

19 September 2007

**Via Email:** [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

**Via U.S. Postal Service**

Ms. Nancy Morris, Secretary  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549-1090

**Re: File Numbers S7-16-07 and S7-17-07**

Dear Secretary Morris:

We are writing to comment on the U.S. Securities and Exchange Commission's (SEC) proposed rules regarding shareholder resolutions related to the election of directors. We are also providing comments on the open-ended questions posed by the SEC regarding the filing of non-binding resolutions under Rule 14a-8.

FairPensions is a UK-based non-governmental organisation that promotes responsible and engaged investing and advises European pension funds and fund managers on implementing responsible investment. To date, we have worked with over \$1.6 trillion in European pension fund assets to increase transparency and active shareholder engagement. We are in regular dialogues with a further \$14 trillion of European investment capital and have received a very clear indication from these global investors that the proposed rules represent a grave threat to the reputation of US equities and the appropriate realization of investment returns. It is clear that global investors see shareholder resolutions as a vital method for raising and addressing concerns with US corporations, and would see any proposals that undermined this shareholder right to be wholly negative. **The United States has historically been seen as the premier destination of global investment capital but these proposals, coupled with the backdrop of a persistently depreciating dollar, are leading many investors to reconsider this view and their weighting of US investment assets.**

**We therefore urgently request that the SEC reject both proposed rules in their current form and not make any changes to shareholders' rights to file non-binding resolutions.**

Last year, the federal courts made it clear that, under the SEC's current rules, investors have the right to raise through the shareholder resolution process the issue of shareholder-nominated board candidates being included on the company's proxy solicitation.

As a result, this year, the proxy access issue came to a vote at Hewlett-Packard and UnitedHealth. At both companies, these resolutions received extraordinarily high levels of support. These developments constitute an improvement in our corporate governance system. There is no evidence

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that the return of the proxy access issue to the shareholder resolution system has harmed investors, companies or the markets.

Nonetheless, the first SEC proposal would flatly roll back investor rights in this area. The second proposal would place restrictions on shareholders' exercise of those rights that would effectively make those rights a dead letter. Moreover, the second proposal does further injury to investors by raising the possibility of various dramatic rollbacks of shareholder rights to bring resolutions in general.

With the recent corporate scandals, including backdating of management stock options and unjustified executive pay awards, there clearly remain serious deficiencies in the board oversight of corporate management. By proposing to limit the right of shareholders to hold boards accountable through director elections with its proposed rules, the SEC will erode investor confidence in "fair, orderly, and efficient markets" in direct contradiction to its stated mission.

Finally, with the announced departure of Commissioner Roel Campos and other potential changes at the Commission, the SEC should defer action on these far-reaching proposed rules until a full complement of Commissioners is able to give any proposed changes its full attention.

In our opinion, the SEC should withdraw both of its proposed rules and instead allow shareholders to continue to road test the new opportunities available as a result of the AIG decision. Moreover, we see no need for the SEC to make any changes in Rule 14a-8 and would oppose any changes in the rules regarding non-binding resolutions.

Yours sincerely,

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