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## Via e-mail submission

January 22, 2020

The Hon. Jay Clayton, Esq.  
Chairman  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: Release No. 34-87457; File No. S7-22-19; Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice

Dear Chairman Clayton:

I appreciate this opportunity to offer the following thoughts on the Commission's Proposed Rule of November 5, 2019.<sup>1</sup> My comments are formed from my experience serving as a board member on public, private equity, and venture capital boards. My previous public writings can be found here:  
<http://www.allmediaventures.com/web/thought-leadership/>.

Generally speaking, independent and supervised governing institutions are preferable to heavy governmental control. This model has largely worked for such institutions as the Financial Industry Regulatory Authority (FINRA) and the Public Company Accounting Oversight Board (PCAOB). FINRA is a private corporation acting as a self-regulatory organization. PCAOB is a private, non-profit corporation tasked with overseeing accountants who provide independent audit reports for publicly traded companies. As you know, when Congress created PCAOB, "it gave the SEC the authority to oversee the PCAOB's operations, to appoint or remove members, to approve the PCAOB's budget and rules, and to entertain appeals of PCAOB inspection reports and disciplinary actions."<sup>2</sup>

When two firms (Institutional Shareholder Services (ISS) and Glass Lewis) control more than 95 percent of the proxy advisor business, one must be especially attentive. In this light, additional supervisory oversight from the SEC is not only warranted, but also in accordance with similar professional services within the financial sector. Proxy advisory firms should be no different. I agree enthusiastically with the *Wall Street Journal's* editorial board when it wrote, "Credit to the SEC for taking on this politically potent and self-serving duopoly."<sup>3</sup>

The SEC should be applauded in particular for taking on these proxy advisors in two areas that are rife with potential conflict and self-dealing. The first area is robo-voting. As a matter of principle, delegation of decision making from funds to ISS and Glass Lewis via "pre-population"

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<sup>1</sup> Securities and Exchange Commission, Proposed Rule: Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice, File Number S7-22-19, <https://www.sec.gov/rules/proposed/2019/34-87457.pdf>.

<sup>2</sup> Securities and Exchange Commission, Public Company Accounting Oversight Board (PCAOB), <https://www.sec.gov/fast-answers/answerspcaobhtm.html>.

<sup>3</sup> Editorial Board, The Wall Street Journal, "The Proxy Protection Racket", November 10, 2019, <https://www.wsj.com/articles/the-proxy-protection-racket-11573417818>.

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is not appropriate for a fiduciary fund. The American Council for Capital Formation (ACCF) highlights how this robo-voting affects large institutional fund voting patterns.<sup>4</sup> What is more, robo-voting is a dangerous practice in our era of massive online fraud. If federal elections can be tampered with, important votes on corporate policy are certainly within reach. In addition, robo-voting reduces oversight and involvement of investment funds in their investments. In sum, I suggest that the “pre-population” option be disabled as outlined in the Proposed Rule.

The second area is so-called specialty reports (i.e., “benchmark policies”). These reports provide specific investors with voting advice, yet they are not suitable to all investors. This is problematic. I would call your attention to question 33 in the Proposed Rule, which states, “Is there a need for a method for distinguishing voting advice formulated under a proxy voting advice business’s benchmark or specialty policy from advice formulated under a client’s custom policy?”<sup>5</sup> In my view, any work done for a specific investor on a specific company needs to be identified.

Thank you, Chairman Clayton, for the work you and your fellow Commissioners have done to prepare these amendments, which are necessary modifications that will ensure proxy advisor firms are more accountable and transparent. It has been 86 years since the Securities Exchange Act was first passed. The time is now to establish more careful supervision of these two items above.

Sincerely,



Allan I. Grafman  
President and CEO  
All Media Ventures

Cc: Ms. Vanessa A. Countryman, Secretary  
The Hon. Robert J. Jackson, Jr., Commissioner  
The Hon. Hester M Peirce, Commissioner  
The Hon. Elad L. Roisman, Commissioner  
The Hon. Allison Herren Lee, Commissioner

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<sup>4</sup> Timothy Doyle of ACCF writes, “The alignment around...progressivism shows in the data – in 2017, when Glass Lewis made a recommendation on diversity proposals (e.g. adopting/amending a Board Diversity Policy, approving/amending a diversity or EEO policy, or creating a Board Diversity Report), BlackRock and Vanguard voted in alignment with the proxy advisor well over 90 percent of the time”, *The Conflicted Role of Proxy Advisors*, American Council for Capital Formation, 2018, pg. 20, [https://accfcorgov.org/wp-content/uploads/2018/05/ACCF\\_The-Conflicted-Role-of-Proxy-Advisors.pdf](https://accfcorgov.org/wp-content/uploads/2018/05/ACCF_The-Conflicted-Role-of-Proxy-Advisors.pdf).

<sup>5</sup> Securities and Exchange Commission, Proposed Rule: Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice, File Number S7-22-19, pg. 63, <https://www.sec.gov/rules/proposed/2019/34-87457.pdf>.