Broadridge™

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October 14, 2010

Elizabeth M. 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, File No. S7-14-10

Dear Ms Murphy:

We appreciate the opportunity to submit comments on the Concept Release on the U.S. Proxy System (July 14, 2010, hereafter, the "Concept Release").[1] This is the second of several letters that Broadridge is submitting on the Concept Release, each of which focuses on a specific substantive issue.

In this letter, we present findings of a study by Compass Lexecon comparing the fees and costs of beneficial- and registered proxy delivery.[2] We also comment on the efficiency which participants in the U.S. proxy process realize as a result of Broadridge's technologies, services, and economies of scale. In the hope of fostering greater understanding of these matters, this letter provides the following information:

- A detailed analysis by Compass Lexecon -- comparing the fees and costs to corporate issuers of beneficial and registered shareholder proxy delivery
- An overview of the technology infrastructure Broadridge provides to participants in the U.S. proxy system
- A high-level description of certain value-added services provided by Broadridge at no fee to issuers

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[1] Broadridge Financial Solutions, Inc. is a leading provider of technologies and outsourcing services for shareholder communications and voting.

[2] Compass Lexecon is one of the world's most respected economic consulting firms. The firm's more than 200 professionals, including 60 Ph.D economists and econometricians, pride themselves in providing clear analysis of complex issues.

- A high-level description of the daily work necessary to process managed accounts and provide the associated efficiency savings to issuers

- An update on adoption of the Notice & Access method and the estimated savings to issuers, net of fees

Executive Summary

Key findings of the Compass Lexecon study include the following points, among others:

- Processing Fees: On average, issuers pay less, on a per unit basis, for a beneficial proxy delivery than they do for a registered proxy delivery.
- Issuers' Communications Costs: Taking into account the costs of printing, postage, and suppressions, issuers pay a lower cost, on average, for a beneficial proxy delivery than they do for a registered proxy delivery.
- For small- or mid-cap companies (over one-half of all issuers), the differences in fees and costs -- between beneficial and registered -- are significant.
- The regulated processing fee for a beneficial shareholder proxy communication has decreased by over 17% on an inflation-adjusted basis over the past eight years.

The infrastructure Broadridge provides is state-of-the art:

- Every issuer, large and small, is afforded an advanced technology infrastructure for a process that, for all intents and purposes, cannot be permitted to fail.
- Every participant – including custodian banks, broker-dealers, institutional investors, and individual investors, as well as large and small corporate issuers – is afforded robust information security and management.
- Corporate issuers are afforded the efficiencies and conveniences of technology innovations and processes that exceed the requirements of applicable proxy rules, and are provided to issuers at no fee.
- Corporate issuers benefit significantly from Broadridge's processing of managed accounts. Considering the cost to mail a full set of proxy materials, we estimate issuers saved over $240 million in the 2010 proxy season alone; an amount that is orders of magnitude greater than the incentive fees paid. [3]

As a practical matter, the "plumbing" as a whole benefits from Broadridge's commitment to the investments in technology and service operations necessary to effectively support evolving proxy regulations, and to create levels of scale and integration that save issuers and other participants significant ongoing expense.

- For example, substantial ongoing work is necessary to effectively provide issuers and nominees with services under the SEC's Notice & Access rules.
- To date, it is estimated that adopting issuers have realized over $600 million in savings, net of processing fees.

The proxy delivery and voting systems in place today for beneficial shareholders are a result of significant private-sector investment. Recently, with the passage of the Dodd-Frank Wall Street Reform Act and consequent SEC rules, Broadridge has begun costly development and implementation efforts to support new rules for 'say-on-pay' and 'proxy access.'

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[3] Refer to "2010 Proxy Season: Key Statistics and Performance Ratings," at www.broadridge.com

A Detailed Analysis by Compass Lexecon -- Comparing the Fees and Costs to Corporate Issuers of Beneficial and Registered Shareholder Proxy Delivery [4]

With the objective of providing greater understanding of the fees and costs of shareholder communications, Broadridge commissioned a study by Compass Lexecon. A team of leading economists was asked to review and evaluate the role of regulatory rate setting and, also, to evaluate a draft proposal by a Shareholder Communications Coalition. Compass Lexecon's report of May 11, 2010 is included as an attachment.

The report is based on Compass Lexecon's review of over 12,000 invoices during Broadridge's fiscal year ending June 30, 2008, as well as publicly available information, and on Compass Lexecon's analysis. We believe this is the most comprehensive study available on the fees and costs of shareholder communications. [5]

Compass Lexecon reached a number of conclusions and made a number of observations. These are discussed in detail in the report. Highlights include the following, among others:

1. **"In General, Issuers Pay Less for a Beneficial Proxy Delivery than They Do for a Registered Proxy Delivery."** [6]

   - One way of evaluating the efficiency of regulated rates for beneficial processing is to compare them to unregulated rates for registered processing.[7]
   - Since 2002, the regulated rate has decreased by over 17% on an inflation-adjusted basis.
   - Processing Fees: on average, the fee for a beneficial proxy delivery is less than the fee for a registered proxy delivery.
     - For Non-Notice & Access users, the fee is $0.89 lower per shareholder.
     - For Notice & Access users, the fee is $0.42 lower per shareholder.

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[4] Compass Lexecon was not asked to opine on the relative costs of share ownership. With registered share ownership, issuers incur significant costs for record keeping, transaction processing, and other services. With beneficial share ownership, these costs are incurred by broker-dealers and custodian banks.

[5] Compass Lexecon did not have access to comprehensive data from other services providers. Compass Lexecon observed that Broadridge's prices for registered shareholder servicing appear to be competitive given the hundreds of registered shareholder servicing invoices Broadridge submitted to issuers.

[6] Refer to Tables 6 - 9 in the Compass Lexecon report.

[7] Broadridge provides technology and outsourcing services to custodian banks and broker-dealers on an arms-length, fee-for-service basis. These services include invoice processing for beneficial shareholder communications. Broadridge sends invoices to issuers on behalf of its nominee clients for the regulated reimbursements to which they are entitled under NYSE rules. Broadridge also provides services for registered shareholder communications; these are negotiated directly with corporate issuers. In general, the prices Broadridge charges for its outsourcing services are not regulated. However, rates for certain beneficial proxy services provided by servicing intermediaries are specified by NYSE rules, e.g., nominee coordination and intermediary fees. Postage discounts are shared directly with issuers.

- Issuers' Communications Costs: considering the estimated costs of printing and postage, as well as processing fees – issuers pay less, on average, for a beneficial proxy delivery than they do for a registered proxy delivery.
    - For Non-Notice & Access users, the cost is $2.34 lower per shareholder.
    - For Notice & Access users, the cost is $0.56 lower per shareholder.
- The differences are significant for issuers that have fewer than 5,000 beneficial shareholders.[8]
    - Processing Fees: for Non-Notice & Access users, the fee is $6.14 lower for a beneficial shareholder delivery.
    - Issuers' Communications Costs: for Non-Notice & Access users, the cost is $6.42 lower for a beneficial shareholder delivery.

2. "Broadridge's Services Provide Benefits to Issuers, Nominees, and Shareholders."[9]

- Without a central repository of information, like the one that is provided by Broadridge, each corporate issuer would need to interact with hundreds of nominees at a cost that is greater than the $20/nominee fee that issuers currently pay.

- The benefits to issuers from "suppression" technologies result in lower printing and mailing costs, and far exceed fees paid.

- Without a standardized voting platform, shareholders would be forced to deal with a variety of voting platforms. This additional complexity could increase the cost to shareholders of corporate voting and reduce participation.

- "A nominee has an incentive to contract with Broadridge only if Broadridge can provide services at a higher quality or a lower cost."

3. "The SCC [Shareholder Communications Coalition] 'Proxy Process Reform Plan' Is Flawed and Economically Incoherent."

- The plan includes a regulated, non-profit data aggregator; whose goals are "apparently inconsistent."

- The plan would reduce the benefits of vertical integration and, therefore, result in higher costs for issuers, nominees, and shareholders.

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[8] Based on recent Broadridge proxy season statistics reports, approximately one-half of all proxy jobs consist of fewer than 5,000 shareholders. Refer to "Proxy Season: Key Statistics and Performance Ratings," for 2007, 2008, 2009, and 2010. The percentage of small company proxy jobs is typically higher in the off season. In addition, less than 10% of issuers with fewer than 5,000 shareholders utilized Notice & Access. Refer to "Statistical Overview of Use with Beneficial Shareholders," June 30, 2010. Reports can be found at www.broadridge.com.

[9] The term "nominees" signifies custodian banks and broker-dealers who, as securities intermediaries, hold shares beneficially for their clients, i.e., in street name.

Overview of the Technology Infrastructure Broadridge Provides to Participants in the U.S. Proxy System

Broadridge's proxy delivery and voting systems work hand-in-glove with the U.S. system for equity clearance and settlement. They result from significant private-sector investment and significant ongoing expense. They consist of highly-sophisticated technologies and networking infrastructure and the advanced development capabilities necessary to continually address the evolving needs of the U.S. proxy system.[10] As a practical matter, they cannot be permitted to fail.

By Broadridge's estimate, over $1 billion has been invested in its systems, technologies and processing for shareholder communications and proxy voting over the past decade, and over $100 million has been invested each year.

As a result of Broadridge's investment and ongoing expenditure, every issuer, large and small, is afforded a state-of-the-art technology infrastructure.

- The infrastructure is rated "Tier IV," the highest category in the Uptime Institute's Tier Classification System, meaning that the systems are available at least 99.995% of the time in a given year.[11]
- The infrastructure utilizes two fully-redundant data centers and operates to a disaster recovery objective of less than two hours from an event is declared.
- This infrastructure positioned Broadridge as one of the first organizations to migrate towards an operating model that satisfies the Federal Reserve's white paper on resilience in financial markets. [12]
- Each year, the results of disaster recovery and volume testing are reviewed with the SEC.

Every participant – including custodian banks, broker-dealers, institutional investors, and individual investors, as well as large and small corporate issuers – is also afforded state-of-the-art information security.

The Information Security Management Program contains a number of elements, including:

- Data Loss Prevention **-** including anti-virus, anti-SPAM and content screening strategies that identify, monitor and protect data at rest and data in motion
- Denial of Service Defense - technologies and services to monitor customer traffic, and identify and mitigate attacks on Internet services
- Vulnerability Management and Intrusion Detection - to strengthen the security posture of the network infrastructure, and to meet such compliance standards as those contained in: Sarbanes Oxley Section 404; Federal Financial Institutions Examination Council for Suspicious Activity Reporting; ISO 27001-27005; Financial Modernization Act of 1999

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[10] Broadridge serves the proxy communications and voting needs of over 90 million beneficial shareholders whose accounts are held at 900+ custodian banks and broker-dealers, and in 2009, Broadridge processed over 13,000 shareholder meetings in North America. In the fiscal year ending June 30, 2010, Broadridge also provided services directly to over 1,500 corporate issuers for registered shareholder communication and proxy voting.

