



Pension Investment
Association of Canada

Association canadienne des
gestionnaires de caisses de retraite

January 23, 2020

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20540-1090

Via email: rule-comments@sec.gov

Re: File No. S7-22-19

Dear Secretary Countryman:

We are writing to provide input to the U.S. Securities and Exchange Commission (“SEC”) on the proposed Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice (the “Proposed Rules”).

PIAC has been the national voice for Canadian private and public pension funds since 1977 in matters related to pension investment and governance. Senior investment professionals employed by PIAC’s member funds are responsible for the oversight and management of over \$2 trillion in assets on behalf of millions of Canadians. PIAC’s mission is to promote sound investment practices and good governance for the benefit of pension plan sponsors and beneficiaries. PIAC’s positions on public policy reflect the fiduciary framework in which member funds operate and its commitment to work in the best interests of plan members.

Exercising voting rights to ensure effective governance of the companies we hold shares of is an integral part of our investment processes and necessary to fulfilling our fiduciary duties to our plan members. Because PIAC members often hold hundreds or even thousands of different equities, the services of proxy advisors are vital in enabling them to carry out these tasks. Given the important service proxy advisors provide investors, we appreciate the opportunity to comment on the SEC’s Proposed Rules.

Disclosures of Conflicts

It is useful for PIAC members to understand potential conflicts relating to proxy advice that they receive. For that reason, we agree that it is beneficial to receive disclosure of relationships, transactions, or other interests that might result in a conflict between the interests of a proxy advisor and those of shareholders. However, we have found the disclosures already provided to be adequate and have not encountered significant conflict of interest problems with proxy advisors, so do not believe that specific rulemaking is necessary to address disclosures of conflicts by proxy advisors.

Review of and Response to Proxy Voting Advice by Registrants and Other Soliciting Persons

There are several reasons why we believe it is unnecessary and indeed undesirable to allow for the degree of issuer participation in the recommendations of proxy voting advisors as contemplated by the Proposed Rules.

One of the primary reasons proxy advisors are used is to provide an analysis of shareholder votes independent from the opinions of issuers' management, which are inherently biased. Issuers already provide their views via proxy statements and other communications from management that are easily accessible should they be needed. Giving companies the opportunity for additional participation in the recommendations of proxy advisors would detract from, rather than contribute to, the objectivity of those recommendations.

The ability of investment analysts to exercise professional independent judgment is a critical principle of the investment community. Investment analysts are not required to provide opportunities for issuers to review and respond to their recommendations to buy, sell, or hold a security because to do so would directly violate an analyst's independence. We believe this principle holds for proxy advisors as much as it does for other advisors in the investment industry and that adopting the Proposed Rules would seriously infringe upon that independence.

Additionally, like most users of proxy voting advice PIAC members are sophisticated institutional investors who make their own assessments of the utility of proxy recommendations and do not necessarily follow the advice provided. It is our responsibility, acting in the best interests of our pension plan members, to hold proxy advisors accountable for the recommendations we pay them for. Therefore, it is incumbent upon us, rather than issuers, to provide feedback to proxy advisors regarding the quality of their recommendations. Any opportunity given to issuers to provide feedback should be tightly constrained and limited to correcting factual errors rather than to allow for review of and responses to recommendations generally.

Another consideration is that PIAC members often receive custom recommendations based on instructions given to proxy advisors that reflect an individual pension plan's

unique circumstances and expectations of issuers. If it is required that companies be allowed to review these custom recommendations, companies would essentially be reviewing and potentially providing input to investors' own proxy voting requirements, which would be extremely inappropriate. PIAC members have the right to make their own voting determinations and to keep their voting intentions private if they desire. Currently, investors are not forced to allow issuers to provide feedback on their voting intentions directly, and should not be forced to do so indirectly either, as would be the result of the Proposed Rules.

The Proposed Rules would give two opportunities for issuers to review and respond to the recommendations of proxy advisors. This would lengthen the amount of time taken to finalize recommendations, consequently reducing the amount of time available to analyze and decide how to exercise votes. Reducing the time available to investors to conduct an analysis of ballot items would negatively impact their ability to effectively apply their rights as shareholders.

We strongly oppose providing issuers with opportunities for additional involvement in the recommendations of proxy advisors. However, if they are given this opportunity it would also be important for proxy advisors to include in their recommendations a statement of what, if any, changes were made to their reports and recommendations that were the result of issuer input. Knowing this would be very relevant to our assessments of the independence of recommendations.

Proposed Amendments to Rule 14a-9

We agree that proxy advisors should disclose material information relating to their methodology, sources of information, and conflicts of interest, but are satisfied with the disclosures currently provided and do not believe specific regulation is required on this point. The Proposed Rules would also require proxy advisors to specify when their recommendations are based on their own policies rather than noncompliance with SEC rules. Proxy advisors are paid to make recommendations based on governance best practices rather than legal or regulatory minimums and PIAC members expect the standards of proxy advisors to exceed those minimums. Any noncompliance with SEC rules should be a matter for SEC enforcement rather than a shareholder vote. It does not appear from our perspective that there is confusion as to whether proxy advisors are making recommendations based on legal non-compliance. As such, we do not believe such disclosure is necessary.

Conclusion

Proxy voting advice businesses play a vital role in enabling PIAC members to exercise their voting rights as shareholders. We agree that recommendations from these businesses should be accurate, transparent, and complete, but we have not identified any systemic problems that would suggest new regulation is needed. Increased regulation and complexity in the process required for proxy advisors to make their

recommendations will lead to increased costs, which in turn will be borne by us as clients of proxy voting advice businesses and ultimately by the individual members of our pension plans. We do not believe the Proposed Rules would result in a sufficiently significant improvement to investor protection that would justify these increased costs. Rather, the Proposed Rules may have the effect of diminishing our confidence in the services we receive from proxy advisors and could hinder our ability to efficiently and prudently exercise our votes.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'S. Fréchet', with a long horizontal stroke extending to the left.

Simon Fréchet
Chair