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February 3, 2020

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
rule-comments@sec.gov

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

Dear Ms. Countryman:

I am Vice President – Investor Relations and Secretary of Exxon Mobil Corporation. I am grateful for this opportunity to share our company's perspective on the Commission's proposed rulemaking regarding proxy advisory firms.

ExxonMobil is one of the most widely held public companies in the United States with a substantial number of long-term individual shareholders. Many of our more than 3.4 million registered and beneficial shareholder accounts are held by Americans who depend upon their investment in us for their financial security. ExxonMobil's dividend, which has grown for the last 37 successive years, is a mainstay of many household incomes. We estimate that 44 percent of our outstanding shares are owned by retail investors, based on available 2018 data. We are proud that ExxonMobil stock has remained in some families for generations.

Few of our shareholders, we believe, fully understand the role that proxy advisory firms such as Institutional Shareholder Services (ISS) and Glass Lewis currently play in the governance of public companies such as ExxonMobil. Nor are they likely aware of the impact these firms can have on the performance of their investments. However, among those who are managing public companies and are accountable for delivering shareholder value, ISS and Glass Lewis are well known and their influence in corporate governance is widely felt. By virtue of the number of votes they advise – and through practices such as automatic submission of votes – these firms are effectively our largest shareholders, despite having no direct stake in ExxonMobil's success.

We commend the Commission and the Staff for addressing this underappreciated but important subject, and for the careful thought and judicious approach that clearly went into developing the proposed changes reflected in the proposed rules (the "Proposed Rules"). The current rulemaking effort on this topic is exceptional in both the breadth of voices considered and the length of time the issue has been studied. We acknowledge the extensive and thorough review of the issues undertaken in the current rulemaking process prior to and including the November 15, 2018 SEC roundtable (the "Roundtable") and through the Proposed Rules.[1]

As stated in the comment letter we submitted following the Roundtable,[2] we recognize that many of our investors value the services that proxy advisors provide. We do not advocate for the decline or elimination of these services. Instead, we continue to encourage the Commission to look for practical solutions to help ensure that investors who use proxy voting advice receive more accurate, transparent and complete information in a manner that is consistent with the anti-fraud requirements applicable to all solicitations, while not imposing undue costs or delays. The Proposed Rules largely accomplish this objective by providing a specific pathway for proxy advisors that also avoids many of the costs incurred by other parties that make solicitations. We applaud the balanced approach the Commission has taken in the Proposed Rules. We support their enactment and suggest a few enhancements, particularly in addressing automatic submissions of votes.

The Proposed Rules are rightly focused on restoring and enhancing a voting system based on material disclosure, subject to anti-fraud liability. While we support the reforms, we believe they will have no impact on the 15 to 20 percent of our vote that is automatically submitted each year because of the automatic submission process. Automatic submissions undermine shareholder engagement efforts and provide voting solely on the proxy advisor's analysis, which is often incomplete or inaccurate. The system must be corrected to provide meaningful protection for investors. Failing to address automatic submission would furthermore render other provisions of the Proposed Rules, such as the registrant review and feedback mechanism, an added expense with limited practical impact. We address this issue in our response to Question 41.

We support the Commission's position that proxy advisor reports are solicitations and encourage the Commission to evaluate similar communications under these standards. We also support the Commission's position that these solicitations can be cost-effectively enhanced through issuer review and a potential registrant's response. We believe it is important for all solicitations to meet the Commission's anti-fraud standards and we have also outlined some examples of disclosure that we believe could improve the clarity of this standard and the quality of proxy advisor solicitations.

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[1] We understand many companies may be reluctant to submit their own comment letters on the Proposed Rules as well as the accompanying release regarding Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8 due to concerns about negative repercussions from proxy advisors or others, especially with the 2020 proxy season in progress. We urge the Commission not to view a relative lack of comment letters from individual companies as indicating a lack of interest in these topics.

[2] See File No 4-725. We stand behind our prior comments. While ISS responded directly to our prior letter, we have not seen our evidence of errors or automatic submissions challenged by any party on the record. To avoid full repetition of this data, we hereby incorporate the prior letter into this letter for consideration by the Commission of File No. S7-22-19: https://www.sec.gov/comments/4-725/4725-5879063-188728.pdf.

Some commenters seem to suggest that the critique of current proxy advisory firm practices offered by public companies ("registrants") such as ExxonMobil are motivated by general animosity towards the proxy process and shareholder participation in corporate governance. They dismiss the evidence many registrants cite of proxy advisory errors as mere differences of opinion, and the data we offer of automatic submission of votes as correlation rather than causation. Such characterizations are misguided. ExxonMobil's support for the Proposed Rules draws upon extensive and intensive experience engaging with proxy advisory firms through the proxy process. Over the past 10 years, our shareholders have voted on more than 100 proposals, including 77 shareholder proposals. We have repeatedly observed errors made by proxy advisory firms during this period, mistakes that have been compounded by automatic voting practices and have had detrimental consequences. [3]

We believe registrants are uniquely positioned to discuss proxy advisor errors that need to be addressed and help improve the accuracy of the disclosures. For example, following the Roundtable, Mr. Michael Garland, Assistant Comptroller for Corporate Governance and Responsible Investment for the New York City Office of the Comptroller, stated in his December 6, 2018 testimony to Senator Crapo that their funds do not undertake a due diligence analysis of the proxy advisors' reports or perform any company-specific analysis. Instead, they check only whether their custom procedures have been properly implemented. [4] This highlights the importance of the issues registrants raise with the proxy advisors' reports, as they are outside the normal scope of what even large and active funds may be doing. Proxy advisory firms and their supporters have cited the relative lack of complaints from their investor clients about errors as evidence that any such errors are rare and of minimal consequence. But if investor clients are not routinely checking for proxy advisory errors, as the New York City Comptroller suggests, then their silence does not represent compelling evidence.

For ease of the Commission's consideration, we have aligned our specific comments with the direct questions posed in the Proposed Rules. We have grouped most of our comments under combined headings of related requests, with the exception of Question 41 regarding automatic submission of votes. We address this topic in more depth, and include new research of which the Commission may not be fully aware. Also, for the more general questions posed (53 through 60), we have sought to address them throughout our comments below rather than devote a specific section to them.

While our comments and the data provided in this letter focus only on the most recent years, these experiences are representative and consistent with what we have seen as a public company throughout the last decade on many different proposals. We share the goal of all interested parties in this process of ensuring that investors have timely access to the most accurate, transparent, unbiased and complete information possible. Our comments are offered in this spirit.

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[3] For many years, we have sought to address many of the issues we raise in this letter through direct, year-round engagement with the proxy advisors. **Attachment 1** contains a recent letter to ISS-ESG**,** one of the newest arms of ISS, outlining our accuracy concerns and suggesting alternative, collaborative methods for collecting superior data.
[4] December 6, 2018 Committee Hearing of the United States Senate Committee on Banking, Housing and Urban Affairs. See timestamp 33:37-36:38 in the committee hearing: https://www.banking.senate.gov/hearings/proxy-process-and-rules-examining-current-practices-and-potential-changes.

Request for Comment Questions 1-6

Codification of SEC Interpretations and Principles is Required to Achieve More Accurate, Transparent and Complete Voting Information to Protect Investors

In Question 6 of Staff Legal Bulletin ("SLB") 20 issued in 2014, the Commission stated that services designed to impact shareholder voting like proxy voting advice are solicitations under 14a-1(l). Unfortunately, not all market participants have accepted this guidance. ISS, for example, has argued that their recommendations are not solicitations and that SLB 20 was erroneous in suggesting that they were solicitations.[5] ISS is currently suing the SEC claiming their proxy advice is the "antithesis" of a solicitation.[6] This continued controversy surrounding the Commission's earlier guidance necessitates the codification in a rulemaking of the Commission's position that proxy advice is a solicitation.

The Commission is correct to define proxy advice as a solicitation. It is clear to us that proxy reports and recommendations are Section 14(a) communications because their purpose is to inform voting on specific proposals presented at shareholder meetings. Section 14(a) was designed, and the Commission has the authority, to ensure that communications to shareholders about their proxy voting decisions contain materially complete and accurate information. The Commission has correctly articulated the rationale for this position in stating that "[i]t would be inconsistent with the goal [of Section 14(a)] if persons whose business is to offer and sell voting advice broadly to large numbers of shareholders, with the expectation that their advice will factor into shareholders' voting decisions, were beyond the reach of Section 14(a)."[7]

We believe the potential for inaccuracies, incompleteness and other errors are a real risk in these reports and that applying the same solicitation standard to these Section 14(a) communications that is applied to other Section 14(a) communications creates a valuable safeguard that is currently lacking. We have seen errors regarding directors, unjustified manipulation of peer groups, one-size-fits-all methodologies that are inappropriate for our industry, and more. We have found that these errors are significantly compounded in ISS' "specialty reports,"[8] which have relied on unsubstantiated accusations, "controversies" and misinformation to rationalize their position to support shareholder proposals. Please see our responses to Questions 21-40 and 42-48, and Questions 49-52 below for more detail on these points.

We understand the Commission's desire to ensure that its definition of solicitation is not overly broad. We would encourage the Commission, in the final rule, to provide specific examples of the kinds of communications it does not view as solicitations. In addition, if 14a-1(l)(2) was clarified to say "unprompted request and not for compensation" we believe that could help clarify the relationship the Commission is seeking to preserve.

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[5] The full letter is included as **Attachment 2**. See pages 4-5.
[6] ISS' email describing their reasoning for the suit is included as **Attachment 3.**
[7] See page 19 of the Proposed Rules.
[8] ISS' specialty reports are reports targeted at audiences who are interested in a specific viewpoint or issue. They differ from ISS' benchmark report by not focusing on maximizing shareholder value. They include the five following reports: Socially Responsible Investor, Sustainability, Taft-Hartley, Public Pension and Catholic Faith-Based: https://www.issgovernance.com/policy-gateway/voting-policies/.

Market Failure Requires the SEC to Mandate a Clear, Minimum Disclosure Standard for Proxy Advice

The practical challenges and high costs associated with changing proxy advisor voting[9] creates an impediment for other market entrants in offering proxy voting advice. Mr. Sean Egan of proxy advisory firm Egan Jones testified to this market failure in his Roundtable statement (emphasis added):

> And the third one is perhaps the most important to us, and we think it's the most pernicious. And most people in this room are over the age of 30. And so they won't understand it, but it's critical. And that is that platforms are absolutely important. They are the item in this area. When you think about a trader's desk, they refer to it as real estate. I spoke to a leader, the head of a major investment adviser and they talked about what they're doing and how they're doing it. **And they said they put in a voting platform and they will never change it**. **It was so difficult to put it in and to work out the kinks that they'll never change it.** And so from our perspective, it's critical to get on that platform. But you know what, we can't get on that platform. We simply can't, okay, unless things change. We've been trying to for the past 8 years and we've been stiff-armed with it. So from my perspective, we view it – it's not just mine, ours, we view it as restraint of trade. And that's not the only area where it's a restraint of trade.

In Mr. Egan's experience, competition for proxy advice is severely restricted by access to the voting platform. His insight, that implementing the voting platform is an activity with incredibly high fixed costs that discourages changes, has significant implications for how we view the market for proxy advice and regulatory efforts by the SEC. These cost barriers on the platform mean that, even if a new source of proxy advice is superior to an existing provider, funds will be heavily incentivized to remain with their current provider, often through bundled products. This means that it is possible for a fund to be satisfied with the analysis and recommendations that it is receiving, because it views this advice as the best alternative available for preserving its investors' assets, even if that advice may not meet SEC standards for accuracy, transparency and completeness.

[9] The Commission has asked whether to define "standalone services" to delineate what types of advice qualify as solicitations. As describe above, we believe the market for these services is complex. We believe the Commission's suggested approach in the Proposed Rules is superior to trying to define "standalone services" as a distinction here. We do not believe proxy advisor services are always "standalone services." Bundling of the platform and different recommendations services is common.

We believe this constitutes a potential market failure and therefore requires regulation enforcing a minimum anti-fraud standard. The primary service provided by the proxy advisor is the voting platform, not the voting analysis and recommendations. A clear regulatory standard will ensure that disclosure norms are not influenced by other market considerations. Equally, a lack of complaints by any party does not necessarily mean that current disclosures are adequate.[10]

Fortunately, these issues fit squarely within the SEC's central mission to protect investors, maintain fair, orderly and efficient markets, and facilitate capital formation. The SEC can and should ensure that the information these funds receive meets its anti-fraud standards both through its rules and enforcement efforts.[11]

The SEC Needs to Review and Evaluate Specialty and Custom Voting Recommendations Prior to Exempting Them from These Rules[12]

We support the Commission's position in the Proposed Rules that separate recommendations formulated under separate policies are separate communications to shareholders and each subject to compliance with the proxy rules. We believe to do otherwise would be inconsistent with both the intent of Rule 14(a) and the Commission's analysis of what constitutes a solicitation. It would effectively lead to application of a double standard in which one set of recommendations meeting the criteria established by the Commission are deemed solicitations, but another set of recommendations meeting the same criteria are not.

We believe that ISS' "specialty reports" constitute a clear example of the need for each communication to be separately analyzed. In our experience, these specialty reports default to supporting shareholder proposals and then rationalize this bias by relying on unsubstantiated "accusations" and alleged "controversies" as facts that justify the predetermined recommendations.[13] Accountability for these misleading recommendations is needed to bring accuracy, transparency and completeness to these recommendations.

[10] It also means that these regulations on disclosure will not hurt competition, since competition is primarily in the platform space with high fixed costs. In fact, improved disclosure standards may open up competition to the extent that a new entrant can provide the disclosure in a new platform at a lower cost. See our discussion of errors below in our responses to Questions 21-40 and 42-48 and Questions 49-52.

[11] See "*Rule 14a-8 Should Address Many Different Examples to Provide Clarity*" below.

[12] This section is also responsive to the Commission's Question #30.

[13] See "*Specialty Reports and Other Reports Not Focused on Maximizing Shareholder Value Will Require Additional Disclosures*" below.

Whether a "custom" recommendation[14] should be considered a solicitation depends on the nature of the "custom" recommendation.[15] We have never been provided a copy of these "custom" recommendations from ISS or any other proxy advisor. We believe that if "custom" recommendations are contained in a report with the same level of analysis as the specialty reports, this report is clearly a solicitation. If the "customized" recommendations are presented on the proxy advisor's voting platform and are based on the proxy advisor's analysis of a client's pre-existing guidelines, this is also a solicitation.[16] However, if "custom" recommendations are merely a confirmation by ISS to its clients that it has carried out clear proposal-by-proposal voting instructions, then this would not be a solicitation in our view.

Given the importance of the specific content and purpose of the "custom" reports in determining whether they are solicitations, we believe the SEC rules should be clear that custom reports are solicitations, unless the report is merely confirming proposal-specific instructions.[17] As stated in the Proposed Rules, "[i]t would be inconsistent with that goal if persons whose business is to offer and sell voting advice broadly to large numbers of shareholders, with the expectation that their advice will factor into shareholders' voting decisions, were beyond the reach of Section 14(a)."[18]

ESG, or E&S, Rating Services Should Also Be Designated as Solicitations in the Rules and the Rules Should Maintain Flexibility to Address Future Market Developments

The SEC should consider other areas where clarifying its positions in the rules would provide long-term clarity to the markets. There are a growing number of institutional investors and assets managers who use Environmental, Social and Governance (ESG), or Environmental and Sustainability (E&S), ratings in their voting decisions. These communications can have significant influence over shareholder voting, just like recommendations from proxy advisors. Including these ratings in the definition of solicitation upholds the stated purpose of Section 14(a) to provide that communications to investors on proxy voting matters do not contain "inadequate or materially misleading disclosures." As the Proposed Rules notes, this is important where communications are offered for a fee and "with the expectation that [the] advice will be part of the shareholders' voting decision-making process."[19]

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[14] Generally, "customized" recommendations are a report or recommendation based solely on a client's predetermined custom voting policy that are provided just for that client.

[15] See "*Proxy Advisor Platforms are Highly Customizable Tools That Can Accomplish this with Minimal Cost*" below.

[16] If there is no report to review, just a list of recommendations on the proxy advisor's voting portal, there may still be analysis provided by the proxy advisor that is a solicitation. See the illustration of a proxy advisor platform on page 41 below for an example. Since the review and registrant response required in the Proposed Rules for exemptions under 14a-2 would not make sense here, those exemptions should not apply or be available for these solicitations. Instead, the Proposed Rules could allow these solicitations to be filed as a simplified supplemental proxy filing that outlined the recommendations and rationales provided by the proxy advisor. As shown in the example on page 41, we believe these solicitations are sufficiently general to avoid raising any issues of proprietary strategies, especially since funds disclose their final votes publicly.

[17] See "*Proxy Advisor Platforms are Highly Customizable Tools That Can Accomplish this with Minimal Cost*".

[18] Proposed Rules, pg. 19.

[19] Proposed Rules, pg. 17.

ESG ratings are a developing industry that should be addressed by the SEC's new rules. While there has been a sharp increase of ESG raters in recent years with various, and conflicting, methodologies and ratings, we have experience with Sustainalytics, MSCI and ISS that may be illustrative. The movement of Glass Lewis and ISS into this space also shows the connection between these ratings and the proxy solicitation process.

Glass Lewis has teamed up with Sustainalytics to include their ratings in the Glass Lewis proxy advisor recommendations.[20] Glass Lewis states that they include this ESG rating "to provide summary data and insights that can be efficiently used by clients as part of their process to integrate ESG factors across their investment chain, including **effectively aligning proxy voting and engagement practices with ESG risk management considerations**."[21] These ratings are provided with the understanding of Glass Lewis and Sustainalytics that clients will use this information in their proxy voting decisions.

Similarly, ISS provides an "Environmental & Social Quality Score" in its benchmark recommendation report and, separately, has recently combined ISS-OEKOM, ISS-Ethix and other services into "ISS-ESG." In our December 6, 2019 call with ISS-ESG, they confirmed that they ask questions on behalf of clients. They stated that they are looking to engage with registrants on behalf of clients who are eschewing individual engagements, but want to support an engagement on ESG matters. We believe this speaks to both the intent of ISS-ESG and their clients to consider or follow these ratings in voting on proxy matters. These communications are clearly meant to influence voting decisions and, as such, qualify as solicitations. A new rule that addresses proxy advice, as defined in the Proposed Rules, but does not address these related "ratings" solicitations would fail to apply anti-fraud accountability to an area of proxy communications.

Independent ESG rating firms also include information in their reports that is meant to influence voting. For example, MSCI's report on a registrant's practices includes whether directors are "overboarded," whether a registrant's policies have sufficient detail, how executives are paid compared to peers, whether bylaws or other company governance procedures meet their standards and an evaluation of risks facing the registrant. It is logical to expect that investors purchasing this report could use this information in making their voting decisions, including whether to vote for or against a certain director's election or other proposals. Accordingly, it is important that the Commission ensure that the information in these reports is accurate and complete.

We request that the Commission expand the proposed amendments to specify that reports published by ESG rating firms are also solicitations subject to Rule 14a-9. We also request that the rule address principles for similar types of future communications as these markets continue to grow and evolve. These changes are especially important when considering the methodologies around "controversies" sometimes used in these rating.[22]

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[20] *Understanding Our ESG Content*, Glass Lewis (available at: www.glasslewis.com/understanding-esg-content/).
[21] *Id.* (emphasis added).
[22] See "*Errors Occur From the Use of Unreliable Sources or Limited Research by the Proxy Advisors*" below for a full discussion on the use of "controversies."

An analysis of the factors in the Proposed Rules shows that these ESG ratings are solicitations.[23] As the Commission stated in the Proposed Rules, "where these or other significant factors (or a significant subset of these or other factors) is present," the communication constitutes a solicitation.[24]

Factor 1: Marketing one's expertise in researching and analyzing matters that are subject to a proxy vote for the purpose of assisting clients in making voting decisions.

ESG rating firms specifically market their expertise in researching and analyzing ESG matters for the purpose of assisting clients in making investment and voting decisions. In fact, the websites of the three most prominent ESG rating firms state the following (emphasis added):

- MSCI: "MSCI ESG Ratings aim to measure a company's resilience to long-term, financially relevant ESG risks. We leverage artificial intelligence (AI) and alternative data to deliver dynamic investment-relevant insights **to power your investment decisions**."[25]
- Sustainalytics: "Material ESG issue framework effectively supports engagement with companies on priority ESG issues and **informs voting decisions** on E&S shareholder resolutions."[26]
- ISS Environmental & Social Quality Score: "ESG ratings on companies, countries and green bonds provide investors with the in-depth insight to **effectively incorporate sustainability in their investment decision**."[27]

Factor 2: Charging a fee to provide a detailed analysis of various issues.

ESG rating firms charge a fee for their analyses of ESG issues. In fact, access to the full suite of sustainability data products from one of the larger providers can cost an investor up to $50,000.[28]

Factor 3: Describing specific proposals that will be presented at the registrant's upcoming meeting and presenting a "vote recommendation" for each proposal.

Although ESG rating firms may not always provide voting advice on specific proposals presented to shareholders, they provide voting advice on a topic-by-topic basis. The SEC's analysis of this factor should account for developments in the current market where topic-based ESG proposals have become more and more common. This topic-based approach shows all the hallmarks of a recommendation-style solicitation. Instead of addressing each proposal directly, these ratings provide de-facto voting advice for any proposal on the relevant ESG topic. They act

[23] Proposed Rules, pg. 16.
[24] *Id.*
[25] See https://www.msci.com/esg-ratings.
[26] See https://www.sustainalytics.com/esg-ratings/#1530569132662-3e9e8929-5bee.
[27] See https://www.issgovernance.com/esg/ratings/.
[28] See Jennifer Thompson, *ESG Rating Agencies FulFil the Need for Knowhow*, The Financial Times (May 12, 2019) (available at: https://www.ft.com/content/2cd37df8-a973-3f94-b498-09ee1a6ba53b).

as general voting instructions by topic and are designed to influence the voting process. Additionally, the target clients of ESG raters are the same target clients of proxy advisory firms. Institutional investors pay for their rating services to assist in their voting and investment decisions. SEC Commissioner Hester Peirce acknowledged this connection, noting that "ESG experts sell their wares to, among others, investment advisors, who then rely on them to make decisions about *how to vote* or what to buy or sell."[29] The ratings are distributed (and marketed, as discussed below) as information designed to assist investors in their voting and investment decisions by topic. Proposals are then categorized by topic and the voting connection is made. The indirect but intentional influence on investor decision-making processes on a topic by topic basis satisfies this factor for Rule 14a-1(l)(1)(iii)(A).

> *Factor 4: Providing recommendations shortly before a shareholder meeting or authorization vote, enhancing the likelihood that their recommendations will influence a client's voting determinations.*

Sustainalytics' and ISS' ratings and reports are provided shortly before a shareholder meeting when they are incorporated in Glass Lewis' and ISS' proxy voting reports, respectively, and clearly meet this factor. We believe that the SEC, at a minimum, should consider ratings published after the shareholder proposal window has closed to be solicitations. However, since these solicitations are by topic, the timing of a report should not be considered determinative of its intended purpose or expected use. In fact, one of the Commission's early amendments to Rule 14a-1(l) expanded the definition of solicitation to include "any communication reasonably calculated to result in the procurement, execution or revocation of a proxy" based on a recognition that some market participants were distributing communications "well in advance of any formal request for a proxy."[30] Therefore, the telling factor here is that such reports influence a client's voting determinations regardless of the date of the report and the proximity to an annual meeting.

> *Factor 5: Broadly distributing the communication.*

ESG rating firms broadly distribute their rating reports to subscribing investors just as proxy advisor firms broadly distribute their voting recommendations to their clients. In fact, two of the ESG rating firms distribute their reports in tandem with proxy advisory firms, as discussed above.

