

September 26, 2010

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

Re: File No. S7-14-10; Concept Release on the U.S. Proxy System

Dear Secretary Murphy:

Please accept my comments to the Commission on its concept release on the U.S. Proxy System.

I have read numerous of the comment letters and would hope that the Commission would err on the side of better transparency and avoid protecting the status quo just because it has been proven to work. Many ideas that are proven to work are ultimately replaced by processes and procedures that are proven to work better, especially when driven by technological advances. As a society we certainly have had numerous advances that can undoubtedly be used to improve the proxy process.

The integrity of the system should be of utmost importance. The proxy system in its current state does not adequately protect shareholder's right to vote their shares. The act of subrogating shareholder rights as a convenience due to the inability to accurately track ownership or to illegal naked short selling artificially increasing the number of shares to be voted, is outrageous. Any changes made to the proxy should framed in the context of protecting shareholder suffrage rights; or as state in the release: *Whether we should take steps to enhance the accuracy, transparency, and efficiency of the voting process.*

While it was not mentioned in the release, direct registration of shares which was not feasible in the early 1970's, is technologically feasible currently. It would eliminate many of the inadequacies the Concept Release aims to remedy. It would eliminate the obfuscation of ownership and the related problems. Problems like those related to the deleterious interpretation some entities have taken regarding voter instruction forms (VIF).

I will generally try to follow the request for comments in the Concept Release in the

order they appear.

Comments on: Section III. Accuracy, Transparency, and Efficiency of the Voting Process A. Over-Voting and Under-Voting

The idea that a shareholder's voting rights are being violated via under-voting or over-voting is offensive. The solution is to better provide for tracking of ownership. Devising a better system to allocate or reconcile a shareholders legal right is to miss the point. The inability to match a particular investor's vote to a specific securities position held at a security depository is an indicator of serious structural problems in the current system. The same applies in the case where a security lending agreement leads to both broker dealers submitting voting instructions. This should not be possible and definitely not be allowed whether by statute or rule. Outlawing situations that cause under or over-voting will increase the integrity of the system.

There is certainly anecdotal evidence related to over-voting and information discussing the actual existence of over-voting. Included at the end on my comments is a hyperlink to a letter drafted by the Securities Industry Association dated March, 26, 2005 detailing a March 4, 2005 meeting discussing over-voting and how it would be reconciled by consensus and the development of best practices. Also included is a hyperlink to a article published on the Bloomberg website. I was not aware prior to this that my legal right to vote my shares in the companies I own could be subrogated for best practice as determined by a third party and their self interested consensus. At no point were the rights of the owners of the shares represented in the development of these best practices. Again, the integrity of the system should be paramount. If the ownership can't be determined, leading to over voting, then the system needs to change. For additional information on over voting I suggest that the SIA and the NYSE be contacted as the letter indicates they are very familiar with the issue. It is likely that they can provide additional information on the magnitude of the problem.

Any information regarding over voting should also be subject to disclosure along with the reporting of the annual proxy voting results. If shareholders determine that the voting results may have been influenced by over voting, then they should have the information readily available to determine if action is necessary to protect their legal rights.

All investors should have the right to cast their vote on the number of shares they

own regardless if it is a cash account or a margin account.

The weaknesses in the settlement and clearance process that can be used to illegally naked short sell shares needs to be tightened further to prevent shareholders from having their rights violated by allowing the creation of shares from the stock lending pool that can be directly used to influence corporate elections. Having ownership rights allocated to more shares than are issued is a serious mark against the integrity of the proxy system.

Comments on: Section III. B. Vote Confirmation

Contemplating a system to identify shares for voting purposes is laudable. As stated in the Concept Release: “a system could assign each beneficial owner a unique identifying code, which could then be used to create an audit trail from beneficial owner to proxy service provider to transfer agent/vote tabulator.” The technology is certainly available. I receive a unique identifier with each VIF I receive that can be used to vote my shares online. While this could be used to increase the integrity of the proxy system, this half step would institute the process to track shares for voting while stopping short of using it to directly identify ownership or direct registration. This should be enacted and extend to tracking share ownership. A character could be included in the mnemonic identifier to help sort out instances of share lending for example.

