Submitted via email to: rule-comments@sec.gov

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

Re: ***Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice (File No. S7-22-19) (the "Release")***

Dear Ms. Countryman:

SECTION 1. Conflicts of Interest

As an investor in various public companies in recent years, I believe that the SEC needs to completely rethink its approach to the proxy advisor ("PA") proposed rules regarding conflicts of interest for the following overarching reasons:

First, there seems to be a flawed underlying assumption that runs throughout the proposed rules that the PAs are somehow supposed to be impartial arbiters in disputes between shareholders and management, ideally free from any conflicts of interest (or, if any exist, such conflicts should be publicly revealed). This "impartial referee" concept completely ignores the reason why the PAs exist in the first place. PAs are (as their name indicates) paid advisors to fiduciaries of shareholders (mainly, institutional holders) in deciding how to vote on behalf of their clients at annual meetings and with respect to other shareholder votes. Impartiality as a goal is a bizarre concept to apply to a paid advisor. In other words, if you are compensating an entity to be your advisor, there is a clear and obvious conflict from the outset—and there should be, otherwise your advisor won't have an incentive to act in your best interests. PAs, by definition, should owe no duty of impartiality to the managements or boards of the companies they are opining on. (Why would they? These parties are not paying the PAs for advice.) Expecting PAs to be impartial between management and shareholders would be like expecting your lawyer to be impartial in a lawsuit brought against you—it is a illogical concept.

Second, since fiduciaries acting on behalf of shareholders are paying the PAs for advice, these fiduciaries expect (indeed, rightfully demand) that the PAs advocate what is in their own best interests, even if—and perhaps *especially* if—such advice conflicts with the interests of management or the board of directors at a public company. Thus, in my view the *only* conflicts of interest on the part of the PAs which should be disclosed are those conflicts which cause the PAs to make recommendations which are *AGAINST THE INTERESTS OF SHAREHOLDERS*. This can happen where CEOs or boards hire the PAs on other matters (such as consulting jobs) or where the PAs are opining on entities such as closed end funds (as per

Saba's March 20th comment letter[1]). To employ the lawyer analogy again, law firms are required under ethics guidelines to inform clients when they have a representational conflict, but this only applies if the conflict militates *against* the interests of the client.

On page 35 of the SEC's Release, the SEC asks: "Are there other examples of conflicts of interest that the Commission should take into account in considering the text of proposed Rule 14a-2(b)(9)(i)?" ***The answer to this question is YES***. Whenever a registrant includes a "Statement in Opposition" to a Rule 14a-8 shareholder proposal in a proxy statement, the registrant almost always has conflicts of interest in opposing such proposal and, therefore, *such registrants should be required to disclose all relevant details regarding these conflicts of interest*. For example, a registrant may oppose a Rule 14a-8 proposal granting the right for 10% of shareholders to call a special meeting, because the board of directors of the registrant does not want the shareholders to be able to call such a meeting to replace the board (in other words, they oppose it for entrenchment purposes). *Why should the proposed rule only apply when proxy advisors give proxy voting advice, but not also apply when a registrant gives its shareholders proxy advice regarding shareholder proposals under Rule 14a-8?*

SECTION 2 - Registrants' and Other Soliciting Persons' Review of Proxy Voting Advice and Response

The idea that public company CEOs, boards of directors and their high-priced advisors should be able to use shareholders' own money to censor or otherwise water down the advice of the PAs (which the proposed rule seems to promote, in allowing companies to effectively muzzle or edit the PAs recommendations) is the height of lunacy—it defeats the very purpose for the SEC was created, protecting shareholders. If a company doesn't like the advice given in a PA report, why can't they do what they normally do when they want to communicate with their shareholders, namely issue a press release and file the release as additional soliciting materials? *Moreover, there is no apparent reason why registrants would need to "preview and comment" on PA reports with respect to uncontested elections, which virtually always result in incumbent directors being re-elected*. ***Uncontested elections should thus be carved out of the new rule.***

If the concern is that PAs may make misleading or false arguments in their recommendations to clients, to the extent such statements contained in PA reports are considered "solicitations" under the SEC's proxy rules, this issue is already covered by the Rule 14a-9. If a company that is the subject of a PA report believes that a PA has violated Rule 14a-9 prohibitions against false or misleading statements in making recommendations to their clients about the company, the remedy is to report such alleged violation to the SEC and let the SEC determine whether 14a-9 has been infringed. The answer surely should not be that companies

[1] https://www.sec.gov/comments/s7-22-19/s72219-6979126-214407.pdf

be allowed to censor or otherwise interject their own views into PA reports, which (I repeat) are paid-for advice by shareholder clients and which generated for the benefit of the shareholder client (*not* the company's CEO or board). (Obviously, if the PAs statements do not constitute "solicitations" under the proxy rules, the SEC should not be regulating such speech at all.)

Public company CEOs and boards of directors across the country would just *love* to muzzle the proxy advisors to the maximum extent possible, because the plain fact is that such insiders routinely oppose shareholder democracy and everything that facilitates it (most notably the proxy advisors). Sadly, the proposed rule regarding "preview and comment" by registrants will hurt shareholder democracy by doing exactly what corporate insiders want (stifling free speech). *Will the SEC similarly support allowing non-insider shareholder representatives (perhaps one or more large outside shareholders of a registrant) to preview and comment on proxy advice emanating from the registrant's board and management ("to inform investors in a timely and effective way of their contrary views or errors they have identified in the voting advice", in the words of the Release) before it gets disseminated to shareholders???* Somehow we doubt that registrants want the concepts regarding proxy advisor advice contained in the proposed rule to apply to their own proxy advice!

While I support exposing conflicts that undermine the ability of the PAs to give advice in the interests of their shareholder clients (for example, as described in Saba Capital's letter), I vehemently oppose the provisions in the proposed rules that give public companies the ability to comment in, or otherwise censor, what appears in the PAs reports (indeed, Rule 14a-9 already adequately addresses this issue), especially in the context of uncontested elections. I would appreciate if the SEC's final rule could reflect this input. Thanks very much.

Sincerely,

Scott Klarquist
Seven Corners Capital Management, LLC