Ms. Vanessa A. Countryman
Secretary
Securities & Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: S7-22-19 Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice

December 9, 2019

Via Email: rule-comments@sec.gov

Dear Ms. Countryman:

I started my career with the New York City Fire Department in 1973, after I returned from serving in the U.S. Army in the Vietnam War. I spent 28 years with the department, retiring with the rank of captain. I was president of the Uniformed Fire Officers Association and served as vice president of the New York State AFL-CIO Board.

Also part of my duties was serving as vice chairman of the New York City Fire Pension Fund. When I joined the board, the fund's assets were $1 billion; today, they total more than $15 billion.

Two days ago, I read an article that showed very clearly why so many of us are so concerned about the direction of public-employee pension funds today. The article, in the publication *Chief Investment Officer*, said that the California Public Employees' Retirement System (CalPERS), the largest in the nation, had "terminated most of its external equity managers, slashing their allocation to $5.5 billion from $33.6 billion."

The article was based on a memo that said that the managers were underperforming their benchmarks. That is no surprise, but I am not sure the managers are to blame. CalPERS has received a lot of attention as a fund that follows ESG (environmental, social, and corporate governance) investing policies, and *this* is a major reason that the returns of the public equity portion of its portfolio have been poor. For the fiscal year ending June 30, returns were just 6.1%, compared with 8.2% for Standard & Poor's 500 Stock Index, according to the Wall Street Journal. So maybe CalPERS, which is only 70% funded, has decided to focus more on getting the best returns for its members and abandoning other distracting, ideological criteria for investments. That would be a surprise, but a good one.

The story about CalPERS relates to the comments I want to make. First, I want to thank the Commission for the stand it has taken on the rules that should govern proxy advisory firms. These firms – the two largest in particular – have become very powerful in recent years, thanks mainly to unintended consequences of decisions the SEC made many years ago. Proxy advisors are paid to give advice to public-employee and other funds. But these advisors are also among the strongest advocates of ESG. I believe that individual investors can certainly decide to put their own money into stocks and mutual funds that subscribe to whatever principles they admire: religious, environmental, social, or any principle. But the board of a pension fund, which handles billions of dollars for thousands of members, should have one objective alone – getting the highest financial returns, adjusted for risk. ESG is a diversion.

Ending this diversion will require work, but the SEC took the first big step when the Commission clarified that the voting advice given by proxy advisors constitutes a "solicitation" under federal rules. This means that proxy advisors are subject to anti-fraud rules concerning statements that are materially false and misleading and that they will be held to account.

On November 5, Chairman Clayton made an excellent statement, where he summarized comments to the Commission. "Last fall," he said, "following initiatives that go back decades, SEC staff hosted a roundtable that brought together investors, issuers and other market participants who raised many issues in this area. While I heard a wide range of views, it was clear to me that three was significant interest in modernizing the proxy process…As a result of the roundtable, we received almost 300 unique comment letters [I coauthored one of those] and helpful suggestions to improve our proxy voting system. Some of the letters that struck me came from long-term Main Street investors." I am heartened by Chairman Clayton's words here.

Nearly a year ago, my friend Kevin O'Connor and I co-authored a commentary in Investor's Business Daily. "Proxy advisors," we wrote, "are using their leverage to promote their own views on such issues as the environment." I would like the Commission to make it crystal-clear that proxy advisors cannot act in this way – and that pension funds themselves have an obligation to make sure that they do not engage proxy firms that promote those firms' own ESG ideology over the simple, but critical enhancement of shareholder value.

We ended our article this way:

"Americans want a sound retirement. It's time for federal regulators to recognize that simple fact and rein in the proxy advisors. And it's time for pension boards to recognize their fiduciary responsibility and leave ESG to individual investors."

Again, I congratulate the Commission for moving down the right path. I know the SEC has been subject to criticism by activists and others for standing behind small investors like the firefighters in our pension fund. Please do not be swayed. Stick to your principles and help millions of retirees and future retirees. I encourage the SEC to finalize its new proposed rule to update is oversight over proxy advisory firms.

Sincerely,

Richard D. Brower
Former Vice Chairman

New York City Fire Pension Funds