorneys since its founding in 1968. Relevant to this letter, the services provided by Merrill include composition, print, filing and delivery of investor communications for issuers under the 33, 34 and 40 Acts. The comments herein are based on Merrill's market leadership and experience in these areas.

Existing capabilities in the marketplace

There are currently many companies in the marketplace that have the infrastructure and capacity required to provide proxy distribution and other shareholder communications with little or no further investment required. The infrastructure and technology required to provide proxy distribution and other shareholder communications services is the same infrastructure and technology required to provide services in several other markets. Healthcare and first-dollar mailings are just two examples.

In the healthcare market, service providers like Merrill Corporation, Harte-Hanks, O'Neil Data Systems, R. R. Donnelley, and WorkflowOne provide plan participants with communications tailored to each individual receiving such information. In order to provide such services, the service provider receives

complex, unformatted and un-standardized data feeds from insurance providers. These data feeds contain millions of records with sensitive data in many data fields, which requires sorting, elimination of duplicate mailings, and other processing. Once the processing is complete, mailings – either hard copy or electronic – are created and sent.

First-dollar mailings for the annuity and mutual fund industry are similar to healthcare mailings in that they require complex data driven mailings. Service providers in this space include: Merrill Corporation; Computershare; DST Systems, Inc.; and The Bank of New York Mellon Corporation. In providing these services, service providers receive either full-refresh or delta data feeds from insurance companies, brokerage firms, and transfer agents on a daily basis. When full-refresh data feeds are received, it is up to the service provider to identify those clients that are new to individual funds, those who have left individual funds, and those who must receive another mailing as a result of having repurchased the same fund. In addition, the service provider eliminates duplicate mailings and provides other data processing services prior to printing and delivering the required communication.

Important to note:

- In addition to the service providers named above, there are numerous transfer agents, proxy solicitors, and corporate governance and communication service providers like The Altman Group, Computershare, and D.F. King & Co., Inc., or the vote tabulators, financial printers, and mailing and fulfillment houses who can provide all or a significant portion of the services required in proxy distribution and shareholder communications through their current technology and infrastructure or through easily established relationships. Market forces will drive innovation, and more of these companies will either develop or buy additional capabilities if there are market reasons/efficiencies in doing so. Based on Merrill's market knowledge, there is no provider, including the current monopolistic service provider, that provides a one-stop shop for all proxy distribution and shareholder communications services. For a comparison of well-known industry players, please see the attached proxy services chart.
- The data feeds required for proxy distribution and shareholder communications are similar to the data feeds required for first-dollar mailings and less complex than the data required for healthcare mailings. The technology and infrastructure to receive and process these data feeds is exactly the same as is used for healthcare and first-dollar mailings. Unlike in the examples above, Broadridge requires broker dealers, banks and issuers to provide their data in a standardized format. This standard, although not required to provide these proxy services, makes providing proxy distribution and other shareholder communication services easier than in the healthcare and first-dollar mailing markets.
- The elimination of system-wide duplications and multiple mailings to households – reducing printing and postage costs – is standard practice by all service providers.
- Because of the sensitive nature of healthcare and investor information, all providers in the healthcare and first-dollar mailing space provide state-of-the-art information security. Such providers meet compliance standards contained in: Sarbanes Oxley; Gramm-Leach-Bliley; Payment Card Industry Data Security Standard (PCI-DSS); HIPAA; and other regulations, are ISO compliant or

certified and audited annually in SAS 70 type reviews.¹ Furthermore, all data centers used by the service providers are Tier IV rated and are fully redundant. These certifications and ratings are not unique to any service provider in the market. From a market perspective, these certifications and ratings are a ticket to participate in this space, and all of the participants have them.

Due to the fact that the technology and infrastructure required to provide proxy distribution and other shareholder communications services is highly scalable and not unique, and given the number of service providers that currently have this technology and infrastructure in place, there is excess capability in the marketplace to provide these services.

Reduction in fees

Leveraging the excess market capability will result in a reduction in fees paid by issuers. As noted in the previous section, the technology and infrastructure required to provide proxy distribution and shareholder communication services is the same technology and infrastructure required to provide complex data driven communications in other markets. Because of this, there are tremendous opportunities to reduce fees paid by issuers by spreading the cost of the technology and infrastructure over a broader base of clients, in multiple markets.

There are many service providers that stand ready, willing and able to exercise this leverage and provide a broader array of services to issuers in the proxy distribution and shareholder communication services market. In fact, many of these service providers already provide services in this space, from printing proxies and other communications, to vote tabulating and mail and fulfillment. The only factor standing in the way of expanding their service offering and further leveraging their current technology and infrastructure is access to the non-objecting and objecting beneficial owner list. As shown above, the only differences between the current monopolistic proxy service provider and the other service providers currently in the market are: 1) access to the complete beneficial owner list; and, 2) the fact that the current proxy service provider is singularly focused (lacks a presence in other markets that use the same technology and infrastructure).

For proof that fees will decrease with increased access to the beneficial owner list, one need not look further than the current monopolistic service provider's singular focus. In their November 8, 2010 NYSE Proxy Fee Advisory Committee slide deck, they estimate that they have invested over \$1 Billion in systems and technology and that their "capabilities require a substantial, ongoing commitment of time and capital." (<http://www.sec.gov/comments/s7-14-10/s71410-264.pdf>, pages 16 and 21.) It is unfortunate that issuers have to pay higher fees due to the singular focus of using this technology and infrastructure only in the proxy distribution market. Given access to the complete beneficial owner list, other service providers that are well established in multiple markets will be able to leverage their current technology in providing a broader array of services to issuers at lower cost, due to increased economies of scale. Broadridge competes well in the market for their other product lines, and they should not be concerned about competing in an open market environment for this service.

