



January 29, 2020

Filed Electronically

Vanessa A. Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice – File No. S7-22-19

Dear Ms. Countryman:

T. Rowe Price appreciates the opportunity to provide feedback on the SEC's proposed amendments to exemptions from the proxy rules for proxy voting advice ("**Proposal**").¹ As both an institutional client of a major proxy advisory firm and a corporate issuer covered by proxy advisory firm research and recommendations, T. Rowe Price is uniquely situated on both sides of the contentious debates around proxy advisory firm regulation.² From our perspective as a public company, we can understand the frustration that management may have when a proxy advisory firm recommends a vote against it. Despite that sympathy, we cannot support the Proposal because from both our perspectives, we find it to be unnecessary and have significant concerns with its potential to do more harm than good to the proxy voting and engagement process. More specifically, for the reasons explained below, we strongly oppose the proposed issuer review periods. They are unworkable within the current time constraints of the intensely seasonal proxy voting cycle, likely to compromise the independence of proxy research, and have the very real potential to diminish the time needed for registered investment advisers to fulfill essential fiduciary obligations related to proxy voting as clarified by recent Commission guidance.

I. The Proposal is Unnecessary and Unlikely to Achieve its Intended Objectives

We join others in noting that the Proposal appears to be a solution in search of a problem. Its stated objective is to improve the accuracy, transparency and completeness of proxy advice, yet it does not identify a single verified instance of inaccurate or incomplete information being provided to investors by proxy advisory firms.³ It is our informed belief, based on years of experience working with proxy advisory firms as both an issuer and an institutional investor, that proxy advisors do not need oversight by issuers in order to provide accurate research reports. The Commission should base its rulemaking on clear evidence of the existence or likelihood of a market failure, and not solely on the concerns expressed by some market participants. The Commission should also carefully consider that it is not the investor clients of proxy advisory firms calling for reform, but the corporate issuers who are held accountable to shareholders through the proxy voting process.⁴

¹ *Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice*, SEC Rel. No. 34-87457 (Nov. 5, 2019), 84 FR 66518 (Dec. 4, 2019), available at <https://www.govinfo.gov/content/pkg/FR-2019-12-04/pdf/2019-24475.pdf>.

² T. Rowe Price has previously commented on needed regulatory reforms related to proxy voting in connection with the 2018 SEC Roundtable on the Proxy Process; See Letter from Donna F. Anderson, Head of Corporate Governance & Eric Veiel, Co-Head of Global Equity, T. Rowe Price (Dec. 13, 2018), available at <https://www.sec.gov/comments/4-725/4725-4792350-176928.pdf>.

³ Table 2, titled "Registrant Concerns Identified in Additional Definitive Proxy Materials" classifies factual and analytical errors identified by registrants from 2016 to 2018. The SEC does not appear to have verified the accuracy of these concerns or taken steps to confirm the existence of the so-called errors. Proposal, at 66546.

⁴ See also speech by Rick Fleming, SEC Investor Advocate, on Important Issues for Investors in 2019 (Apr. 8, 2019), available at <https://www.sec.gov/news/speech/fleming-important-issues-investors-2019>.

We believe that, rather than meeting the Commission's stated objectives, the Proposal will effectively provide companies with a mechanism to influence proxy advisory firms' voting recommendations. The Proposal would grant public companies the right to review proxy advisory firm research and recommendations before they can be shared with investor clients of proxy advisory firms, for the express purpose of ensuring the accuracy of proxy reports. Notwithstanding the absence of data showing a prevalence of factual errors to support this type of regulatory solution, we find three flaws in this approach.

First, the Proposal assumes that companies will review proxy reports in order to identify and communicate the existence of factual errors to proxy advisory firms, but there is no requirement for them to do so. It is not clear, and the Proposal does not indicate, how many companies the Commission expects would take advantage of the ability to review proxy recommendations, but evidence suggests that the number would be shockingly low. According to a 2019 survey of public company experiences with proxy advisory firms, of 172 companies surveyed, only 17% (29 companies) requested that proxy advisory firms provide them with a preview of vote recommendations.⁵

Second, because companies would be under no obligation to review proxy reports for factual errors or to communicate the existence of errors to proxy advisory firms, they could utilize the review period solely to attempt to influence recommendations to vote against management before they can be communicated to investors. The Proposal notes that companies may use the review and feedback period to rectify "methodological weaknesses in proxy voting advice businesses' analysis" that "could affect voting outcomes." In our view, the standardized methodologies (e.g., peer groups) developed by proxy advisory firms allow for fair and transparent assessment of companies' practices. We value the methodological approaches developed by our proxy advisory firm and are concerned that permitting companies to attack these methodologies under the pretext of correcting analytical errors will undermine the independence of the advice we receive. As consumers of proxy research, we believe it is our responsibility to review and assess the methodologies that form the basis for that research.