[11] The infrastructure provides over 34,000 online MIPS (with over 18,000 MIPS in reserve) and contains over 750,000 function points.

[12] Federal Reserve Draft White Paper on Sound Practices to Strengthen the Resilience of the U.S. Financial System," August, 2002.

(Gramm-Leach-Bliley); Payment Card Industry Data Security Standard (PCI-DSS); HIPAA, and other areas

- A number of technologies and management processes for: Encryption; Incident Response; Security Software Development Lifecycle Management; and, Security Information Event Management.

Broadridge's information management processes are audited annually by Deloitte & Touche, as part of a SAS 70 Type II Review, and they are ISO certified (including ISO 27001, which fewer than seventy-five U.S. firms have).[13]

The infrastructure supports the complex needs of each the various participants in the proxy process, e.g.:

- A cost-efficient infrastructure is provided for large and small companies and for institutional and individual shareholders to assist them in fully exercising their voting rights. On average, over 70% of the shares of Fortune 500 companies can be reached within 24 hours. This infrastructure results in high levels of voting and the elimination of substantial amounts of paper and cost. [14]

- The proxy distribution and voting systems designed and administered by Broadridge handle investors' needs for privacy as well as companies' needs for communication and voting. Now more than ever – as the digital age has increased the importance of privacy and identity protection for everyone – information security is fundamental to proxy distribution and voting.[15]

These capabilities, and the many benefits they afford corporate issuers, investors, and nominees, require an enormous commitment of time and capital. Reinventing the system around a fundamentally different model would entail significant risks, costs, and intellectual captial; and issuers would likely lose the hundreds of millions of dollars in the efficiency savings they realize as a result of the current process.

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[13] For additional information on third-party reports and audits, refer to Broadridge's October 6, 2010 comment letter on SEC File Number S7-14-10.

[14] Refer to information contained in the attached Compass Lexecon study, and annual proxy season statistics reports, and to Broadridge reports of annual proxy season statistics and performance. In the 2010 proxy season, over 54% of all proxy mailings were eliminated and average quorum exceeded 83%.

[15] Currently, investors are able to express their preference for privacy without burdensome procedural requirements or additional costs such as those associated with opening a new nominee account. Investors who wish to make themselves known to the companies whose shares they hold have ways to do so. In fact, if investors want a direct relationship with the company in which they invest, they can hold shares directly on the books of the company's transfer agent through a direct registration program, when provided. Although many companies have not established direct registration programs, those companies that value a direct relationship with investors are able to establish these programs and maintain direct relationships with investors, including through communications and dividend reinvestment and direct share purchase programs.

A High-Level Description of Certain Value-Added Services Provided by Broadridge at No Fee to Issuers

Issuers are afforded the efficiencies and conveniences of numerous technology innovations and processes. These value-added services exceed requirements of applicable proxy rules – and are provided to issuers at no fee. Examples include the following, among others:

- Daily Vote Reporting – Broadridge processes and reports votes by each nominee, each day, during an issuer's solicitation period. Vote reporting begins at the time proxy materials are first distributed.
- ICSonline® - a proprietary online platform for issuers and their agents (i.e., transfer agents and solicitors), and nominees. It includes a number of functions, such as meeting planning and estimation tools, and vote status reporting. Annually, users of ICSonline make well over one million inquiries into the system.
- Information Requests – issuers make frequent requests throughout the year for such information as the total number of beneficial shareholders and the number of beneficial shareholders by nominee. Broadridge interfaces with nominees to process these requests.
- End-to-End Vote Confirmation – provided electronically through ProxyEdge for meetings Broadridge tabulates
- Third-Party Audits and Reports on Vote Accuracy – Broadridge provides third-party, independent review of vote accuracy. Issuers avoid the expense that would otherwise be associated with providing assurance of vote accuracy on a company- or a meeting-specific basis.[16]

A High-Level Description of the Daily Work Necessary to Process Managed Accounts and Provide the Associated Efficiency Savings to Issuers

Nominees are required to distribute proxy materials to each shareholder in a managed account unless the beneficial owner has instructed the nominee in writing to send such materials to the beneficial owner's designated investment manager.[17] Nominees gather and maintain written instructions from clients and transmit these instructions to Broadridge. Broadridge applies the instructions to the position file of the nominee on search date, and again on record date, to make the actual distribution. For incentive fee purposes, the suppression of a mailing for a separately managed account is treated the same way as the suppression of a mailing by electronic delivery, ProxyEdge or householding.

Broadridge's systems for processing managed accounts currently contain over 225,000 lines of code. The database necessary to perform this processing currently contains over 2.3 million records. Managed account processing requires specialized software and hardware for Internet hosting, mainframe, and storage applications.

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[16] For additional details refer to Broadridge's October 6, 2010 comment letter on SEC File Number S7-14-10.

[17] Managed accounts bear certain similarities to mutual funds and a number of significant differences. Unlike investments in mutual funds, shares of each equity position held in a managed account are directly held by the investor. As a practical matter, investors in managed accounts are entitled to receive proxy information for their underlying holdings and vote their shares.

The work necessary to suppress mailings of positions held in managed accounts involves daily, ongoing processing and ongoing expense; that is to say, it does not happen as a consequence of simply opening an account. The processing occurs every day as investment managers trade into and out of securities and as clients move into and out of managed accounts. Changes are transmitted each day from nominees to Broadridge so that search and record date processing can be integrated with up-to-date managed account instruction information.

The work involves both nominees and Broadridge, and consists of the following functions, among others:

- Obtaining and maintaining instruction data files from each nominee on a daily basis
- Capturing and maintaining the details of underlying account information on a daily basis
- Mapping each position to the appropriate manager on a daily basis
- Mapping each position to the appropriate delivery channels, including: ProxyEdge, proxyvote.com, and/or a manager's vote agent
- Distributing proxy materials to each manager for shareholder meetings
- Mapping each manager's vote back to each underlying account position

Functionality is also provided so that each investor can request proxy material, with or without a voting instruction form, and vote selective positions held in his or her managed account. This functionality permits an investor to override an investment manager's vote and to instruct his or her investment manager how to vote in the event that no vote is reported by the manager.

Furthermore, managed account processing involves the use of unique Control Numbers necessary to ensure that votes are validated, recorded, and accurately reported, e.g., for audit and vote confirmation purposes.

Broadridge's processing of managed accounts results in substantial savings to issuers. In the 2010 proxy season, approximately 29% of the total volume of all physical proxy mailings was eliminated as a result of Broadridge processing for managed accounts. Considering the cost of mailing a full set of proxy materials, we estimate issuers saved over $240 million on printing and postage, an amount that is orders of magnitude greater than the incentive fees paid.[18]

An Update on Adoption of the Notice & Access Method and the Estimated Savings to Issuers, Net of Fees

Between the adoption of final rules and their effective date, Broadridge undertook substantial investments in the development of Notice & Access services in order to efficiently and effectively provide the method as an option to any and all issuers that were/are eligible to use it – without any guaranty of return or of profitability for ongoing service provision. As with many investments in systems development and new processes and services, ongoing costs are incurred for service provision, operations, enhancements, systems maintenance, property, plant, and equipment.

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[18] Estimates for the cost of full-set mailings are based on NIRI's survey of the median cost of a printed package (2008) and actual postage rates (USPS).

The fees charged for providing Notice & Access services have enabled its use with more than one-half of all beneficial shareholders. This figure exceeds the high-end estimate of the goal contained in the SEC's proposing release.

Furthermore, the percent of 'shares voted' by all retail shareholders in companies using Notice & Access now exceeds the percent of 'shares voted' by all retail shareholders in companies not using Notice & Access. To a large extent, this is a result of Broadridge's processing of issuers' stratification strategies and the capturing and processing of shareholder consents to full-set delivery. That is; while hardcopy Notice-only recipients only vote 4-5% of the time, recipients of full sets by consent, by stratification, or by fulfillment vote at very high rates. Recipients of Notices by electronic delivery also vote at higher rates than do recipients of mailed Notices. [19]

As of the third anniversary of the effective date of the rules (i.e., July 1, 2010), over 2,500 companies had utilized the new method. Adoption continues to broaden among companies of all sizes (approximately 23% of eligible issuers chose to use the method in the third year).

Rates of adoption logically vary by company size (as measured by the number of shareholders) and, therefore, by the potential "sustainability" cost savings on printing and postage. Ninety-five of the one hundred and forty-eight largest eligible companies, or 64%, chose to use the method during its third year of availability. In addition, it is noteworthy that virtually all issuers choosing to use the method in one year have chosen to use the method again in a subsequent year.

The data suggest that processing fees have not been a barrier to repeat usage or, for that matter, an impediment to adoption. Some issuers have indicated that their choice to utilize the new method is related to such considerations as the timing of proxy statement filings, the nature and size of their shareholder base, the proposals on the agenda, and, recently, the elimination of the broker vote for director elections.

Since inception, it is estimated that adopting issuers, as a group, have realized over $600 million in savings, net of processing fees.[20]

Conclusion

Broadridge's systems, technologies, and scale create numerous efficiencies and conveniences for corporate issuers and other participants. On a unit basis, the fees and communications costs for a beneficial proxy delivery are lower, on average, than they are for a registered proxy delivery. For small- and mid-cap issuers, the difference is substantial.

The proxy delivery and voting systems in place today for beneficial shareholders are a result of significant private-sector investment. Broadridge is committed to making the investments necessary to implement evolving regulatory requirements and to provide cost-effective, ongoing support. Recently, as a result of the Dodd-Frank Wall Street Reform Act and consequent evolving

[19] Refer to www.Broadridge.com for report on Notice and Access, "Statistical Overview of Use with Beneficial Shareholders," June 30, 2010. With Notice & Access, 31.01% of shares were voted for all retail shareholders and without Notice & Access, 27.29% of shares were voted. On the basis of 'accounts voted,' however, the participation rate was 13.85% with Notice & Access and 19.21% without it.

[20] Refer to www.Broadridge.com for reports on Notice and Access, "Statistical Overview of Use with Beneficial Shareholders," dated June 30, 2008; June 30, 2009; and, June 30, 2010.

SEC requirements, Broadridge has begun costly development and implementation efforts to support new rules for ‘say-on-pay’ and ‘proxy access.’

In closing, Broadridge is committed to making the significant ongoing investments necessary to maintain and build upon the extraordinary level of efficiency afforded to participants in the U.S. proxy system.   We look forward to working with the SEC to achieve this objective.