The applicability of these five factors to ESG rating firms' reports further demonstrate our view that the definition of solicitation should be expanded to capture these reports.

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[29] *Scarlett Letters: Remarks Before the American Enterprise Institute*, Commissioner Hester M. Pierce (July 18, 2019) (available at: https://www.sec.gov/news/speech/speech-peirce-061819) (emphasis added).
[30] Proposed Rules, pg. 14.

Request for Comment Questions 4-20

Potential Conflicts of Interest Come From Multiple Sources and Should Be Publicly Addressed

We applaud the Commission for addressing the requirements for disclosure of conflicts of interest. Proxy advisors have conflicts of interest. These conflicts can arise in a number of ways, one of the most prominent of which is ISS' provision of consulting services to registrants when it is annually evaluating their proposals. However, potential conflicts also could arise in many other ways, including the provision of services to financial activist investors, work for social activists (both investors and non-investors), the prior work history of the report team, and the policy positions of a proxy advisor's parent company, among others.

We believe there is significant risk that the provision of other paid services could influence voting recommendations. A look at ISS' history shows the increasing importance of conflict disclosure and the potential pressure on proxy advisors' businesses from these alternative revenue streams. In 2014, ISS was sold for $364 million.[31] In 2017, it was sold again for $720 million.[32] To what extent did services that raise potential conflicts of interest contribute to the nearly doubling of ISS' market value? Public disclosure of these services – whether from issuers, activists or others – is a reasonable safeguard in addressing this continuing evolution of the business.

While ISS has argued that it has a conflicts of interest policy and holds its registrant advisory business behind a firewall that separates it from the proxy advice business, we are not aware of what firewall or corporate separateness may exist around services provided to activist investors. Public statements from an ISS employee estimate ISS supported activist campaigns in 2017 and 2016 about 60 percent of the time.[33] As such, it is no surprise that activists would want the SEC to leave proxy advisors alone.[34] It is improbable that ISS sufficiently separates its many varied and conflicting revenue streams. Regardless, the lack of public knowledge on whether this is the case is precisely why the Commission should address this issue and create a disclosure standard consistent with the intent of Rule 14a-9. This is only one example of multiple potential conflicts of interest that should be disclosed. The growth of the proxy advisor's business, as it takes on more and more practice niches, emphasizes the need for full disclosure as the pressures and potential conflicts evolve so that shareholders can make fully-informed voting decisions.

[31] "The Mysterious Private Company Controlling Corporate America," Michelle Celarier in Institutional Investor on January 29, 2018: https://www.institutionalinvestor.com/article/b16pv90bf0zbj8/the-mysterious-private-company-controlling-corporate-america.
[32] Id.
[33] Id.
[34] "Let Proxy Advisors Do Their Work," Carl Icahn in the Wall Street Journal on November 18, 2019: https://www.wsj.com/articles/let-proxy-advisers-do-their-work-11574121845.

Market Failure Requires that the SEC Provide a Minimum Disclosure Standard for Conflicts

A survey of the debate regarding proxy advisor conflicts of interest reveals a curious contradiction. On the one hand, proxy advisors have publicly criticized the conflict of interest policies of other proxy advisors. Registrants have also publicly criticized the lack of public conflict of interest disclosures of proxy advisors. On the other hand, some of the investor funds, and their representatives, have remained largely silent on the issue or stated that they are satisfied with the current disclosures. This contradiction points to a failure in the market for proxy advice that warrants the Commission setting a minimum disclosure standard for conflicts of interest as contained in the Proposed Rules.

As an example of the proxy advisor criticisms, Glass Lewis said the following in its opening statement to the Senate Banking, Housing and Urban Affairs Committee on June 1, 2019:

> Unlike Institutional Shareholder Services ('ISS'), Glass Lewis does not provide consulting services to issuers. We believe the provision of consulting services creates a problematic conflict of interest that goes against the very governance principles that proxy advisors like ourselves advocate. By not providing consulting services to the subjects of our reports, Glass Lewis ensures we have no financial incentive to develop policies or issue recommendations that make companies feel they need to pay for consulting services in order to achieve a favorable outcome. Further, a consulting business is not only in conflict with the interests of our clients, but in conflict with the interests of the companies who are entitled to a fair, reasonable and independent assessment.[35]

Similarly, Sean Egan of Egan Jones said the following at the SEC Roundtable:

> Regarding proxy advisory firms, I cannot defend the indefensible. What I mean by that is that there are conflicts that arise from consulting when you're also in the proxy advisory business. If you're getting paid to give corporations early indications on voting and then turn around and vote, most people consider that to be problematic, and we're probably in that camp. We don't get involved in consulting, either directly or indirectly.

[35] See: https://www.glasslewis.com/wp-content/uploads/2018/06/Glass-Lewis-Response-to-May-9-2018-Chairman-Heller-Letter_0601_FINAL.pdf.

These statements from proxy advisors stand in stark contrast to statements by some investment advisors that the current disclosures are adequate.[36] We believe the market failure described above may help explain this curious contrast.[37] If platform change is a high cost proposition and the current platform is a sunk cost, enhancing current disclosure may not seem to be worth that cost to some.[38] This is an understandable position for fiduciaries looking to minimize costs. It also illustrates why no party in the proxy process should be considered the gatekeeper for upholding the SEC's disclosure and anti-fraud standards other than the Commission itself.

Cost and Other Concerns are Addressed in the Commission's Proposed Rules

Fortunately, we believe the hypothetical cost concerns discussed above are largely addressed through the Proposed Rules. We therefore support the Commission's desire to balance the benefits of the disclosure with the costs. To the extent these costs exist, they are the costs that come with choosing lines of business that create potential conflicts. We believe the information should be included in (1) the general information screen of the voting platform, (2) again in each of the registrant's reports and (3) again on the specific voting screens for each shareholder meeting.[39] We also generally support the Commission's proposal that affiliate[40] disclosure be limited to what is publicly available, although we believe the Commission should be clear that proxy advisors must also disclose information they already have about affiliates regardless of whether it is publicly available. If a proxy advisor holds information on a conflict of interest that, by not disclosing, it can keep from becoming public information, this should not provide the firm a safe harbor from its conflict disclosure obligations.

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[36] We also note that past statements from funds have not been so uniform. In 2004, the Missouri State Employees' Retirement System dropped ISS and told them they were looking for an organization with "undivided loyalty." The Ohio Public Employees' Retirement System and the Colorado Public Employees' Retirement Association made the same moves in 2005. See "A Call for Change in the Proxy Advisory Industry Status Quo: The Case for Greater Accountability and Oversight," by the Center on Executive Compensation, January 2011, See p. 45: https://online.wsj.com/public/resources/documents/ProxyAdvisoryWhitePaper02072011.pdf.

[37] See "*Market Failure Requires the SEC to Mandate a Clear, Minimum Disclosure Standard for Proxy Advice*" above.

[38] This viewpoint could be further impacted by the fact that review costs are immediate and observed while the costs resulting from the influence of conflicts on voting decisions may occur in the future and not be intuitive without disclosure.

[39] We describe this platform in greater detail in "*Proxy Advisor Platforms are Highly Customizable Tools That Can Accomplish this with Minimal Cost*" below.

[40] Additionally, the Commission should provide clear guidance on what qualifies as an "affiliate" under these rules beyond the definition in Rule 405 of the Securities Act. For example, relationships with co-filers of a proposal would be appropriate to cover as well even if it may not meet the Rule 405 definition.

Once the information is gathered to provide in the proxy advisor's report, we do not see any additional cost to providing this disclosure publicly. We believe this could be done on the ISS website or other publicly available source. At a minimum, we believe all of these disclosures should be included in each proxy advisor report and submitted to or otherwise easily available to the Staff. If the Staff is forced to rely on third-party descriptions of the disclosures because it does not have direct access to the proxy advisor reports, the market failure described above could invite misunderstanding or even manipulation of these descriptions. We believe any rule needs to provide that the exemption is contingent upon the solicitations being provided, or in some form available, to the Staff. Enforcement of these rules will require continued SEC oversight.

We also note that a concern has been raised that public or other disclosure of these conflicts could undermine the firewalls that proxy advisors have sought to establish in the past. We note that many registrants have been public about their use of ISS' corporate governance services in the past. For example, ExxonMobil has felt a need to purchase these tools for many years and have discussed what we have learned from these tools directly with ISS during and outside of proxy season. If these discussions have not undermined this firewall, we do not believe disclosures designed to better inform and protect voters will do so. Conversely, if they have undermined the firewall, investors have even greater need to make sure conflict disclosures are clear, prominent and public. In standardizing disclosure of conflicts in the Proposed Rules, the Commission is merely extending a current market expectation to apply to cover all solicitations. Investors will benefit from full disclosure when making voting decisions.

Some Investment Advisors Have Spoken Out on the Need for Greater Disclosures

It is important to us to note that not all investment advisors have been silent or satisfied with the status quo. Some investment advisors, like BlackRock, have approached voting as a value-added service they provide clients. As BlackRock noted in their comment letter following the Roundtable, the SEC's disclosure framework is not consistently applied to all parties engaged in the proxy voting process. They state:

> Currently, while some participants in the proxy voting ecosystem are subject to significant reporting requirements, other participants have no requirements at all and therefore provide no transparency. For example, registered funds are required to publicly file Form N-PX on an annual basis, which discloses a fund's proxy voting record with respect to portfolio securities held by the fund. Likewise, public companies provide significant disclosure on conflicts and related party transactions in their public filings.

> Conversely, proxy advisory firms are not subject to similar disclosure rules, even though they play an important role in the corporate governance ecosystem. These firms provide research and recommendations on the thousands of shareholder votes at U.S. public companies. For context, there were over 25,000 unique ballot items for the Russell 3000 for the year ending June 30, 2018, according to Institutional Shareholder Services (ISS). The research and recommendations of proxy advisors are an important input for many institutional investors. Yet, there currently are no standards or regulations that apply to reports prepared by proxy advisory firms to summarize proxy statements, and provide analysis and recommendations. Notwithstanding general proxy voting guidelines, proxy advisors do not disclose their methodology for their analyses and vote recommendations, and offer limited insight into which companies receive consulting services. Additional disclosure around potential conflicts of interest and how they are mitigated may be warranted.[41]

We believe BlackRock is correct in noting the significant discrepancy between the public disclosure that registrants, funds and other vote solicitors must provide and what proxy advisors claim is sufficient disclosure. Following the withdrawal of the 2004 ISS and Egan-Jones no-action letters, a public disclosure standard needs to be applied to proxy advisors to bring them in line with the basic requirements of all parties to this process.

All participants in the proxy process should be able to ascertain for their own accounts whether conflicts exist. This can only be done through disclosure of potential conflicts. Some investment advisors seem to believe this will increase their costs. However, we believe clear rules and standards will also decrease the costs of gathering disclosure for investment advisors that embrace shareholder engagement like BlackRock. There is no reason the SEC should avoid regulation to favor the business model of some investment advisors over others. We believe the SEC should instead determine what conflict of interest information would be material to an investor making an investment decision.

[41] See BlackRock's comment letter dated November 16, 2018: https://www.sec.gov/comments/4-725/4725-4656351-176506.pdf.

The New Rules Should Require Clear, Detailed Disclosure that is Easy to Understand

Registered funds such as BlackRock deserve clear disclosure in fulfilling their fiduciary duties to allow them to evaluate any conflicts that might conflict with or compromise their own customized analyses similar to what registrants provide under Item 404(a) of Regulation S-K. As the Commission has stated previously in speaking to funds, "In order for disclosure to be full and fair, it should be sufficiently specific so that a client is able to understand the material fact or conflict of interest and make an informed decision whether to provide consent."[42]

Equally, registered funds deserve to hear from registrants whether these relationships may present meaningful conflicts due to company-specific factors that may not already be available in the market. To achieve this, we do not believe that proxy advisors can meet the disclosure standards of 14a-9 without making these conflicts of interest disclosures public and clear. This clarity is also important for funds to be able to evaluate whether any firewalls or protections actually address these conflicts sufficiently. As stated in the recent Commission guidance, funds' policies and procedures are only effective to the extent they insulate decisions on how to vote from conflicts.[43]

Additionally, we recommend the Commission require the disclosure to be public so that funds can evaluate it before undertaking the significant sunk costs of adopting the proxy advisor's platform.[44] The disclosure also needs to be clear enough that funds and shareholders can understand it **before** "consenting" to it in (1) following proxy advisor recommendations or (2) incorporating their advice into fund decision-making.[45] The detailed disclosures should cover the past two proxy seasons and the current season, cover details similar to the requirements of Item 404(a) of Regulation S-K[46] and address:[47]

[42] See Release No. IA-5248 (June 5, 2019), page 24: https://www.sec.gov/rules/interp/2019/ia-5248.pdf.
[43] See Release No. IA 5325 (August 21, 2019), footnote 37: https://www.sec.gov/rules/interp/2019/ia-5325.pdf.
[44] Id., pages 18-20.
[45] Id., pages 18-20.
[46] We believe Item 404(a) of Regulation S-K provides a helpful standard that investors will have seen from registrants. These standard include (1) disclosure of the length of the relationship, (2) the nature and type of relationship, such as consulting, drafting or investment advice services provided, and (3) the approximate dollar amount of the transactions in the past fiscal year. Also, similar to Item 404, the Commission should make clear that any commercial relationships above a certain threshold should clearly require closer scrutiny and may even be presumptively material to assessing the objectivity of the proxy voting advice.
[47] This list is based upon the Commission's recent guidance. See page 19 of Release No. IA-5325: https://www.sec.gov/rules/interp/2019/ia-5325.pdf.

1. Potential conflicts related to the provision of proxy voting recommendations and proxy voting services generally, such as services to registrants, hedge funds and other proponents of shareholder proposals. In addition, the amounts received from such parties in aggregate for each period.

2. Potential conflicts related to activities other than providing proxy voting recommendations and proxy voting services, such as ESG ratings, investment or divestment advice for investors. In addition, the amounts received from such parties in aggregate for each period.

3. Potential conflicts presented by affiliations of the proxy advisor, its owners, its registrant clients (to the extent they have a controlling holder) or its clients who are proponents or co-filers of proxy voting resolutions (to the extent they have a significant individual or group financier).[48]

4. Potential conflicts related to employees' prior work experience, current remuneration, gifts, perquisites, professional relationships or family relationships with any of the groups described above.[49]

Specialty Reports and Other Reports Not Focused on Maximizing Shareholder Value Will Require Additional Disclosures

We also support the Commission's view that different services can require different conflict disclosures.[50] We believe ISS' specialty reports, and similar reports from other proxy advisors, pose additional conflict challenges that also need to be disclosed.

Based on our conversations with ISS on June 7, 2019, these specialty reports default to support shareholder proposals, unless they conflict with the "theme" of the specialty report. This contrasts with the stated shareholder value maximizing approach ISS takes towards analyzing shareholder proposals in its benchmark report. If a report is supporting goals other than maximizing shareholder value, conflicts of interest may take significantly different forms and would not be alleviated by the disclosures described above.

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[48] Controlling holders or significant funders are good measures for who may have "significant influence" with a registrant or proponent as set out on page 19 of Release No. IA-5325. "Taking a position" as described can be determined by looking at public statements, court filings and donations to groups making such public statements or court filings. This would all fit within the "public" review contemplated by the Proposed Rules. We urge the Commission to provide clear examples in the rules of how the Commission guidance and the terms raised in Question 11 of the proposed release should be interpreted in making this "public" review.

[49] Similar to the standards placed on directors, those providing independent recommendations need to be evaluated by the proxy advisors and their clients for conflicts. As was made clear in the vote on the merger of Compaq and Hewlett-Packard, credibility of the individual evaluator matters to funds. See Jennifer Thompson, *ESG Rating Agencies FulFil the Need for Knowhow*, The Financial Times (May 12, 2019) (available at: https://www.ft.com/content/2cd37df8-a973-3f94-b498-09ee1a6ba53b).

[50] "Whether the disclosure is full and fair will depend upon, among other things, the nature of the client, the scope of the services and the material fact or conflict." See Release No. IA-5248 (June 5, 2019), page 25: https://www.sec.gov/rules/interp/2019/ia-5248.pdf.

The SEC should provide examples in the rule of different types of disclosures required where the report is not focused solely on maximizing shareholder value. We believe this disclosures could take the form of risk factors that describe the potential impact of the approach and the recommendations on shareholder value.[51]

These public disclosures should include:

1. Disclosure that the report is not solely based on maximizing shareholder value and what values the report seeks to promote instead.

2. Disclosure on what default positions are held and the rationale for those positions.

3. Disclosure on how the research and methodology in these reports may differ from the benchmark report, including the use (or lack of use) of the same or different financial metrics, whether the report has been reviewed by the registrant and whether the report has been reviewed by any other third party.[52]

4. Disclosure on whether the report is intended to help a fiduciary fulfill its fiduciary duty to maximize shareholder value, a different or specialized fiduciary duty or is not intended to assist in fulfilling any fiduciary duties.

5. Disclosures on the potential consequences to shareholder value of this different approach.

Such clarity in the particular disclosure requirements for specialty reports catering to a subset of investor clients grouped by theme is necessary to prevent a loophole from arising that would undermine the express purpose of promoting transparency and full disclosure for investors. We welcome the clarity on this point offered in the Commission's Proposed Rules.

[51] See "*Rule 14a-9 Should Address Many Different Examples to Provide Clarity*" below for more detail.
[52] See "*Errors Occur From the Use of Unreliable Sources or Limited Research by the Proxy Advisors*" below for additional detail on how current methodologies cause proxy advisors to adopt some third parties' conflicts of interest as well.

Request for Comment Questions 21-40 and 42-48

The Analysis of a Public Company is Materially Enhanced by Taking a Company-Specific Approach

Each public company presents a different investment challenge. Even within the same industry, companies deal with distinct customers, brands, market forces, regulations and approaches, and achieve different results. The time-intensive nature of researching each company is perhaps why investment theories based on indexing to mitigate company-specific factors continue to gain in popularity. As just one example of these differences, ExxonMobil takes a different approach than many market participants, and our competitors, to executive compensation. It is a company-specific approach that can only be fairly understood and evaluated with a company-specific analysis.

The capital-intensive nature of our business, and the extended cost recovery and production profiles of many of our projects, means that the results of the decisions made by management (such as new projects, acquisitions or divestments) are often not experienced by shareholders until 5 to 10 years (or longer) from the time the decision was made. To recognize this fact, performance-based shares for the senior executives in our executive compensation program vest 50% at 5 years and 50% at 10 years or retirement, whichever is later. We believe this design incentivizes a long-term perspective in decision making and mitigates the risks of a shorter-term vesting period where executives could prefer to underinvest in the long term by pursuing fleeting, short-term returns that would provide an outsized impact on their compensation.

In fact, many different factors influence the development of a project beyond concerns of the price of oil and the cost of the development. The company must consider geopolitical developments, financial market risk, technology developments, government policies, and stability and security, among other factors. Our successful liquefied natural gas project in Papua New Guinea provides an example of the development process. ExxonMobil acquired an interest in the associated fields in 1993. Development proceeded until the 1997 Asian financial crisis led the project to be suspended. Efforts to develop the field restarted in 2004 before being suspended again in 2007. In 2009, full funding for the project was approved, 16 years after the initial investment. Production only began in 2014. Short-term incentives would have discouraged development of this project at several different points and also would have failed to hold management accountable for the results of the project after its eventual funding. Within this context, and given the nature of our industry, we believe our design best serves our shareholders.

ExxonMobil's long restriction periods also ensure that executives are required to hold shares throughout the commodity price cycle. Oil prices are highly volatile, with swings often occurring rapidly. For example, crude oil prices (Brent) fell over 50% between June and December of 2014 and 80% between June 2014 and February 2016. In this business context, formula-based compensation programs with short-term target setting and three-year vesting might encourage executives to make short-term decisions by enabling them to monetize performance shares at a much faster pace and avoid a decline in share value driven by short-term oil price fluctuations. For example, if the same number of shares were granted to an executive each year from 2008 through 2017, ExxonMobil's program only permitted 8% of these shares to be monetized prior to the 2013 downturn in oil prices versus 58% of shares in a three-year target-setting program. In effect, the design of our incentive award program is aimed at making long-term shareholders, rather than short-term shareholders, out of our executives.

The unique design element that allows for this long-term orientation of our performance shares is that the performance criteria are applied at the date of grant. While the performance share award is still subject to complete monetary loss based on the performance of our stock or the failure of the employee to meet the terms of the grant, the number of shares is fixed at grant. In fact, neither we nor any market participant has clear line of sight for 10 years in the future to set credible and practical targets that would facilitate the "performance at vest" model commonly found in other companies' compensation programs. We recognize that this approach requires careful judgment by our Board's Compensation Committee to determine the appropriate number of shares at grant, but we contend that an incentive program does not have to incorporate short-term target-setting to be performance-based. In fact, the Committee considers numerous objective factors such as financial and operating metrics, progress towards strategic objectives and benchmarking to determine the number of shares at grant. We also agree with our shareholders' feedback that the design of our incentive program will only be effective with long vesting periods, consistent with those incorporated into the ExxonMobil program.

We believe differences in executive compensation structures do impact management incentives and behavior. We understand and respect that other businesses or industries may have, or even require, a different approach to align their managements' incentives with shareholders. Because of this, applying the same formula or analysis to all public companies fails to recognize these differences and, we believe, can lead to recommendations that dilute or undermine tailored policies that benefit that company's shareholders. Company-specific analysis materially enhances the analysis investors receive by accounting for these points – either by agreeing with them or explaining why the company's analysis is incorrect. An analysis that lacks this company-specific analysis omits material information and has the potential to mislead investors.

A Significant Portion of Proxy Advisor Errors Result from Their Use of One-Size-Fits-All Modeling That Can Be Inadequate for Multifaceted Shareholder Decisions

We believe the largest source of errors and potentially misleading disclosures from proxy advisory firms is their reliance on surface-level analysis that does not incorporate company-specific factors.[53] These type of errors are repeated every season as they are "institutionalized" in some proxy advisors' review process. This approach has material impacts on voting, company behavior and market standards. For example, over time this approach to say-on-pay proposals has resulted in a broad market standardization for executive compensation that does not necessarily account for industry or company-specific realities and may or may not tie to shareholders' returns at all. This can result in businesses disconnecting their executive compensation from their business model and orienting behavior towards the short term, merely to earn a "FOR" recommendation.

Our experience with ISS on this issue illustrates how these errors occur. ISS measures "relative degree of alignment" between a company's CEO pay and Total Shareholder Return (TSR) over the prior three year period.[54] This benchmark, and similar measures, assumes the same standards and design features for every company's compensation program. In effect, through this singular assessment model, ISS implies that every company should use a similar target-setting executive compensation model for their business that is sensitive to short-term (three years or less) changes in TSR.

ISS' substantial influence creates an entirely different "alignment" task for our Board of Directors and undoubtedly those of other companies. Instead of aligning executive compensation with how management's decisions today will affect shareholders' returns in the long term, executive compensation must be sufficiently aligned with the broad market standard promoted by the proxy advisors or risk an "AGAINST" recommendation and a possible vote against directors in future years. This structure can in turn create a strong incentive for Boards to forgo aligning pay with long-term shareholder returns wherever it may conflict with the proxy advisor's generic modeling approach.

[53] The importance of company-specific analysis was highlighted by the Commission in their recent guidance to investment advisors. We believe the Commission should incorporate this principle into its rulemaking. See page 18 of Release No. IA-5325: https://www.sec.gov/rules/interp/2019/ia-5325.pdf.

[54] See ISS' "Pay for Performance Mechanics" on their website, page 4. https://www.issgovernance.com/file/policy/active/americas/Pay-for-Performance-Mechanics.pdf. The other measures listed include "multiple of median" over a one-year period, "pay-TSR alignment" over a five-year period and "financial performance assessment" over a three-year period.

