

ProxyVote Plus, LLC



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Jan. 3, 2020

Office of Management and Budget
Attention: Desk Officer for the
U.S. Securities and Exchange Commission
Office of Information and Regulatory Affairs
Washington, DC 20503

RE: Regulation 14A (Commission Rules 14a-1 through 14a-21
and Schedule 14A) (OMB Control No. 3235-0059)

I am writing on behalf of ProxyVote Plus, LLC (“ProxyVote”), a company that has been identified as one of the five proxy voting advice businesses that will be subject to the U.S. Securities and Exchange Commission’s (the SEC) proposed rule titled “Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice” [Release No. 34-87457; File No. S7-22-19] (the “Proposed Rulemaking”). ProxyVote is a small business that provides proxy voting services as an independent fiduciary to our company’s clients.

The Proposed Rulemaking requests comments on the number of proxy voting advice businesses that would be small entities subject to the proposed amendments. Proposed Rulemaking at p. 132. It then proceeds to state: “We do not believe that establishing different compliance or reporting requirements for small entities in connection with our proposed amendments would accomplish the objectives of this rulemaking or minimize significant adverse impacts on small entities.” Proposed Rulemaking at p. 133. Clearly, the SEC intends to impose the proposed amendments on ProxyVote regardless of the fundamentally different nature of the fiduciary services we provide our clients, as well as the significant and unjustified burden it will impose on our clients and the lack of any benefit to them.

As described below, the Proposed Rulemaking has not complied with the requirements of the Paperwork Reduction Act of 1995. We respectfully request that the Office of Information and Regulatory Affairs disapprove the proposed information collection requirements for failure to comply with the requirements of the Paperwork Reduction Act. This failure will result in significant increases in costs that ProxyVote will incur; an increase in client fees that we may unfortunately be forced to implement; and, ironically, may compel us to seek a sale to one of the dominant firms in the field.

According to the U.S. Department of Labor, the voting of proxies is a fiduciary act of managing an Employee Retirement Income Security Act (“ERISA”) plan’s assets (Interpretive Bulletin 2016-01, 29 CFR Part 2509). Under ERISA, proxy voting authority can be delegated to a plan’s investment adviser or it can be retained by a plan. We are a registered investment adviser under the Investment Company Act of 1940. The overwhelming majority of our company’s clients are pension plans that are subject to ERISA. All have delegated proxy voting authority to us. We have no investment advisers as clients.

As an ERISA fiduciary, ProxyVote casts votes on behalf of approximately 135 clients. Many of our clients have utilized our services since our formation in 2002 and the majority of our clients have relied on our services for over ten years. We are proud of the fact that we have not sought fee increases from our clients because we recognize the extraordinary pressures faced by these Taft-Hartley pension plans as they seek to protect the retirement income of tens of thousands of retired working men and women. If faced with the Proposed Rulemaking's enormous paperwork burden imposed on our small company, we may have little choice other than to increase fees or seek to sell our business. We believe this will have a very negative effect on our clients as well as their participants and beneficiaries.

The Proposed Rulemaking estimates that the time burden increase for each proxy voting advice business would total 1,000 hours in the first year and 250 hours in each of the following years for a three-year average of 500 burden hours (p. 123, PRA Table 1). The Proposed Rulemaking assumes that large and small proxy voting advice businesses equally incur 1,000 hours of paperwork in the first year. The Proposed Rulemaking also estimates that one-fourth of this 1,000 hours will be for outside counsel at a rate of \$400 (ProxyVote's actual outside legal fees are approximately \$650 per hour).

We believe the Proposed Rulemaking significantly understates the actual burden imposed on ProxyVote and thus the actual costs we will incur. Further, it also in our opinion inaccurately equates all "proxy voting advice businesses" as well as the costs and burdens they will incur. Due to our small size and business model, ProxyVote is fundamentally different from the majority of the "proxy voting advice businesses" that the Proposed Rulemaking seeks to regulate. The Proposed Rulemaking notes these differences on page 112, but fails to account for them in its Paperwork Reduction Act analysis:

"Additionally, it is possible that given certain industry practices, the increase in costs could affect proxy voting advice businesses differently. For example, we understand that the two largest proxy voting advice businesses, ISS and Glass Lewis, have processes in place for disclosing certain aspects of their analysis to certain registrants prior to making a recommendation to clients. It is possible that the costs associated with the proposed amendments could affect certain other proxy voting advice businesses more significantly than ISS and Glass Lewis."

Note 261 of the Proposed Rulemaking cites a letter from Egan-Jones, the third largest proxy advisory firm, for the proposition that "the costs associated with the review and feedback process would not disproportionately affect certain proxy voting advice businesses." Proposed Rulemaking at p. 112. This assumption is inaccurate for small businesses such as ours that do not have any registrant review procedures or processes in place. Unlike ISS, Glass Lewis and Egan-Jones, the first-year costs will be dramatically higher for our small company to create new systems to permit registrants to review and provide feedback on the proxy votes we cast on behalf of our clients.

The disproportionate regulatory burden on our firm is magnified by the fact that our companies' business model is substantially different from ISS, Glass Lewis and Egan-Jones. Each of these three firms issue research reports that recommend how to vote proxies. In contrast, ProxyVote does not issue research reports or recommendations to our clients in advance of shareholder meetings. Rather, ProxyVote casts votes as an ERISA fiduciary on behalf of our clients. Our clients receive a detailed written report on all proxy votes that we cast on their behalf after the shareholder meetings have taken place. Because the Proposed Rulemaking explicitly contemplates that it will apply to our company, our business model may well need to change dramatically. To comply with the Proposed Rulemaking, our company may need to create a new registrant-specific report for each registrant to review prior to casting proxy votes on behalf of our clients.

Moreover, the Proposed Rulemaking underestimates the burden that proxy voting advice businesses will have in reviewing and responding to registrant communications. The Proposed Rulemaking mistakenly assumes that only one-third of the 5,690 registrants that filed proxy statements during the 2018 calendar year will be subject to proxy voting advice. Proposed Rulemaking at p. 124, note b. Our company's clients require that we vote all of their holdings, not one-third of their holdings. Accordingly, the appropriate number of registrants that should be subject to the Proposed Rulemaking's estimates should be 5,690 registrants, not 1,897 registrants. Under the Proposed Rulemaking, each of these registrants will be given the opportunity to review our proxy votes, provide comments to us, and then review our proxy votes a second time. This is a significant, non-trivial expense for any company, let alone a small business such as ProxyVote.

The Paperwork Reduction Act requires that government agencies certify that they have made efforts to reduce the burden of information collection on small businesses. As discussed above, the Proposed Rulemaking dramatically underestimates the burden on small proxy voting businesses such as ProxyVote by assuming that large and small proxy voting advice businesses will have identical burdens. The Proposed Rulemaking compounds this error by disregarding how much time registrants will spend communicating with proxy voting advice businesses.

Accordingly, we respectfully request that the Office of Information and Regulatory Affairs disapprove the proposed information collection requirements for failure to comply with the requirements of the Paperwork Reduction Act. If I can be of further assistance, please contact me at [REDACTED].

Sincerely,



Craig Rosenberg, Pres.
ProxyVote Plus, LLC

CC: Vanessa A. Countryman, Secretary
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RE: File No. S7-22-19