To: Securities Exchange Commission
Subject: Comments on File Number S7–14–10 “Concept Release on the U.S. Proxy System; Proposed Rule”
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Commenter: Stewart A. Levin, [redacted]

Sirs:

Over the past 27 years of marriage, my wife and I have accumulated positions in the common stock or ETF shares on the various US exchanges of more than 50 institutions. These holdings include individual dividend reinvestment accounts and “street name” brokerage accounts. (Until about 5 years ago, we also held shares in certificate form and in some cases have had reason to regret not staying that way.) Throughout our marriage, we have religiously voted our proxy forms, with the burden of selecting which directors and proposals to vote for or against falling on me. Hence I feel I am well qualified from the individual investor perspective to respond to your solicitation for public input. As our desire is to hold investments for long term growth, I attempt to vote for directors and proposals that work towards that end.

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> While I prefer the post-reconciliation method, in light of the fact that relatively few individual investors take the time and effort to vote their proxies, I would support any method that ensures individual investors without encumbered holdings receive their full voting privileges. Day traders, a group that is primarily responsible for the individual investor problems you cite, have no interest in the long term health of a company and would not have the time or interest to vote.
>
> I do, however, harbor a (perhaps unjustified?) concern that institutional traders, especially hedge funds, which buy and sell in rapid fire succession could, if they judge it would be beneficial to them, accumulate large holdings on the voting record date, immediately sell them via any of the after market options open to them, and then threaten to use their voting power in order to influence stock prices and make a killing to the detriment of individual investors.

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> I agree that an investor should be able to ascertain that their votes were cast properly. On the electronic proxy side, I am continually amazed that the proxy solicitors request an email address for sending their confirmation when they used my email address in the first place to send me proxy voting instructions! In practical terms, though, because individual investors are, unlike 50 years ago, in the minority, I doubt any further regulation will do more than add cost by allowing “gadfly” investors to add a financial burden that drags down long term growth and profits. I am highly confident that our family’s votes are properly counted, however much it feels like “tilting at windmills” to me.

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I don’t see that the proposed regulations truly accomplishes much that helps individual investors. The real question in my mind is whether, because DTC holdings are simply a large block of shares, the brokerage house is properly accounting for which shares are actually lent out. I, personally, do not object to the financial institution making a few extra bucks so that it can keep individual investor costs down, but would want at least to be suitably compensated should some or all of my holdings be loaned out. This is an area where transparency is lacking in my opinion.

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I do not see that it is any real burden to disclose the information suggested so long as it is made available on the Internet. It is primarily the financial press such as the Wall Street Journal or MSNBC that will pick it up and splash egregious anomalies in their lead investigative stories.

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The statement “once the paper mailings have been eliminated” is a huge red flag for me and my wife as individual investors. Why? Because the current electronic proxy delivery mechanisms are unregulated and all over the map. Proxy statements are delivered in many forms, from PDF (relatively good) to page-by-page web delivery (Envision Reports – really, really bad, taking as much as two minutes per page to load) . Timeout settings are about two to three times too short for proper deliberation of the merits of proposed directors and proposals. None of the current proxy voting setups are geared to single-screen computers, despite the fact that the vast majority of individual investors only have one monitor per computer. By the time I’ve read through a proxy statement, the system has long since timed out and I have to start over. Paper mailings allow me to fully review the proxy statement without fear of (multiple) duplication. Because of this, I have requested paper mailings for almost all our accounts. If, assuming the electronic proxy impediments were addressed, the proxy delivery system were handled by the company itself, I would favor the proposal for any company which is not controlled by a single (extended) family, e.g. Smucker’s or Comcast. This latter group is in dire need of outside control so that stockholder’s investments are not treated as a piggy bank for the controlling insiders.

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The Annual NOBO option appears most appropriate to me, though I would want to be able to opt out of specific forms of issuer communication, telephone proxy solicitation in my own case. This would at least provide an annual peek to the issuer, the SEC, and individual investors as to who are the real market players influencing corporate governance. The role of hedge funds and off-exchange “dark” markets have been seen to deleteriously affect the credit worthiness of corporations as well as the investment returns of average investors and having a public record of proxy voting ownership would provide a measure of “we’re watching you” influence.