Our own analysis suggests this short-term emphasis is not an accurate predictor of longer-term positive results for our shareholders. Specifically, in looking at performance over the last 51 years from 1968 to 2018, ExxonMobil's one-year TSR has less than a 1% correlation to ExxonMobil's 10-year TSR. Even three-year historical TSR predicts less than 2% of ExxonMobil's 10-year TSR. At least for analyzing our highly volatile and cyclical industry, we fail to understand why short-term TSR is used as a performance benchmark and believe analysis of our company based on this approach does not align with the interests of shareholders. We have engaged with ISS on these points each year. We believe ISS understands our position, but has a strong internal pull through their metrics and philosophy towards this generalized, one-size-fits-all approach to all companies. It therefore regards our objections as simply differences of opinion and not as evidence of the analytical shortcomings that are inevitable without a company or industry-specific approach.

Errors Occur From the Use of Unreliable Sources or Limited Research by the Proxy Advisors

We believe that the depth of the research conducted by proxy advisors significantly impacts the quality of the work product produced. As a simple example, the ExxonMobil 2019 Social Responsible Investor (SRI) specialty report reads as a litany of unsourced allegations that appear to have been taken from cursory internet searches. The report itself describes "controversies," "accusations," and "allegations."[55] These hearsay statements are taken as facts and evidence of company failings without speaking to the registrant[56] or, it appears, conducting any independent analysis to verify its accuracy. They are then used as the basis for justifying recommendations against the registrant, including votes against directors. The report also does not indicate where this information came from or why it is credible. The report simply sources it as "ISS-Ethix research dated May 4, 2019." We do not believe this disclosure represents careful, first-hand research by ISS or would withstand the scrutiny of a serious review under Rule 14a-9. By adopting these "controversies" as relevant considerations, the proxy advisor is telling investors that these allegations are factually relevant without undertaking the analysis to explain why or what has led to this decision. It is also not clear to us that it represents the work of an independent third-party advisor. The reliance on hearsay in ISS' specialty reports calls into question the rigor and objectivity of its research in all of its reports, including its widely used benchmark report.

[55] For example, in the SRI specialty report, ISS lists out a number of items under "Environmental Controversies," "Human Rights Controversies," "Labor Rights Controversies," "Corruption Controversies" and "Ethics and Governance Controversies," that reads together like a parade of horrors. Each supposed "controversy" is summarized briefly based on the statements of the advocacy group or other source making the allegations. No independent research or verification process is described. No company response is included either. ISS has never raised this "controversies" with us for discussion.

[56] We believe these specialty reports as especially susceptible to unreliable sources as they are not reviewed with the registrants. We applaud the SEC's proposal to provide a review framework and believe it will materially improve the disclosure provided to investors. See "*Rule 14a-9 Should Address Many Different Examples to Provide Clarity*" below.

The accuracy of the allegations or "controversies" reported by proxy advisors matters. Relying on unproven statements to say there are "controversies" in order to justify predetermined recommendations in specialty reports to support shareholder proposals, which are at times submitted by professional proponents who also write articles about ExxonMobil, is fundamentally misleading to investors. This process is ripe for abuse without reform to provide for issuer review, full disclosure on the research undertaken and appropriate liability for these statements.

At a minimum, these reports need to provide significant detail about the sources consulted and the authors of those sources. Essentially, by using "controversies" based on third-party allegations as the basis for recommendations, proxy advisors are outsourcing their own analysis of these issues to those third parties. In doing so, proxy advisors are adopting the conflicts of interest and biases of these third parties and so, at a minimum, owe a duty to investors to disclose the potential conflicts of interests of these third parties. To avoid creating misleading disclosures, the proxy advisors should also include responses to these allegations from registrants. It is not sufficient for proxy advisors to give credence to unsubstantiated allegations by third parties without first investigating those claims or at least giving due attention to responsive information from registrants refuting these allegations.[57]

Beyond this minimum standard, we believe the SEC should make clear that proxy advisors should rely on their own first hand research in analyzing and recommending shareholder votes and entirely avoid outsourcing their analysis by relying on third-party "controversies" in evaluating voting recommendations.

Additional Errors Occur When Proxy Advisors Look to Support Predetermined Conclusions

We have also experienced situations where it appears that a conclusion was determined before the analysis has been completed. These types of errors are not limited to the specialty reports. For example, the ISS compensation peer group for ExxonMobil has been in a constant state of flux with 19 changes made to our peer group in the last five years. We do not believe our case is unique. It is important to note that these changes occur long after the compensation to be voted on has been decided by our Board. For example, for our annual meeting on May 30, 2018, which covered compensation already paid during the year ended December 31, 2017, our peer group was finalized by ISS in its report released in May 2018. However, by contracting ISS' consulting services, we gained access to a "preview" of the ISS peer group in January 2018.

As a result of this preview, we learned that ISS added Berkshire Hathaway to our peer group. Our business, along with that of all of our other ISS-selected peers, is capital-intensive and focuses on significant engineering and manufacturing processes. Berkshire is a holding company with a finance- and insurance-based business model. Its Chairman and CEO receives a salary of $100,000 a year. Such an anomaly, if used for comparison purposes, would obviously and unfairly cast our executives' pay in an unfavorable light. In exploring the ISS-selected peer groups of other similarly situated companies, including our closest energy competitors, we determined that Berkshire had not been selected as a peer for any of them. In fact, Berkshire had not been selected as a peer for any other public company.

[57] See "*Rule 14a-9 Should Address Many Different Examples to Provide Clarity*" below.

We have been able to determine from our own analysis that the inclusion of Berkshire negatively impacted our compensation scores. If ISS had instead relied on the peers it used for our largest U.S. industry competitors, we would have received a more favorable score. As such, we believe the inclusion of Berkshire inappropriately contributed to the "AGAINST" recommendation we received on executive compensation in 2018. We cannot find any reasonable basis for the inclusion of Berkshire other than to support an "AGAINST" vote.

Registrant Review Provides a Cost-Effective Way to Provide Superior Disclosure

We have sought to provide some of the factors and conditions inherent in the reporting system that are responsible for some of the errors that occur in the analysis and recommendation process. However, we believe these systems can fail, such as in the inclusion of Berkshire in our peer group, or are otherwise inadequate to address the factors such as "one-size-fits-all" analysis or reliance upon "controversies" because these are accepted practices in the current review process.

The Proposed Rules ask for comment on what extent errors are factual in nature versus differences in opinion about methodology, assumptions, or analytical approaches. While we have seen more traditional errors, such as the report stating the wrong number of boards that a director is sitting on, we do not believe it is productive to discussions of shareholder value to argue over whether any particular issue falls into the "errors of fact" category or the "difference of opinion" category. These determinations can substitute our judgment or a proxy advisor's judgment for the judgment of shareholders. This will lead to suboptimal disclosure for shareholders. Instead, the focus should be on which approach will provide the best disclosure at the lowest cost while avoiding misleading or fraudulent solicitations. Providing investors with both viewpoints will allow them to make their own determinations of what is material and most consistent with their long-term best interest.

This objective can be achieved by providing registrants timely review of the entire report and including both proxy advisors' and registrants' responses simultaneously with the proxy advisors' reports, including through an optional hyperlink, and allowing shareholders to make their own determinations of errors and opinions in their analysis. Most registrants, and their Boards, take each voting proposal seriously and we believe this process should be properly applied to all shareholder votes. An optional hyperlink, if the proxy advisor chooses to include it, could be included both in the report and in the voting platform.[58]

[58] We discuss how this could work for the voting platform in more detail in "*Proxy Advisor Platforms are Highly Customizable Tools That Can Accomplish this with Minimal Cost*" below.

Timely access to both of these viewpoints each proxy season is critical for investors to make informed decisions at minimal cost.[59] Our experience is that supplemental proxy materials filed with the SEC after the release of the proxy advisors' reports, which are intended to supplement such reports, are ineffective. Generally, we have received one of three responses. First, some investors have agreed with us and said that they would consider this in their analysis. A second group agreed that our position made sense, but told us that we should continue working on the issue with ISS because it was important to them that ISS issue a "FOR" recommendation for their fund to vote with management. Finally, we had a substantial third group who declined to speak with us, citing either their workload during the height of proxy season or their vote already being cast. While we understand the time constraints of our shareholders during proxy season, we believe their unwillingness to reconsider the matter after their initial vote was cast, although it could technically be changed until the votes are tabulated, illustrates why disabling automatic submissions for a disputed proposal is so important.

We encourage the Commission to further clarify that the time when a vote is cast is the proxy equivalent of the "effective time" for securities purchased under the disclosure laws. To ensure investors benefit from the full disclosure that a company response facilitates, the company response needs to be available to them at the same time the recommendation is available. It is in all parties' interest to make sure the information available at the effective time is as complete and accurate as possible. We agree with the Commission that proxy advisors should bear no liability for the information provided by companies' in their responses. We would also support the Commission allowing proxy advisors to include this information in their defense of their analysis under Rule 14a-9 (to the extent the information was available for review, investors selected a vote and the shares in question were not automatically voted by the proxy advisor solely on the basis of the proxy advisor's recommendation).

The Commission's Proposed Mechanics Represents a Cost-Effective Approach

We support the Commission's proposal to make the exemptions in Rule 14a-2(b)(1) and Rule 14a-2(b)(3) conditioned upon proxy advisors' providing an opportunity for a review and feedback period. The Proposed Rules provide a standardized review period where the length depends on how far before the shareholder meeting the registrant submits their proxy materials. The Proposed Rules also provide for a two-day final notice period and the opportunity to provide a registrant response to the proxy advisors in the form of a hyperlink. We believe this final notice period and opportunity to provide a registrant response should be preserved regardless of whether the registrant qualifies for an earlier comment period or provides any comments during that period. However, we believe including the issuer response in a hyperlink should be optional for the proxy advisors, with accompanying 14a-9 liability if they choose to omit material information from their report that was included in the issuer response.

[59] We filed supplemental proxy materials in 2018 and 2017 with our perspective on ISS reports for those years. Those material provide additional detail on these issues. For 2018, see: https://www.sec.gov/Archives/edgar/data/34088/000119312518164959/d589753ddefa14a.htm. For 2017, see: https://www.sec.gov/Archives/edgar/data/34088/000119312517176852/d360050ddefa14a.htm.

The Proposed Rules provide a common sense approach that is designed to minimize the costs to all parties, which benefits both proxy advisors and their clients. This is especially true when compared to the alternatives the Commission has provided to other parties making solicitations, who are required to file their solicitations as proxy materials.[60] The Commission could have simply proposed a new "Form 14PA" similar to what other parties must complete, including full liability under Rule 14a-9, and would have been justified in doing so, on account of the continuing disputes over what is a solicitation. Instead, the rules are tailored to require registrants to both (1) act in certain ways to minimize the costs to proxy advisors of researching company-specific facts, and (2) incur costs themselves to demonstrate that these registrants believe additional material information exists and should be presented to shareholders. This structure is generous in minimizing the proxy advisors' need to file their solicitations and in decreasing the proxy advisors' costs to create solicitations that comply with Rule 14a-9.

Although it may impose additional burdens on some registrants, we support the proposed 45-day and 25-day cut-offs for determining the length of the registrant's review as a fair attempt at balancing the needs of investors and the practical challenges faced by proxy advisors in preparing timely recommendations. We believe the burden placed upon registrants to meet these timing deadlines will require changes in future proxy seasons, but the responsiveness of registrants will show how material registrants believe these reports are and provide further evidence of the need for continued SEC oversight over the proper use of these exemptions. We believe registrants will make the adjustments necessary to take advantage of these rules. Additionally, regardless of when a registrant files its proxy materials, we would support limiting the review period to two days, instead of five days, whenever there is no disagreement between the Board's recommendations and the proxy advisor recommendations. This would seem to us a reasonable cost- and time-saving measure to the benefit of proxy advisory firms.[61]

Approaches for Implementing a Hyperlink

We believe including the hyperlink should be optional and that this process can be designed to require minimal expense for the proxy advisor. For example, Rule 14a-2(b)(1) and Rule 14a-2(b)(3) exemptions could require the proxy advisors to answer two simple questions: (1) has the registrant provided any additional information for investors to consider, and (2) has the proxy advisor chosen to include a link to this information in their report and voting platform?

The only work required by the proxy advisor would be to answer these questions and, if they choose, to attach a hyperlink. We believe the proxy advisor could provide whatever disclaimer language they believe is appropriate along with the hyperlink to make clear it is not part of their analysis, though statements they make about the registrant's analysis should be subject to liability under Rule 14a-9.

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[60] See Rule 14a-2(b)(1)(i)-(x). In addition, it is not clear to us based on the currently available information that all of the proxy advice solicitations currently made by proxy advisors fit within the current versions of Rules 14a-2(b)(1) and 14a-2(b)(3). See our discussions above under "*Specialty Reports and Other Reports Not Focused on Maximizing Shareholder Value Will Require Additional Disclosures*" and "*Errors Occur From the Use of Unreliable Sources or Limited Research by the Proxy Advisors*" for additional details.

[61] We believe this approach provides a potential additional cost-saving in a way that is consistent with the Commission's guidance to investment advisors that additional analysis (and cost) is appropriate where a matter is highly contested. See page 16 of Release No. IA-5325: https://www.sec.gov/rules/interp/2019/ia-5325.pdf.

This approach is non-invasive. It requires only two "yes"/"no" answers to make use of the exemption, and does not require inclusion of the hyperlink. We believe including the hyperlink should be at the proxy advisor's discretion. However, if the proxy advisor chooses to omit the information in the hyperlink, the proxy advisor could have liability under Rule 14a-9 if an investor casts their vote on the basis of the proxy advisors' analysis or recommendation and later decides that the information provided by the Company for inclusion in the hyperlink was material to their voting decision.[62]

We support the Commission's position that proxy advisors would not be liable for an immaterial or unintentional failure to comply with the rule in providing a working hyperlink. We do not believe it would be appropriate for the Commission to limit the information that can be included in the hyperlink as no party can foresee what information may be material to investors for a future vote. We agree with the SEC that mistakes should be corrected as soon as practicable. Since voting may be occurring immediately after the report is released, we believe the proxy advisors should be required to remediate mistakes by notifying clients whose votes have already been cast of (1) what the mistake was, (2) that additional information is available for their consideration as well as how they can access it, and (3) how they can change their votes if they wish to do so in response to this new information. Additionally, we believe this communication is an amendment to their prior solicitation. This amendment should not qualify for exemption under Rule 14a-2(b)(1) and Rule 14a-2(b)(3). Instead, this communication could be filed as a third-party supplemental proxy under the registrant's EDGAR pages just like the registrant's hyperlink response would be.

Proxy Advisors Already Distribute Some of Their Reports to Larger Registrants

We support the principle that proxy advisor reports that are provided to registrants prior to their public release should be kept confidential. We note that ISS provides us with drafts of their benchmark report with no confidentiality agreement. We believe proxy advisors provide these reports to larger registrants because they help the proxy advisors avoid clear or otherwise embarrassing errors, provide a sounding board for the disclosure, and serve as a courtesy to the registrant. We take seriously the confidential relationship that we have with the proxy advisors when this information is provided, and are not aware of any concerns about safeguarding confidentiality or needing an agreement to do so. We expect a very simple and straightforward confidentiality notice with a consent would be appropriate to alert registrants of their obligations to keep this information confidential for a period of time.

[62] Potential liability for the proxy advisor is appropriate if the hyperlink contains material information and is not included in the report because the proxy advisor will have actually and intentionally omitted material information from its solicitation.

However, we believe a complex or signed contractual agreement could undermine the review process or registrants' other legal rights under Rule 14a-9 or otherwise. For example, registrants do not know what sort of indemnities, waivers or agreements proxy advisors may agree to with their clients. Using client agreements as the standard here does not appear correct to us. There is no reason to believe that registrants are similarly situated with the proxy advisors' voting clients. Accordingly, we believe any sort of agreement that proxy advisors are allowed to require should be limited and informed with detailed guidance from the Commission. Finally, we believe the agreements should terminate at a specific date and time when the proxy advisors plan to release their reports in order to allow the registrant to file any registrant response statements as supplemental proxy filings in a timely manner.[63]

The Commission has asked whether engagement and dialogue between registrants and proxy advisors will somehow weaken the proxy advisors' recommendations or independence. We have heard complaints that in order to be independent, proxy advisors must not discuss voting proposals with companies. However, these relationships and feedback mechanisms already exist.[64] They are a current market practice, albeit in limited cases. For example, the proxy advisors engage with ExxonMobil throughout the year. The only difference under the Proposed Rules is that the public will become fully aware that these engagements are happening. Generally, we believe any concerns can be addressed through the conflict of interest rules and disclosures discussed above.[65]

If significant concerns still exist, we would welcome having the proxy advisors make these engagements public by filing the correspondence as a supplement proxy filing or including it as an attachment to their reports that their clients can review. If making the public aware of these engagement or making the issues discussed available to the public did somehow influence a proxy advisor's recommendation, we believe this would be the proper role of disclosure and ultimately benefit all parties. To provide adequate disclosure to investors, more transparency – not less – is required**.**

[63] Some reports are available for registrants to purchase and some, such as ISS' public pension specialty report, are not sold by ISS to registrants. Unless the registrant chooses and is permitted to purchase the report, the registrant may be unaware of when the report is released. Having a set date and time provides a level playing field for both parties to comply with their obligations. To the extent that the timing of the publications of the proxy advisor report slips, registrants should not be responsible for monitoring and adjusting their filings to mirror those of the proxy advisors.

[64] A review of the current proxy advisor process of sharing reports with larger registrants is also useful in evaluating the Commission's question of whether this review creates misuse or misappropriation concerns. To the extent such concerns exist, they have never been raised in our interactions with any proxy advisor. We believe any misuse of confidential information to manipulate the securities markets should be subject to SEC enforcement. To the extent that proxy advisors have new concerns for their businesses, they control this process and can determine not to comply with the exemptions.

[65] See "*The New Rules Should Require Clear, Detailed Disclosure that is Easy to Understand*" above.

The Commission has separately asked whether to allow proxy advisors to seek reimbursement for undertaking a review process with registrants. This line of reasoning suggests that registrants are the sole beneficiaries of this review process and should therefore be responsible for the costs associated with it. As the Commission has described in the proposed release, the rationale for this process is to improve the mix of information available to investors. The primary beneficiaries are (1) investors, who receive more accurate information upon which to make voting decisions to maximize their investment goals, and (2) proxy advisors, whose disclosures are improved and more likely to withstand scrutiny under Rule 14a-9. To the extent there is a cost to this process, it is the cost that is required to provide the level of disclosure necessary to make informed voting decisions. This is not an increase in costs, but an internalization of costs that have been avoided in the past through incomplete or inaccurate disclosures.

Conversely, forcing registrants to pay the proxy advisors for this privilege, beyond the work and costs that registrants are already absorbing to review and respond, would effectively subsidize proxy advisors and their clients and distort the true costs of an informed proxy advisor report. The Commission needs to carefully consider whether this is an appropriate burden to place on registrants, especially small- to mid-cap registrants. If the Commission determines this is the correct course of action, it should expand this policy to provide offsets for the multiple requests for information we receive from the proxy advisors each year. For example, our letter to ISS included in **Attachment 1** below, outlines the multiple, repeated and overlapping requests we have received from different subsidiaries of ISS each year. The work that goes into these responses is also not cost-free, but we consider these expenses to be part of the costs of shareholder engagement. Similarly, proxy advisors' costs incurred in the registrant review process are the standard costs of providing their products with complete and accurate disclosure. The product is either worth these costs or it is not.

We acknowledge that some funds may evaluate the value of the information provided against the cost of obtaining this information and determine how to best meet their fund goals, including whether informed voting on some or all matters is consistent with those goals. However, we believe an honest assessment of the value and cost of informed voting, as outlined in the recent Commission Guidance,[66] is superior to the current standard, where voting is occurring on the basis of incomplete information that does not meet the anti-fraud standards for solicitations.

We also note that proxy advisors engage with many interested parties that are not registrants. To the extent that discussions with registrants could impact the independence of the proxy advisor's analysis or create expenses that should be reimbursed, these third-party groups pose the same risks. They may even be clients of other services that proxy advisors provide. Whatever rules or suggestions are made for documenting, monitoring or limiting registrant and proxy advisor interactions should also be applied to interactions with activist shareholders, shareholder proposal proponents, non-governmental organizations and others.

[66] See Question 5 (pp. 22-23) and Question 1 (pp. 9-12) of SEC Release No. IA-5325: https://www.sec.gov/rules/interp/2019/ia-5325.pdf

Request for Comment Question 41

Automatic Submissions of Votes Are Occurring Without Review of the Proposals or the Proxy Advisor Recommendations by Funds or Investors

The Proposed Rules are focused on restoring and enhancing a voting system based on material disclosure, subject to anti-fraud liability. We believe these reforms, as proposed, will not have the desired impact on the 15 to 20 percent of our vote that is automatically submitted each year. We believe the Commission will need to address the process of automatic submission to make the proposed reforms long-lasting and uniformly effective. Otherwise, automatic submission will continue to undermine shareholder engagement efforts and provide voting solely on the proxy advisors' incomplete analysis. Failing to address automatic submission would furthermore render other provisions of the Proposed Rules, such as the review and feedback mechanism, an exercise for all parties with limited practical impact despite the efforts of all parties.

By automatic submissions, we do not mean prepopulated ballots, which are not necessarily problematic in our view. Instead, automatic submissions are votes that are cast consistent with the proxy advisors' recommendations without review of the proxy advisors' recommendations and confirmation of the vote by the fund. Automatic submissions can occur in two different cases. First, through funds that accept a proxy advisor's predetermined policies and authorize the proxy advisor to submit these votes without reviewing and confirming the recommendations made. Second, through funds that provide a proxy advisor with a "customized" predetermined policy[67] and authorize the proxy advisor to submit these votes without reviewing and confirming the recommendations made. In either of these cases, the fund is not reviewing the proposal on a company-specific basis or beyond the proxy advisor's analysis. Accordingly, enhancing the proxy advisors' disclosure and providing additional registrant disclosure will not change the mix of information available at the "effective time" of the vote decision.[68]

[67] Such policies may be substantially identical to the proxy advisor's policies with minor changes.

[68] Depending on the amount of analysis done by the proxy advisor, the "effective time" would either be when the fund submitted its predetermined policy to the proxy advisor or when the proxy advisor made its determination on what vote to recommend.

We know automatic submissions are occurring. As independent commenters have noted, investment advisors have stated that this is the case:[69]

> PIA has retained Institutional Shareholder Services, Inc. ('ISS'), an independent third party proxy server, to provide fundamental research on proxies and subsequent recommendations. Proxies are voted by ISS in accordance with their proxy voting guidelines with the intent of serving the best interests of PIA's clients.[70]

One of the ways we identify automatic submissions is the disproportionate number of shares voted immediately upon release of the proxy advisors' report. In fact, we first noticed automatic submissions because of this phenomenon.[71] ExxonMobil awaits the release of the reports each year because of the significant influence (beyond automatic submissions) that the proxy advisor reports have on our shareholder voting. We have multiple divisions within the organization that begin to read the reports as soon as they are released. In doing this, we began to notice that a substantial and disproportionate numbers of votes were submitted based on the reports before we had completed our own review and were able to respond. We believe it is practically impossible that these votes were cast after reviewing the report. By any reasonable standard, this is evidence of automatic submissions.