Sincerely

Attachment

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 B. Cross, Director, Division of Corporation Finance
Thomas J. Kim, Chief Counsel & Associate Director, Division of Corporation Finance

An Analysis of Beneficial Proxy Delivery Services

May 11, 2010

COMPASS LEXECON

I. Introduction

Compass Lexecon has been asked by Broadridge Financial Solutions, Inc. ("Broadridge") to analyze Broadridge's shareholder communications business.[1] We also have been asked to review and evaluate the "Discussion Draft on Public Company Proxy Voting" by the Shareholder Communications Coalition ("SCC") that contains recommendations regarding a "Proxy Process Reform Plan."[2]

In the United States, the form and timing of communications between public companies and their shareholders are mandated by regulation. Because shares can be held on behalf of shareholders by a variety of intermediary firms – such as broker-dealers and banks – communicating with shareholders is a process that requires several steps. Broadridge has developed a business that contracts with such intermediaries to perform shareholder communications tasks on behalf of those intermediaries.

We have reviewed information that Broadridge maintains on its shareholder communications business, information presented to the Proxy Voting Review Committee ("PVRC") facilitated by the Securities and Exchange Commission ("SEC"),[3] results of independent audits of shareholder communications services, and publicly available

1. Compass Lexecon is an economic consulting firm that specializes in the application of economics to competition and other economic policy issues. For more information, *see* www.compasslexecon.com.
2. SCC, "Public Company Proxy Voting: Empowering Individual Investors and Encouraging Open Shareholder Communications," Discussion Draft, 8/4/09, submitted to the U.S. Securities and Exchange Commission (as an attachment to a letter from Niels Holch, Executive Director, SCC to the Honorable Mary L. Schapiro, Chairman, U.S. Securities and Exchange Commission) ("SCC Draft").
3. "In the Spring of 2001, the Committee was created to bring together various segments of the securities industry which are involved in the solicitation of proxies from securities owners who hold their securities in street name." Proxy Voting Review Committee, "Report to the Securities and Exchange Commission," Executive Summary, p. 1.

information. Based on our review and analysis we have reached the following principal conclusions:

- Broadridge has created a central repository of information for most issuers and intermediaries. The creation of this central repository – as well as standardized forms of communication – generates efficiencies and benefits for issuers, intermediaries and shareholders;
- Broadridge is the low-cost, high-quality provider of shareholder communications services to U.S. beneficial shareholders;
- Broadridge has a high share of beneficial proxy delivery services because of its high quality and ability to reduce costs;
- In general, issuers pay less for beneficial proxy delivery than they do for registered proxy delivery;
- Broadridge faces competitive constraints on its pricing to its clients; and
- The SCC's "Proxy Process Reform Plan" is flawed and economically incoherent.

The remainder of this report is organized as follows. In Section II, we describe beneficial or "street ownership" of publicly traded shares. In Section III, we provide an overview of shareholder communications in the United States. In Section IV, we show that Broadridge's investments have created services that provide benefits to issuers, intermediaries and shareholders. In Section V, we show that Broadridge is an efficient provider of shareholder communications services. In Section VI, we show that Broadridge's fees are constrained by market alternatives. Finally, we discuss the SCC proposal in Section VII.

II. Beneficial Ownership of Publicly Traded Shares

In the United States, shares in public companies can be held in two ways: (1) a shareholder can hold shares directly; or (2) shares can be held in accounts in the investor's name by a broker or bank, known as a "nominee." Shareholders that own shares directly are referred to as "registered" owners (*i.e.*, the name of the shareholder is listed on the issuer's stock register). However, when an individual buys a share that is held by an intermediary, that individual is not identified as the owner. Instead, the intermediary is listed as the owner, and the share is said to be held "in street name." The intermediary knows the identity of the owner, but the stock issuer generally does not. Shareholders that hold stocks in street name are referred to as "beneficial" owners.

Holding shares in street name facilitates the clearing and settlement of securities trades.[4] Since the 1960s, the U.S. federal government has encouraged the use of nominees to facilitate the trading of shares. Currently, approximately 70 to 80 percent of shares in publicly held corporations are held by nominees.[5] Nominees must provide the identity of shareholders to the issuers of those shares unless the shareholder objects to having his or her identity revealed. Such shareholders are referred to as "objecting beneficial owners," or "OBOs." We understand that shareholders prefer OBO status for a variety of reasons. For example, OBO status can prevent information about a shareholder's trading patterns becoming public and can allow a shareholder to avoid unwanted solicitations. Shareholders who do not object are known as "non-objecting beneficial owners," or "NOBOs." We understand that OBOs account for about two thirds of shares held by beneficial owners and about one third of beneficial owner accounts.

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4. *See*, for example, "Final Report of the Securities and Exchange Commission on the Practice of Recording the Ownership of Securities in the Records of the Issuer in Other than the Name of the Beneficial Owner of Such Securities," December 3, 1976, p. 3 ("The Commission has concluded that the practice of registering securities in the records of the issuer in other than the name of the beneficial owner of such securities...benefits investors and the securities industry by facilitating the transfer of record ownership and the clearance and settlement of securities transactions. In addition, it is integral to the operations of securities depositories.")
5. SEC release No. 34-38406 (March 14, 1997), n. 5.

Although the widespread use of street ownership facilitates securities trading, street ownership generally adds additional steps to the process of communicating with shareholders. In particular, issuers of shares in publicly held corporations generally do not know the identity of shareholders who account for a large share of total holdings, yet they are required to communicate with all shareholders. For example, public companies are required to send proxy materials to all shareholders and tabulate votes on an annual basis and may send other unscheduled materials to shareholders in response to corporate events.

Because so many shares are held in street name, communications between a public company and its shareholders involve at least three types of entities – issuers, nominees and shareholders. In many cases, even more parties are involved because bank nominees sometimes hold shares on behalf of other banks, known as “respondent” banks; similarly, “correspondent” brokers can hold shares on behalf of other brokers. A respondent bank keeps track of its account holders; the bank the respondent bank contracts with (referred to as a “custodian” bank or a “record holder” bank) knows the total number of shares it holds for the respondent bank, but not the owners of those shares.

Various rules and regulations mandate the types of information that nominees must provide to issuers, the timing of when such information must be provided and the materials that nominees must deliver to shareholders. For example, banks must identify respondent banks within one business day of being contacted by an issuer with respect to a proxy event.[6] Regulations also specify the amounts that issuers must compensate nominees for delivering materials to shareholders.[7]

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6. SEC Rule 14b-2(1)(a).
7. NYSE 451.

Although nominees can fulfill their shareholder communication responsibilities internally – and major nominees have, in the past, done so – almost all nominees currently contract with Broadridge to assist them with those responsibilities. That is, Broadridge contracts directly with nominees to serve as their agent for shareholder communications, including proxy delivery services.

III. Overview of the Provision of Beneficial Proxy Services in the United States

A. Historical view of the provision of proxy services in the United States

In 1927, the New York Stock Exchange ("NYSE") first adopted rules that required nominees to distribute proxy materials to beneficial owners on behalf of issuers.[8] At that point in time, nominees were undertaking the work of distributing proxy materials themselves and were coordinating with many issuers to complete the proxy distribution process. In 1957, the NYSE first set rates for nominees to charge issuers for the distribution of proxy materials. The NYSE and the SEC have continued to set rates that nominees can charge issuers for beneficial proxy delivery services since that time.

In the 1970s, many nominees considered outsourcing beneficial proxy delivery services and the Independent Election Corporation of America ("IECA") was founded in 1977 to provide those services. In 1985, rules were established that allowed issuers to obtain, for a fee, a list of NOBOs and IECA became a central repository of NOBO information for issuers.

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8. The historical information contained in this section is taken largely from "Background of Rules Relating to Proxy Distribution and Reimbursement," Presentation given by Steve Norman, Chair of the Proxy Voting Review Committee to the Proxy Voting Review Committee, Washington DC, May 15, 2001.

Broadridge, then part of Automatic Data Processing ("ADP"), entered the proxy service business in 1989 and in 1992 purchased IECA. Broadridge has become the central intermediary between issuers and nominees, providing proxy services to beneficial shareholders for most nominees and issuers. Broadridge is hired by nominees interested in outsourcing their responsibility for beneficial proxy services. Nominees provide information on beneficial owners to Broadridge, which then contacts issuers to coordinate the provision of the proxy materials and collection of proxy votes for beneficial owners.

Broadridge gathers the proxy materials from issuers, prints voting instruction forms and mails or delivers electronically the materials to each beneficial owner. Shareholders who vote their shares submit their votes either by phone, paper ballot or electronic means to Broadridge, which tracks and tallies votes for each issuer. Currently, we understand that Broadridge provides service to over 950 nominee clients for about 6,500 issuers. We understand that Broadridge (and its predecessor) made more than $1 billion in investments over the last ten years, with the majority invested in the shareholder communications business. These investments allowed Broadridge to automate and substantially reduce physical mailings and thereby reduce the costs of providing proxy services.

One of the main ways that Broadridge reduces the costs of providing proxy services is through suppressions. A suppression is defined as eliminating the physical distribution of materials to a shareholder as a result of applying the shareholder's preferences. Examples of situations that can create suppressions include: consent for electronic delivery instead of paper delivery; consent to "household" sets of identical sets of material being sent to multiple members of the same household; and directing material to an investment manager who has been given voting authority by the shareholder over positions held in the shareholder's account.

The process of generating suppressions has two primary components. The first is the creation and maintenance of a data base to capture preferences in a manner consistent with regulations. Preference choices can include any of the following: positive consent for e-delivery; negative consent for householding; directing of shareholder communication material to an investment advisor; use of a vote agent; and choosing to use ProxyEdge® – a system developed by Broadridge that allows institutional shareholders to receive proxy materials and vote electronically – for all voting. The shareholder must also have the ability to change any preference at any time and alter other relevant information, for example changing the e-mail address for e-delivery. The second component of generating suppressions is to determine, for every position passed to Broadridge for processing – which we understand can exceed nineteen million positions per day – whether or not that specific position has a preference in the database, and if so, then to apply that preference to that position for a specific shareholder distribution.

B. Role of regulation and rate setting for beneficial proxy delivery services

The NYSE and the SEC specify fees that issuers must pay nominees for beneficial proxy delivery services as reimbursement for costs incurred by nominees for providing required services. Nominees (or firms hired by nominees) incur costs to provide services such as record keeping and investor servicing. "Transfer agents" incur costs to provide similar services with respect to communications with issuers' registered shareholders, and issuers pay transfer agents for those (and other) services. That is, nominees and their agents (*e.g.*, Broadridge) incur costs to provide communications services to beneficial shareholders, and transfer agents incur costs to provide similar services to registered shareholders.

Starting in the mid-1980's, the level of regulated fees paid by issuers to nominees has fallen over time and the fee structure has changed. *See* Table 1. Starting in 1986, nominees were paid $0.60 (for "routine meetings") or $0.70 (for other meetings) by issuers per proxy piece ("unit fee"). At this time, fees did not depend on the size of the job (*i.e.*, number of shareholder positions). The regulations did not specify whether issuers or nominees were required to pay the actual costs involved in proxy delivery, such as postage and printing.