The uniform appearance of VIFs has been generally helpful to me, making it easy to quickly identify the list of proxy items. Indeed, it has been a lack of uniformity, both in paper and online proxy forms, that has led to problems. (At least I haven’t encountered any “butterfly ballot” formats.) Some proxies list candidates for directors in grids, randomly choosing whether the list first reads right to left or top to bottom. It is all too easy for one such as myself who has pre-prepared my proxy votes to cast my director votes vertically when the names are laid out horizontally or vice-versa. A uniform down first and then across layout would be my recommendation. Telephone voting also has random variations such as which keypad digits represents For/Against/Abstain.

With respect to attaining a quorum, while I do not have any statistics as to the (likely low) risk of having to defer an annual meeting because a quorum is lacking, I strongly believe that director nominees deserve far more scrutiny than they currently get and should not be emplaced without the support of at least half the voting power of stockholders who satisfy the unaffiliated characteristics of a outside director. While I realize this is a subject of separate law or rulemaking, I would rather have an occasional annual meeting deferred than just rubberstamping nominees. A reasonable compromise, in my opinion, would be to allow corporations to appoint nominated directors to a term of only one year should they fall short of a quorum by, say, no more than 10 percent. Multiyear appointments to staggered boards should absolutely require a quorum.

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These questions relate to what factors encourage or discourage retail investors from thoughtful voting of their proxies. Before I drill down into them, let me first provide the rationale behind my own proxy voting:

- In the event of a major proposal that would seriously dilute or otherwise endanger the long term value of my shares, I will not vote at all. The only hope for the small retail investor is for the company to fail to reach a quorum.
- I vote against directors who have been in their position for more than 5 years. Any new ideas they might have contributed, they've already had 5 years to provide them. Time for new blood. Ditto for directors over the age of 70.
- I vote against directors who are members of a family or organization that have voting control over a significant fraction of outstanding voting power. Their interests are unlikely to align with retail investors.
- I always vote against the current auditor. We've lost far too much money because accounting firms were too cozy with the companies they were hired to audit. Routinely changing out auditors is a strong deterrent to financial shenanigans and fraud.
- I vote against management-drafted proposals that either benefit management far more than the rank-and-file employees or that would reduce stockholder checks and balances on management actions.

- I vote for all proposals submitted by outside stockholders with the exception of those that are clearly bad ideas and almost all those submitted by religious groups.

In the sense of retail investors having a clear proxy voting strategy, I am very much in the minority, though management almost always chimes in with their advice. While disappointing, this should be no surprise. As Bogle has pointed out, a half a century ago the majority of US common stocks were in the hands of individuals, most with vested long term interest in seeing the company flourish. Today, the bulk of holdings is in institutions that offer mutual funds, retirement plans, hedge funds, etc. having little interest in long term results. Unlike federal, state and local elections, the retail investor's vote is inevitable a minority vote and, for many, proxy voting is an exercise in futility. So why bother? If the SEC wants to improve retail investor participation, proxy voting must fall in step with the "instant gratification" people have come to expect in the Internet age, especially new investors in the under-30 crowd. How do current initiatives stack up and what may be done to improve things, if at all?

Internet-based voting has its greatest appeal when the invitation to vote is electronically linked to the voting process. The current postal mail of a notice to go to the web typically gets opened close to dinner hour, put on a pile with other bills and notices, and is promptly forgotten. This is why response to a full proxy packet with annual report, proxy information and voting form has greater return. One can sit down right then and deal with it without having to get up, go to another room, start up and log into a computer, correctly type in a long URL, then a long control number and, typically, a PIN, before even getting started. At which point it's time to break for dinner.

In my own case, even though I fill out the printed proxy ballot, I almost always vote it online. Aside from saving the company money on US postage, though admittedly the US Postal Service could use the revenue, it allows me to handle householded proxies more conveniently, keeping the paper form until all the householded proxies have been received and dealt with. I would be quite satisfied to receive a printed notice of availability of materials on the internet accompanied by a “This Is Not A Proxy Ballot” paper form on which I could conveniently compile my choices while reading the proxy online, say as a PDF. In addition to avoiding uninformed votes with a naked proxy ballot, this solves the issue of session timeouts in the middle of voting a proxy and the screen real estate problem with trying to read the proxy and access the ballot at the same time.