¹ Examples of companies in this market that have these types of certifications: Merrill Corporation - ISO registrations in 9001, 13485, 27001, 14971; Computershare - ISO registration in 9001; DST Systems, Inc. - ISO registration in 9001; and The Bank of New York Mellon - ISO registration in 20022; R. R. Donnelley - ISO registrations in 9001, 14001, 27001, 13485; and WorkflowOne - ISO registration in 2008 for 9001 and 16949..

The extent to which fees paid by issuers can be reduced has been analyzed by Computershare and Georgeson. In their report (<http://www.sec.gov/comments/s7-14-10/s71410-257.pdf> at page 25) they state “depending on the number of beneficial shareholders, issuers can reduce their costs of distributing proxy materials by between 20 percent and 72 percent of the NYSE-regulated fee currently payable to Broadridge.” We agree with this estimate.

Putting this all together

As discussed in our October 20, 2010 comment letter, increased access to the complete beneficial owner list can be accomplished through the Issuer Control System:

1. The issuer requests from the depository trust company (DTC) a list of all securities intermediaries of record on the record date. Upon receipt of the list from DTC, the issuer will provide the list to the third-party service provider selected by the issuer to provide the proxy distribution of shareholder communication services. The third-party service provider could be any one of a number of vendors, including vote tabulators, transfer agents, financial printers, mailing and fulfillment houses, etc. The list from DTC will be used by the third-party service provider for validation of the securities intermediary and data transfer.
2. The issuer directs all securities intermediaries to send their entire list of beneficial owners to the third-party service provider of the issuer’s choice. [Note: If the SEC continues to support OBO status, the SEC will need to allow securities intermediaries to disclose their OBO list on a protected basis to third-party service providers selected by the issuer.]
3. The third-party service provider coordinates the distribution of the proxy or other shareholder communication.

The data transfer required in step #2 will be accomplished through a secure web portal. A secure web portal is the data collection interface allowing the data into the service provider’s secure network. This is the current technology used for transferring large volumes of secure data.

The data transfer process in detail:

1. In the issuer’s notice to the securities intermediaries (step #2 of the Issuer Control System), the issuer will provide the URL address to the chosen service provider’s secure web portal. Each service provider will need to have only one secure web portal to receive data for all proxy distribution and other shareholder communications services. The data management technology in the background tracks what mailings the data will be used for, what broker-dealer or bank the data came from, etc. Establishing a secure web portal is a non-event for service providers and requires no additional investment in technology or infrastructure.
2. The securities intermediary will then log onto the secure web portal – either manually or through the use of an Application Programming Interface (API) – using its current technology and infrastructure. Use of an API automates the process, eliminating any human involvement in the data transfer. The securities intermediary will self register and be authenticated against the list provided by DTC. Once logged in, the technology further authenticates the provider, using system-to-system-authentication, and the data is automatically uploaded. Beyond the simple

log in – and even that is eliminated through the API – the data transmission requires no further involvement on the side of the securities intermediary. Similarly, the receipt of the data will not require any intervention or involvement of the service provider. However, service providers receiving the data are accustomed to working with brokerages and other clients on pulling, organizing, and preparing data for transfer, and are ready to provide that additional service if requested.

3. Once the data transfer is complete, the system will automatically verify and confirm the transfer and receipt of the data through an MD5 hash or other automated verification process. If any errors occur in the transfer, or if there is any inconsistency between the data transmitted and received, an error report will automatically be issued.

The service providers referenced in this letter have this technology today and use it in other markets they serve. In fact, if Broadridge is using current technology, this is likely how they currently collect data from the broker-dealers and banks. This process would not be a departure from what many of the broker-dealers and banks are accustomed to and would require no additional investment in technology or infrastructure by the broker-dealer/bank or service provider.

Simply put, the service providers would receive the data and leverage their current infrastructure and all the cost saving processes they use in their other markets. Once the data is received and compiled, it can be provided to the tabulator of the issuer's choice for vote reconciliation, verification, tabulation, certification and other services.

Leveraging the existing capabilities in the marketplace through adoption of the Issuer Control System will lead to a reduction in fees paid by issuers, and ultimately shareholders.

We appreciate the opportunity to respond to these important issues and look forward to an improved proxy system. Please feel free to contact me if you have any questions or if you would like any additional information on the responses provided.

Sincerely,



Boyd Johnson
Senior Vice President and Chief Legal Officer

Proxy Services*

<i>Firm</i>	<i>Print</i>	<i>Tabulate</i>	<i>Mail</i>	<i>Solicitation Services</i>
Merrill Corporation	Yes	No	Yes	No
Broadridge	No	Yes	Yes	Yes
ComputerShare	No	Yes	Yes	Yes
D. F. King & Co., Inc.	No	Yes	No	Yes
DST Systems, Inc.	No	Yes	Yes	Yes
Morrow & Co., LLC	No	Yes	Yes	Yes
R.R. Donnelley	Yes	No	Yes	No
The Altman Group	No	Yes	Yes	Yes

*Based on firm websites or internet search information