

MEMORANDUM

To: File No. S7-22-19 and S7-23-19

From: Sebastian Gomez, Senior Advisor to Chairman Jay Clayton

Re: Meeting with Representatives of the Institute for Pension Fund Integrity

Date: March 5, 2020

On March 4, 2020, Chairman Jay Clayton and Sebastian Gomez (Senior Advisor to Chairman Clayton) met with:

- Ken Blackwell, Board Member, Institute for Pension Fund Integrity
- Chris Burnham, President, Institute for Pension Fund Integrity
- John Quamme

The meeting participants discussed, among other things, the SEC's proposed amendments to: (1) exemptions from the proxy rules for proxy voting advice, and (2) procedural requirements and resubmission thresholds under Exchange Act Rule 14a-8.

Attachment

IPFI on Proxy Voting Reform

- The Institute for Pension Fund Integrity strongly supports the SEC’s recent efforts.
- Due to the ever-increasing tendency to allow political considerations to influence major fiduciary decisions, proxy voting as it currently exists goes against the interests of pension beneficiaries.
- “Robo-voting” disenfranchises those individuals who have entrusted institutional investors or trustees with their retirement money on the premise that their money will be invested through careful analysis, and not subject to political considerations.
- Any strategy that does not seek the highest returns at a reasonable risk is a dilution of fiduciary duty.

Our Proposed Solution:

- The proposed rule allows companies to submit an “issuer response statement” (essentially a dissenting opinion) pointing out flaws in, or disagreements with, a proxy firm’s recommendation.
- The response statement would be included as a hyperlink within the proxy firm’s voting report itself before it is disseminated to clients. **We propose proxy firms be required to “turn off” automatic vote submission when a company has submitted a response statement in order to allow asset managers the time to review the proxy firm report and the issuer response, and make an informed voting decision.**
- The SEC’s guidance issued last August identifies “contested” and “controversial” matters as key areas for asset managers to consider additional due diligence when utilizing the services of a proxy firm; a requirement that proxy firms disable robo-voting on contested/controversial ballot measures would align with this guidance.
- A targeted limitation on robo-voting would only impact a small share of proxy votes (given that proxy firms agree with management 95% of the time), so the cost impact on proxy firms would be minimal – but it could have a dramatic impact on the millions of retail investors and pensioners who trust institutional investors to conduct appropriate due diligence when managing their life savings.
- **We are proposing that the robo-voting restriction be a condition to the Rule 14a-2(b) exemptions from the proxy solicitation rules on which the proxy firms rely. In other words, our proposed reform would be a requirement on the proxy firms themselves, *not* on the asset managers who are still bound by fiduciary duty considerations as outlined in the SEC’s August guidance.**

Robo-Voting / Proxy Voting Fact Sheet

- A 2018 list of the top 20 robo-voting entities includes five different pension funds: Virginia Retirement System, Los Angeles County Employees Retirement Association, Kentucky Teachers’ Retirement System, Pensionskasse SBB, and Alameda County Employees Retirement Association.
- Former SEC Commissioner, Dan Gallagher, cites the poor quality of proxy advisory firm recommendations and blatant conflicts of interest as the top complaints made to the SEC.