Table 1: Historic Pricing for Beneficial Proxy Delivery Services

Proxy Delivery Fees for Issuers	**1986**	**March 1997**	**February 1998**	**March 2002**
Unit Fee	0.60 or 0.70	0.55	0.50	0.40 Processing Fee 0.10 Intermediary Fee (<200K) 0.05 Intermediary Fee (>200K)
Nominee Coordination	NA	20.00	20.00	20.00
Suppression Incentive	NA	0.50	0.50	0.50 <200K Holder 0.25 >200K Holder
Other Out-of-Pocket Reimbursement	No Specific Provision	Actual Cost	Actual Cost	Actual Cost

Source: ADP Presentation "Discussion with Wilson Sonsini Goodrich & Rosati", August 25, 2005, p. 30

In March 1997, a new pilot program for processing fees was started that included a new "nominee coordination" fee and "suppression incentives." The nominee coordination fee is a $20 fee paid by an issuer per job to a third-party (*e.g.*, Broadridge) for each nominee with which the third-party coordinates on behalf of that issuer. For example, an issuer with 100 different nominees that contracts with Broadridge for beneficial proxy services will pay $2,000 (100 nominees times $20) in nominee coordination fees to Broadridge. The pilot program also included a $0.50 reimbursement for each suppression achieved and contained specific language to require issuers to pay the actual costs involved in proxy distribution. In February 1998, the unit fee was reduced to $0.50, but the other fees remained unchanged.

The 1997 fee structure was the first to set fees that compensated a centralized, third-party (non-nominee) provider of beneficial proxy services for providing a benefit to issuers. As we discuss in more detail below, a centralized provider of beneficial proxy services benefits issuers by reducing the costs of coordinating with hundreds of different nominees and by reducing printing and postage costs due to suppressions. Moreover, a suppression fee provides a nominee or third-party provider (such as Broadridge) with the incentive to take costly steps to reduce the number of mailings, including investing in infrastructure and technology, thereby helping to align the third-party's interests with the interests of issuers.

The 1997/1998 fee structure continued until 2002, when the PVRC met to review the current fee structure and suggest any changes it deemed necessary. Much of the focus of this review process was on the difference between small and large issuers. As we have discussed, until 2002, regulated fees had been the same for issuers of all sizes, despite the fact that the per unit cost of proxy delivery was smaller for larger issuers because of economies of scale. Thus, the earlier fee structure benefited smaller issuers relative to larger issuers.

The new fee structure maintained the unit fee at $0.50 for issuers with fewer than 200,000 beneficial shareholders and reduced the unit fee to $0.45 for issuers with more than 200,000 shareholders. Similarly, the suppression incentive fee for small issuers stayed at $0.50 per suppression and the fee for large issuers fell to $0.25 per suppression. Other fees remained unchanged. This new fee structure was approved in March 2002 and is still in effect today. The new fee structure reduced the prices that larger issuers paid relative to smaller issuers.

Since 2002, the regulated rate that issuers pay for proxy delivery services has not changed in "nominal" terms. Thus, in inflation-adjusted terms, the current regulated rate is substantially lower than in 2002. For example, between March 2002 and February 2010 2009, inflation-adjusted fees fell by about 17.5 percent.[9]

C. Notice and Access

As a result of SEC rulemaking, the "Notice and Access" program became voluntary for issuers effective July 2007 as a method of distributing proxy materials to shareholders. The Notice and Access program allows issuers to post proxy materials on a website accessible to shareholders and mail notices to shareholders informing them how to access the proxy materials. The notice must also inform shareholders that they may request a full set of printed materials if they would prefer not to access the material online. Issuers are able to send a notice card in lieu of sending a full set of proxy materials by mail to all shareholders, thereby reducing printing and mailing costs. However, nominees face additional requirements to support issuers who choose to participate in the Notice and Access program.

On January 1, 2008, "large accelerated" filers were required to begin posting proxy materials electronically and notifying shareholders that the materials could be accessed online.[10] In this mandatory version of Notice and Access, issuers are required to make the proxy materials available online. However, these issuers – like issuers participating in the voluntary program – continue to have the option of also providing a full set of printed

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9. Based on the All Items Consumer Price Index, which increased from 178.8 in March 2002 to 216.741 in February 2010. *See* ftp://ftp.bls.gov/pub/special.requests/cpi/cpiai.txt.
10. Large Accelerated Filers are defined in Rule 12-B of the Securities and Exchange Act of 1934. There are several requirements for an issuer to be considered a large accelerated filer, one of which is that the company has an aggregate worldwide value of more than $700 million.

materials to all beneficial shareholders. As of January 1, 2009, these regulations were extended to all issuers, regardless of size.

Although Notice and Access was not used by most issuers as of 2008, Broadridge is an active participant in the provision of proxy materials using Notice and Access, and its role as a centralized processor for most nominees allowed those nominees to implement Notice and Access without having to individually build the processes that are needed for providing Notice and Access. For the 12-month period July 2008 through June 2009, Broadridge provided Notice and Access services to 1,363 issuers.[11]

IV. Broadridge's Services Provide Benefits to Issuers, Nominees and Shareholders

A. Broadridge reduces the costs of beneficial proxy delivery services

As we have discussed, the U.S. system of share ownership necessarily makes shareholder communications a multi-step process that requires the coordination of information collected from a large number of issuers and nominees. Broadridge serves as a central repository of this type of information for almost all issuers and nominees. Broadridge's services provide benefits to issuers, nominees and shareholders.

The total cost savings arising from Broadridge's creation and maintenance of a central repository of information is difficult to quantify but we find that the savings far exceed the cost in fees paid by issuers to nominees. One large benefit arises from nominee coordination. Without a firm like Broadridge, each issuer would need to interact with hundreds of nominees in a variety of ways. For example, printed material would need to be

11. Broadridge, "Notice & Access, Statistical Overview of Use with Beneficial Shareholders, As of June 30, 2009," p. 1. We understand that these issuers accounted for about 50 percent of all beneficial positions processed by Broadridge for that period, and that since July 2007, savings to issuers from implementing Notice & Access exceed $380 million.

delivered to hundreds of locations and votes would need to be tabulated and delivered by hundreds of nominees to each issuer. The nominee coordination fee – $20 – is much less than the cost an issuer would bear to interact with a nominee (and a nominee also would bear costs to interact with an issuer).

Broadridge has quantified a portion of nominee coordination savings, arising from a reduction in materials shipments, search processing, and lower postage rates compared to the rates that would have been paid by nominees (and reimbursed by issuers) that did not have large enough mailing volume to take advantage of the lowest rates. Broadridge estimated that nominee coordination savings to International Paper Company for its 2004 proxy mailing, for example, were $68,962 – these savings were substantially more than the approximately $10,000 the company paid in nominee coordination fees (*i.e.*, $20 for each of about 500 nominees).[12]

Similarly, Broadridge provides a benefit to issuers by lowering printing and mailing costs through the suppression of physical mailings. Because issuers pay for printing and postage costs, reductions of physical mailings benefit issuers. However, in the absence of receiving suppression fees, nominees and/or agents like Broadridge would have a reduced incentive to develop and maintain processes that create suppressions and thereby savings for issuers. Table 2 documents the percentage of proxy pieces that were suppressed over time.[13]

12. *See* ADP presentation entitled, "The American Society of Corporate Secretaries and ADP Investor Communication Services, Tour and Discussion, Edgewood, NY, November 17, 2004," p. 13.
13. For all statistics involving the quantity of proxy pieces or jobs, years refer to fiscal years, with fiscal year 2007, for example, covering July 1, 2006 to June 30, 2007. The proxy season refers to the period from February 15th through May 1st when many issuers distribute their proxies.

Table 2: Mailings Eliminated During Proxy Season

Suppression Category	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Special Processing	4,173,595	6,537,069	8,752,396	15,564,693	21,835,625	25,748,065	29,670,513	37,531,664	43,341,777	47,516,112	51,064,267	45,385,463
Householding				1,464,774	4,845,696	6,292,192	7,075,465	7,576,306	6,744,831	6,039,815	4,350,783	3,792,110
ProxyEdge	1,407,745	1,754,610	2,082,069	2,883,790	4,184,219	4,155,636	5,433,621	6,474,178	7,376,741	9,053,565	9,800,029	7,852,471
Internet Delivery	42,873	389,648	1,061,820	2,138,000	4,557,224	5,618,616	6,867,057	10,722,673	12,307,148	13,971,344	17,319,430	21,183,845
Total	5,624,213	8,681,327	11,896,285	22,051,257	35,422,764	41,814,509	49,046,656	62,304,821	69,770,497	76,580,836	82,534,509	78,213,889
Proxy Pieces Processed During Season	72,918,880	83,046,246	104,542,088	118,572,952	131,077,924	129,140,634	142,516,956	152,317,996	155,085,489	156,040,485	152,579,107	147,051,962
Suppression Percentage	7.7%	10.5%	11.4%	18.6%	27.0%	32.4%	34.4%	40.9%	45.0%	49.1%	54.1%	53.2%

Source: ADP Investor Communication Services Proxy Season Key Statistics & Performance Ratings (1998-1999); ICS A Division of ADP Proxy Season Key Statistics & Performance Ratings (2000, 2001); ADP Proxy Season Key Statistics & Performance Ratings (2002-2006); Broadridge 2007 Proxy Season Key Statistics & Performance Ratings; Broadridge.

Note: Mailings eliminated in 2008 and 2009 include N&A postcard mailings eliminated through suppressions.

In 1998, for example, Broadridge processed 72.9 million proxy pieces during the proxy season, and suppressed 7.7 percent. That is, Broadridge's actions reduced physical mailings – and the costs associated with those mailings – by about 5.6 million pieces. Since 1998, the number and percentage of physical mailings suppressed by Broadridge has increased dramatically. By 2002, for example, the suppression percentage was 27 percent; by 2009 Broadridge suppressed about 53 percent of all mailings – approximately 78 million out of 147 million proxy pieces processed by Broadridge during the proxy season were suppressed.

As we have discussed, Broadridge suppresses mailings through several mechanisms. Broadridge has increased suppressions and issuer savings, in part, by introducing new services. Broadridge invests in developing and maintaining databases of shareholders that have consented to electronic delivery and other forms of suppression. In 1998, for example, Broadridge introduced Internet delivery of proxy materials. In that year, Internet delivery accounted for only about 0.06 percent of proxy pieces processed by Broadridge. By 2009, Internet delivery accounted for about 14 percent of all proxy pieces processed.

Similarly, Broadridge introduced householding in 2001. In 2001, householding accounted for about 1.2 percent of proxy pieces processed by Broadridge. By 2009, householding accounted for about 2.6 percent of proxy pieces processed.

