

Ms Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street N.E.
Washington, DC 20549

3 February 2020

File numbers: S7-23-19; S7-22-19

Dear Ms Countryman

We are writing to you to express our concerns about the above proposed SEC rule amendments.

Ario Advisory is a responsible investment advisory firm. We work with asset owners and other investors, financial regulators, policymakers, service providers and other entities across the investment chain. We have a specific interest in long term value creation.

These proposals restrict the ability of shareholders to make their voices heard. They also challenge the cherished independence of proxy voting advisers. In our view, the proposals shift the balance of power towards corporations and away from citizen savers. These savers often entrust their savings to asset owners, who typically aggregate these savings and award investment mandates to investment managers who in turn build portfolios of securities. It is imperative that investor proxy decisions benefit from a full, transparent evidence base and surrounding processes which support wise fiduciary decision-making.

We would make the following specific points:

- It seems that the research underpinning the SEC proposals has resulted in an inadequate understanding of the role of proxy voting advisers. Many asset owners and investment managers have in-house proxy policies which determine their voting decisions and their activity on related matters such as the filing of shareholder resolutions. These investors devote considerable in-house resource to carrying out their fiduciary duties around the exercise of ownership. Proxy providers deliver independent input and advice to that investor decision-making process. Investors paying fees - as clients - to these proxy providers will be deeply troubled that issuers may inappropriately influence the services and advice delivered.
- During the period of this consultation it has become increasingly clear that the percentage of factual errors in proxy adviser work is extremely small, and that these are regularly corrected. Is there enough materiality to justify the "refer twice" proposal? We suggest not.

- The apparently fake letters purporting to come from individuals, yet seemingly co-ordinated by corporate interests, should concern the SEC. Readily offered as evidence by Chairman Clayton of support from ordinary investors, this episode suggests the SEC was too willing to suspend its normally forensic research process when dubious data supported a policy stance.
- We must emphasise how leading investors will typically begin to address, at an early stage, emerging issues which pose, or may pose, financial risk to the assets for which they are responsible. It can take several years for the wider investor community to appreciate the importance of an emerging issue and then consider how best to treat it. The proposed increases in the 14a-8 thresholds would be a significant hurdle to the discussions necessary across the financial system for such issues to be addressed appropriately.
- The stated cost for an issuer to deal with a shareholder proposal seems to be supported by very flimsy evidence. Even if the actual cost did approach that stated by the SEC, we need to consider the following. Corporations spend significant amounts on market research. Yet here is an established financial market mechanism, capable of delivering deep strategic insights to a corporation on emerging issues of interest to its shareholders, all done at a fraction of the cost of market research. A strong case can be made that corporations should actively welcome many of the shareholder proposals they receive because of the strategic value they add. Perhaps that view is more prevalent in Europe. If that is the case, US-based corporations might wish to consider the implications of restricting this input, necessary for innovation and business model evolution in the global marketplace where they operate.
- Related to this, we note that in the past fundamental investors have tended to dominate markets. However, the significant increase in the participation of price-based investors who are agnostic with regard to the underlying economic value represented by the market price of a security means that efficient price discovery and real economy capital formation are hindered by the ensuing weaker linkage between the real economy and financial markets. Efforts to strengthen the dialogue between investors and companies should be encouraged by a regulator, not hindered. Better engagement between companies and their investors is viewed by many as a risk reduction mechanism.
- We believe the SEC has given insufficient weight to the policy and regulatory progress, globally, which has generated stewardship codes in many countries. The recently published Stewardship Code 2020 by the UK's Financial Reporting Council (FRC) is one exemplar of increased regulatory support for more - not less - effective investor action. Relevant issues include transparency, corporate governance, executive compensation and climate change.

We urge the SEC to fundamentally review these proposals. We believe that, rather than supporting the three goals set out in the SEC's mission, implementation of these proposals would detract from the SEC's ability to attain these objectives.

If the SEC wishes to discuss any of the points made in this submission, we would be pleased to make ourselves available for a call.

Yours sincerely

Mike Clark FIA
Founder Director