Third, we note the stark contrast in principle that the Proposal's approach would have to current rules in place for sell-side research, which specifically aim to prevent issuers from influencing investment research. For example, FINRA Rule 2241 requires broker-dealers to adopt and maintain written policies and procedures "reasonably designed to promote objective and reliable research that reflects the truly held opinions of research analysts and to prevent the use of research reports or research analysts to manipulate or condition the market or favor the interests of the member or a current or prospective customer or class of customers."⁶ The existing rules prohibit precisely the type of prepublication review of investment research that the Proposal would mandate for proxy research, and we must remind the Commission of the scandals involving conflicted research reports that necessitated FINRA Rule 2241 in the first place. We fail to see why the independence of sell-side recommendations should be afforded greater protection than the independence of proxy recommendations.

Given the lack of empirical evidence of widespread market abuse or failure, the low interest shown by public companies to review proxy research for factual accuracy, and the potential for companies to use the review process in a way that could influence valuable independent research, we strongly oppose the two review periods contemplated by the Proposal. In fact, we see enormous potential for the Proposal to do more harm than good when we consider the impediments that the proposed procedural changes would impose on proxy advisory firms, their clients, and ultimately the shareholders who would be left with inadequate time to make informed voting decisions.

⁵ 2019 Proxy Season Survey, U.S. Chamber of Commerce Center for Capital Markets Competitiveness and Nasdaq (Nov. 21, 2019), available at <https://www.uschamber.com/report/2019-proxy-season-survey>. We additionally note that issuers' interest in reviewing proxy advisory recommendations is steadily declining, from 30% in 2017, to 21% in 2018, down to 17% in 2019.

⁶ FINRA Rule 2241; See also Order Approving Proposed Rule Changes by the NASD and NYSE, Exchange Act Release No. 45908, 67 Fed. Reg. 34968 (May 15, 2002).

II. The Proposal is Unworkable and Likely to Impede Existing Advisers' Duties

T. Rowe Price serves as investment adviser to a wide variety of clients, from individual savers to large institutions. As of December 31, 2019, T. Rowe Price and its affiliates managed \$1.21 trillion in assets. We retain the proxy advisory firm Institutional Shareholder Services (“ISS”) to provide proxy advisory and voting services. These services include voting recommendations that are customized to conform with T. Rowe Price voting guidelines, as well as vote execution and regulatory reporting across the many markets globally where we invest. Last year, T. Rowe Price’s global proxy voting activity included voting on 56,532 proposals – 55,561 management proposals and 971 shareholder proposals – at 6,444 shareholder meetings. We cast votes at more than 5,000 portfolio companies in 79 countries. To perform these voting obligations, we rely on ISS to provide advisory and voting administration services that are accurate, timely, and objective.

The Proposal contemplates a series of two distinct review periods for corporate issuers that file their proxy materials on a timely basis. A company that files proxy materials at least 25 days before a shareholder meeting will be granted no fewer than five business days to review proxy reports before they can be shared with investors, and a company that files its materials at least 45 days before a shareholder meeting will have no fewer than seven business days to review the proxy reports before they can be shared with investors. The Proposal acknowledges that companies, in general, file proxy materials between 35–40 days⁷ in advance of shareholder meetings, but provides no analysis of the impact that a minimum of five days for additional review by the majority of issuers will have on the current time constraints of the seasonal proxy cycle for institutional investors responsible for making voting determinations.⁸ Even if the Proposal were able to illustrate how issuer review of proxy research would benefit rather than harm investors, in our experience, it would still be impossible within the current timeline to accommodate the proposed review periods.

The Proposal does not attempt to calculate how much time will be left in the process for investor clients of proxy advisory firms to review proxy reports before making voting determinations.⁹ This aspect of the Proposal is especially troubling given the Commission’s thoughtful consideration of precisely how much time corporate issuers should have to review proxy reports for accuracy and completeness – regardless of whether those companies intend to review the reports at all. Moreover, the Proposal does not indicate how the contemplated procedural changes and process for issuer review of proxy advisory firm reports aligns with the Commission’s August 2019 guidance regarding proxy voting responsibilities of investment advisers (“**Guidance**”).¹⁰ As drafted, the Proposal could very well result in corporate issuers, who are under no obligation to review proxy reports for accuracy, to have considerably more time for review than investment advisers, who have clear fiduciary obligations to review those same reports for accuracy and completeness.

⁷ Proposal at 66531, FN114

⁸ Even some of the most vocal proponents of a regulatory-mandated time period for corporate issuer review of proxy advisory firm reports have raised concerns regarding the limited time in the current process for institutional investors to review proxy reports. See e.g., Letter from Henry D. Eickelberg, Chief Operating Officer, Center on Executive Compensation (Mar. 7, 2019), available at <https://www.sec.gov/comments/4-725/4725-5033823-183086.pdf>. “The extremely abbreviated time window...provides little chance for institutional investors – which must vote tens of thousands of proxies for hundreds of companies – to effectively review underlying data of the proxy reports for accuracy and correct characterizations.”