Broadridge estimates that each suppression saved issuers approximately $5.64 in printing and postage costs in 2007.[14] Savings of about $5.64 per piece far exceed the current suppression incentive fee of $0.25 or $0.50 per suppression. Total issuer savings due to suppressions during just the proxy season were about $35 million in 1998, about $211 million in 2002, and about $432 million in 2007.[15] *See* Table 3. Total issuer savings from suppressions in 2007 over the entire year were approximately $800 million.[16] Issuer savings from suppressions alone exceed Broadridge's total revenues from U.S. beneficial proxy delivery services in 2007.[17] Thus, Broadridge's provision of services that increase suppressions substantially reduces the cost of beneficial proxy delivery services.

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14. Broadridge's suppression savings estimate is based on information from the National Investor Relations Institute survey of issuers' costs of printing an annual report and Broadridge internal data. It represents an average printed material cost of $4.38 across all beneficial meetings. Postage is calculated at $1.26 and is based on Broadridge actual data for the 2007 proxy. *See* National Investor Relations Institute, "Annual Report: An Assessment of Trends and Factors in the Annual Report Process, August 2004 and 2007 Proxy Season, Key Statistics & Performance Ratings."
15. As we have discussed, the Notice and Access program started after fiscal year 2007. Total issuer savings from suppressions after 2007 with Notice and Access are not directly comparable to savings before 2007 because it costs more to print and mail a full package than a notice card.
16. In 2007, the ratio of total pieces during the year (290.8 million) to proxy season pieces (156.0 million) was 1.86. Applying this ratio to 2007 proxy season suppression savings ($431.9 million) produces an estimate of total year savings of approximately $800 million. Sources: Tables 2, 3 and Broadridge estimates.
17. Broadridge reported total proxy revenues associated with equities of $474.1 million in fiscal year 2007. *See* www.broadridge-ir.com, "Key Revenue Statistics, Fiscal 2007 & 2006."

Table 3: Estimated Supression Savings for Issuers During Proxy Season

Suppression Category	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Special Processing	$26,293,647	$41,183,534	$55,140,094	$92,609,923	$129,921,969	$153,200,987	$176,539,552	$223,313,400	$244,447,622	$267,990,872
Householding				$8,715,405	$28,831,891	$37,438,543	$42,099,016	$45,079,020	$38,040,847	$34,064,557
ProxyEdge	$8,868,793	$11,054,043	$13,117,034	$17,158,551	$24,896,103	$24,726,034	$32,330,044	$38,521,359	$41,604,819	$51,062,107
Internet Delivery	$270,099	$2,454,782	$6,689,466	$12,721,100	$27,115,482	$33,430,765	$40,858,989	$63,799,904	$69,412,314	$78,798,380
Total	$35,432,539	$54,692,359	$74,946,594	$131,204,979	$210,765,445	$248,796,329	$291,827,601	$370,713,683	$393,505,603	$431,915,916

Source: ADP Investor Communication Services Proxy Season Key Statistics & Performance Ratings (1998-1999); ICS A Division of ADP Proxy Season Key Statistics & Performance Ratings (2000, 2001); ADP Proxy Season Key Statistics & Performance Ratings (2002-2006); Broadridge 2007 Proxy Season Key Statistics & Performance Ratings; 2008 Proxy Season Key Statistics & Performace Ratings; 2009 Proxy Season Key Statistics & Performance Ratings.

The savings issuers gain from suppressions benefit issuers and their shareholders. Shareholders also benefit from standardized products developed and introduced by Broadridge. In particular, Broadridge has created a standardized platform that shareholders can use for corporate voting. If Broadridge's services were not widely used, many investors likely would be forced to deal with a variety of voting platforms (*e.g.*, if major nominees or issuers developed voting platforms independently). This additional complexity could increase the cost to shareholders of corporate voting and reduce participation by investors.

B. Broadridge provides high-quality service to its customers

Nominees have mandated obligations with respect to shareholder communications. Thus, a nominee deciding whether to outsource some or all shareholder communications tasks will consider both the cost of doing so (compared to the cost of doing so internally) as well as the quality of service provided by a potential outsourcer. The evidence shows that in addition to reducing nominees' costs, Broadridge provides high-quality service to its customers.

Various SEC and stock exchange rules impose specific requirements on how nominees communicate with beneficial shareholders and how communications from shareholders (*e.g.*, proxy votes) are processed. Because SEC and NYSE rules mandate specific actions, Broadridge's performance can be evaluated with respect to objective standards. An independent firm has audited Broadridge's performance; those audits show that Broadridge's performance consistently meets or exceeds SEC and NYSE standards.

For example, we understand that since 1994, Broadridge (and its predecessor, ADP Investor Communications Services) has retained Deloitte & Touche LLP ("Deloitte & Touche") to evaluate Broadridge's performance on various performance criteria, which are established and periodically reviewed and updated by the Independent Steering Committee of Broadridge. For the period December 31, 2007 to June 27, 2008, Deloitte & Touche evaluated seven criteria: (1) generation of material requests; (2) distribution of vote information forms and related proxy materials to beneficial shareholders; (3) electronic distribution of vote information and related proxy materials to beneficial owners; (4) handling of material shortages; (5) vote tabulating; (6) electronic tabulation of vote instructions; and (7) vote reporting.[18] For each of these categories, Deloitte & Touche assigns a score of zero to eight points per week, with 8 = "Excellent." For this period, Broadridge received an average score of 7.98.[19] We understand that for the 2009 proxy season, Broadridge received an average score of 7.94 for the same seven performance criteria.

Broadridge also commissioned Deloitte & Touche to evaluate other issues. For example, we understand that Broadridge (and its predecessor) have retained Deloitte &

18. *See* Deloitte & Touche LLP, "Independent Accountants' Report on Applying Agreed-Upon Procedures Relating to Measurement Criteria: December 31, 2007 – June 27, 2008," March 13, 2009 ("D&T Measurement").
19. *Id.*, Exhibit 2.

Touche to evaluate Broadridge's compliance with certain proxy rules since 1989.[20] For the period July 1, 2007 to June 30, 2008, Deloitte & Touche evaluated 58 Broadridge procedures relating to NYSE proxy rules, and found no "exceptions" (*i.e.*, errors) related to any task under Broadridge's control.[21]

Similarly, we understand that Broadridge (and its predecessor) have contracted with Deloitte & Touche to evaluate Broadridge's processing of voting instructions on a quarterly basis since 1994. For the three months ending February 28, 2009, Deloitte & Touche evaluated five types of voting instructions: (1) voting instructions representing at least 50,000 shares; (2) mailed voting instructions representing less than 50,000 shares; (3) telephone-submitted voting instructions representing less than 50,000 shares; (4) electronically submitted voting instructions representing less than 50,000 shares; and (5) Internet-submitted voting instructions representing less than 50,000 shares.[22] Deloitte & Touche tested a total of approximately 100,000 items, and found that Broadridge made no errors.[23]

In addition to comparing Broadridge's performance to specific criteria, Broadridge's performance also can be compared to the performance of transfer agents who perform the same type of services for issuers who send materials to registered shareholders. For example, Broadridge retained Deloitte & Touche to compare its performance with that of specific

20. *See e.g.* Deloitte and Touche LLP, "Independent Accountants' Report on Applying Agreed-Upon Procedures Relating to Testing of Compliance with Certain SEC and NYSE Proxy Rules, June 30, 2008," February 16, 2009 ("D&T Procedures"), p. 14.
21. Deloitte and Touche "identified two instances external to Broadridge's control that resulted in an exception that directly affect[ed] the Company's compliance with the proxy rules" evaluated (D&T Procedures, p. 4).
22. *See* Deloitte & Touche LLP, "Independent Accountants' Report on Applying Agreed-Upon Procedures Relating to the Company's Testing of the Accuracy of its Processing of Voting Instructions: Three Months Ended February 28, 2009," April 23, 2009 ("D&T Voting").
23. *Id.*, Exhibit 1.

transfer agents "relating to the distribution of proxy materials to shareowners during the 2001 proxy season, between May 1, 2001 and August 31, 2001."[24]

For its study, Deloitte & Touche purchased two shares of stock for 50 randomly selected companies. For each company, Deloitte & Touche held one share directly through a transfer agent (*i.e.*, a registered share), and the other share was held in street name (*i.e.*, beneficially). Deloitte & Touche checked, on a daily basis, for proxy mailings for each share of stock.

For 30 of the 50 companies, Deloitte & Touche received proxy materials for both shares. Typically, the postage expense on the proxy materials sent by Broadridge was lower than the postage expense on the proxy materials provided by a transfer agent. Because postage is paid by the stock issuer, the materials delivered by Broadridge imposed fewer costs on the issuer than the materials delivered by transfer agents. Four companies postponed or cancelled their meeting, and so proxy materials were not sent out.[25] For the remaining 16 companies, Deloitte & Touche received proxy materials for the share held in street name (*i.e.*, from Broadridge) but not for the registered share.[26] Thus, Broadridge delivered proxy materials for 100 percent (*i.e.*, 46 out of 46) of the stocks held in street name; in contrast, transfer agents delivered proxy materials to only 65 percent (*i.e.*, 30 out of 46) of the registered shares.

In addition to performing well on third-party audits, there is additional evidence of Broadridge's high quality of service evident in its own proxy statistics. Achieving a high

24. *See* Deloitte & Touche LLP, "Report on Agreed-Upon Procedures Relating to the Distribution of Proxy Materials: May 1, 2001 thru August 31, 2001," October 26, 2001 ("D&T Distribution").
25. *Id.*, Exhibit 2.
26. *Id.*

percentage of shares voted is important to issuers. Since 1998, the percentage of shares voted through the Broadridge proxy service process has always been above 80 percent, ranging from 86.2 percent in 1998 to a high of 90.7 percent in 2004 and 85.7 percent in 2009. *See* Table 4.

Table 4: Shares Voted (in Billions) During Proxy Season

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Total Voted												
Shares	134.1	165.0	184.9	203.6	239.3	214.5	236.5	262.9	273.0	274.9	264.4	264.2
Percent	86.2%	87.6%	87.9%	88.2%	88.9%	90.4%	90.7%	87.7%	88.1%	87.0%	86.4%	85.7%

Note: Total votes include shares voted with broker's discretion.

Source: ADP Investor Communication Services Proxy Season Key Statistics & Performance Ratings (1998-1999); ICS A Division of ADP Proxy Season Key Statistics & Performance Ratings (2000, 2001); ADP Proxy Season Key Statistics & Performance Ratings (2002-2006); Broadridge 2007 Proxy Season Key Statistics & Performance Ratings; 2008 Proxy Season Key Statistics & Performance Ratings; 2009 Proxy Season Key Statistics & Performance Ratings.