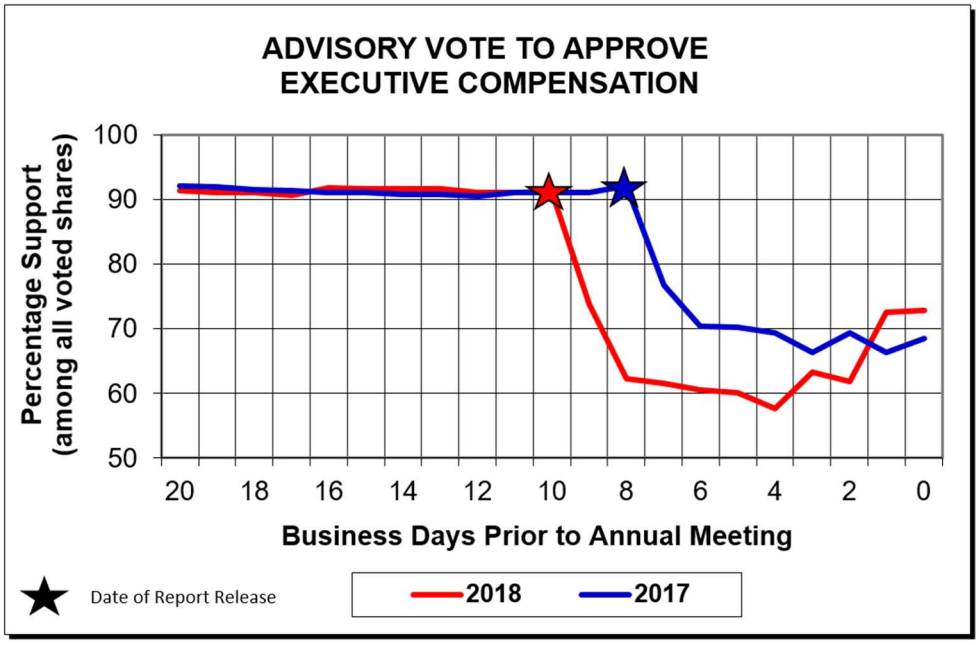
[69] See page 3 of the comment letter by Paul Rose, Professor of Law, Ohio State University, submitted on November 14, 2019: https://www.sec.gov/comments/s7-22-19/s72219-6429308-198569.pdf

[70] GuideStone Funds, Form N-1A (May 9, 2009), available at: https://www.sec.gov/Archives/edgar/data/1131013/000119312509121299/d485apos.htm

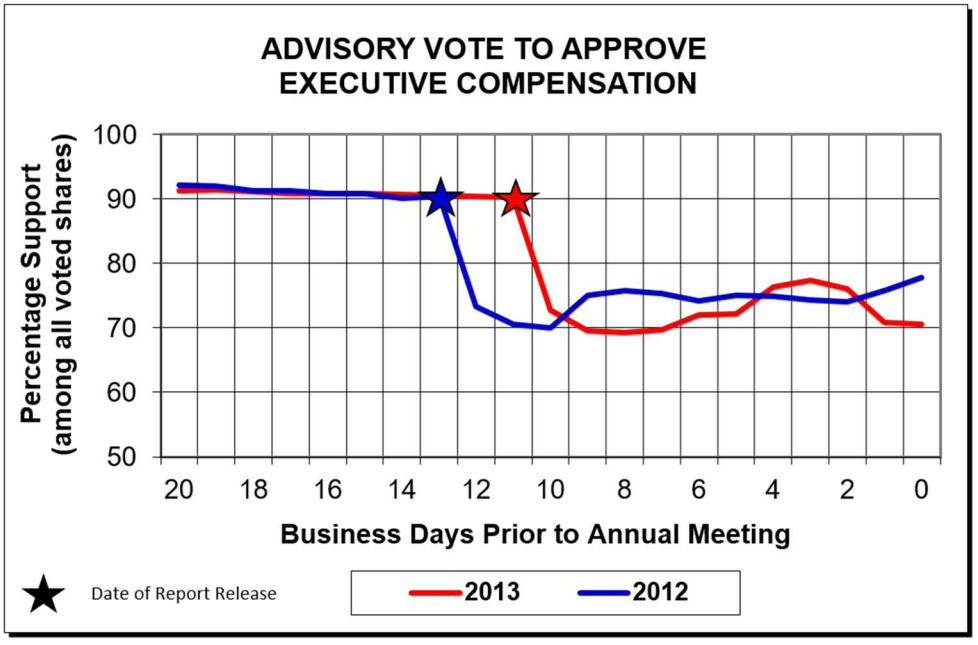
[71] However, we note that submissions in the first 24-48 hours are not necessarily all of the automatic submissions. Equally, in future years, proxy advisors could change their procedures and spread these votes out every day to mask this "bump" of votes that were not reviewed.

The Data on Automatic Submissions is Compelling

Below is an example of this phenomenon on our 2018 and 2017 advisory vote on executive compensation. The chart below shows the voting percentage each business day prior to the annual meeting. The day that the ISS report was released with an "AGAINST" recommendation saw a significant drop in the vote "FOR," and that drop was observed immediately on the first day.



A similar drop can be seen in our 2013 and 2012 votes. This suggests that automatic submissions are a phenomenon that has shaped voting throughout the decade.

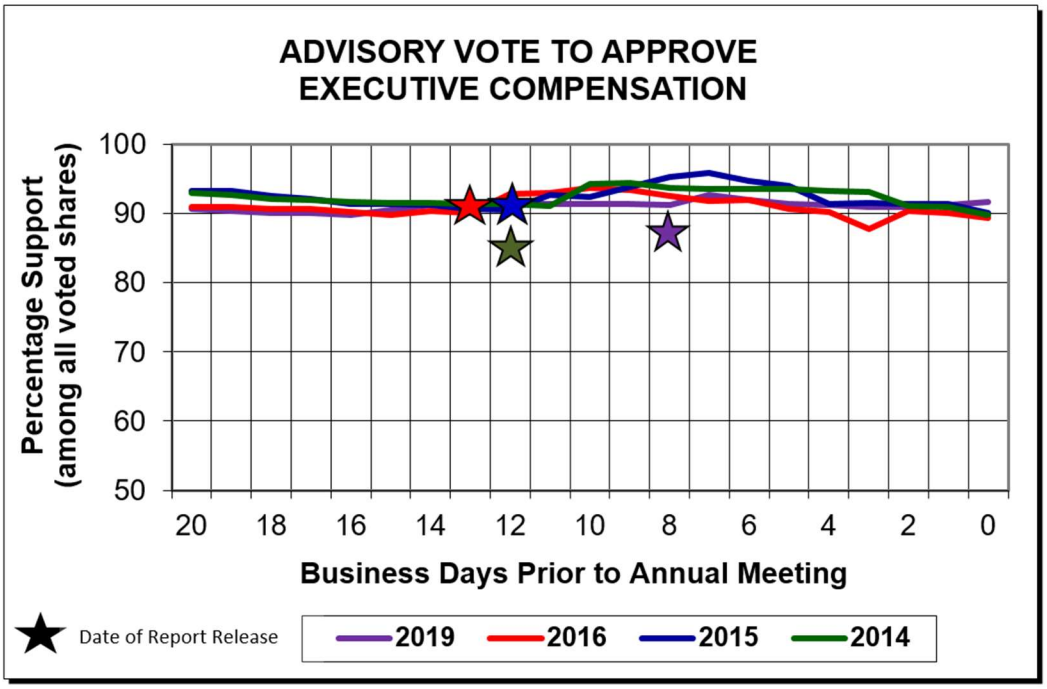


The Explanation That Automatic Submissions Are Not Occurring Is Flawed

The first rebuttal to this data generally is that proxy advisors are just submitting votes that have been "pre-cleared" or somehow already reviewed by their clients. We believe this argument fails on two points. First, we know that clients are not reviewing the final proxy advisor recommendations before they are released by the proxy advisor. Second, a predetermined policy cannot "pre-clear" a specific vote because the company-specific facts are not known at the time the policy is provided to the proxy advisor. We acknowledge that there may be some votes on which an investment advisor can comfortably say they will always vote a certain way. However, this cannot be sufficient if the policy contains even one issue that provides for case-by-case analysis. Even if it did not, the topics covered in shareholder proposals continue to expand and become more detailed, which means that no policy will ever be complete and not require some analysis by the proxy advisor in applying the policy.

The second rebuttal to this data is that these numbers do not truly show the impact of an ISS recommendation, but instead are simply a function of ISS submitting votes that have already been determined by clients before the release of the ISS report. This argument seeks to muddy the waters. If this is referring to the predetermined policies, we have discussed above why this is insufficient. However, if this is seeking to suggest that funds have independently read the proposals and submitted votes on each proposal *prior* to receiving the ISS report, we believe this is extremely unlikely. First, even large investment advisors who have shown voting patterns independent of ISS wait for the release of the report prior to submitting their votes. Otherwise, they receive no benefit for paying for the report. Second, the voting evidence shows that these votes submitted with ISS change year to year based on the ISS recommendation. If they were simply early votes, they would not follow ISS in different directions each year.

The charts above show that the same amount of the vote immediately followed the ISS recommendation "AGAINST" the advisory vote on executive compensation in 2012, 2013, 2017 and 2018. Remarkably, the chart below shows this vote entirely disappeared in 2014, 2015 and 2016 when ISS recommended "FOR" the advisory vote on executive compensation. For these to be independent votes, and not automatic submissions, we would expect at least some consistency year over year regardless of ISS changing its recommendation. This was not the case.

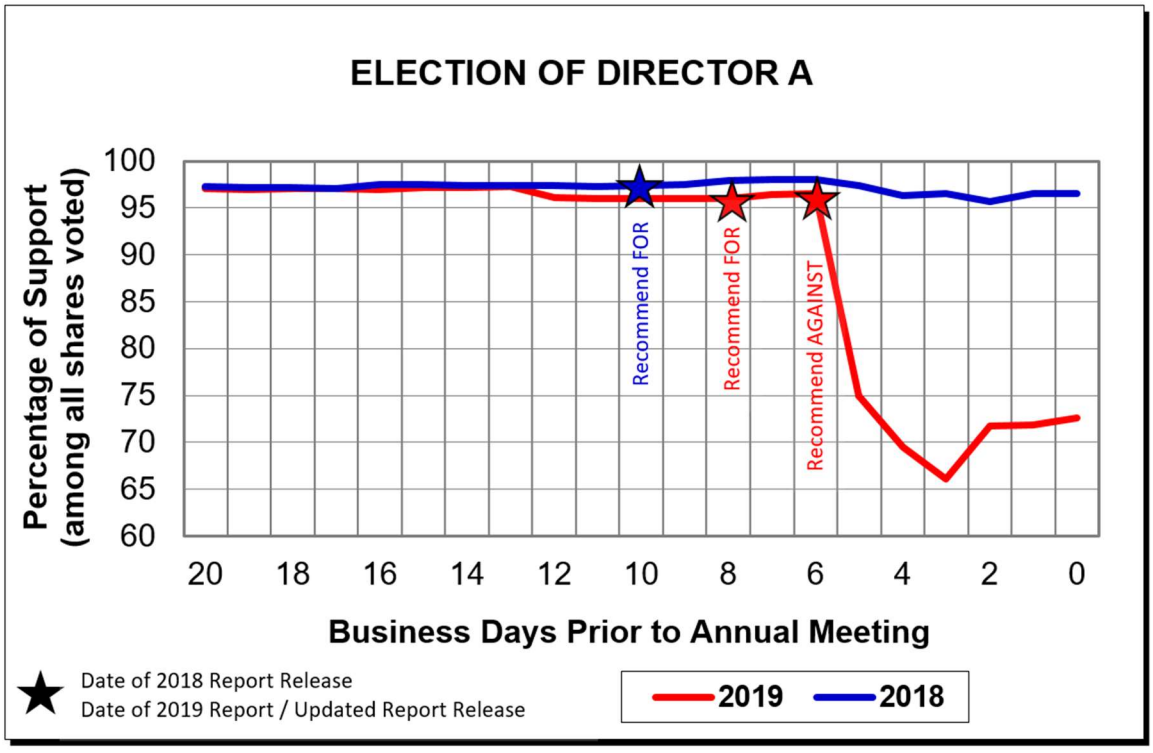


The ISS recommendation appears to be the sole reason for this first day voting pattern in these distinct, separated periods over the last eight years. No significant design changes occurred in the structure of our pay program throughout these years. The ISS recommendation is the only change we have been able to identify to explain this difference in voting behavior, implying that it is not simply an input or additional source of information for our shareholders in the proxy process. Instead, the ISS recommendation perfectly predicts the votes of many of our shareholders each year and determines the ultimate vote of at least 15% of our shares on the very first day the report is released.[72] Data from these first day votes is provide in **Attachment 4**.

[72] ExxonMobil is not the first company to provide data on this trend. Following the SEC's 2010 request for comment, Johnson & Johnson presented data in an October 19, 2010 comment letter showing that 13.4%-17.9% of their shares were voted in accordance with the ISS recommendation on the first business day following the ISS recommendation in each of 2008, 2009 and 2010: https://www.sec.gov/comments/s7-14-10/s71410-115.pdf. Additionally, IBM, in an October 15, 2010 comment letter, provided similar data of first business day automatic submissions for IBM and at least six other Fortune 500 companies of between 10.9% and 17.8%. Both J&J's and IBM's data are consistent in size and scope with the data we present in this letter: https://www.sec.gov/comments/s7-14-10/s71410-84.pdf.

Changes in the ISS Recommendation During a Single Year Conclusively Show That Automatic Submissions Are Occurring

Changes in ISS recommendations during a single proxy season provide further definitive evidence of automatic submissions at work. During the 2019 proxy season, ISS originally recommended "FOR" Director A on our Board of Directors. Director A initially received similar support in 2018 and 2019, as shown below. However, ISS changed its 2019 voting recommendation for Director A from "FOR" to "AGAINST" after discovering belatedly that the director had recently exceeded the number of Board memberships permitted by ISS' overboarding policy.[73] The chart below shows that the negative impact occurred immediately once ISS changed its recommendation. The timing of the change in the vote makes clear that these were not "pre-cleared" votes, but immediate votes following the ISS recommendation.



[73] We note that ISS' overboarding policy uses "listed" companies in determining whether a director is overboarded, rather than "public" companies as the NYSE and other market standards do. This makes a significant difference for international companies, as it includes foreign subsidiary boards. In our discussions with investors, they have been surprised to learn of the difference in methodology. This is another example where (1) disclosure of methodologies and a company's response can only help investors and (2) following ISS recommendations without review or confirmation does not always lead to investors' intended outcome.

Automatic Submissions Need to be Addressed to Restore a Disclosure-Based Approach to Voting

We believe that the contemplated reforms to enhance the mix of information available at the time votes are cast will be undermined if proxy advisors are permitted to continue making automatic submissions while benefiting from exemptions under Rule 14a-2 that are not available to other soliciting parties.[74] Automatic submissions short-circuit the shareholder engagement process, cause proxy advisors to undertake analysis on proposals beyond predetermined fund policies, and undermine fiduciaries' opportunities for oversight as contemplated in SEC Release No. IA-5325.[75]

Despite these issues, we acknowledge the cost-savings that come with automatic submissions. Based on a review of voting patterns at ExxonMobil's annual meeting, up to one-fifth of all of our shares are held by funds that make use of automatic submissions. The cost-savings that come from limited or no review of specific proxy proposals could accrue directly to our shareholders, if passed along as a result of market competition. Additionally, different funds and shareholders could have different views on the amount of information that is necessary to cast an informed vote.[76]

To address these concerns, we believe a solution should be targeted to address only those votes where the recommendation is contested. Such a solution should minimize costs and preserve the ability to make automatic submissions for most votes without undermining shareholder engagement or the integrity of the proxy voting process.

We believe automatic submissions can be properly addressed by focusing *only* on a very narrow set of solicitations (whether benchmark, specialty or custom). Rule 14a-2 safe harbors would only be unavailable where:

1. The proxy advisor submits votes after making a solicitation; and

2. The vote matches the recommendation in the solicitation; and

3. The proxy advisor has not confirmed each "contested" recommendation with the client.

[74] See Rule 14a-2(b)(1)(i)-(x) for a list of parties not receiving the special treatment being offered to proxy advisors in their solicitations.
[75] See pp. 15-16: https://www.sec.gov/rules/interp/2019/ia-5325.pdf.
[76] However, we believe that casting contested votes on the basis of *no* information (including no review of the proxy advisor's analysis of the facts in their report) is an insufficient basis and is not consistent with SEC Release No. IA-5325: https://www.sec.gov/rules/interp/2019/ia-5325.pdf.

This proposal avoids interfering with voters' rights in any way. If the investment advisor has submitted proposal-specific instructions already, there is no solicitation and no issue with automatic submissions. If the investment advisor votes in a way that does not match the recommendation in the solicitation, there is no issue with automatic submissions. If there is no contested vote, there is no issue with automatic submissions. If the proxy advisor confirms the investment advisor has reviewed each contested recommendation, there is no issue with automatic submission. This approach only regulates the proxy advisor's use of pre-population tools in contested votes. We outline how this could work below.

This proposal preserves proxy advisors' and investors' ability to use automatic submissions in two ways.[77] First, automatic submissions could continue if the proxy advisor foregoes the exemptions and files the solicitation tied to the automatic submission.[78] Second, automatic submissions could continue with most votes pre-populated to match proxy advisors' recommendations and "contested" votes being pre-populated at "ABSTAINED" or "DO NOT VOTE" until the client determines to affirmatively vote them.[79] [80]

Both of these alternatives would require no change in the resources that funds are required to dedicate to voting. Additionally, the second alternative would only require a slight change in the proxy advisors' pre-population settings shown on the proxy advisors' voting platform, without any need for additional costs in services.[81] If a fund that was using automatic submissions wished to affirmatively or negatively vote on a contested issue, they could easily change the vote on the proxy advisor's platform just as they can today.[82] The next section shows examples of how this would work on the proxy advisor platform.

We recommend contested votes be defined by the Commission to be any vote where the registrant has submitted a registrant response to the proxy advisor. We believe that when registrants believe there is additional information that shareholders need, to the point that they incur the costs and anti-fraud liability to make these filings, there is a good faith presumption that additional material information exists. The number of these filings has historically been relatively low and, as noted above, this process would not impact the timing, method or cost of voting on any other proposals.

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[77] Since ballots are still submitted under this proposal through automatic submissions, we do not believe this proposal will have any impact on a registrant's ability to meet quorum requirements.

[78] As discussed above, if the client provided instructions on each specific proposal (not just a predetermined policy), there would be no solicitation on a corresponding custom report and automatic submissions would not be an issue. Separately, a custom policy that did require filing to allow automatic submissions could potentially be filed as a limited filing. See "*The SEC Needs to Review and Evaluate Specialty and Custom Voting Recommendations Prior to Exempting Them from These Rules*" above.

[79] The proxy advisor's platform allows for a number of configurations. Additionally, proxy advisors wishing to avoid filing could modify the proxies they accept from clients to provide for this caveat for contested votes.

[80] An alternative approach of not pre-populating contested votes would be equally effective as long as it does not prevent a ballot from being submitted. Since "DO NOT VOTE" is an option, we suspect some response may be required to be submitted. In any case, we view "DO NOT VOTE" as equivalent to not pre-populating the vote at all.

[81] This solution avoids interfering with voters' rights in any way. Instead, it simply regulates the proxy advisor's use of pre-population in contested votes. Voter rights and ability to vote are entirely unaffected.

[82] In this case, the fund would have shown that it made an affirmative decision and was not making an automatic submission. In addition, the ISS voting platform contains a surprising amount of analysis and information, as discussed below.

Proxy Advisor Platforms are Highly Customizable Tools That Can Accomplish this with Minimal Cost

Currently, the ISS platform is a fully customizable and user-friendly tool. It is easy to see the value in this platform and why similar tools could be helpful to investment managers, especially those holding securities though indexes or in funds with different goals and priorities. This ability of ISS to customize its platform allows the Proposed Rules' changes for automatic submission that are contested to be accomplished with little or no cost. It also provides another place where registrant response statements should be included by hyperlink, if the proxy advisor decides to include the issuer response in its solicitation.

The following page provides an example of what one views when accessing the voting platform to vote on ExxonMobil's 2019 annual meeting.

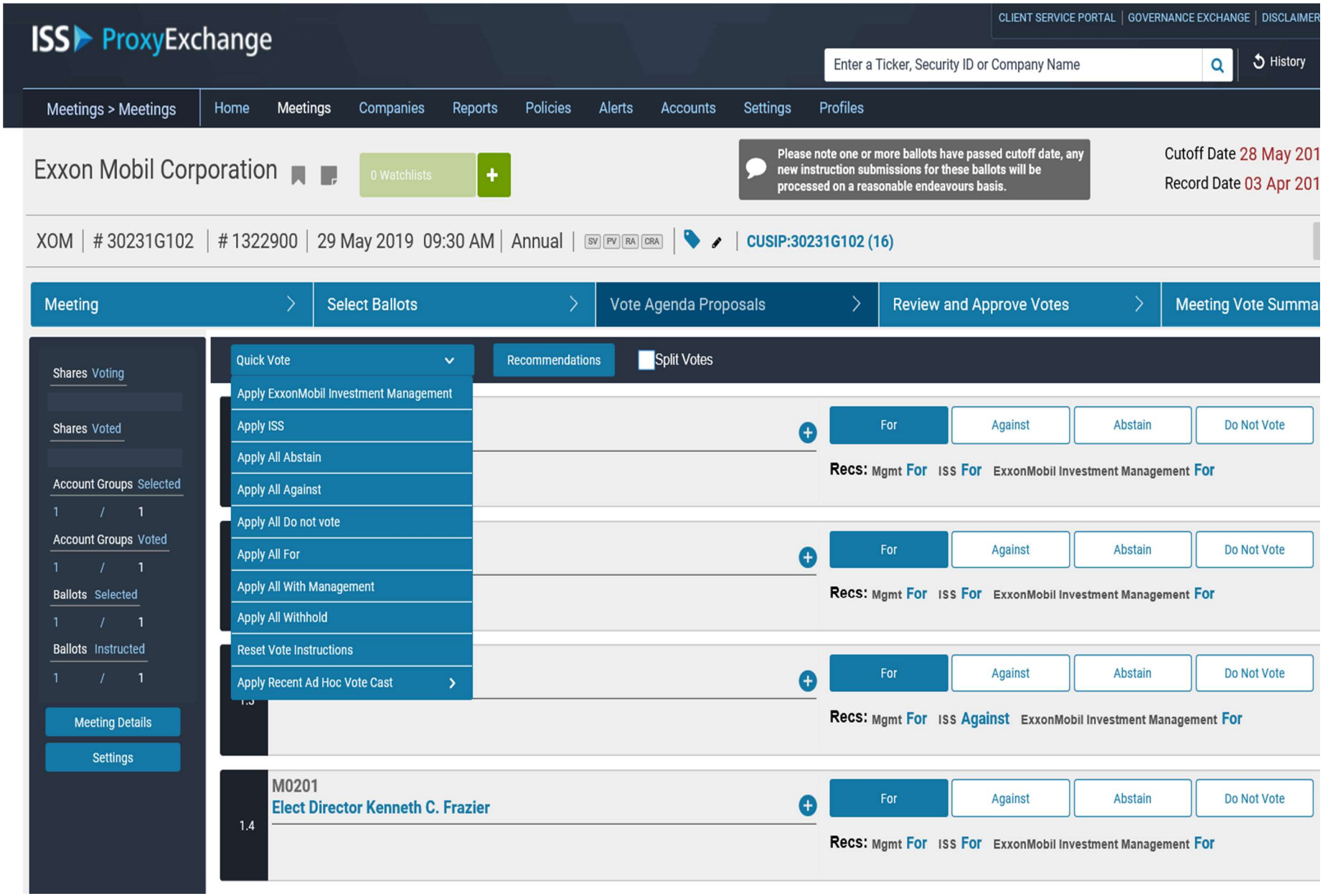
1. The platform shows the meeting date, the cut-off date to vote and the record date across the top bar.