Right now, none of the online proxy voting services provide a truly user-friendly interface to the proxy materials. Most post a PDF online, simply replicating the paper copy without the easy ability to flip and thumb through the pages quickly. A subset of these services do, at least, provide an Acrobat Reader table of contents which can be viewed as a sidebar for easier navigation. A couple of other proxy voting services offer an html-based view of the proxy materials with some hyperlinks and buttons for navigation. I’ve found these latter annoyingly slow to load and navigate, in most cases taking so long to access that I could have filled in a paper ballot completely in that same time! Clearly, online proxy access is still in need of great improvement in usability. The proliferation of internet-ready phones such as the iPhone, Droid, etc. will be driving the proxy voting applications in the right direction. Director biographies will be linked to their names on the proxy ballot, with the ability to vote on that director directly on the bio page and one touch return to the proxy ballot or forward to the next issue. Ditto for other proxy measures and statements.

With regards to the question about whether proxy notice uniformity is a help or a hindrance, I find it a help. Just like, say, IRS mailings, I can identify almost immediately the proxy notices that arrive in our mailbox. I wish end-of-year 1099 forms were equally uniform.

I do not see what the SEC can do specifically around website education for proxy voting that is not already present in proxies by law or regulation. If you do want to help retail investors to better understand their rights and roles, I would do what the FDIC did and hire Suze Orman as a spokesperson to get the message out.

I'm not clear whether the question about access to proxy and related shareholder notices via the customer's online account is one of removing an impediment or simply gauging whether there would be retail shareholder interest in such a setup. I certainly would find proxy voting easier for me if they could be dealt with in such a single sign-on account. In that way I could periodically deal with all outstanding proxies in one session and receive broker alerts on impending deadlines.

The whole issue of advance voting doesn't make sense to me. Unanticipated corporate news, whether good or bad, or the incapacitance or death of a director candidate can occur at any time up to and including the date of the shareholder annual meeting. Almost no retail investor will change their vote after going through the trouble of voting the first time. They're much more likely to sell their shares. The longer in advance that a vote is cast, the greater the risk of stockholder votes becoming irrelevant.

I have never heard of electronic shareholder forums before. There's certainly been no push to publicize such by any of the several dozen share issuers, brokers, mutual funds, or dividend reinvestment plans we've dealt with. I doubt I'd be more than mildly interested in joining one, both because I get too much email already and because the most vocal participants in such a forum are usually the ones with the least to say or, worse, are attempting pump-and-dump manipulation.

The question about stratified "notice and access" deliveries is sensible, but pragmatically I would limit the more expensive option(s) to those shareholders with larger investments, say a holding of $5,000 or more in a given security. The votes of retail investors holding just a few shares, fairly common in dividend reinvestment plans, are going to have no practical impact on current proxy voting outcomes. Spending on additional postage is a needless waste of money in my opinion.

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Very few retail investors will have the skill, time and interest to take advantage of data-tagged proxy-related materials. It is the professional investors and the researchers from academia and the financial press (WSJ) who would use it. My understanding is that much of this is already in place within the EDGAR system, by far the most useful place to implement it.

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There are two aspects here I want to comment on. The first is transparency. As a mutual fund investor who also holds some of the individual stocks in a mutual fund's portfolio, I would like to have the ability to see the actual proxy advice and subsequent vote before the shareholder meeting, not a few days later. That could make a difference in how I vote my own shares.

The second aspect is feedback. If I see proxy advice that I deem inimical to my financial health, I want to be able to raise my voice and seek to convince the fund management to not adopt that particular advice.

The cost of posting the advice and vote online is trivial as it is all done electronically anyways. Converting to, say, a protected PDF document takes only a minute or two.

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Being a buy-and-hold investor, I would favor a proposal to heavily weight pure long position shares in proxy voting and note that some companies do have specific circumstances in which shares held for at least a certain period measured in years have their votes weighted 10-fold. (Of course some companies, especially those controlled by a family, have multiple share classes with unequal voting power.) Validating that a proxy voter has a pure long position as of the record date seems impractical. Perhaps requiring such voters to affirm on their proxy their right to vote as a pure long term investor would work so long as there are legal repercussions for misrepresentation.

Practically speaking, there are three classes of investors I worry about who might use empty voting to line their pockets at the expense of the company and its shareholders: directors (whose compensation includes company stock), hedge funds (exploiting increased volatility), and corporate raiders (driving their acquisition costs down). I don't have any special insight into how to monitor and control these parties, but I would encourage the SEC to tackle this investor minefield.