Broadridge provides beneficial shareholders with a variety of voting methods. Shareholders are able to vote using paper ballots, telephone voting, Broadridge's ProxyVote®.com Internet voting site, or Broadridge's electronic ProxyEdge® service. In 1998, almost 43 percent of shares' proxy votes were cast on paper and 47 percent were cast using the ProxyEdge® service. *See* Table 5. By 2009, only about nine percent of shares' votes were cast on paper and about 90 percent were cast using electronic means, either ProxyEdge® or the Internet. This evidence indicates that Broadridge has upgraded its services for issuers and provides a high-quality service.

Table 5: Method of Vote Return During Proxy Season

Vote Return Method	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Shares (in billions)												
Paper	45.2	43.0	43.2	43.8	32.8	27.8	26.1	30.9	25.4	23.2	19.4	19.0
Telephone	9.1	15.7	11.0	7.8	6.6	5.3	4.7	4.8	4.0	3.1	2.2	1.9
ProxyEdge	49.5	66.6	75.9	90.9	100.1	102.7	122.9	140.5	157.0	159.4	169.5	163.6
Internet	1.2	5.4	6.6	8.3	21.9	27.1	27.3	22.9	22.0	24.4	22.9	21.9
Total	105.0	130.7	136.7	150.9	161.4	162.9	181.0	199.1	208.4	210.1	214.0	206.4
% of Shares												
Paper	43.0%	32.9%	31.6%	29.0%	20.3%	17.1%	14.4%	15.5%	12.2%	11.0%	9.1%	9.2%
Telephone	8.7%	12.0%	8.0%	5.2%	4.1%	3.3%	2.6%	2.4%	1.9%	1.5%	1.0%	0.9%
ProxyEdge	47.1%	51.0%	55.5%	60.2%	62.0%	63.0%	67.9%	70.6%	75.3%	75.9%	79.2%	79.3%
Internet	1.1%	4.1%	4.8%	5.5%	13.6%	16.6%	15.1%	11.5%	10.6%	11.6%	10.7%	10.6%

Source: ADP Investor Communication Services 1995 Proxy Season Key Statistics & Performance Ratings (1995-1999); ICS A Division of ADP 2000 Proxy Season Key Statistics & Performance Ratings (2000, 2001); ADP Proxy Season Key Statistics & Performance Ratings (2002-2006); Broadridge 2007 Proxy Season Key Statistics & Performance Ratings; 2008 Proxy Season Key Statistics & Performance Ratings; 2009 Proxy Season Key Statistics & Performance Ratings.

V. Broadridge Maintains a High Share of Beneficial Proxy Delivery Services Because of its Efficiency

We have demonstrated that Broadridge generates substantial savings for issuers and nominees by providing high-quality beneficial proxy delivery services at a low cost. Broadridge maintains its high share of beneficial proxy delivery services because of its efficiency. Indeed, as we explain next, even though beneficial proxy delivery services require more steps than registered proxy delivery services, issuers typically pay less for beneficial than for registered proxy delivery services.

One way of evaluating the efficiency of the services Broadridge provides is to compare the costs to issuers of beneficial proxy services to the costs of registered proxy delivery services. As we have discussed, some shareholders own shares directly. A stock issuer also is required to communicate with its registered owners. Because the stock issuer has contact information for the shareholder, the process of sending information to the shareholder is relatively straightforward and is controlled by the issuer directly.

Registered proxy delivery for a single issuer requires obtaining a list of registered owners from the issuer and delivering (through the mail or electronically) and processing the proxy materials. Beneficial proxy delivery services fundamentally involve more steps than proxy delivery services for registered shareholders – beneficial proxy delivery for a single issuer requires either: (1) providing proxy materials to hundreds of separate nominees each of whom must perform the same task as a registered proxy delivery firm; or (2) providing proxy materials to a third-party firm like Broadridge, which must coordinate information from hundreds of nominees. The shareholder information from these nominees must be collected, combined and made consistent across, on average, 400 nominees for Fortune 1000 companies.[27] No such coordination is necessary in registered processing.

In addition, as we have discussed, many beneficial shareholders hold their shares through respondent banks rather than through a custodian bank or through correspondent brokers rather than through their direct broker. One custodian bank may have hundreds of respondent banks, only some of which have clients with beneficial positions in their stock. This additional layer between beneficial owners and issuers adds steps to the process of delivering proxy materials and tabulating votes for beneficial shareholders.

Moreover, record keeping for beneficial stock holdings is substantially more involved than record keeping for registered stock holdings. We understand that in the great majority of cases, a registered account holds a single security and the account holder is known to the issuer or its agent. Beneficial accounts frequently hold multiple securities, not all of which

27. ADP presentation entitled, "The American Society of Corporate Secretaries and ADP Investor Communication Services, Tour and Discussion, Edgewood, NY, November 17, 2004," p. 11.

are equities. Margin accounts, short selling, and stock lending all add complexity to beneficial record keeping.

Registered proxy services are offered by firms such as transfer agents, which contract directly with issuers to provide proxy deliveries for registered shareholders who are known to issuers. While registered proxy delivery services are not identical to beneficial proxy delivery services, registered proxy delivery services can provide insight into the efficiency of Broadridge's beneficial proxy delivery services. Moreover, the prices charged for registered proxy delivery services are not regulated and are therefore entirely determined by market forces.

We do not have systematic information on prices charged by transfer agents and others for registered proxy delivery services. However, Broadridge competes successfully in the registered proxy services segment, so Broadridge's prices for registered services can be expected to be representative of prices charged by transfer agent rivals.[28] If Broadridge attempted to charge substantially more for such services, it likely would not be able to remain in the registered business. For this reason, we analyze beneficial and registered proxy delivery service prices by comparing Broadridge's prices for the two types of service.

Typically, there are fewer registered shareholders than beneficial shareholders for a given issuer. Indeed, for the 984 issuers that used Broadridge for both registered and beneficial proxy delivery services in 2008, the average number of proxy pieces per invoice was 8,450 for registered and 84,938 for beneficial. Because larger jobs tend to be lower cost per unit than smaller jobs, it is useful to control for the number of proxy pieces processed for

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28. In 2007, Broadridge provided registered proxy delivery services to 1,017 issuer clients out of the thousands of U.S. stock issuers with registered shareholders.

a given job. In our analysis, we compare the costs of beneficial and registered proxy delivery services for jobs of a similar size. Thus, our analysis controls for cost differences associated with jobs of substantially different sizes.

Similarly, Notice and Access jobs typically cost issuers less than non-Notice and Access jobs because postage costs are lower and the costs of printing a package of materials is avoided. However, the percentage of shareholders that receive a notice compared to a full package varies between beneficial shareholders and registered shareholders. In our analysis, we control for the effects of Notice and Access by comparing the costs of beneficial and registered proxy delivery services for non-Notice and Access jobs and for Notice and Access job separately.

We start by comparing processing fees for beneficial and registered proxy delivery services. Table 6 shows that processing fees for beneficial proxy delivery are lower than for registered delivery in most size categories and overall for both non-Notice and Access jobs and for Notice and Access jobs. The table also shows that as the number of pieces processed per job increases, per unit processing fees for registered delivery decrease substantially, while per unit processing fees for beneficial delivery are unchanged (except for the largest category). This suggests that the regulated fee structure for beneficial delivery implicitly subsidizes smaller issuers compared to larger issuers. Processing fees do not include other fees paid by issuers, such as suppression fees, nominee fees, and Notice and Access fees. Since these other fees as well as savings from suppressions and the use of the Notice and Access model vary between beneficial and registered processing, we next analyze issuers' total costs for proxy delivery services.

Table 6: Comparison of Beneficial and Registered Processing Fees

Pieces per Job	Processing Fees		
	Registered	Beneficial	Difference
Non-Notice and Access Jobs			
1) 0 - 4,999	6.64	0.50	6.14
2) 5,000 - 9,999	1.36	0.50	0.86
3) 10,000 - 14,999	1.02	0.50	0.52
4) 15,000 - 24,999	0.78	0.50	0.28
6) 25,000 - 49,999	0.62	0.50	0.12
7) 50,000 - 99,999	0.47	0.50	-0.03
8) 100,000 - 199,999	0.39	0.50	-0.11
9) 200,00+	0.40	0.45	-0.05
Totals	1.37	0.47	0.89
Notice and Access Jobs			
1) 0 - 4,999	5.28	0.50	4.78
2) 5,000 - 9,999	1.26	0.50	0.76
3) 10,000 - 14,999	1.14	0.50	0.64
4) 15,000 - 24,999	0.86	0.50	0.36
6) 25,000 - 49,999	0.59	0.50	0.09
7) 50,000 - 99,999	0.47	0.50	-0.03
8) 100,000 - 199,999	0.37	0.50	-0.13
9) 200,00+	0.33	0.45	-0.12
Totals	0.88	0.46	0.42

Source: Broadridge internal data.

Note: Analysis includes beneficial and registered invoices for proxy jobs during FY 2008. Analysis excludes registered invoices recording multiple jobs.

Despite the additional complexities and the additional services associated with beneficial proxy services, issuers typically pay less for proxy delivery to beneficial owners than to registered owners on a per unit basis. Table 7 provides an analysis of issuer costs for beneficial proxy delivery and for registered proxy delivery at Broadridge for non-Notice and Access jobs in 2008. This analysis compares the costs of beneficial proxy delivery to the cost of registered proxy delivery of full packages, excluding any additional costs associated with registered processing that are not comparable to beneficial processing. The analysis includes 11,412 beneficial invoices and 888 registered invoices, breaking the invoices into groups based on the number of pieces processed per invoice, enabling comparisons both within size categories and across size categories.

Table 7: Comparison of Issuer Costs for Beneficial and Registered Shareholders Non-Notice and Access Jobs

Beneficial Owners				
Pieces Per Job	**Number of Pieces Processed**	**Percentage of Pieces Suppressed**	**Total Issuer Cost After Suppressions**	**Avg Cost Per Unit**
	[1]	**[2]**	**[3]**	**[4]**
0 - 4,999	7,669,273	35.7%	39,762,816	5.18
5,000 - 9,999	7,439,367	45.6%	30,832,215	4.14
10,000 - 14,999	6,083,043	48.0%	23,826,404	3.92
15,000 - 24,999	10,050,984	52.2%	36,529,645	3.63
25,000 - 49,999	19,900,174	59.6%	63,479,692	3.19
50,000 - 99,999	27,296,992	59.9%	85,541,911	3.13
100,000 - 199,999	31,976,327	59.1%	100,685,897	3.15
200,000 +	119,415,687	48.1%	420,005,879	3.52
Totals	**229,831,847**	**51.7%**	**800,664,460**	**3.48**

Registered Owners				
Pieces Per Job	**Number of Pieces Processed**	**Percentage of Pieces Suppressed**	**Total Issuer Cost After Suppressions**	**Avg Cost Per Unit**
	[1]	**[2]**	**[3]**	**[4]**
0 - 4,999	479,771	12.8%	5,563,408	11.60
5,000 - 9,999	257,313	23.9%	1,477,708	5.74
10,000 - 14,999	233,474	19.2%	1,318,140	5.65
15,000 - 24,999	252,311	10.2%	1,484,408	5.88
25,000 - 49,999	636,890	26.8%	3,084,565	4.84
50,000 - 99,999	1,084,062	28.3%	4,999,027	4.61
100,000 - 199,999	405,362	16.2%	2,093,225	5.16
200,000 +	483,403	24.4%	2,298,243	4.75
Totals	**3,832,586**	**22.3%**	**22,318,724**	**5.82**

Source: Broadridge internal data.