2. Looking at the left side, it shows the number of shares being voted and the different accounts the investment manager is voting for.

3. Looking at the center of the page, it provides each director and proposal separately for voting. Interestingly, the platform provides four voting options for each vote: (1) FOR, (2) AGAINST, (3) ABSTAIN and (4) DO NOT VOTE.

4. Pre-populated votes are highlighted in blue. In this picture, the investor can see that a vote "FOR" each of ExxonMobil's directors is pre-populated. This pre-population is a not determinative of the vote. It does not in any way impact how the investor may eventually choose to vote. If this pre-population was changed to "ABSTAIN" or "DO NOT VOTE" because the issue was contested, the investor would still be able to insert any other vote as part of its review.

5. In addition, there is a pulldown menu, "Quick Vote," which allows the investor to change the pre-populated voting to match a number of different standards. The first is the custom policy of the fund and the second is the ISS report recommendations. A number of different alternatives are also available from "All FOR" to "ALL WITH MANAGEMENT." This means that even if a number of votes were pre-populated "DO NOT VOTE," an investor could, with one click, change and cast these votes using the "Quick Vote" option.


ISS ProxyExchange
CLIENT SERVICE PORTAL | GOVERNANCE EXCHANGE | DISCLAIMER
Enter a Ticker, Security ID or Company Name
History
Meetings > Meetings
Home
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Companies
Reports
Policies
Alerts
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0 Watchlists
Please note one or more ballots have passed cutoff date, any new instruction submissions for these ballots will be processed on a reasonable endeavours basis.
Cutoff Date 28 May 201
Record Date 03 Apr 201
XOM | # 30231G102 | # 1322900 | 29 May 2019 09:30 AM | Annual | SV PV RA CRA | CUSIP:30231G102 (16)
Meeting
Select Ballots
Vote Agenda Proposals
Review and Approve Votes
Meeting Vote Summa
Shares Voting
Shares Voted
Account Groups Selected
1 / 1
Account Groups Voted
1 / 1
Ballots Selected
1 / 1
Ballots Instructed
1 / 1
Meeting Details
Settings
Quick Vote
Recommendations
Split Votes
Apply ExxonMobil Investment Management
Apply ISS
Apply All Abstain
Apply All Against
Apply All Do not vote
Apply All For
Apply All With Management
Apply All Withhold
Reset Vote Instructions
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The amount of information available on this page is extensive. There is much versatility in the number of ways a fund can quickly and easily vote. The Proposed Rules would simply change the pre-populated boxes to either "ABSTAIN" or "DO NOT VOTE." These options already exist and would require no significant changes to the platform. Additionally, the platform is customizable in the proposals one reviews. Investors would not even have to vote contested proposals one by one. Using the "Quick Vote" tool, they could vote them all in accordance with the custom policy, the ISS report, with management or otherwise with a single selection. The minimal effort required to do so allows complete latitude by investment advisors in how much information the fund decides to review prior to voting. Requiring the proxy advisor to modify or disable the pre-population feature for contest votes would not impact voting rights in any way. All that would be required is an affirmative action on the part of the investor that would make clear that they are making the voting decision and not the proxy advisor.

The next page shows different shareholder proposals and highlights other features.

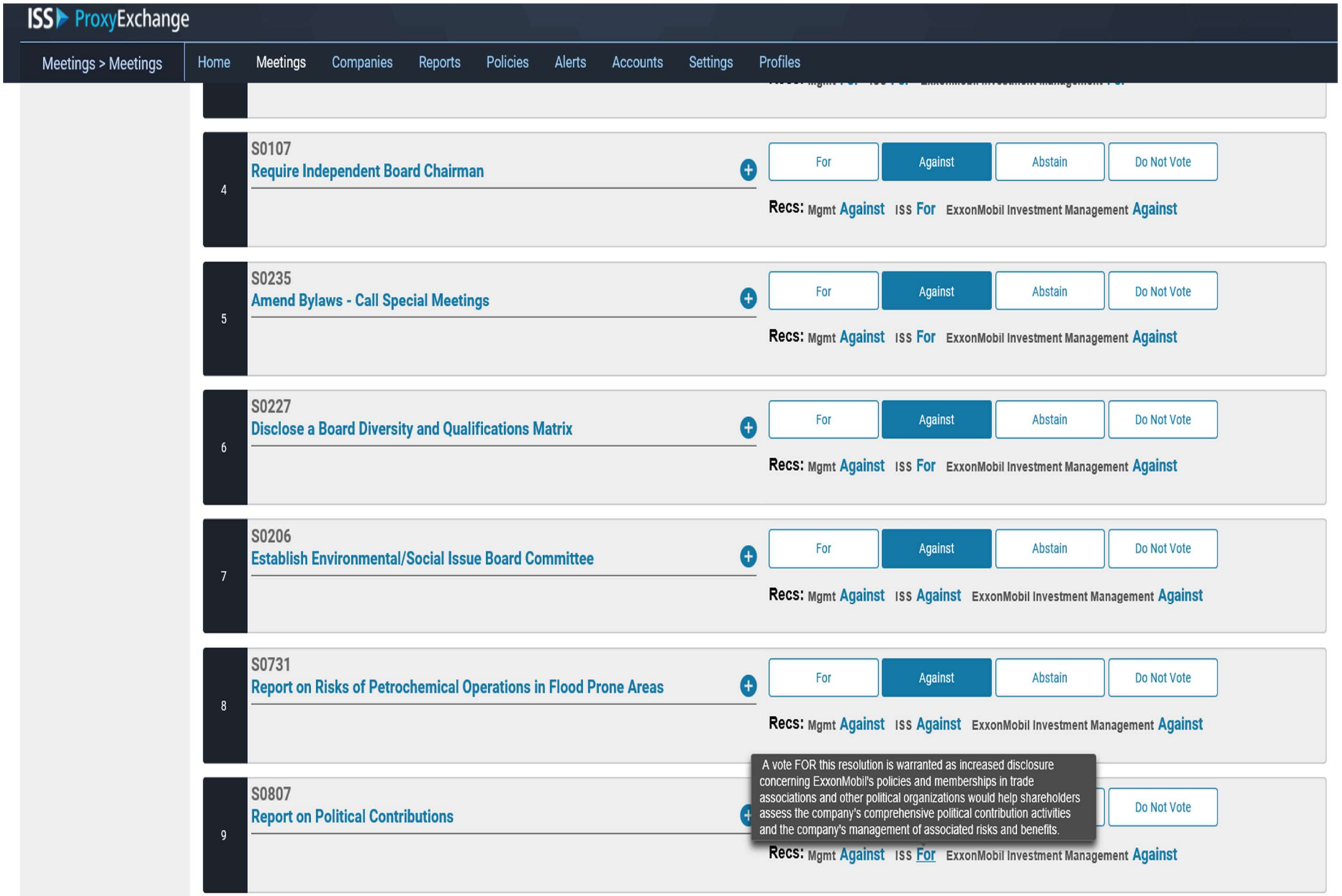
1. Each proposal is highlighted in blue. If an investor expands the "+," the platform shows ISS' abridged summary of whatever policy the investor is applying to the vote.

2. Beneath the potential votes, different recommendations are included. In this case, these include management's recommendation, ISS' recommendation and the custom policy's recommendation.

3. As shown in the picture, if the investor hovers over the hyperlink for one of the recommendations, a bubble pops up showing the rationale for the vote under the recommendation. For example, here the bubble shows ISS' analysis on why it believes voting for this proposal is warranted.

These hyperlinks are significant. First, they make clear that this voting platform would be a solicitation for a custom policy even if no separate report were produced.[83] They meet each of the criteria set out by the Commission in the Proposed Rules. Second, they show that the registrant response to the ISS report could be linked on the platform where the management's recommendation is listed. This is important to provide proxy advisors a way to take advantage of the exemptions for solicitations based on the voting platform where no other written report may exist.

[83] See "*The SEC Needs to Review and Evaluate Specialty and Custom Voting Recommendations Prior to Exempting Them from These Rules*" above.


ISS ProxyExchange
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Recs: Mgmt Against ISS For ExxonMobil Investment Management Against
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S0235
Amend Bylaws - Call Special Meetings
For
Against
Abstain
Do Not Vote
Recs: Mgmt Against ISS For ExxonMobil Investment Management Against
6
S0227
Disclose a Board Diversity and Qualifications Matrix
For
Against
Abstain
Do Not Vote
Recs: Mgmt Against ISS For ExxonMobil Investment Management Against
7
S0206
Establish Environmental/Social Issue Board Committee
For
Against
Abstain
Do Not Vote
Recs: Mgmt Against ISS Against ExxonMobil Investment Management Against
8
S0731
Report on Risks of Petrochemical Operations in Flood Prone Areas
For
Against
Abstain
Do Not Vote
Recs: Mgmt Against ISS Against ExxonMobil Investment Management Against
A vote FOR this resolution is warranted as increased disclosure concerning ExxonMobil's policies and memberships in trade associations and other political organizations would help shareholders assess the company's comprehensive political contribution activities and the company's management of associated risks and benefits.
9
S0807
Report on Political Contributions
Do Not Vote
Recs: Mgmt Against ISS For ExxonMobil Investment Management Against

The ease with which the voting platform could provide "ABSTAIN" or "DO NOT VOTE" as the default for pre-population of contested proposals, and the additional ease with which these pre-populated defaults could be reviewed and changed, makes clear that there is no technical or mechanical impediment to addressing automatic submissions. Proxy advisors have stated that they have the ability to "flag" different types of proposals and could easily highlight any contested votes for clients.

It is imperative that the Commission address automatic submissions in the final rules to ensure that the reforms contemplated are not undermined by automatic submissions. The proposal above shows this could be done with practically no additional cost or burden for proxy advisory firms or their investor clients. Failure to require suspension of automatic voting in contested matters through minor changes to the existing proxy advisors' platforms would render the review and feedback mechanism a charade with limited practical impact despite the efforts of all parties.

Request for Comment Questions 49-52

Rule 14a-9 Should Address Many Different Examples to Provide Clarity

We support the Commission's view that solicitations by proxy advisors should be subject to Rule 14a-9. We believe proxy advisors have not considered sufficiently what information they may need to disclose in their reports, in their current form, to avoid potential violations of Rule 14a-9. This is especially true for reports that are not designed to maximize shareholder value, like SRI specialty reports. We believe a "risk factor" approach could potentially deal with many of the issues raised in this letter.

The Commission should be clear on additional standards that apply to reports that are not seeking to maximize shareholder value. This could be done through the use of "risk factor" style disclosures about the potential consequences to the value of an investment, whenever a different standard is being applied. We believe this could be a simple and clear way for proxy advisors to provide clarity and for investors to understand in a straight-forward manner the implications involved in any set of recommendations.

We also support the Commission's proposal to clarify that Rule 14a-9 applies to material information about a proxy advisor's methodology and how it may be different from Commission standards.[84] We believe the Commission should make clear that this applies in the proxy advisors' use of non-GAAP measures as well. How proxy advisors calculate these non-GAAP terms may be different from their use by registrants, clients or the Commission. Clearly following the non-GAAP disclosure requirements the Commission has applied elsewhere would provide significant insight into what these measures truly indicate. This is an important step in clarifying to what extent these recommendations are based on a "one-size-fits-all" analysis. In addition, we would support the Commission clarifying that additional disclosure is required where proxy advisors' methodology differs from market standards, such as NYSE director independence rules based on Rule 10A-3, which are required by the Commission but not standards the Commission has set directly.[85]

We support the Commission's proposal to clarify that Rule 14a-9 applies to disclosing the sources of information used and how those sources are verified. For example, ISS' 2019 SRI specialty report relied on third-party sources to conclude that "controversies" existed that reflected a failure by the Board to guard against risks. This was then used to justify recommendations against directors.[86] We strongly believe these sources were not credible and that their existence does not in any way indicate an issue with the Board's oversight of corporate risk management. We believe this is material that impugns the character of these directors and the company without factual foundation.

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[84] We would also support the Commission clarifying that this applies when the methodology differs from market standards.

[85] Disclosure is also necessary when the report differs from a proxy advisors' benchmark, or main, report. See "*Specialty Reports and Other Reports Not Focused on Maximizing Shareholder Value Will Require Additional Disclosures*" above.

[86] We believe these reports also imply that there are new and additional fiduciary duties beyond those that the Commission or state law have recognized, which would also be different from Commission standards and require clear disclosure under Rule 14a-9.

Real disclosure of these sources and how they were considered, along with a company response, are material facts that shareholders are entitled to under the standards of Rule 14a-9. This issue is also moving beyond the specialty reports and into the benchmark report. For example, ISS changed its policy in evaluating independent chair proposals this year from an evaluation of the powers of the chairman or lead independent director to a catch-all protest vote against the registrant. The vote considerations now include "evidence that the board has failed to oversee and address material risks facing the company."[87] Shareholders should consider any factors they believe are relevant to any vote. However, ISS' policy now includes potentially substantial charges against a company and its directors. It will need robust and detailed disclosure of what factors it is considering, how it is incorporating these factors into the analysis and what research it has done to verify these alleged Board failures to avoid creating misleading disclosures on this matter.

Clarity in both methodology and sourcing would have made clear to investors that ISS only produces two specialty reports instead of five reports. In reviewing the ExxonMobil 2019 specialty reports, we have discovered that the Sustainability and Catholic Faith-Based specialty reports are identical in every word to the SRI special report.[88] Investors should have sufficient clarity to know that they are paying for the same report and analysis three different times.

Additionally, the 2019 Public Pension specialty report was identical to the 2019 Taft-Hartley specialty report. We believe this creates a disclosure problem under Rule 14a-9 because of the methodology used in the Taft-Hartley specialty report. The Taft-Hartley specialty policy clearly states that it follows the "AFL-CIO Voting Policy."[89] However, no disclosure of this sourcing or methodology is provided in Public Pension specialty policy. Do public pensions and other funds purchasing this report know that the recommendations in the Public Pension specialty report are a repackaging of the AFL-CIO's voting preferences? Do they all share these same voting priorities lock-step so that disclosure is immaterial? Our experience shows that they do not. We believe this is a material fact that could impact their voting. **Attachment 5** shows the differences in ISS' 2019 benchmark report and 2019 special reports.

We would support the Commission clarifying when liability attaches to a report. We believe it should be at the time the vote is submitted, unless the proxy advisor affirmatively provides additional information directly to the client following the vote and files this information with the SEC. While a vote can technically be changed at any time prior to the meeting, our experience in engaging with our shareholders is that, once the vote is cast, the demands of their duties require them to move on to other matters. Providing a safe harbor for additional information that is also filed with as a third-party supplemental proxy filing allows proxy advisors to supplement the record publicly and in good faith even if votes have already been cast.

We also support the Commission's decision to clarify that conflict of interest disclosure is subject to Rule 14a-9. We recommend this information be included in the reports, at a minimum, to ensure that all information is available in one place at the time of the vote.

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[87] See page 10: https://www.issgovernance.com/file/policy/latest/updates/Americas-Policy-Updates.pdf
[88] The only changes being the name of the reports and page breaks.
[89] See bottom of each page from 2-70:
https://www.issgovernance.com/file/policy/active/specialty/Taft-Hartley-Advisory-Services-US-Guidelines.pdf

Conclusions

The Proposed Rules are based on enhancing a disclosure-driven approach to proxy voting that will enhance shareholder engagement by providing more accurate, transparent and complete disclosure to shareholders while also creating additional opportunities for communication that are foreclosed under the current process. Again, we commend the Commission for the thoughtful and balanced approach taken in the Proposed Rules. We believe this approach will progress the SEC's mission to protect investors, maintain fair, orderly and efficient markets, and facilitate capital formation.

The Commission has undertaken a number of efforts and expended significant energy in seeking to find as low cost a path as possible to improve current disclosures. These efforts should be recognized by all parties. While we fully support the Commission's efforts and have suggested a few additions that we feel will materially enhance these proposals, we remain focused on making sure that our shareholders have accurate and complete disclosures. We believe these rules are, in many ways, very generous in providing proxy advisors with the ability to comply with their obligations in ways that other soliciting parties cannot.

While we would prefer the low-cost approach included in the Proposed Rules, we believe the information mix available to investors at the time they vote must be improved. Should the Proposed Rules ultimately prove unworkable, we believe the Commission should move forward with its clarifications of what constitutes a solicitation under Rule 14a-1(1) and what constitutes misleading disclosure under 14a-9 without providing for any safe harbor applicable to proxy advisors. Instead, it could provide a straightforward Form PA based on current proxy forms that would be filed with each solicitation.

We appreciate the opportunity to offer these comments. ExxonMobil would also be pleased to address any questions the Commission may have about these comments or to provide additional information that may be helpful.

Sincerely,

Neil A. Hansen
Vice President, Investor Relations
and Secretary

Attachment 1

Letter to ISS-ESG
Proposing Alternative Engagement Procedures
(With Copies of 2019 Communications Between ExxonMobil and ISS)

1. Provides Evidence ISS Needs Registrant Input on These Issues and is Not Concerned About "Independence"
    a. See page 10 where ISS emails the ExxonMobil CEO directly and commits to email the board of directors requesting this information if they do not receive it from the CEO.
    b. Provides evidence errors and unsubstantiated allegations in ISS reports are a continuing issue for ExxonMobil. See pages 5 and 15.
2. Provides Evidence of Repeated Requests by ISS for Information Already Provided and Not Incorporated in Reports
    a. See pages 1-3.
    b. Supports position that a separate company response would be superior and more cost-effective for clients of ISS and shareholders of registrants.
3. Provides Evidence that Registrants Incur Significant Costs Under the Current System Responding to Multiple Requests for the Same Information. See Page 5.
4. Provides Evidence of Continuing Attempts by ExxonMobil to Work with Proxy Advisors to Achieve Superior Disclosure and Lower Costs. See Page 1 and 5.

Exxon Mobil Corporation
5959 Las Colinas Boulevard
Irving, Texas 75039-2298

Neil A. Hansen
Vice President, Investor Relations
and Corporate Secretary

ExxonMobil

October 21, 2019

Mr. Reinhilde Weidacher and Mr. Sagar Rijal
ISS-ESG
Fleminggatan 7, Floor 5
112 26 Stockholm, Sweden

Dear ISS-ESG,

Thank you for your letter and interest in ExxonMobil. In response to your emails of July 23, 2019 and September 25, 2019 (**Attachment B**), we would like to highlight our multiple engagements with ISS on climate-related issues over the past year, including on the issues outlined in your letter. We addressed many of your questions in a March 22, 2019 call with ISS. During this call, we discussed our 2019 *Energy and Carbon Summary*, received feedback from ISS, and addressed ISS's questions. We also engaged with ISS this year in a telephone conference during the proxy season on May 9, 2019 to answer questions and receive feedback from ISS. We interacted with ISS over the past year as part of updates to the Governance (Jan 2019) and Environment (Jun 2019) scorecards, and in drafting our response and corrections to ISS-Ethix's research/company profile report on ExxonMobil (Jan 2019). In addition, we spoke with ISS at an in-person meeting last year on November 5th. It appears much of the information provided in these interactions is not included in the current ISS-Ethix profile dated April 25, 2019 and many of the interactions mentioned above are not listed as "Key Sources" for the report.

As shown in the detailed responses below, all questions are answered in previously published material and / or discussed in the multiple engagements noted above. We believe ISS is missing an opportunity to supply the independent research and analysis your clients expect.

We repeated answers to your questions below, and would also like to use this opportunity to propose a more holistic engagement process that we believe will be more efficient and better serve our investors and your clients by providing comprehensive, accurate, and transparent disclosures. Opportunities for enhancement to the engagement process begin on page 4 of this letter.

In response to the questions from your most recent letter, we refer you to our 2019 *Energy and Carbon Summary*, which contains much of the information you seek. We spend significant effort in preparing communications for our shareholders to address climate-related issues, such as the *2019 Energy and Carbon Summary,* the *2019 Outlook for Energy, Sustainability Report* and other information provided on our website. As part of your research process, we recommend, and believe investors and clients likely expect, thorough review of these reports as primary sources. To the extent that your questions are not fully addressed in these disclosures, we believe reference to these disclosures could refine your questions and allow for a more focused analysis. We note that you include the *Outlook for Energy* as a "Key Source" in one section of your report, but include only the prior year's version of the *Energy and Carbon Summary* and do not include the latest

Sustainability Report. We believe these reports are "Key Sources" and could be usefully included as a separate section of the report as "Company Disclosures" to provide additional context to clients while also showing the depth of your research.

Question 1: In regard to your question on our public commitment on emissions and the energy transition in light of the 2018 IPCC report, we would like to highlight that ExxonMobil has been, and continues to be, an active participant in the IPCC process since its inception. ExxonMobil scientists have been involved in climate science research and related policy analysis for more than 30 years, with active participation and routine publications to share ongoing work with the scientific community. ExxonMobil scientists contributed to the IPCC Fifth Assessment Report (AR5) in lead author, review editor, and reviewer roles. In addition, ExxonMobil has consistently and publicly supported the aims of the Paris Agreement, including continued U.S. participation.

Managing the risks of climate change requires innovation and collaboration. Due to lack of supportive policy and gaps associated with existing NDCs (Nationally Determined Contributions), large scale deployment of available solutions – including the policy and regulatory landscape, investment levels, and technically and economically viable solutions – remains challenging. Hence, we continue to focus on advancing technology options through active research and development. We partner in-house innovation and research with universities, government agencies, and smaller firms to foster development of the next generation of technology. We have spent more than $10 billion on developing and deploying lower-emission energy solutions since 2000. We conduct fundamental research aimed at developing lower-GHG energy solutions that have the potential to be reliable, scalable, and economically attractive. Our research portfolio includes biofuels, carbon capture and storage (CCS), breakthrough energy-efficiency processes, natural gas technologies, advanced energy-saving materials, and environmental life cycle assessments. ExxonMobil has been at the forefront of many technologies that have enabled energy to be produced and delivered in a safe, affordable, and sustainable manner. As the world demands more energy and fewer emissions, we are well-positioned to develop scalable, high-impact solutions to reduce emissions in power generation, industry, and transportation. In particular, CCS – in which ExxonMobil is a leader - is critical to achieving the 1.5°C scenarios described in the IPCC report you reference. Since 1970, ExxonMobil has cumulatively captured more CO_2 than any other company – accounting for more than 40% of cumulative CO_2 captured. We have a working interest in more than one-fifth of the world's carbon capture capacity. We are seeking to expand our capacity and are evaluating multiple technologies that have the potential to be commercially viable.

We also engage actively in climate policy. ExxonMobil believes the objective of effective climate policy should be to reduce the risks of climate change at the lowest societal cost, while meeting the increased demand for affordable and reliable energy. Climate change is a global issue that requires the collaboration of governments, private companies, consumers and other stakeholders to create meaningful solutions. We engage with stakeholders directly and through trade associations around the world to encourage sound policy solutions for addressing climate change risks. For more than a decade, ExxonMobil has supported an economy-wide price on CO_2 emissions as an efficient policy mechanism to address GHG emissions. Consistent with this position, ExxonMobil is also a founding member of the Climate Leadership Council (CLC), which calls for adoption of a carbon fee, with revenues returned to Americans, coupled with regulatory simplification. Achieving large-scale deployment of high-impact technologies for GHG reductions (such as CCS) requires supportive policies that provide equal treatment to the range of low-carbon solutions necessary to achieve the aims of the Paris Agreement, while encouraging innovation.

Further, we would like to highlight our recent activities in this space. The list in **Attachment A** features public announcements, providing a sampling of ExxonMobil's advancements, partnerships, contributions and initiatives related to addressing the risks of climate change.