⁹ This is made most apparent in the Proposal’s attempt to illustrate the timing of the proposed review periods for corporate issuers in a chart noting when issuers would review proxy reports in two stages, when proxy advisory firms would be able to publish its proxy voting advice to clients, and when the shareholder meeting would occur. The chart, however, does not mention how much time in the process should be allotted for investment advisers that utilize proxy advisory services to review proxy reports for accuracy and completeness. See Proposal 66534.

¹⁰ *Commission Guidance Regarding Proxy Voting Responsibilities of Investment Advisers*, SEC Rel. No. IA-5325 (Aug. 21, 2019), 82 FR 47420 (Sept. 10, 2019), available at <https://www.govinfo.gov/content/pkg/FR-2019-09-10/pdf/2019-18342.pdf>. We find this failure to mention how the Proposal will align with the Guidance very concerning given that the Proposal was issued less than three months after the Guidance.

Where investment advisers have agreed to take on proxy voting authority on behalf of clients, the Guidance clarifies what steps an adviser should take when utilizing the services of a proxy advisory firm in order to ensure that voting determinations are made in the best interest of each client. For example, “for an investment adviser to form a reasonable belief that its voting determinations are in the best interest of the client, it should conduct an investigation reasonably designed to ensure that the voting determination is not based on materially inaccurate or incomplete information.”¹¹ For T. Rowe Price, this investigation includes reviewing voting recommendations carefully to ensure that ISS correctly applied our internally-developed custom methodologies (*i.e.*, T. Rowe Price’s proxy voting guidelines¹²) to the underlying company data for each voting issue.

The Guidance goes on to encourage investment advisers to “consider additional steps to evaluate whether the investment adviser’s voting determinations are consistent with its voting policies and procedures and in the client’s best interest *before the votes are cast.*”¹³ These additional steps include sampling pre-populated votes, considering additional information (*e.g.*, any issuer responses to ISS baseline recommendations), and performing a higher degree of analysis (*e.g.*, where a matter is highly contested or controversial). Our understanding based on the Guidance is that the initial investigation into each voting determination as well as any additional steps taken would need to occur between the time we receive the proxy recommendations from ISS and when the votes are executed.

Additionally, the Proposal does not consider the time needed for pre-vote engagement between issuers and investors, which is currently a common practice and one which T. Rowe Price believes adds significant value to the proxy voting process. After reviewing our custom voting recommendations from our proxy advisor, we often schedule time with companies to discuss any contentious issues on the ballot. We are concerned that the proposed changes would limit our ability to have these important dialogues.

As an investment adviser subject to the Investment Advisers Act of 1940, T. Rowe Price is keenly aware of the essential role that our fiduciary obligations play in protecting our clients’ interests with respect to all aspects of the advisory relationship, including voting proxies. A reasonable investigation requires a reasonable amount of time, and we have significant concerns with any regulatory action, such as the Proposal, that would diminish the time needed to fulfil these responsibilities. In our view, any changes to the process for how proxy advisory firm reports are developed and distributed to investors should aim to facilitate investment advisers’ duties when making voting determinations in the best interest of each of our clients. The Proposal does not do that, but rather has the potential to impede our ability to fulfill those duties.

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Respectfully, we oppose the Proposal as drafted, given the likelihood that it will result in corporate issuers being afforded considerably more time to review proxy reports than the fee-paying clients of proxy advisors – investment advisers who review proxy reports to fulfill fiduciary obligations when voting client proxies. However, we continue to encourage the Commission to focus its efforts on reforming the proxy process in areas where it can effect positive changes. We strongly believe that the SEC’s highest priority should be to modernize our proxy infrastructure starting with end-to-end vote confirmation, because shareholders deserve to have their proxy votes consistently and transparently counted.

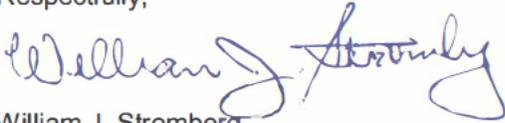
We thank the Commission for its consideration of our perspective. Please do not hesitate to contact us if we could be of further assistance.

¹¹ Guidance at 47421. See also *Commission Interpretation Regarding Standard of Conduct for Investment Advisers*, Advisers Act Release No. 5248 (June 5, 2019) (Fiduciary Standard Release) at 16.

¹² T. Rowe Price’s proxy voting guidelines are available at https://www.troweprice.com/content/dam/trowecorp/Pdfs/Proxy_Voting_Guidelines_-_2019.pdf.

¹³ Guidance at 47424, emphasis added.

Respectfully,



William J. Stromberg
President & CEO, T. Rowe Price

cc: The Honorable Jay Clayton, Chairman
The Honorable Robert J. Jackson, Jr., Commissioner
The Honorable Hester M. Peirce, Commissioner
The Honorable Elad L. Roisman, Commissioner
The Honorable Allison H. Lee, Commissioner
Dalia Blass, Director, Division of Investment Management
William Hinman, Director, Division of Corporation Finance
Rick Fleming, Office of the Investor Advocate