Note: Analysis includes beneficial and registered invoices for proxy jobs not involving Notice and Access performed by Broadridge during FY 2008. Analysis excludes registered invoices recording multiple jobs. Printing and postage cost estimates of $5.64 per package based on an average printed material cost of $4.38 from National Investor Relations Institute (Annual Report: An Assessment of Trends and Factors in the Annual Report Process, August, 2004) and average postage of $1.26 from Broadridge internal data. Total issuer costs include fees, printing, and postage costs after suppressions. Beneficial fees include processing, suppression, and nominee fees. Registered fees include processing and suppression fees.

For non-Notice and Access jobs, issuer's average total costs for beneficial proxy delivery equaled $3.48 per unit compared to $5.82 per unit for registered proxy delivery. These costs include both fees paid by issuers and estimates of printing and mailing costs to the issuer. While jobs on the beneficial side tend to be larger and therefore less expensive than those on the registered side, beneficial proxy services are less expensive for the issuer within every size category. For example, within the smallest size category (0 to 4,999 pieces processed) issuers pay $11.60 per piece for registered proxy delivery – more than double the cost they pay for beneficial proxy delivery. In the largest size category (200,000+ pieces processed) issuers pay $4.75 per piece for registered proxy delivery but only $3.52 per piece for beneficial proxy delivery. Indeed, in every size category, the cost of registered proxy services is more than $1 per piece greater than the cost of beneficial proxy services. Issuers pay less for beneficial proxy delivery than they do for registered proxy delivery, regardless of their size. Table 9, below, summarizes the cost differences for issuers between beneficial and registered proxy delivery services.

Table 7 also shows that, in every size category, a larger percentage of beneficial pieces were suppressed than registered pieces. Overall, 51.7 percent of beneficial pieces were suppressed compared to 22.3 percent of registered pieces. Hence, issuers generate substantial savings for beneficial processing arising from reduced printing, mailing, and postage costs because of suppressions. The comparison demonstrates that Broadridge is able to provide beneficial proxy delivery services at a lower cost to issuers than less complicated registered proxy delivery services when delivering full packages, for all size categories.

Table 8 provides the same comparison of issuer costs for beneficial proxy delivery versus registered proxy delivery for Notice and Access jobs.[29] Both beneficial and registered Notice and Access jobs are less expensive for issuers than non-Notice and Access jobs (compare Table 8 to Table 7). Nevertheless, Notice and Access jobs like non-Notice and Access jobs are less expensive overall for beneficial shareholders than for registered shareholders. Indeed, issuer's average total costs for beneficial proxy delivery of notices equaled $1.01 per unit compared to $1.57 per unit for registered proxy delivery.

As in Table 7, Table 8 shows that, in every size category, a larger percentage of Notice and Access beneficial pieces were suppressed than registered pieces. Overall, 50.5 percent of Notice and Access beneficial pieces were suppressed compared to 14.9 percent of Notice and Access registered pieces. Because printing and postage costs are lower for Notice and Access jobs than for non-Notice and Access jobs, the savings from suppressions are relatively smaller for Notice and Access jobs. As a result, the cost advantage for beneficial versus registered processing for Notice and Access jobs varies across size categories. Notice and Access jobs with less than 25,000 pieces have a cost advantage for beneficial shareholders and jobs with more than 25,000 pieces having a small cost advantage for

29. Table 8 compares the cost of Notice and Access jobs under the assumption that no full packages are sent to either beneficial or registered owners. A relatively small percentage of shareholders receive full packages for Notice and Access jobs. For the jobs reflected in the table, 7.0 percent of the positions processed for beneficial owners and 3.5 percent of the positions processed for registered owners received full packages. This "mix difference" would affect the relative average costs per unit for beneficial versus registered owners (*i.e.,* this difference raises the average costs for beneficial owners relative to registered owners because a higher percentage of beneficial shares request the more expensive full packages). To remove the effect of this mix difference from our analysis, we estimate average costs per unit under the assumption that no full packages are sent to either beneficial or registered owners. For this reason, the average costs per unit in Table 8 are somewhat lower than the actual costs incurred by issuers.

registered shareholders (*i.e.*, ranging from approximately $0.03 to $0.22 per unit). *See* Table 9.

Table 8: Comparison of Issuer Costs for Beneficial and Registered Shareholders Notice and Access Jobs

Beneficial Owners				
Pieces Per Job	Number of Pieces Processed	Percentage of Pieces Suppressed	Total Issuer Cost After Suppressions	Avg Cost Per Unit
	[1]	[2]	[3]	[4]
0 - 4,999	261,537	40.7%	579,888	2.22
5,000 - 9,999	766,845	48.9%	1,211,974	1.58
10,000 - 14,999	631,876	54.2%	923,637	1.46
15,000 - 24,999	1,407,996	52.5%	1,922,533	1.37
25,000 - 49,999	4,149,991	59.9%	5,375,132	1.30
50,000 - 99,999	6,622,926	59.4%	8,252,082	1.25
100,000 - 199,999	7,749,817	57.2%	9,171,534	1.18
200,000 +	52,825,978	47.6%	47,768,169	0.90
Totals	**74,416,966**	**50.5%**	**75,204,948**	**1.01**

Registered Owners				
Pieces Per Job	Number of Pieces Processed	Percentage of Pieces Suppressed	Total Issuer Cost After Suppressions	Avg Cost Per Unit
	[1]	[2]	[3]	[4]
0 - 4,999	256,820	12.7%	1,775,437	6.91
5,000 - 9,999	187,445	10.3%	361,826	1.93
10,000 - 14,999	138,645	9.4%	248,119	1.79
15,000 - 24,999	99,795	21.6%	148,580	1.49
25,000 - 49,999	452,744	20.5%	557,339	1.23
50,000 - 99,999	439,418	16.2%	480,324	1.09
100,000 - 199,999	865,679	17.9%	834,151	0.96
200,000 +	846,912	9.8%	744,165	0.88
Totals	**3,287,458**	**14.9%**	**5,149,942**	**1.57**

Source: Broadridge internal data.

Note: Analysis includes beneficial and registered invoices for proxy jobs involving Notice and Access performed by Broadridge during FY 2008. Excludes registered invoices recording multiple jobs. Assumes no full packages are sent. Printing and postage costs estimated to be $0.40 for notices. Total issuer costs include fees, printing, and postage costs after suppressions. Beneficial fees include processing, suppression, nominee, and N&A transaction fees. Registered fees include processing, suppression, and N&A transaction fees.

Table 9: Comparison of Issuer Costs for Beneficial and Registered Shareholders

Pieces per Job	Average Cost Per Unit		
	Registered	Beneficial	Difference
Non-Notice and Access Jobs			
1) 0 - 4,999	11.60	5.18	6.41
2) 5,000 - 9,999	5.74	4.14	1.60
3) 10,000 - 14,999	5.65	3.92	1.73
4) 15,000 - 24,999	5.88	3.63	2.25
6) 25,000 - 49,999	4.84	3.19	1.65
7) 50,000 - 99,999	4.61	3.13	1.48
8) 100,000 - 199,999	5.16	3.15	2.02
9) 200,00+	4.75	3.52	1.24
Totals	**5.82**	**3.48**	**2.34**
Notice and Access Jobs			
1) 0 - 4,999	6.91	2.22	4.70
2) 5,000 - 9,999	1.93	1.58	0.35
3) 10,000 - 14,999	1.79	1.46	0.33
4) 15,000 - 24,999	1.49	1.37	0.12
6) 25,000 - 49,999	1.23	1.30	-0.06
7) 50,000 - 99,999	1.09	1.25	-0.15
8) 100,000 - 199,999	0.96	1.18	-0.22
9) 200,00+	0.88	0.90	-0.03
Totals	**1.57**	**1.01**	**0.56**

Source: Tables 7 and 8.

VI. The Fees Charged by Broadridge to Nominees are Constrained by Market Alternatives

A. Nominees are free to provide beneficial proxy delivery services themselves or contract with firms other than Broadridge

Although issuers are required to distribute proxy and other materials to shareholders and nominees are required to distribute those materials to beneficial shareholders, nominees are not required to contract with Broadridge. Instead, each nominee can fulfill its shareholder communications obligations by providing those services itself or by contracting with a third-party provider, such as Broadridge.

The ability of other firms (including nominees themselves) to freely enter into the provision of beneficial proxy delivery services has two important implications. First, the fact that other firms have had limited success in entering further demonstrates that Broadridge is the efficient provider of beneficial proxy delivery services. Second, the possibility of entry or a nominee providing shareholder communications services itself constrains the price that Broadridge can charge a nominee.

Historically, many nominee firms provided shareholder communications services themselves. Over time, however, more and more nominee firms contracted with Broadridge to provide these services. Since 1992 (when ADP acquired IECA), several large nominees – including Wells Fargo Investments; E*Trade Securities; Charles Schwab & Company; A.G. Edwards & Sons; Goldman Sachs; Lehman Brothers; UBS Financial Services; and Merrill Lynch – chose to outsource beneficial proxy delivery services to Broadridge. Each of these large companies could have chosen to handle beneficial proxy delivery services itself or with a third-party other than Broadridge but instead chose to contract with Broadridge.

A nominee has an incentive to contract with Broadridge only if doing so reduces the nominee's costs or raises quality – that is, a nominee has an incentive to contract with Broadridge only if Broadridge can provide those services at a lower cost or higher quality (or both) than can the nominee. Since the great majority of nominees voluntarily choose to contract with Broadridge, the evidence shows that nominees believe that no other provider is currently more efficient than Broadridge.[30]

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30. We understand that Broadridge contracts with nominees average three years in length. Thus, each year, on average, about a third of Broadridge's business is up for renewal and available to potential rivals.