Question 2: In response to your second question, our *Outlook for Energy* projects world supply and demand to 2040. We rely on the *Outlook for Energy* – an analysis we conduct every year – to calibrate business plans for anticipated future demand for energy, taking into account the most up-to-date knowledge and information we can gather. The report is our best estimate of what is likely to happen regarding the future demand for energy out to 2040. The projection for energy demand starts with an analysis of the fundamentals, including economic progress and population trends. Consumer preferences, technology and policies across the world further help to build the projection of future global energy demand - not the oil and gas produced by ExxonMobil. The analysis in the *Outlook for Energy* seeks to identify potential impacts of climate-related policies, which often target specific sectors, by using fact-based assumptions and tools including application of a proxy cost of carbon to estimate potential impacts on consumer demands. This approach assists us in assessing potential energy demand over time and among sectors, where future policy actions are unclear or may involve a significantly broad suite of policy initiatives. Contrary to the assertion in your letter, this outlook by no means represents a "business as usual" scenario. The chart on the top of page 41 of the 2019 *Outlook for Energy* clearly shows our *Outlook for Energy* is likely to meet, on aggregate, the 2030 Paris Agreement pledges and projects far lower future energy-related CO_2 emissions than a baseline business as usual scenario.

You also ask in Question 2 whether the Company has considered scenarios with increased GHG reductions, presumably compared to our *Outlook for Energy*. A review of our 2019 *Outlook for Energy* and the 2019 *Energy and Carbon Summary* will show those publications reflect extensive consideration of pathways to 2°C. The *Outlook for Energy* contains sensitivities requested by shareholders, including the potential impacts of electric vehicle penetration, as well as a review of a range of 2°C models. In addition, the 2019 *Energy and Carbon Summary* addresses the potential impacts of a 2°C pathway, how our company is positioning for a lower-carbon future, and how we are helping to address the risks of climate change. The specific information you are requesting on the analysis of potential impacts on reserves and resources, and how we conduct our dynamic resource development planning to assess a wide range of variables over time, is located on pages 13-15 of the 2019 *Energy and Carbon Summary*.

Question 3: Regarding your third question on disclosures, our 2019 *Energy and Carbon Summary*, supplemented by our 2019 *Outlook for Energy* and 2017 *Sustainability Report*, provide disclosures consistent with the framework outlined by the Task Force for Climate-related Financial Disclosures (TCFD). We believe the TCFD framework is helpful in encouraging thoughtful dialogue between companies and investors about climate risk issues, and we think the TCFD framework provides an appropriate platform for engagement with shareholders. The 2019 *Energy and Carbon Summary* in particular is aligned with the 4 core elements of TCFD:

Summary of the 2019 Energy and Carbon Summary contents by TCFD core element

TCFD core elements and recommended disclosures	ExxonMobil disclosures
Governance	
a. Describe the Board's oversight of climate-related risks and opportunities.	Page 3-5
b. Describe management's role in assessing and managing risks and opportunities.	Page 3-5
Strategy	
a. Describe the climate-related risks and opportunities the organization has identified over the short, medium and long term.	Page 6–12, 16-23
b. Describe the impact of climate-related risks and opportunities on the organization's businesses, strategy and financial planning.	Page 13-16
c. Describe the resilience of the organization's strategy, taking into consideration different climate-related scenarios, including a 2°C or lower scenario.	Page 8-23
Metrics & targets	
a. Disclose the metrics used by the organization to assess climate-related risks and opportunities in line with its strategy and risk management	Page 24-30
b. Disclose Scope 1, Scope 2 and, if appropriate, Scope 3 GHG emissions, and the related risks.	Page 30
c. Describe the targets used by the organization to manage climate–related risks and opportunities and performance against targets.	Page 25
Risk management	
a. Describe the organization's processes for identifying and assessing climate-related risks.	Page 31-32
b. Describe the organization's processes for managing climate-related risks.	Page 32-33
c. Describe how processes for identifying, assessing and managing climate-related risks are integrated into the organization's overall risk management.	Page 32-33

We would also highlight that we have publicly reported GHG emissions from our operations since 1998. We believe our disclosures under the IPIECA and TCFD frameworks provide high-quality, valuable information to our investors and other stakeholders. ExxonMobil recognizes the value of having consistent, high-quality information available to investors, corporations, governments and other stakeholders. We continue to welcome feedback from our shareholders and investors on our disclosures.

Proposal for Superior Engagement and Disclosure: We are concerned the repeated requests for answers signals that our prior engagements have not been effective in communicating with ISS or that ISS has not preserved research records of our answers in these matters. We would welcome ways to make sure these engagements are more meaningful and long-lasting. While we

appreciate the time that ISS has spent in seeking information from us on repeated occasions throughout the year, these engagements are not cost-free to our investors (or your clients) and constitute a significant dedication of resources from ExxonMobil and, we expect, from ISS. We believe ISS could distinguish itself from many other providers of this type of normative reporting by adopting a more collaborative approach with companies to ensure comprehensive, accurate, and transparent disclosures.

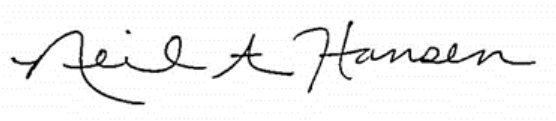
We believe inclusion of our responses to your questions in your report would provide a baseline for your analysis and also serve as a data point for internalizing these company-specific factors each year. As a draft report is prepared, we would be happy to review the report and update it with company responses to help ensure the accuracy of your disclosure. We believe this could enhance the value of our engagements and help address any inaccuracies in these normative reports.

As previously conveyed to you in our January 2019 response to the ISS-Ethix request for feedback on the company profile, we believe your report is inaccurate where it relies on unsubstantiated allegations and claims. These sections appear to be based almost entirely on internet articles without any firsthand research into the matters. As noted in our January comments, many of the website sources used are inaccurate, incomplete or outdated. In these instances, there is substantial risk that these disclosures could mislead investors on these issues. We strongly encourage you to revise your reporting and scoring to only reflect factual, proven information and highlight first-hand research such as site visits, official government documents and up-to-date scientific work. To the extent this is not possible for any reason, we would welcome the ability to include a company response to help avoid any omission or factual error that could be viewed as misleading investors.

For ease of reference, we have included your September and July emails, your February letter and your April report as **Attachments B, C and D** to this letter. We also included our January 2019 corrections as **Attachment E**. We would welcome a dialogue to incorporate these material points in your disclosure.

We appreciate your consideration of this proposal and hope these responses have been helpful. Thank you again for your interest in ExxonMobil.

Sincerely,



cc: Chairman Jay Clayton, SEC
Commissioner Robert J. Jackson, Jr., SEC
Commissioner Hester M. Peirce, SEC
Commissioner Elad L. Roisman, SEC
Commissioner Allison H. Lee, SEC
Director William Hinman, SEC
Gary Retelny, President & CEO, ISS, Inc.
Chairman of Exxon Mobil Corporation, Darren W. Woods

Attachment A: ExxonMobil Progress on Addressing Climate Risk, Nov. 2017-Present

Date	Disclosure	Advocacy	Science	Technology	GHG Reductions	Community	Source	Activity
8/30/2019	X	X	X	X	X		EM Perspectives Blog	ExxonMobil Supports Methane Regulation
8/28/2019	X	X	X	X	X		EM News Release	*2019 Outlook for Energy*
8/26/2019			X	X	X		EM News Release	ExxonMobil and Mosaic Materials to explore new carbon capture technology
7/24/2019						X	EM News Release	ExxonMobil beings production on Beaumont high-performance Polyethylene line
6/27/2019			X	X	X		EM News Release	ExxonMobil and Global Thermostat to Advance Breakthrough Atmospheric Carbon Capture Technology
6/13/2019						X	EM News Release	ExxonMobil, SABIC to proceed with Gulf Coast growth ventures project
6/12/2019						X	EM News Release	ExxonMobil completes Singapore expansion to enhance group II base stocks supply
5/29/2019				X	X		EM News Release	ExxonMobil progresses growth plans and efforts to advance lower-emissions technologies
5/8/2019			X	X	X		EM News Release	ExxonMobil to invest up to $100 million on lower-emissions R&D with U.S. National Labs
4/24/2019				X	X		EM News Release	Expand Ultra-low Sulfur Diesel Production at Fawley Refinery
4/22/2019					X		EM News Release	ExxonMobil signs 20-year LNG agreement with Zhejiang Energy
4/2/2019		X	X	X	X	X	EM News Release	ExxonMobil LNG portfolio 2019
2/5/2019					X		EM News Release	ExxonMobil, Qatar Petroleum to proceed with Golden Pass LNG export project
1/23/2019			X	X	X		EM News Release	ExxonMobil and REG Partner with Clariant to Advance Cellulosic Biofuel Research
1/8/2019			X	X	X		EM News Release	ExxonMobil and IBM to advance energy sector application of quantum computing

Date	Disclosure	Advocacy	Science	Technology	GHG Reductions	Community	Source	Activity
12/31/2018	X				X		2019 Energy and Carbon Summary	ExxonMobil Named Top Global Corporate Wind and Solar Buyers in 2018
12/7/2018			X	X	X		IPCC Website	2019 Refinement to the 2006 IPCC Guidelines for National GHG Inventory
12/7/2018		X	X	X	X	X	IPCC Website	IPCC Special Report on Global Warming of 1.5C
11/1/2018	X				X		2019 Energy and Carbon Summary	ExxonMobil Signs Wind and Solar Purchase Agreements
10/31/2018				X	X		EM News Release	ExxonMobil Starts New Unit at Antwerp Refinery to Produce High-Value Transportation Fuels
10/31/2018			X	X	X		EM News Release	ExxonMobil Supports New Singapore Energy Center Partnership with US$10 Million Commitment
10/25/2018	X						EM News Release	ExxonMobil Statement Regarding New York Attorney General Civil Complaint
10/24/2018	X	X	X	X	X	X	EM News Release	2017 Sustainability Report
10/1/2018		X	X	X	X		IOL ECS	IOL-operated Oil Sands GHG Intensity Target
9/26/2018				X	X		EM News Release	ExxonMobil Starts New Unit to Increase Ultra-Low Sulfur Fuels Production
9/24/2018			X	X	X		External News Release	OGCI Announces Methane Intensity Targets
9/20/2018		X	X	X	X		EM News Release	ExxonMobil to Join OGCI
9/4/2018	X	X	X	X	X		Energy Factor	Blog on Methane Regulations
7/9/2018					X	X	EM News Release	Rovuma LNG Phase 1 Development Plan Submitted to Government of Mozambique
7/2/2018			X	X	X	X	EM News Release	ExxonMobil Foundation invests $10M in Guyana for research, sustainable employment and conservation
6/28/2018				X	X		EM News Release	ExxonMobil Completes Acquisition of Indonesian Lubricant Manufacturer and Marketer PT Federal Karyatama

Date	Disclosure	Advocacy	Science	Technology	GHG Reductions	Community	Source	Activity
6/27/2018				X	X		EM News Release	Mozambique Area 4 Progressing Rovuma LNG Marketing
6/25/2018		X	X	X	X		External News Release	Collaboratory for Advancing Methane Science
6/25/2018		X	X	X	X		EM News Release	XTO Announces Progress on Methane Reductions
6/25/2018		X	X	X	X		EM News Release	World Gas Conference "Methane Moment" with IEA and EDF
6/20/2018				X	X		EM News Release	ExxonMobil Singapore Butyl and Resins Plants Begin Production
5/30/2018		X	X	X	X		EM News Release	ExxonMobil CEO Darren Woods Highlights Growth Plans and Advances in Lower-Carbon Solutions
5/23/2018		X	X	X	X		EM News Release	ExxonMobil Announces Greenhouse Gas Reduction Measures
5/21/2018			X	X	X		EM News Release	ExxonMobil Donates $50M to 800 Universities and Colleges
5/8/2018	X	X	X	X	X		EM News Release	2018 Energy and Carbon Summary
4/11/2018					X	X	EM News Release	PNG LNG Expansion
3/6/2018			X	X	X		EM News Release	EM and SGI Targeting 10kbd Algae Biofuels Capability
12/5/2017	X	X	X	X	X		External News Release	API Environmental Partnership
12/1/2017				X	X		2019 Energy and Carbon Summary	Aera Solar Thermal Plant 27 MW Project
11/22/2017	X	X	X	X	X		External News Release	Global Methane Guiding Principles

Attachment B: ISS-Ethix Emails of September 25, 2019 and July 23, 2019

Wed 9/25/2019 12:04 PM

Engagement and Communication Services - ISS Ethix <engagement@iss-esg.com>

Reminder to the attention of Mr. Darren Woods, Chairman: Investor Enquiry Letter to Exxon Mobil Corp. - Facilitated b

To Shareholder Relations /SM

Cc Englande, Sherry M

Retention Policy All Other 13 Months (1 year, 1 month) Expires Expiration Suspended (10/24/2020)

External Sender

Message 2019Q1_Investor Enquiry_Exxon Mobil Corp.pdf (720 KB)

Norm-Based Research Report_Exxon Mobil Corp._20190430.pdf (572 KB)

Dear Mr. Woods,

ISS ESG represents institutional investors with substantial investments in the capital markets. Their responsible investment policies include Environmental, Social and Governance (ESG) criteria which are based on international norms as formulated in the UN Global Compact. Our services include assisting clients in meeting their responsible investment policies which includes their efforts to engage with companies on issues identified under their policies. To this end, we are writing to **Exxon Mobil Corp.** to facilitate dialogue on our clients' behalf with you on the Company's management of its exposure to identified ESG risks.

Attached is a copy of the investor engagement letter, concerning the Company's management of its ESG risks in its operations, that was previously sent to your Investor Relations Department. Unfortunately we have not received a response to the enquiry, and are writing to you to follow up. For your reference, we are also attaching our Norm-Based Research (NBR) Report on the Company.

We would highly appreciate your response by 25 October 2019. If you would prefer a telephone conference with our investors instead, we are very happy to organize that.

Best Regards,
Sagar Rijal

ISS ESG

SAGAR RIJAL
ESG Engagement Coordinator
Pooled Engagement

engagement@iss-esg.com
o: +1.301.556.0275

Tue 7/23/2019 2:50 PM

Engagement and Communication Services - ISS Ethix <engagement@iss-esg.com>

Reminder to the CEO Mr. Darren Woods: Investor Enquiry Letter to Exxon Mobil Corp. - Facilitated by ISS ESG

To Shareholder Relations /SM

Cc Englande, Sherry M

Retention Policy All Other 13 Months (1 year, 1 month) Expires Expiration Suspended (8/21/2020)

Message 2019Q1_Investor Enquiry_Exxon Mobil Corp.pdf (720 KB)

Norm-Based Research Report_Exxon Mobil Corp._20190430.pdf (572 KB)

Dear Mr. Woods,

ISS ESG represents institutional investors with substantial investments in the capital markets. Their responsible investment policies include Environmental, Social and Governance (ESG) criteria which are based on international norms as formulated in the UN Global Compact. Our dialogue with **Exxon Mobil Corp.** helps us to understand the Company's capacity to pre-empt and manage extra-financial risks, and ensures we have a greater comprehension of the Company's business.

This is a reminder of an investor enquiry letter that ISS ESG sent to your company secretary via email in February 2019 followed by a reminder in April 2019. We would highly value a response from the Company but since we have not yet heard back I am hereby resending the original letter and a recent copy of our Norm-Based Research (NBR) report on the Company to your attention.

If you need more time to prepare a response, please let us know. If a telephone conference is more convenient, we would be happy to arrange that. Our process is to first contact Investor Relations and then the CEO to get a response, followed by an inquiry to the board chairperson.

Best,
Sagar Rijal

ISS ESG
ethix•climate•oekom

SAGAR RIJAL
ESG Engagement Coordinator
Pooled Engagement Team

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Attachment C: ISS-Ethix Letter dated February 22, 2019

2019Q1_Investor
Enquiry_Exxon Mobi

ISS-ethix
Fleminggatan 7, floor 5,
112 26 Stockholm, Sweden

Exxon Mobil Corp.
Sherry Englande,
Manager, Shareholder Relations
5959 Las Colinas Blvd.
Irving, TX 75039-2298
UNITED STATES

22 February 2019

Dear Ms. Englande,

ISS ESG is an advisor to institutional investors in the area of responsible investment. Our clients chiefly consist of large pension funds, banks, insurance companies, foundations and municipalities. ISS ESG represents institutional investors with substantial investments in the capital markets. Their responsible investment policies include Environmental, Social and Governance (ESG) criteria which are based on international norms as formulated in the U.N. Global Compact.

Our services include assisting clients in meeting their responsible investment policies which includes their efforts to engage with companies on issues identified under their policies. To that end, we are writing to facilitate dialogue on our clients' behalf with **Exxon Mobil Corp.** on its management of its exposure to identified ESG risks. Please find their letter attached.

In conducting this outreach, ISS ESG seeks to encourage public disclosure on ESG issues identified under investors' policies. ISS ESG does not seek to receive any confidential information, any material non-public information or any information that you are not authorized to disclose to us. Further, ISS ESG does not agree to maintain in confidence any information that you may provide to us in response to this outreach. Our clients include investors who trade in publicly-traded securities and no information that is provided as part of this outreach shall in any way restrict our business and operations nor the securities trading activities of our clients.

Yours sincerely,

Reinhilde Weidacher
Head of Research

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Fleminggatan 7, floor 5,
112 26 Stockholm, Sweden

Exxon Mobil Corp.
Sherry Englande,
Manager, Shareholder Relations
5959 Las Colinas Blvd.
Irving, TX 75039-2298
UNITED STATES

22 February 2019

Re: Telephone conference with Mr. Mark DePaul on 6 October 2017 concerning Exxon Mobil's climate change risk and disclosure

Dear Ms. Englande,

We would like to thank Exxon Mobil Corp. for kindly taking the time to answer investor questions regarding the company's support for climate change mitigation regulations. We appreciate the insight that your communication provided on the efforts taken by Exxon Mobil to address longstanding concerns related to allegations that the company was lobbying via proxy against greenhouse gas (GHG) emissions reductions.

Public disclosures on climate is vital for all stakeholders, including ISS ESG and our clients. Therefore, we are partnering with CDP (formerly Carbon Disclosure Project) to inquire the Company specifically about its carbon data, water risk, and deforestation disclosures in accordance with internationally accepted disclosure initiatives.

We would like to continue our constructive dialogue with Exxon Mobil in order to better understand how the Company is managing the risks associated with climate change. We are encouraged by the Company's membership in the Oil and Gas Climate Initiative and the publications of '2018 Outlook for Energy: A View to 2040' and '2018 Energy & Carbon Summary' that disclose additional carbon data and scenarios. However, several stakeholders have criticized the disclosure as insufficient in providing a full range of plausible scenarios, having a long-term horizon, quantifying the climate-related impacts of reserves, and lacking clear assumptions. While we appreciate your previous communication with us and your corporate disclosure, the available material provides limited information on Exxon Mobil's long-term climate change mitigation strategy.

Given these developments, and in order for us to build on your earlier response, we would be very grateful if you could clarify some issues for us:

1. Given the October 2018 IPCC special report on Global Warming of 1.5°C calling for rapid emissions reductions across all main sectors, and an accelerated energy transition, has the Company considered disclosing a public commitment to align its policies and quantify its greenhouse gas (GHG) emissions targets with higher ambition?

2. The United Nations in December 2018 urged increased ambition in mitigating climate change as a requirement to achieve the goals of the Paris Agreement. Considering the critiques that the Company's 2018 Outlook for Energy report received predicating a business-as-usual growth in oil and gas, would the company consider scenarios with increased GHG reductions, including the implication of their implementation as a tool to achieve the Paris Agreement? In addition, would the company quantify and disclose the climate-related impacts of existing and future oil and gas resources?

3. Considering growing investor requirements for corporate disclosures of carbon data and climate strategies, does

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the Company intend to publicly disclose its GHG emissions and approach to climate change in accordance with established international disclosure initiatives? Would this include GHG reduction targets referencing climate science?

We would very much welcome your insights on these issues. We thank you in advance for your time and consideration of these matters, and would very much appreciate a reply **by 22 March 2019**. Please address the response to ISS ESG Engagement and Communications Services at engagement@iss-esg.com, or by post to: ISS-ethix, Fleminggatan 7, floor 5, 112 26 Stockholm, Sweden.

Yours sincerely,

1919 Investment Counsel
Achmea Investment Management B.V.
Aktia Bank Abp
Almbrand
AP Pension
AP7 - Seventh Swedish National Pension Fund
Aristotle Credit Partners, LLC
BPL Pensioen
ClariVest Asset Management, LLC
Coeli Asset Management AB
Counsel Portfolio Services, Inc.
Danica
Geode Capital Holdings LLC
Handelsbanken Asset Management
Kåpan Pensioner
Laegernes Pensionskasse
Mandatum Life Investment Services, Ltd.
Montpensier Finance
Ossiam
Pensionfonds Horeca & Catering
Pensionfonds Wonen
Sbanken ASA
Skandia Group
Sparinstitutens Pensionskassa
Sparinvest
Stichting Pensioenfonds Achmea
Strategic Global Advisors, LLC
Sumitomo Mitsui Trust Asset Management
Swedbank Robur
The Church Pension Fund, Finland
A U.S.-based asset management firm
A U.S.-based investment management firm
A U.S.-based investment management firm

Represented by ISS-ethix

Reinhilde Weidacher
Head of Research

Attachment D: ISS-Ethix "Norm-Based Research Company Report" of April 25, 2019

Norm-Based
Research Report_Ex

ISS-Ethix

Exxon Mobil Corp.

Norm-Based Research Company Report

OVERVIEW

COUNTRY
USA

TICKER
XOM

EXCHANGE
NYSE

INDUSTRY SECTOR
Integrated Oil & Gas

MARKET CAP (MM)
317259 USD

LAST PROFILE UPDATE
20 Feb 2019

Exxon Mobil Corporation explores for and produces crude oil and natural gas in the United States, Canada/Other Americas, Europe, Africa, Asia, and Australia/Oceania. It operates through Upstream, Downstream, and Chemical segments.

http://www.exxonmobil.com

Attachment E: ExxonMobil January 2019 Corrections to ISS-Ethix Report

Wed 1/30/2019 7:59 PM

Englande, Sherry M

RE: Sustainable investment enquiry

To Ivan Gjoshevski; Ayeela De Guia

Cc Palmer, Molly A

Message

ISS-ethix_Exxon Mobil Corp._DRAFT_20190124_CAN draft for release.pdf

ISS-ethix_Exxon Mobil Corp._DRAFT_20190124_RUS draft for release.pdf

MCFN Syncrude joint news release final.pdf

Background information for ISS Ethix ENL edited for release.pdf

Dear Ivan and Ayeela -
Thank you for the opportunity to provide comment on these profile reports before they are released to investors.
We have incorporated needed updates and clarifications by using a comment feature and have included additional background material separately attached in some instances. We trust that this will be useful to you.
I would be happy to facilitate a call between you (or others at ISS-ethix) and ExxonMobil to elaborate on our updates and edits.
Please let us know how we can help going forward.

We look forward to your final reports upon release.

