OFFICE OF THE ILLINOIS STATE TREASURER
MICHAEL W. FRERICHS

January 16, 2020

The Honorable Jay Clayton, Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

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

S7-23-19 Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8

Dear Chairman Clayton,

I am writing to voice my opposition to the proposals titled "Amendments to Exemptions from the Proxy Voting Rules for Proxy Voting Advice" and "Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8" and to request an extension of the comment period from 60 to 120 days for both.

As the Treasurer of the State of Illinois, I am responsible for safeguarding and prudently investing $30 billion on behalf of taxpayers, college savers, and units of local government. To effectively execute my fiduciary duties as State Treasurer, my office routinely votes on proxy ballot items and is an active proponent of shareholder resolutions designed to serve the mutual interests of shareowners and corporate managers. These activities are critical in our endeavor to provide the highest level of service, stewardship, and financial value to our beneficiaries and participants.

As the SEC has long-recognized, proxy voting and shareholder resolutions constitute critically important investor protections, providing a cost-effective, voluntary, market-based way to maintain a system of accountability among shareholders, corporate managers, and boards. Not only do these activities help protect investors, they help maintain fairness, order and efficiency

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in critically important corporate governance matters, and they facilitate capital formation by enhancing corporate managerial accountability and company performance.[1, 2]

The two proposals in question, which will impair investors' ability to cast informed proxy votes and submit shareholder proposals, will undoubtedly weaken investor protections that have proven indispensable in strengthening corporate governance, improving business performance, and protecting shareholder value. Strong corporate governance policies at U.S. publicly traded companies attract investment dollars. As such, should the two proposals be enacted, the SEC will inadvertently undermine a well-established system of value creation for shareholders, companies and the U.S. equity market.

First, regarding the new regulatory impositions on proxy advisors, the proposed changes represent an unnecessary and unprecedented intrusion on the relationship between investors and their advisors. Proxy advisors serve at the behest of investors, not issuers, providing a timely, cost-effective service that helps inform investors on the multitude of proxy ballot items that require votes every year. In 2018 alone, my office voted on 13,633 individual ballot items at 1,446 shareholder meetings. And in the interests of transparency, all our proxy voting decisions are posted online for our beneficiaries and portfolio companies to review.[3]

The proposed mandate requiring proxy advisors to share their reports with companies before investor clients would jeopardize the independence and integrity of proxy advice. There is no evidence that the majority of investors support or want proxy advice to be subject to a company review, and the claim that proxy advice is rife with errors is based on scant and flimsy evidence. In fact, studies suggest that errors in proxy advice are extremely rare, estimated at 0.1% or less.[4] Accordingly, the proposed mandate would create problematic and unnecessary regulatory burdens that would jeopardize the reliability, timeliness, and cost-effectiveness of proxy advisory services.

At a minimum, if the SEC moves forward with this rule, the SEC should require shareholder-proponents likewise have an opportunity to review proxy advisory research prior to publication, and proxy advisors should similarly be required to hyperlink to shareholder-proponent's response to the voting advice. To lock shareholder-proponents out of any review process would be a clear indication that the SEC is not prioritizing investor interests.

Second, I strongly oppose the proposed changes to the shareholder proposal process, which represent a direct attack on the rights of shareholders. The shareholder proposal process, as currently structured and administered under SEC Rule 14a-8, provides an orderly and cost-effective means for investors to communicate with companies on risks and opportunities that are of material interest. It allows investors to signal issues of concern in the interest of

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[1] Tamas Barko, Martijn Cremers, Luc Renneboog, "Shareholder Engagement on Environmental, Social and Governance Performance," European Corporate Governance Institute, September 5, 2018. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2977219.

[2] Elroy Dimson, Oguzhan Karakas, Xi Li, "Active Ownership," June 4, 2013. http://www.hbs.edu/faculty/conferences/2013-sustainability-and-corporation/Documents/Active_Ownership_-_Dimson_Karakas_Li_v131_complete.pdf?pwm=6295.

[3] Illinois State Treasurer's Office, Proxy Voting Dashboard, available at https://vds.issgovernance.com/vds/#/NzkwOA==/.

[4] American Council for Capital Formation, "Are Proxy Advisors Really a Problem?," October 2018, available at https://accfcorpgov.org/wp-content/uploads/2018/10/ACCF_ProxyProblemReport_FINAL.pdf.

enhancing long-term company value, and it provides a framework for companies to respond to owners with information about its strategy, governance, and risk management approaches.

The proposed mandate would undermine this process, stifle constructive dialogue on critically important governance topics, and disenfranchise main street investors with fewer assets.

Of particular concern is the provision to raise the resubmission threshold for shareholder proposals. This would effectively reduce access to a process that has proven its value time and time again. Over the years, shareholders' ability to submit proposals under Rule 14a-8 has provided companies with free guidance on which governance, environmental and social factors raise investor concern. Furthermore, it can take years for shareholder proposals to build support. Investors need to be educated on evolving factors that drive performance and they need time to incorporate new items into the proxy voting policies that guide vote decisions. Particularly at companies with dual class stock, the proposed changes will stifle consideration of important shareholder proposals that predictably cannot achieve high levels of support in their initial debut.

In addition, the stockholding requirement of one year to file a shareholder proposal is appropriate and should not be changed. Turnover of equity portfolios has increased notably in recent years, and even passive investors experience significant turnover in their equity index portfolios.

It is also imperative that the stockholding requirement of $2,000 in shares be maintained, or at most, adjusted for inflation. Good ideas are not limited to those with large holdings. Small investors have long been a viable source of value-creating shareholder proposals, and their right to have a voice should not be rescinded.

The SEC should extend the same courtesy it provides to companies to shareholder-proponents. Any scheduling requirements for shareholder-proponents should also apply to corporate representatives. We would welcome a rule that required companies, particularly board members, meet with shareholder-proponents.

Finally, we do not welcome any regulations on the allocations of duties between our staff and external consultants. We find the attestations requirements in the proposed rules onerous and redundant. We find it unnecessary for the SEC to intervene in our dealings with any representative. Any representative who acted on a client's behalf without their consent would have a very short life in the profession.

To reiterate, I respectfully request that the SEC not move forward with the proposed rules on proxy voting advice and shareholder proposals.

I also request that the SEC extend the comment period from 60 to 120 days to provide my office and other stakeholders with the time necessary to fully analyze and provide additional comments on these interrelated rulemakings. A 60-day comment period is not sufficient, especially given that the SEC is attempting to mandate these far-reaching changes without any public comment or economic analysis and during the height of the holiday season.

Thank you for your time and attention, and please do not hesitate to contact me with any questions.

Sincerely,

Michael W. Frerichs
Illinois State Treasurer

cc: The Honorable Robert J. Jackson, Jr., Commissioner
The Honorable Allison Herren Lee, Commissioner
The Honorable Hester M. Peirce, Commissioner
The Honorable Elad L. Reisman, Commissioner
Vanessa A. Countryman, Secretary