This would immediately enable the auditing of voting results and help to eliminate the subrogation of shareholder's legal rights.

Comments on: Section IV. Communications and Shareholder Participation A. Issuer Communications with Shareholders

Communication between corporations and their owners should be encouraged. The benefits and drawbacks have been discussed in other comment letters already filed. In the context of a partnership, the idea of a partnership not being aware of the partners is not realistic. The idea of inserting an intermediary between a corporation and its owners sounds just as puzzling at face value. Going back to the three basic principals that commentor's are asked to address, mentioned earlier in this letter, indicates that transparency is to be a factor. Increasing transparency in the ability of corporations to communicate with owners will present new opportunities to share reports on operating progress. It could conceivably lead to better governance through the greater flow of information in both directions, from

shareholder to corporation and corporation to shareholder. It may also improve retail shareholder participation. I think it is more difficult to make the case that it would reduce retail shareholder participation.

I agree with a prior commentors response that the whole concept of OBO and NOBO be eliminated. A mechanism to hold shares in trust may make a more reasonable accommodation for those who wish to hide their ownership.

Corporations should also be given the ability to provide proxy materials directly to their owners and eliminate the use of VIF's.

The expense reduction associated with delivering shareholder communication would inevitably be reduced by eliminating intermediaries. This would accomplish the objectives of increasing accuracy, transparency and effectiveness of the proxy system.

Comments on: Section IV. B. Means to Facilitate Retail Investor Participation 1. d. Investor-Investor Communication

The rules on investor to investor communication are onerous on the retail investor. Investors should be able to communicate freely as long as they are not soliciting proxies. Shareholder forums have not become more popular because of the lack of clarity surrounding shareholder communication. Reduced complexity will increase the ease with which shareholders can become more informed regarding issues subject to shareholder vote.

Comments on: Section IV. B. Means to Facilitate Retail Investor Participation 2. e. Improving the Use of the Internet for Distribution of Proxy Materials

The closer the move to direct registration the lower the barriers will be to delivery of proxy materials. Corporations could easily dedicate a portion of their website for shareholders to obtain proxy materials. A registration number provided by the broker dealer could be used to vote the proxy on a third party website as voting is currently performed. Shareholders requiring paper copies could easily request those copies from the corporation's website. A free proxy voting aggregation service could be created that would aggregate information from companies, proxy advisers and third party firms providing vote execution. Conceptually it could function something like EDGAR does for filing purposes.

The lack of shareholder communication is a serious impediment to shareholders being able to vote their shares in a responsible manner. Again, when compared to a partnership the proxy rules do not serve the interest of the owners of corporations nearly as well from the standpoint of free and open communication allowing parties to be fully informed. A shareholder forum would be a valuable means to exchange ideas and opinions. I am unconvinced that the forum would need to be limited to owners of the company, past owners and prospective owners are to examples of parties that may be able to provide useful information in a shareholder forum.

The electronic shareholder forum 60-day rule should be shortened to promote more shareholder-to-shareholder communication up until the date of the shareholder meeting. The need to exchange ideas does not end as the meeting nears and may become more important as more shares a likely voted nearer the date of the meeting.

The meaning of solicitation should be clarified with concrete examples in layman terms and sent out with proxy materials at least in the year following the the completion of material containing the clarification. This information could also be posted on the SEC website.

Additionally the availability of filings in pdf format on EDGAR would make it easier for investors to review the filed documents, including proxy materials. The costs would be small and the benefits large.

Conclusion:

Needless complexity to support the interests of various third parties should bear less weight in designing proxy rules than the rights of shareholders and the corporations they own. Accuracy, transparency and efficiency should dictate the criteria that any new rules are measured against and then compared to the existing rules. Any proposed rules that better support accuracy, transparency and efficiency in regards to shareholders and the corporation they own should be enacted.

Thank you for providing the opportunity to comment in these important issues.

Sincerely,

Brett J. Davidson
www.investletter.com

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