Thank you
Sherry

Sherry M. Englande
Shareholder Relations
Manager

Exxon Mobil Corporation
5959 Las Colinas Blvd., Room 2624
Irving, Texas 75039-2298
Phone: (972)940-6702 (new number)
Fax: (972)444-1505
My Site

Attachment 2

ISS Letter to the Senate Banking, Housing and Urban Affairs Committee Dated May 30, 2018

Institutional Shareholder Services Inc.
1177 Avenue of Americas, 2nd Floor
New York, NY 10036
T: +1.646.680.6300 | F: +1.646.417.6090

May 30, 2018

The Honorable Dean Heller
Chairman
Subcommittee on Securities, Insurance and Investment
Senate Banking, Housing, and Urban Affairs Committee
United States Senate
324 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Mike Rounds
Senate Banking, Housing, and Urban Affairs Committee
United States Senate
502 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Thom Tillis
Senate Banking, Housing, and Urban Affairs Committee
United States Senate
185 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Tom Cotton
Senate Banking, Housing, and Urban Affairs Committee
United States Senate
124 Russell Senate Office Building
Washington, D.C. 20510

The Honorable David Perdue
Senate Banking, Housing, and Urban Affairs Committee
United States Senate
455 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Tim Scott
Senate Banking, Housing, and Urban Affairs Committee
United States Senate
717 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators Heller, Tillis, Perdue, Rounds, Cotton and Scott:

Thank you for your letter dated May 9, 2018. Institutional Shareholder Services Inc. (ISS) welcomes this opportunity to answer your questions, address common misinformation about ISS and proxy advisors, and provide clarity about our business practices and the regulatory requirements to which we are subject.

First, as a general note, ISS is a Registered Investment Adviser ("RIA"). As such, we are subject to the Investment Advisers Act of 1940 ("Advisers Act") and the rules and regulations that the U.S. Securities and Exchange Commission ("SEC") has promulgated thereunder. As an RIA, ISS owes a fiduciary obligation to our investor clients, which means ISS and our employees must carry out our duties solely in the best interests of clients and free from any compromising influences and loyalties. The Advisers Act and related SEC rules provide a mature and comprehensive regulatory regime that covers virtually every aspect of our business and that subjects ISS to the SEC's continuing oversight and examination authority. We must and do comply with these rigorous federal legal requirements. Being regulated under the Advisers Act also aligns us with our investor clients, many of whom are themselves also registered and regulated under the Advisers Act.

In this context, I am confident you will find that the Advisers Act effectively addresses many of your concerns.

Our response to your letter is organized as a direct reply to each statement and question you've posed (italicized):

- *"For years, your organization has significantly increased it[s] influence in shareholder voting practices, and between Institutional Shareholder Services (ISS) and Glass, Lewis & Company (Glass Lewis), you now control 97 percent of the of the [sic] proxy advisory industry…"*

ISS is indeed an industry leader in the corporate governance space and we are proud to have earned our market share by virtue of the quality of our work and the level of service we have provided for more than a quarter century. The GAO report entitled "Issues Relating to Firms that Advise Institutional Investors on Proxy Voting" concluded as much when it wrote that ISS has "gained a reputation with institutional investors for providing reliable, comprehensive proxy research and

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recommendations."[1] While we have seen the widely circulated conjecture that two firms "control" 97% of the proxy advisory industry, this is not a statistic we have verified or can confirm.

There are no artificial barriers to entry into the proxy advisory industry in the United States. We operate in a competitive market and we have seen entrants come and go within the industry. Moreover, institutional investors are not required to purchase our services. In the free market, institutional investors purchase our services because they choose to do so, and find value in the products we provide.

We do, however, want to draw a distinction between our market leadership and your assertion that we influence "shareholder voting practices." ISS clients control both their voting policies and their vote decisions. ISS is generally not a discretionary proxy voting manager, except in rare situations where a client has an actual conflict of interest (for example, a financial institution that holds and must vote the shares of its parent company), and asks ISS to make a proxy voting decision on the client's behalf.

In fact, ISS is relied upon by our clients to assist them in fulfilling their own fiduciary responsibilities regarding proxy voting and to inform them as they make their proxy voting decisions. These clients understand that their duty to vote proxies in their clients' or beneficiaries' best interests cannot be waived or delegated to another party. Proxy advisors' research and vote recommendations are often just one source of information used in arriving at institutions' voting decisions. As participants in the SEC's 2013 Proxy Adviser Roundtable explained, many investors have internal research teams that conduct proprietary research and use proxy advisory research to supplement their own work.[2] Some investors use third-party proxy research as a screening tool to identify non-routine meetings or proposals. A number of institutional investors use the services of two or more proxy advisory firms. These views are consistent with the results of a 2012 survey of asset managers by Tapestry Networks that found proxy advisory firms' "role as data aggregators" has become increasingly important to asset managers, and that even if smaller managers are more reliant on such advisory firms, they still acknowledge that responsibility for voting outcomes lies with investors.[3] Said more simply, we are an independent provider of data, analytics and voting recommendations to support our clients in their own decision-making.

Moreover, in their paper, *The Power of Proxy Advisors: Myth or Reality?*,[4] University of Pennsylvania Law School Professor Jill Fisch, along with colleagues from New York University, analyzed the effect of proxy advisor recommendations on voting outcomes in uncontested director elections. The authors estimate that, after controlling for underlying company-specific factors that influence voting outcomes, far from being determinative of outcomes, an ISS recommendation appears to shift a very small percentage (6 to 10 percent) of shareholder votes, but that this influence may stem from ISS' role as information agent:

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[1] Jones, Y. D. (2007). *Issues Relating to Firms that Advise Institutional Investors on Proxy Voting.* (GAO-07-765). Washington, DC: Government Accountability Office (hereafter, "2007 GAO Report") at 13.

[2] Remarks of Michelle Edkins, currently Managing Director, Global Head of BlackRock Investment Stewardship, BlackRock, Inc. Transcript of Proxy Advisory Firms Roundtable ("Roundtable Transcript"), available at www.sec.gov/spotlight/proxy-advisory-services/proxy-advisory-services-transcript.txt (December 5, 2013) at 45; remarks of Anne Sheehan, Director of Corporate Governance, CalSTRS, *Id.* at 153-54; remarks of Lynn Turner, Managing Director, LitiNomics, Inc., discussing his experience at Colorado Public Employees' Retirement Association, *Id.* at 51-52.

[3] Bew, Robyn and Fields, Richard, Voting Decisions at US Mutual Funds: How Investors Really Use Proxy Advisers (June 2012) at 2. Available at SSRN: http://ssrn.com/abstract=2084231. ("Across the board, participants in our research said they value proxy firms' ability to collect, organize, and present vast amounts of data, and they believe smaller asset managers are more reliant on those services. Nonetheless, participants emphasized that responsibility for voting outcomes lies with investors").

[4] Choi, Stephen J., Fisch, Jill E. and Kahan, Marcel, The Power of Proxy Advisors: Myth or Reality? 59 Emory L. J. 869 (2010); University of Pennsylvania, Institute for Law & Economics Research Paper No. 10-24. Available at SSRN: http://ssrn.com/abstract=1694535.

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> *[W]e find evidence that ISS's power is partially due to the fact that ISS (to a greater extent than other advisors) bases its recommendations on factors that shareholders consider important. This fact and competition among proxy advisors place upper bounds on ISS's power. Institutional Shareholder Services cannot issue recommendations arbitrarily if it wants to retain its market position. Doing so would lead institutional investors to seek the services of other proxy advisory firms.* ***Thus, ISS is not so much a Pied Piper followed blindly by institutional investors as it is an information agent and guide, helping investors to identify voting decisions that are consistent with their existing preferences (****emphasis added).*[5]

Many large institutional investors have their own customized voting and corporate governance principles that proxy advisory firms use as the basis for making tailored, client-specific vote recommendations for that particular investor. What this means is that a client with their own unique view of how to assess and vote upon proxy voting matters will look to ISS for assistance in the administration of their own customized proxy voting policy as opposed to using one of ISS' policy frameworks. As of January 1, 2018, approximately 85% of ISS' top 100 clients used a custom proxy voting policy. To provide further context, we note that during calendar year 2017, approximately 69% of the ballots processed by ISS on behalf of clients globally were linked to clients' custom policies, representing approximately 87% of the total shares processed by ISS during this period.

Moreover, in addition to both customized policies and our ISS "benchmark" proxy voting guidelines, ISS provides options for our clients in the form of multiple thematic, specialty policy options for investors who require a particular philosophical approach to proxy voting and corporate governance, including a policy set for faith-based investors and two focusing on social and environmental investing priorities. Again, the choice of which policy to use belongs to the client, not ISS. In other words, ISS does not have a monolithic view on proxy voting issues nor do we dictate how investors themselves think about these issues. Indeed, ISS has presented opposing recommendations on the same ballot proposal to different clients based on the differing policies/approaches of those clients and the proxy voting policies that they themselves select. In short, ISS provides investors with research, data and vote recommendations that enable them to implement their own proxy voting and corporate governance philosophies.

ISS is sometimes mislabeled as an "activist" organization. While the foregoing demonstrates that we are not, in fact, a monolith to which that or any similar label could apply, we think it is worth noting that for calendar years 2015, 2016 and 2017, under our "benchmark" policy guidelines, ISS recommended votes in support of the management position over 90% of the time (91.3%, 92.2% and 91.3% in each year, respectively).

As noted by the Council of Institutional Investors (CII), a leading nonpartisan and nonprofit association of public, corporate and union employee benefit funds and state and local entities with combined assets exceeding $3.5 trillion:

> Proxy advisory firm influence is exaggerated by analyses that confuse correlation with causation. ISS and Glass Lewis tend to follow investors on governance policy, not lead them. In setting their policy frameworks, the two firms have a business interest to ensure they reflect investor (client) perspectives, in part through extensive consultative processes, and to consider empirical evidence. Their franchises are built on credibility with investors. As a result, advisors' views reflect those of many funds. Indeed, if there were a sharp divergence, we would expect to see advisors punished in the marketplace.[6]

At the end of the day, institutional investors are not required to use proxy advisors' services or to use only one proxy advisory company, nor are they required to follow the vote recommendations of any proxy advisor they choose to use. The

[5] *Id.* at 906.

[6] June 13, 2016 letter from the Council of Institutional Investors to Rep. Hensarling, Chair of House Committee on Financial Services and Rep. Waters, Ranking Member of House Committee on Financial Services at 2.

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ultimate voting decision for each resolution at a company meeting remains the responsibility of our clients, the owners of the corporation, as we believe it should be.

Question 1 - ISS' Voting System

- *"We request that you provide detailed information on how the Proxy Exchange voting service works and why you think your company is in compliance with SEC Staff Legal Bulletin 20, especially in circumstances where each client does not have to formally approve or submit the pre-populated electronic ballot that you are producing for each shareholder meeting."*

Exchange Act Rule 14a-1(l) defines a proxy "solicitation" to include the "furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy."[7] The furnishing of a proxy pursuant to a security holder's unsolicited request is excluded from this definition.[8]

Both the SEC and its Staff have historically recognized the distinction between unsolicited and solicited proxy advice, applying the Exchange Act proxy rules to the former, but not the latter. For example, in a 1979 release, the SEC explained that, "As a general matter, unsolicited proxy voting advice would constitute a 'solicitation' subject to the proxy rules."[9] In making this observation, the SEC cited an earlier opinion of the SEC's General Counsel that addressed proxy advice in a broker-dealer context:

> In our view, a broker normally is not engaged in solicitation where he merely responds, whether orally or in writing, to an unsolicited request from a customer for advice as to how to vote. Since the broker is merely responding to his customer's request for advice in his capacity as adviser to the customer and not actively initiating the communication, it may be concluded that he is not engaged in 'soliciting.'[10]

Unfortunately, the longstanding regulatory distinction between unsolicited and solicited proxy voting advice has been blurred as a result of more recent Staff guidance. In addressing the interplay between proxy advisory services and the federal proxy rules, Staff Legal Bulletin ("SLB") 20 (issued in June 2014) paraphrased the SEC's 1979 release, but omitted the critical "unsolicited" qualifier, thereby erroneously suggesting that all proxy advice is a solicitation.[11]

ISS submits that a registered investment adviser who is contractually obligated to furnish vote recommendations based on client-selected guidelines is not providing "unsolicited" proxy voting advice, and thus is not engaged in a "solicitation" subject to the Exchange Act proxy rules.

ISS does not choose the ballots or agenda items on which we render advice. Rather, at a client's direction, we are asked by our clients to analyze and provide a voting recommendation for each agenda item related to every equity security held in our clients' portfolios. Furthermore, as a disinterested fiduciary, ISS has no financial stake in the outcome of a particular vote. We are agnostic as to whether clients support a proposal, reject the proposal or abstain from voting altogether. We are similarly indifferent to whether clients choose to follow an ISS vote recommendation or not. ISS' only job is to analyze proxy statements

[7] Rule 14a-1(1)(iii)

[8] Rule 14a-1(l)(2)(i).

[9] *Shareholder Communications, Shareholder Participation in the Corporate Electoral Process and Corporate Governance Generally*, SEC Release No. 34-16104 (August 13, 1979), 44 Fed. Reg. 48938 (August 20, 1979) at note 25.

[10] *Broker-Dealer Participation in Proxy Solicitations*, SEC Release No. 34-7208 (January 7, 1964). This view was restated in a letter from Abigail Arms, Chief Counsel of the Division of Corporation Finance to Richard G. Ketchum, EVP, Legal, Regulatory & Market Policy of the NASD, Inc. dated May 19, 1992.

[11] SLB 20, Question 6.

and provide informed research and vote recommendations based on the policies and guidelines the institutional investors have selected, and in many cases developed, themselves. Given the diversity of these policies and guidelines and as already noted above, ISS may issue different recommendations on a given issue, for example, recommending voting "AGAINST" on a particular item to clients using ISS' faith-based policy guidelines, and "FOR" on that same issue to clients using ISS' "benchmark" voting policy guidelines.

ISS' fiduciary proxy research and voting advice is simply not the kind of "over-the-transom" communication that the federal proxy rules are designed to address.

Wholly apart from the question of whether the provision of proxy advice can be considered a solicitation, SLB 20 explains that Exchange Act Rule 14a-2(b)(3) exempts a proxy solicitor who renders voting advice from the information and filing provisions of the proxy rules if the solicitor:

a. furnishes proxy voting advice in the ordinary course of business;

b. discloses to the recipient of the advice any significant relationship with the issuer or any of its affiliates, or a security holder proponent of the matter under advisement, and discloses any material interests the solicitor has in such matter;

c. receives no compensation for furnishing the advice from anyone other than recipients of the advice; and

d. does not furnish the voting advice on behalf of any person soliciting proxies or on behalf of a participant in a contested election.[12]

Although ISS is confident that it is not a proxy solicitor within the meaning of Rule 14a-1(l), we have nonetheless taken steps to ensure that our proxy advisory activities would qualify for the Rule 14a-2(b)(3) exemption if such an exemption were needed. In this regard, after the publication of SLB 20, ISS enhanced our already robust suite of conflict management and disclosure policies by adopting a *Policy Regarding Disclosure of Significant Relationships*. This Policy, which is available in the Due Diligence section of our website,[13] provides a clear explanation of how ISS assesses and discloses any significant relationships that may exist between the company and the subjects of its proxy research reports.

ISS also enhanced its client facing delivery platform, ProxyExchange, to deliver the required disclosures to clients in a way that both seamlessly integrates with their workflows and protects the critical firewall between ISS and its corporate solutions subsidiary.

Question 2 - Report Accuracy

- *"Currently there are no standards or regulations that apply to these reports prepared by proxy advisory firms…[T]here are often questions about the dependability, accuracy of factual material, and correct assumptions made for each company evaluated."*

[12] SLB 20, Question 9. Questions 10 through 13 address how a proxy advisory firm that acts as a proxy solicitor could make the facts-and-circumstances determination of whether it had a significant relationship with an issuer or security holder proponent or a material interest in the matter under advisement, and how it should make any necessary disclosures related thereto.

[13] htpps://www.issgovernance.com/file/duediligence/significant-relationships-disclosure.pdf. The ISS website contains a range of disclosures that satisfy ISS' regulatory requirements under the Advisers Act and assist fiduciaries who use ISS' services to satisfy their own business and regulatory obligations.

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The first sentence quoted above is inaccurate. In 2010, the SEC confirmed that proxy advice is a form of investment advice subject to the Advisers Act and the rules and regulations thereunder. [14] Among other things, this means that

> as a fiduciary, the proxy advisory firm has a duty of care requiring it to make a reasonable investigation to determine that it is not basing its recommendations on materially inaccurate or incomplete information.[15]

The SEC restated this view just last month in a proposed interpretive release on investment adviser standards of conduct. In addition to confirming that the obligation to provide advice that is in the best interest of clients applies not only to advice regarding potential investments, but to all advice provided to clients, the SEC also confirmed that an adviser has a duty to conduct a reasonable investigation "sufficient to not base its advice on materially inaccurate or incomplete information."[16]

As an RIA and a fiduciary, ISS has adopted a number of policies and procedures designed to ensure the integrity of our data collection and research process, upon which our reports are founded. We have robust systems and controls designed to ensure that research reports and vote recommendations include high-quality, relevant information, are accurate, correctly based on the relevant ISS or client custom policy and are reviewed by appropriate personnel prior to publication. ISS also commissions regular SSAE 16 audits, conducted by a third-party auditor to ensure compliance with our internal control processes, including our research process.

ISS is committed to having the most complete and accurate information upon which to base our research and recommendations to our clients. As described in more detail below, ISS' approach is to use and rely only upon publicly available information in the preparation of our proxy research reports and vote recommendations, the primary source of which is the public filings of the companies that we cover. Within the parameters of that approach, ISS regularly undertakes dialogue and interacts with company representatives, institutional shareholders, shareholder proponents and other relevant stakeholders, both during and outside of "proxy season" to (1) gain the greatest possible insight for our clients and (2) maintain the overall quality of the research by ensuring full information and deeper insight into key issues. ISS' dialogue with issuers is transparent and disclosed to clients.

With respect to factual errors, ISS' research team does, infrequently, identify or receive notice of material factual errors in research reports that have already been published to our clients. These errors include those relating to agenda changes, material data or research/policy application. ISS tracks such occurrences, which are rare. For example, in 2017, ISS covered over 6,400 meetings in the United States and the error rate was approximately 0.76% as measured by post-publication "Proxy Alerts" to clients notifying them of a material error within our benchmark proxy research that resulted in a change of a vote recommendation.

We reiterate the findings of the 2007 GAO Report which concluded that our clients trust us to provide "reliable, efficient services."[17] The GAO's follow-up report in 2016 addressed this further, stating "Both corporate issuers and institutional investors [the GAO] interviewed said that the data errors they found in the proxy reports were mostly minor…"[18]

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[14] Concept Release on the U.S. Proxy System, IA Release No. 3052 (July 14, 2010) ("Proxy Concept Release") at 110.

[15] *Id.*, at 119.

[16] Proposed SEC Interpretation Regarding Standard of Conduct for Investment Advisers, IA Release No. 4889 (April 18, 2018) ("IA Interpretive Release"), at 13, *quoting t*he Proxy Concept Release.

[17] 2007 GAO Report *supra*, note 1 at 13.

[18] Clements, M. (2016). *Proxy Advisory Firms' Role in Voting and Corporate Governance Practices.* (GAO-17-47). Washington, DC: Government Accountability Office at 29.

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However, we want to underscore that there is a fundamental and important difference between factual errors and disagreements over interpretive judgment and methodology. Although the latter are often referred to as "errors," they do not entail any mistake, omission or misrepresentation. What is often portrayed as an "error" by the management and/or the board of a company may be a disagreement about the vote recommendation itself or about the underlying corporate governance guidelines applied.[19] For example, ISS was recently accused by a company of selecting inappropriate company peers for the purpose of manipulating the assessment of the issuer's executive compensation program in the context of a "say-on-pay" agenda item. However, ISS had, as always, followed its consistent and publicly-disclosed methodology for ISS peer group determinations and had also, in fact, already considered new information provided by the issuer and adjusted our initial determination to remove one peer and add a different one in line with the company's representations. In presenting the information to our clients in our report and consistent with our normal approach, we outlined in side-by-side fashion the peers selected by the issuer and the ISS-selected peers. In this particular case, there was overlap of 12 of the 16 peer companies and the variance was not an error but rather reflected ISS' thoughtful and independent assessment of the matter, precisely what our clients expect of us.

We acknowledge that policy differences on important issues such as executive compensation, overboarding (i.e. how many boards an individual can serve on effectively), and whether the CEO and Chairman of the Board should be different individuals, can sometimes generate tension between shareholders (and by extension ISS) and the companies in which they invest. However, it is the policies selected by our clients that dictate our vote recommendations and the application of those policies does not equate to our work product being erroneous or manipulative.

- *"We understand that your company and other proxy advisory firms hire more staff to meet the demands of proxy season by hiring temporary workers and outsourcing a significant amount of research and analytical work."*

To help meet our clients' needs during proxy season, ISS does indeed hire "temporary" employees. Temporary employees are subject to the same employment onboarding procedures that apply to "permanent" hires, including training regarding ISS' compliance program and subject matter training with respect to the tasks and issues that will fall within an employee's work responsibilities. Temporary employees do not undertake work beyond their training and experience and these employees are generally focused on data collection and capture. It is also not uncommon for some "temporary" employees to return to ISS on a recurring basis.

ISS does not outsource any of its research and analytical work.

- *"Why hasn't ISS expanded [its] draft review process to include more companies, in order to improve the quality of the reports for issuers not listed in the S&P 500 index? Are you willing to expand the draft review process to companies listed in the S&P 1500, [sic] with a reasonable transition period?"*

As you note, the shareholder proxy season is "short." The condensed schedule affects the process that advisors like ISS employ in producing proxy reports and formulating vote recommendations. ISS has incorporated a limited issuer review step for S&P 500 companies because these companies are the most widely held by our clients and generally have the most complex disclosures. ISS voluntarily provides most companies in this index the opportunity to review the factual accuracy of the data included in ISS' pending proxy analyses. Because we are committed to the accuracy and quality of our reports, we consider other requests for review on a case-by-case basis.

However, given the limited time between the hard start of receiving the proxy statement and the hard stop of delivering the report to our clients with sufficient review time in advance of their having to make their voting decisions, expanding the included coverage universe would require a significant increase in resources and a concurrent increase to our clients of the costs of our services (which, of course, is ultimately borne by the underlying beneficial shareowners). Moreover, even if

[19] As Anne Sheehan of CalSTERS observed at the SEC's Proxy Adviser Roundtable, "What I have found [is] that many times the errors are really differences of opinion." Roundtable Transcript, *supra*, note 2, at 155.

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additional resources were added, the time constraints remain substantial -- we remain concerned about the value and feasibility of accommodating an expanded draft review process and still being able to meet the imperative of providing our clients with our research on a timely basis. ISS does, however, work continually to enhance the quality of all of our product/service offerings, and is open to appropriate changes that are sensible, commercially viable and which would provide additional value to our clients and other stakeholders. Expansion of the coverage universe of our current draft review process is one potential change that ISS has considered and will continue to do so.

All issuers, even if they do not receive a draft report for review, are entitled to receive a free copy of ISS' published analysis for their own shareholder meeting. This affords all issuers the opportunity to bring any factual error in the report to ISS' attention and as noted elsewhere in this response, we have a formal process to update previously issued reports where necessary and communicate those updates to our clients.

- *"Do you have specific policies and procedures regarding providing draft report to issuers? If so, please include a copy of those policies and procedures."*

Yes. ISS' approach to the provision of draft reports to issuers (which is available on our website), is as follows:

> There is no entitlement to review our research reports prior to publication to our clients, but draft reports are provided in certain markets as a courtesy and at the sole discretion of ISS, in order to allow an issuer to check the factual information prior to publication. For example, in the United States, companies in the S&P 500 index will generally receive a draft report for fact-checking if they have provided contact details, and for France, the process is set out in our Engagement and Draft Report Disclosure Policy for the French Market.
>
> To ensure consideration can be given to any review responses within the often tight publication deadlines for our reports, any comments should be sent back to ISS by e-mail, although companies are welcome to provide a hard copy as well. Note that this is not an opportunity for the issuer to lobby for a particular voting recommendation, but to check the facts that are being included in our report. Procedures for providing draft reports to companies vary on a market-by-market basis, and in any case, no drafts will be provided in markets or situations where there is insufficient time to do so whilst still respecting our clients' voting deadlines.
>
> For all markets, ISS does not normally allow pre-publication reviews of any analysis relating to any special meeting or any meeting where the agenda includes a merger or acquisition proposal, proxy fight, or any item that ISS, in its sole discretion, considers to be of a contentious or controversial nature. This policy is intended to safeguard the independence of our process and recommendations.