In the last several years, other firms have attempted to compete with Broadridge. For example, Swingvote was founded in 2003 to offer proxy vote handling services to institutional investors. Its initial business plan was to "skim away the high-end institutional market, leaving the more paper-intensive, high-overhead retail investor sector to [Broadridge]."[31] Swingvote planned to charge issuers the regulated rates for delivery services, but planned to provide ballot-casting and record-keeping services free for institutions. The Swingvote plan was to "go after [Broadridge] on price, where its advantage is obvious."[32] In September 2006, Swingvote attempted to expand its business into a full-service proxy distributor for banks and brokerage firms, using an Internet platform to provide a full-range of proxy services and offering paper distribution through RR Donnelley's Financial Services Business unit.[33] Swingvote is now known as Inveshare.[34] We understand that Inveshare and two other firms – ProxyTrust and Mediant – currently provide shareholder communications services to about 250 nominees.

B. Broadridge's compensation from nominees is determined by negotiations with nominees rather than regulated rates

As we discussed above, the amount that an issuer pays a nominee to compensate it for distributing materials to beneficial shareholders is regulated by the NYSE and the SEC.[35] However, the amount that Broadridge charges nominees is not regulated or mandated by the NYSE or SEC but is instead negotiated between Broadridge and nominees.

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31. "New proxy voting competitor tackles ADP over fund ballot expenses," Global Proxy Watch, Vol. VIII, No 43, November 26, 2004.
32. *Id.*
33. Swingvote press release, September 19, 2006.
34. See http://www.swingvote.com/.
35. NYSE Rules 451 and 455 specify the fee schedule for issuer payments to nominees. The American Stock Exchange, NASDAQ and regional exchanges have generally followed the nominee reimbursement fee schedules adopted by the NYSE.

In many cases, Broadridge charges a price that is less than the regulated reimbursement rate. Nominees incur costs related to proxy voting services and, therefore, may negotiate to keep part of the regulated fee as reimbursement for those costs. The portion of the regulated fee retained by nominees is referred to as "cost recovery." Larger nominees keep a greater percentage of the regulated fee, both because they are less costly for Broadridge to serve and because they are better able to negotiate lower prices with Broadridge. Hence, the prices that Broadridge charges nominees are not constrained by regulation but instead are constrained by market forces such as the threat of entry by a rival provider of services to nominee firms or the threat of a nominee firm to perform those services itself.

We understand that in 2007, 241 out of 752 or 32 percent of Broadridge's nominee clients received cost recovery – that is, paid less than the regulated amount for communications services. However, these 32 percent of nominees accounted for 97 percent of the beneficial proxy pieces processed in 2007. Similarly, we understand that, in fiscal year 2009, nominees that received cost recovery accounted for 96.1 percent of the beneficial proxy pieces processed for that year. Hence, Broadridge receives less than the regulated fees for the overwhelming majority of proxy pieces that are currently processed.

On average, cost recovery amounts received by nominees represent a material portion of the total fees paid by issuers. We understand that cost recovery equals 20 percent or more of issuer fees for a substantial number of Broadridge's large nominee clients. The fact that Broadridge often receives less than the regulated fee level for beneficial proxy delivery services demonstrates that Broadridge faces competitive constraints on the prices it can charge nominees.

VII. Comments on "The Shareholder Communications Coalition Proxy Process Reform Plan"

The SCC's proposed "reform plan" has two key economic characteristics: (1) the separation of data aggregation from proxy communications distribution; and (2) a "competitive" bidding process to select a "non-profit" data aggregator.[36] The SCC provides only a brief description of its proposed restructuring of U.S. shareholder communications, so we have not been able to fully evaluate the SCC's plan. However, based on the SCC's description, it is our view that the SCC plan is flawed and economically incoherent.

A. The SCC plan likely will impose costs on shareholders

The SCC proposes that "[t]he current functions of (a) beneficial owner data aggregation, and (b) proxy communications distribution should be separated, providing a public company with the opportunity to select a proxy distribution provider of its own choosing. . . . The prices for proxy distribution and communications services should be established by open competition among service providers handling these functions, based on value to end users, and not through a fee schedule established by regulators."[37]

Currently, Broadridge is a "vertically integrated" provider of the two services the SCC proposes separating. That is, Broadridge both: (1) aggregates beneficial owner data; and (2) uses that data as an input in providing proxy distribution and communications

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36. The SCC plan also contains other recommendations that likely would have substantial economic effects. For example, the SCC states that "[t]he NOBO and OBO classification for beneficial owners should be eliminated" (SCC Draft, p. 5). Shareholders who choose OBO status likely derive value from keeping their ownership of shares confidential (and, as we have discussed, OBOs hold more shares than NOBOs). Some portion of that value likely would be lost if the SCC's recommendation to eliminate the OBO classification were accepted. The SCC claims that eliminating the NOBO/OBO classification would benefit public companies but ignores the costs to shareholders – whether economic or non-economic – of eliminating the OBO classification.
37. SCC Draft, p. 3.

services, including vote collection and tabulation. It is widely recognized by economists that vertical integration generally is efficient. For example, a leading textbook explains: "Most of the reasons that firms choose to vertically integrate have to do with reducing costs or eliminating a market externality. Firms choose the least costly approach: Only if a firm can perform most of the necessary production steps less expensively than if it relied on other firms does it vertically integrate."[38]

Because vertical integration typically is efficient, breaking up a vertically integrated firm likely would increase the total costs of providing the two services. The SCC proposal does not consider the possibility of such cost increases, which likely would ultimately be borne by shareholders. For example, if those higher costs are passed on to issuers, those issuers' shareholders pay the higher costs. If, instead, higher costs are passed on to nominees, the customers of those nominees – that is, shareholders – likely would absorb the extra costs.[39] Furthermore, to the extent that different issuers select different suppliers of proxy distribution and communications services, an individual or institution that owns share in multiple firms likely would be faced with different voting systems (*e.g.*, different on-line platforms) for voting. As we have discussed, Broadridge has created a standardized platform that shareholders can use for corporate voting. The elimination of such a standardized platform could add complexity and reduce voting participation, and the costs of this additional complexity also would be borne by shareholders.

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38. Dennis W. Carlton and Jeffrey M. Perloff, *Modern Industrial Organization* (4th. ed. 2000), pp. 396-7.
39. If the total costs of providing proxy services increased because of the elimination of vertical integration efficiencies, those additional costs would have to be offset either by charging issuers and/or nominees more, or by regulating (*i.e.*, reducing) the profits of the suppliers of aggregation and proxy services. We address the issue of regulating a data aggregator's profits in Section VII.B of this report.

The SCC's proposed "breakup" of Broadridge's business is apparently based on the assumption that the prices Broadridge currently charges for proxy services are inefficiently high. However, the SCC provides no basis for its assumption. As we have discussed, the available evidence shows that the prices Broadridge charges for proxy services compare favorably to the prices paid by registered shareholders for similar services, and the evidence also shows that Broadridge's prices are constrained by market alternatives. In particular, nominees that accounted for over 96 percent of the beneficial proxy pieces processed in recent years paid Broadridge less than the rates in the fee schedule (*i.e.*, those nominees received "cost recovery").

In addition, we have shown that the current system provides Broadridge with the incentive to take costly steps to reduce the number of mailings (*i.e.*, by providing a suppression fee). If those incentives were eliminated or reduced under the SCC's proposal, issuer and nominee costs could increase even if the apparent price of proxy services were to fall.

Because nominees that accounted for over 96 percent of the beneficial proxy pieces processed in recent years received cost recovery, the fee schedule established by regulators may determine the division of proxy services costs between issuers and nominees, but likely has no substantial impact on shareholders. This is because the total fees net of cost recovery that Broadridge receives are determined by private negotiations between Broadridge and nominees and not by regulation. A change in regulated fees may affect total payments made by issuers and the amount of cost recovery received by nominees but there is no reason to believe it will substantially affect negotiations between Broadridge and nominees on the net payment received by Broadridge.

Moreover, any costs incurred by nominees or issuers are ultimately borne, in whole or in part, by shareholders (*i.e.*, shareholders are the owners of issuers and nominees largely pass on their costs to their customers). Thus, a change in regulated fees that affected how communications costs were borne by issuers vs. nominees likely would have a relatively small net effect on shareholders. For example, if a change in regulated fees reduced the net costs of providing communications services for issuers and thus increased the net costs for nominees, shareholders likely would benefit in their role as shareholders (*i.e.*, because of a decline in issuer costs) but likely would be harmed in their role as customers of a nominee (*i.e.*, because of an increase in nominee costs). Because these effects would offset each other, the net effect on shareholders from any change in the fee schedule is likely to be small.

B. The SCC's data aggregator proposal does not make economic sense

The SCC proposes that "[t]he compilation of the beneficial owner lists for shareholder meetings should become a non-profit function, and a fee schedule should be established for access to the beneficial owner lists by the NYSE."[40] The SCC also proposes that a "special NYSE committee should use a competitive bidding process to select and retain the data aggregator. The committee should enter into a contractual agreement with the data aggregator for a recommended term of five (5) years."[41]

The SCC provides no detail about how the "competitive bidding process" would take place, so it is difficult to fully evaluate its proposal. Nevertheless, the SCC's proposal includes three apparently inconsistent goals:

(1). The NYSE should use a competitive bidding process to select the data aggregator.

40. SCC Draft, p. 6.
41. *Id*.

(2). The compilation of the beneficial owner lists should be "non-profit."

(3). A "fee schedule" should be established for access to the beneficial owner list.

A competitive bidding process typically is won by the firm with the lowest costs.[42] But nothing in a competitive bidding process guarantees that the winning firm makes no profits. Furthermore, it is not clear how the established "fee schedule" the SCC proposes would be determined (*e.g.*, before or after a data aggregator is selected?), or how the SCC proposes to guarantee that that fee schedule would generate zero profits for the selected data aggregator.

Furthermore, it is not clear why any firm would be interested in bidding in an auction to win a contract in which profits are zero. Also, the SCC fails to explain what incentives, if any, the winning bidder would have to make investments that lower costs in the future. We have explained that Broadridge has generated enormous savings for issuers and nominees by designing, building and maintaining costly processes and systems that reduce printing and postage costs, including changes required by regulatory changes (*e.g.*, the Notice and Access rules). Without incentives to create and maintain these processes, costs would be higher than they would be otherwise. But offering such incentives would presumably violate the "no profit" condition.

Finally, the SCC proposal fails to explain why any firm could be expected to successfully compete against the incumbent data aggregator. For example, if the SCC proposal were adopted and a firm were selected as the data aggregator, that firm would

42. The NYSE may choose to require bidders to "qualify" based on regulatory standards (*e.g.*, to meet minimum technical or financial thresholds). Such a qualification process could be involved and impose substantial costs on potential bidders, and bids by those firms likely would reflect such costs.

presumably have to incur fixed costs to create databases and processes to aggregate information (as well as variable costs to manage the databases and processes). Once those fixed costs were incurred, that firm likely would have a substantial cost advantage over other bidders in future auctions to be the data aggregator (*e.g.*, every five years).