- *"When do you provide issuers draft reports and how much times do they have to provide their comments on factual issues?"*

Draft reports are generally emailed to company contacts in the two-to-four week period before an issuer's annual meeting. During the height of proxy season, the time frame may be closer to two to three weeks before the meeting. We will generally advise the company contacts beforehand when to expect the draft report for review, and the cover letter accompanying the draft report specifies the deadline for the issuer's comments, which typically provides the company with 2 business days to provide comments.

- *"If an issuer identifies an error in a draft report what corrective measure do you take?"*

If an issuer identifies an error in a draft report, the matter is reviewed by the relevant research analysts and any identified and agreed errors are corrected prior to the finalization of the report and its delivery to our clients.

With respect to final reports that have already been published, if a material error is identified (whether by ISS, the issuer or an investor), or updated relevant information is publicly released by the issuer (for example, through supplemental proxy

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material filed with the SEC), ISS promptly issues an aforementioned "Proxy Alert" to inform clients of any corrections, new information available and, if necessary, any changes in the vote recommendations as result of those corrections or updates. Alerts are distributed to ISS' clients through the same ProxyExchange platform used to distribute the regular proxy analyses. This ensures that the clients who received an original analysis and recommendations will also receive the related Alert.

- *"Do you publicly disclose your guidelines and methodologies for preparing draft reports? If not, why not?"*

Yes. All proprietary proxy analysis at ISS is undertaken in accordance with the publicly disclosed analytical framework which is comprised of the full voting policy guidelines for all policies offered by ISS. The only exception to this is for the client-specific customized policies which are each client's own proprietary information. As described above, ISS offers a wide range of proxy voting policy options, providing to our clients both a benchmark policy focused on good governance principles, shareholder protection and mitigation of governance risk, and a wide array of specialty policies that evaluate governance and other voting issues from the perspective of sustainability, socially responsible investing, public pension funds, labor unions or mission and faith-based investing. To ensure the ISS proprietary voting policies take into consideration the changing views and needs of its institutional investor clients and the perspectives of companies and the broader corporate governance community, ISS gathers input each year from institutional investors, companies, and other market constituents worldwide through a variety of channels and over many months.

Case-by-case analytical frameworks, which take into account company size, financial performance and industry practices, also drive many of ISS' vote recommendations on more complex issues, such as those pertaining to the election of corporate directors, compensation matters, and capital or shareholder rights-related proposals.

All ISS Policy Guidelines for 2018, covering the U.S., all global markets and ISS' specialty policies can be found in the "Policy Gateway" section of our website (https://www.issgovernance.com/policy-gateway/voting-policies/).

Question 3 - Conflicts of Interest

An obligation to either eliminate, or manage and disclose, conflicts of interest is the very essence of an investment adviser's fiduciary duty of loyalty. The SEC most recently confirmed this fact in its proposed interpretive release on investment adviser standards of conduct, saying:

> In seeking to meet its duty of loyalty, an adviser must make full and fair disclosure to its clients of all material facts relating to the advisory relationship. In addition, an adviser must seek to avoid conflicts of interest with its clients, and at a minimum, make full and fair disclosure of all material conflicts of interest that could affect the advisory relationship. The disclosure should be sufficiently specific so that a client is able to decide whether to provide informed consent to the conflict of interest . . . . Because an adviser must serve the best interests of its clients, it has an obligation not to subordinate its clients' interests to its own . . . Accordingly, the duty of loyalty includes a duty not to treat some clients favorably at the expense of other clients.[20]

Advisers Act Rule 206(4)-6 applies this traditional fiduciary concept to proxy voting by requiring an RIA who has expressly or implicitly assumed voting authority over its clients' portfolios to adopt written policies and procedures reasonably designed to ensure that the adviser monitors corporate actions and votes proxies in the clients' best interests; supplies those policies and procedures to clients upon request; and offers clients information about specific votes cast on their behalf.

As an RIA, ISS takes this fiduciary duty of loyalty very seriously. ISS places primary importance on conducting our business in a transparent and responsible manner, and has developed a comprehensive program to manage potential conflicts of interest as required by the Advisers Act and related SEC rules. In this regard, ISS has undertaken a comprehensive risk assessment to identify specific conflicts of interest related to its operations and has adopted

[20] IA Interpretive Release,, *supra* note 15, at 15-16 (citations omitted).

compliance controls reasonably designed to manage those risks. Moreover and as discussed above, ISS has adopted a significant relationship disclosure policy and took robust steps to enhance transparency following the promulgation of SLB 20. At the heart of ISS' regulatory compliance program is a deliberate, carefully crafted, regularly tested and periodically updated series of measures designed to eliminate, or manage and disclose conflicts of interest.

Separate and apart from our compliance protocols, ISS addresses conflicts, in part, by being a transparent, policy-based organization, with research and voting recommendations based on publicly-disclosed information available to all shareholders. We provide our clients with an extensive array of information to ensure that they are fully informed of our policies to manage conflicts of interests, and of any potential conflicts and the steps ISS has taken to address them. Among other things, ISS supplies a comprehensive due diligence compliance package, also publicly available on our website, so that our clients can confidently and fully assess the reliability and objectivity of our voting recommendations.

- *"Your company has established a consulting service that charges public companies a fee to learn how to best to comply with ISS benchmark voting policies and obtain favorable recommendations in the future."*

To be clear, ISS Corporate Solutions, Inc. ("ICS"), a wholly-owned subsidiary of ISS, provides governance data, analytics and services to corporate issuer clients. ICS' stated mission is help companies design and manage their corporate governance and executive compensation programs to align with company goals, reduce risk, and manage the needs of a diverse shareholder base by delivering best-in-class data, tools, and advisory services. ICS does not and cannot provide any client with any assurance as to how ISS will recommend with respect to the matters that appear on any client's proxy statement.

- *"What types of conflicts do you disclose and how accessible are these disclosure[s] to your clients when voting decisions are being made?"*

As required by the Advisers Act's compliance program rule,[21] ISS has implemented, maintains and periodically updates a program designed to eliminate, or manage and disclose, conflicts of interest. In addition to appointing a chief compliance officer, establishing comprehensive compliance policies and procedures, and testing the adequacy of those policies and procedures and the effectiveness of their implementation on an ongoing basis, ISS has also adopted a comprehensive Code of Ethics as the Advisers Act regulatory regime also requires.[22] ISS' Regulatory Code of Ethics is available on our public website at https://www.issgovernance.com/file/duediligence/iss-regulatory-code-and-exhibits-june-2017.pdf. In addition to mandating disclosure regarding an RIA's Code of Ethics, the Advisers Act and related rules also dictate that we provide clients with transparency about our internal operations, including how potential conflicts of interest are addressed.

In conformance with our regulatory obligations, ISS has identified the following potential conflicts:

- Conflicts between ISS' institutional global research department and ICS
- Conflicts within the institutional advisory business
- Conflicts arising from an analyst's stock ownership
- Conflicts in connection with issuers' review of draft analyses
- Conflicts in connection with ISS' ownership structure

Conflict disclosure is addressed first and foremost in the Form ADV disclosure brochure that we must deliver to all clients at the outset of the relationship and must update periodically thereafter.[23] In addition to delivering this brochure to clients, ISS also includes the most recent version of the brochure in the due diligence compliance package available to the public

[21] *See* Advisers Act Rule 206(4)-7.

[22] *See*. Advisers Act Rule 204A-1.

[23] *See*. Advisers Act Rule 204-3.

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on the ISS website. ISS clients can also readily identify any potential conflict of interest through ISS' primary client delivery platform, ProxyExchange, which provides information about the identity of ICS clients, as well as the types of services provided to those issuers and the revenue received from them. Similarly, each proxy analysis and research report issued by ISS contains a legend indicating that the subject of the analysis or report may be a client of ICS. This legend also advises institutional clients about the way in which they can receive additional, specific details about any issuer's use of products and services from ICS, which can be as simple as emailing our Legal/Compliance department.

- *"Are you willing to disclose potential and actual conflicts on the front page of company reports, as Glass Lewis does?"*

Although in our experience investment advisers typically disclose conflict-of-interest information at a macro level, ISS does more. Any institutional client that wishes to learn more about the relationship, if any, between ICS and the subject of a particular analysis or report may access this information through ProxyExchange and/or through contacting ISS' Legal/Compliance department for relevant details. This process allows ISS' proxy voting clients to receive the names of ICS clients without revealing that information to research analysts as they prepare vote recommendations and other research. Identifying an ICS relationship on the face of a proxy analysis or report would destroy the conflict-of-interest firewalls we have created in this area. While it would actually be easier for us to provide this disclosure on the report itself, we believe that eliminating such a critical conflict control would not be in our clients' best interest.

- *"Do your disclosures include, in monetary terms, the size of the client relationship involved and do you disclose conflicts involv[ing] more than one proponent or active supporter of a particular shareholder proposal?"*

Yes, ISS makes available to its institutional clients the identity of all ICS clients, the particular products/services they receive, and the fees paid to ICS. Again, this information can be readily accessed via the ProxyExchange platform or by emailing ISS' Legal/Compliance department. In addition to obtaining report-by-report conflict information, ISS clients can obtain lists of all ICS clients. Further, many clients meet with ISS staff on an annual basis to discuss conflicts and other due diligence matters.

Beyond the disclosure approach regarding the ICS clients, the *Policy Regarding Disclosure of Significant Relationships* referred to above explains ISS' approach for disclosing other types of potential conflicts, including those that might arise with respect to a proponent or active supporter of a particular shareholder resolution.

- *"Does ISS allow hedge fund clients to purchase Special Situations Research or other services at the same time that ISS is recommending for or against a pending merger, buyout, or proxy fight in which the hedge fund has an interest?"*

Yes.

- *"Please provide a record of each instance of proxy voting advice that your company or any regulatory body has determined constituted or may have constituted a conflict of interest over the last 10 years, and all related documents and communication. If no such record is maintained, please explain why."*

ISS is not aware of any instance in which a proxy research report or a vote recommendation was compromised by a conflict of interest, nor any instance where a regulatory body has reached that conclusion. As discussed at length above, ISS has worked hard to identify potential conflicts of interest and taken concrete steps to manage and mitigate those potential conflicts so that they do not impact the efficacy or integrity of our research and recommendations. We are heartened by the fact that the most vocal critics of ISS on this point are those who speak on behalf of corporate management, and not the investors who rely on ISS' research and vote recommendations. We see this as a strong indication that we are managing this potential conflict extremely well.

- *"Please provide a list of all outside entities from whom you obtain information referring or relating to your proxy voting advice, and descriptions of any evaluations that are performed to ensure such information is accurate and that*

the information provider does not have a conflict of interest with the company with respect to which the information is being provided."

As explained above, ISS' approach is to use and rely only upon publicly available information in the preparation of our proxy research reports and vote recommendations. The primary source of that information is the public filings of the companies that we cover, meaning, for U.S. companies, the proxy statement and other reporting materials that companies are required to file with the SEC, supplemented by press releases, information from a company's website and other generally accessible information. ISS also uses a small number of third-party vendors to provide standardized financial information and securities identifiers. ISS submits that this approach fully complies with our fiduciary duty of care described above.

- *"We are interested in whether you disclose two other types of conflict of interest. The first of these two conflicts involves cross-ownership, where owners or executives of your firm may have a significant ownership interest in, or serve on the board of directors of entities that have proposals on which the firm is offering vote recommendations. The second conflict involves other financial interests by your owner, Genstar Capital."*
- *"Are you disclosing these financial or business relationships when they involve or include a proponent or an active supporter of matters in which you are making voting recommendations?"*

ISS' executives, like all of our employees, are required to disclose to ISS and ISS will, in turn, disclose to our clients any significant (or material) ownership interest that an executive might have with regard to a company on which we are providing proxy research coverage.[24] ISS' executives are not permitted to sit on the Board of Directors of a public company except in extremely limited circumstances and only with the approval of ISS' General Counsel and the company's senior management. No such exceptions are currently in effect and so no ISS employee currently serves as a director of a public company.

ISS is a privately-held company, whose ultimate owner is affiliated with Genstar Capital, a private equity firm. ISS has adopted a Policy on Potential Conflicts of Interest Related to Genstar Capital and its affiliated funds (the "Genstar Policy"). Among other things, the Genstar Policy provides that Genstar persons (defined as Genstar directors and certain others) may not participate in the formulation, development and application of ISS voting policies, and will not have access to any data relating to the portfolio, investment strategy or securities holdings of ISS clients. In addition, as a private equity firm that owns or controls a number of operating companies, some of which may become publicly traded, and may thereafter be the subject to ISS research, we recognize that actual or potential conflicts of interest, or the appearance of conflicts, could arise in the production by ISS of research with respect to coverage of such a Genstar company (what we refer to as a "Genstar Affiliated Company"). ISS therefore provides disclosure of these relationships on its website, and includes information about any such relationship in the research report for any issuer that happens to be a Genstar Affiliated Company. Currently, there are no Genstar Affiliated Companies.

Pertinent Legislation before the Senate Banking Committee

Finally, we want to reiterate our strong view that both of the pertinent legislative proposals before the Senate Banking Committee – H.R. 4015, "The Corporate Governance Reform and Transparency Act," and Subtitle Q of Title IV under H.R.10, "The Financial CHOICE Act" (FCA) – are misguided attempts to improve corporate governance. Each of these proposals would only deepen your concerns about industry competition and conflicts of interest. Each proposal would eliminate a proxy adviser's existing fiduciary duties of care and loyalty to investors, the owners of the companies in which they invest, and would infuse a proxy adviser's operations with a new issuer-related conflict of interest that would be

[24] Note that the ISS Regulatory Code of Ethics requires all employees to provide the ISS compliance department with account statements for all securities investment accounts for the employees and members of their immediate families. Certain types of trades must be pre-cleared and ISS imposes black-out periods on trading of issuers whose proxies are currently being analyzed or acted upon by the company. This black-out period extends from the time ISS logs receipt of the subject proxy into the Global Research database of meetings, until one day after the shareholders' meeting being covered.

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difficult to manage effectively. In this way, either bill, if enacted, would harm every shareholder who relies on independent research to make informed investment decisions.

Shareholders should have the right to choose the tools, services and information they need to make informed proxy voting decisions– without it being filtered through the management of the corporation in question. This is a fundamental tenet of corporate governance and it is why this bill is opposed by a number of large public sector pension fund managers, as well as many other institutional investors, including the CII, NCPERS, AFL-CIO, AFSCME and Teamsters to name a few.

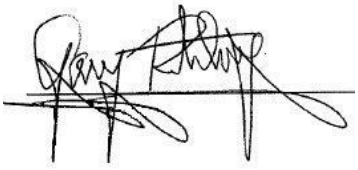
The proposed new regulatory regime under both bills will do nothing to enhance competition in the industry. Indeed, it may actually erect barriers to entry and make it more difficult for smaller industry participants to compete. The proposed regulatory regime is unnecessary, burdensome and would do nothing to enhance market competition or create market conditions conducive to new proxy advisors entering the market. CII wrote in its most recent opposition letter that the proposed regulatory regime would "**increase barriers** [emphasis supplied] to new entrants and potentially lead some current proxy advisory firms to exit the industry altogether."[25]

The National Conference on Public Employee Retirement Systems (NCPERS), the largest national, nonprofit public pension advocate whose members manage more than $3 trillion in pension assets, warned that the suggested regime proposes to "bypass free-market principles by authorizing the SEC to pre-qualify industry entrants based on a set of vague and highly subjective standards."[26] Such authority would likely provide the SEC – under this and future Administrations – with broad discretion to establish criteria to further restrict, not enhance, competition.

The litmus test for any federal intrusion into the free market is whether it targets a proven problem and seeks to address it cost-effectively. The proposed bill does not pass either test. As the foregoing discussion demonstrates, the investors who use proxy advisory services do not see the "problem" the proposed legislation purports to address. Furthermore, the bill's backers fail to provide any cost-benefit analysis to support the idea of supplanting a comprehensive and mature regulatory regime with a brand new scheme that will require several years of new SEC rulemaking only to end up with something that favors entrenched corporate interests over shareholders, freedom of choice, freedom of expression and free-market capitalism.

In conclusion, ISS appreciates the opportunity to answer your questions and underscore the rigorous regulatory system and internal compliance program under which we operate. If there is any additional information I can provide, please do not hesitate to contact me.

Sincerely,



Gary Retelny, President and CEO
Institutional Shareholder Services Inc.

[25] Letter from the CII to Sen. Michael Crapo, Chair of the Senate Committee on Banking, Housing and Urban Affairs and Sen. Sherrod Brown, Ranking Member of the Senate Committee on Banking, Housing and Urban Affairs (February 28, 2018) at 2.

[26] Letter from NCPERS to Sen. Michael Crapo, Chair of the Senate Committee on Banking, Housing and Urban Affairs and Sen. Sherrod Brown, Ranking Member of the Senate Committee on Banking, Housing and Urban Affairs (February 16, 2018) at 2.

Attachment 3

Except From ISS Email on Why They Are Suing the SEC

If you are having trouble reading this email, read the online version.

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November 8, 2019

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Why We Are Suing the SEC

By Gary Retelny, President & CEO, Institutional Shareholder Services

The U.S. Securities and Exchange Commission in August issued an interpretation of a law Congress designed for those engaged in the solicitation of a proxy and applied it to the providers

of proxy advice. More recently, the SEC on Tuesday put forward draft rules that hold the potential to hinder our ability to provide timely and independent proxy advice to our clients.

The changes embodied in the August interpretation and the proposed rulemaking — which was pushed forward despite widespread objections to its necessity and legality — will disrupt the system for proxy voting, in place for many years, and likely harm the very investors the SEC is charged with protecting. The commission's action will tilt the scales in favor of company management and degrade the important gains in corporate governance achieved since the days of Enron, WorldCom, and the financial crisis. In order to prevent this, Institutional Shareholder Services was left with only one option: to file a lawsuit challenging the interpretation.

The SEC's so-called proxy adviser reform seems to be driven by a concerted effort by corporate interests and their Washington lobbying groups to tamp down the voice of their shareholders. And the support for this business-backed campaign is simply lacking in truth.

Throughout the course of this debate, much rhetoric and misinformation has taken hold. Public companies, the subjects of proxy adviser research, have long advocated for new rules that will muffle dissent from their shareowners on corporate governance matters.

The problems they cite, for example, that proxy advisory reports are rife with errors, are simply not accurate and, critically, have been rightly debunked by the very institutions that pay for proxy advisory services.

It is against this backdrop that we were forced to take legal action to protect the rights of shareholders as well as our independent services to them. Our lawsuit makes clear that the SEC inappropriately altered the regulatory regime applicable to the voting advice provided by proxy advisory firms and that the new interpretation is unlawful.

Specifically, the SEC contends that voting advice provided by proxy firms is a "solicitation" under federal proxy rules. If allowed to stand, the August interpretation would effectively treat the advice proxy advisers provide to their fee-paying clients in the same way that the SEC treats proxy solicitations (meaning the communications, most typically made by the boards and management of public companies, advocating that shareholders vote in support of the position favored by the person doing the solicitation). In contrast, proxy advice is a specialized form of investment advice rendered for a fee at the direction, and in the best interest, of our institutional investor clients. As such, proxy advice is the antithesis of a "solicitation" under the securities laws.

Unlike a person or firm engaged in a proxy solicitation, ISS is indifferent with respect to the ultimate outcome of a shareholder vote and does not seek to achieve a certain result. Our goal in providing analysis and recommendations is to inform and empower our clients, sophisticated institutional investors, to vote their shares the way they see fit, knowing that they are free to follow our recommendations or not. Because proxy advice is not proxy solicitation, we believe the SEC's recent interpretation is contrary to law.

ISS does not object to SEC oversight of its activities. Nor does ISS object to transparency. Indeed, ISS has been registered with the SEC as an investment adviser for more than 20 years. In this capacity, ISS has assumed fiduciary duties of care and loyalty to our investor clients; transparency is a hallmark of these duties.

Investors hire us because they know we strive to be unbiased and transparent, and because we provide services that they value and deem to be cost-effective. It speaks volumes that the institutional investors that hire proxy advisers are not the ones calling for new rules. Even the SEC's investor advocate unit has cautioned against these actions. The Council of Institutional Investors and others have also called on the SEC to correct its course.

The decision to sue our regulator was not taken lightly, but the stakes are too high. Our lawsuit is designed to protect the balanced and well-functioning relationship between proxy advisers and their clients. This relationship supports an efficient system for proxy voting for the benefit of millions of shareholders who are invested in publicly traded companies.

A version of the foregoing was featured November 4, 2019, in the Financial Times and is available here.

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[ADDITIONAL ARTICLES OMITTED FOR LENGTH]

For questions, comments or suggestions, email

publications@issgovernance.com

ABOUT THIS PUBLICATION

Drawing on ISS' Data Desk, Governance Insights delivers news and analysis of corporate governance developments, including insights and reporting found in no other media, on a periodic basis. While we exercise due care in compiling this newsletter, we assume no liability with respect to the consequences of relying on this information for investment or other purposes.

ABOUT ISS

Founded in 1985 as Institutional Shareholder Services Inc., ISS is the world's leading provider of corporate governance and responsible investment (RI) solutions for asset owners, asset managers, hedge funds, and asset service providers. ISS' solutions include: objective governance research and recommendations; RI data, analytics, advisory and research; end-to-end proxy voting and distribution solutions; turnkey securities class-action claims management (provided by Securities Class Action Services, LLC); and reliable global governance data and modeling tools. Clients rely on ISS' expertise to help them make informed corporate governance and responsible investment decisions. For more information, please visit www.issgovernance.com.

Attachment 4

Immediate Change in Proxy Voting Following the Release of the ISS Recommendation

Years Showing the Impact of Automatic Voting Have Been Bolded.

Advisory Vote to Approve Executive Compensation

Year of Annual Meeting	ISS Recommendation	First Day Change in Vote
2019	FOR	+1.5%
2018	AGAINST	**-17.3%**
2017	AGAINST	**-15.3%**
2016	FOR	+2.7%
2015	FOR	+2.2%
2014	FOR	-0.2%
2013	AGAINST	**-17.5%**
2012	AGAINST	**-17.1%**

Attachment 5

Comparison of ISS' 2019 Recommendations on ExxonMobil in the Benchmark and Specialty Reports

Differences against the Benchmark Report Have Been Bolded.

Proposals	Benchmark	SRI/ Sustainability/ Catholic Faith-Based	Taft-Hartley/ Public Pension
Director 1	FOR	FOR	FOR
Director 2	FOR	**AGAINST**	**AGAINST**
Director 3	AGAINST	AGAINST	AGAINST
Director 4	FOR	FOR	FOR
Director 5	FOR	FOR	FOR
Director 6	FOR	FOR	FOR
Director 7	FOR	FOR	**AGAINST**
Director 8	FOR	**AGAINST**	**AGAINST**
Director 9	FOR	FOR	FOR
Director 10	FOR	**AGAINST**	**AGAINST**
Ratify Auditors	FOR	FOR	**AGAINST**
Ratify Executive Compensation	FOR	FOR	FOR
Independent Chair	FOR	FOR	FOR
Special Meeting Bylaw	FOR	FOR	FOR
Board Matrix	FOR	FOR	FOR
Separate Climate Committee	AGAINST	**FOR**	**FOR**
Report on Petrochemical Operations	AGAINST	**FOR**	**FOR**
Report on Political Contributions	FOR	FOR	FOR
Report on Lobbying	FOR	FOR	FOR