



Via email to rule-comments@sec.gov

January 28, 2020

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

Re: Proposed Rule on Procedural Requirements and Resubmission
Thresholds under Exchange Act Rule 14a-8

File Number: S7-23-19

Dear Ms. Countryman:

On behalf of the Unitarian Universalist Association (UUA) and its Unitarian Universalist Common Endowment Fund, LLC (UUCEF), we wish to submit these comments regarding the “Proposed Rule on Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8,” File Number S7-23-19. We are strongly opposed to the proposed rules that would substantially raise the filing and resubmission thresholds and curb the ability of proxy advisors to offer independent advice to shareholders.

The Unitarian Universalist Association is a faith community of more than 1000 self-governing congregations that brings to the world a vision of religious freedom, tolerance and social justice. Our congregations are located in every state in the Union. With roots in the Jewish and Christian traditions, Unitarianism and Universalism have been forces in American spirituality from the time of the first Pilgrim and Puritan settlers. The UUA is also an investor with total assets under management in excess of \$600 million, including an endowment, a retirement fund, and other invested assets. The UUA takes its responsibility as an investor and shareowner very seriously. We view the shareholder resolution process as an opportunity to bear witness to our values at the same time that we enhance the long-term value of our portfolio.

The shareholder resolution process serves several important purposes:

- a) Holding management accountable to shareholders;
- b) Raising important issues of governance and risk to management, the board and other shareholders; and
- c) Motivating company management to engage with shareholders on issues of concern.

In Reuters' report on the rule changes, they quote spokesmen from the U.S. Chamber of Commerce and the National Association of Manufacturers who were thrilled with the proposed rules.¹ However, the SEC's mission, according to its website, is "**to protect investors**, maintain fair, orderly, and efficient markets, and facilitate capital formation [emphasis added]." Nowhere does it say its purpose is to make life easier for corporate managers.

Investors have not sought these changes are not in support of them. One might understand otherwise from Chairman Jay Clayton's statement announcing the proposal. In it he said that he was influenced by letters from ordinary investors, saying, "Some of the letters that struck me the most came from long-term Main Street investors, including an Army veteran and a Marine veteran, a police officer, a retired teacher, a public servant, a single Mom, a couple of retirees who saved for retirement, all of whom expressed concerns about the current proxy process."² The only problem is that, according to Bloomberg, these letters turned out to be orchestrated by industry front groups funded in part by the National Association of Manufacturers. The article says, "But a close look at the seven letters Clayton highlighted, and about two dozen others submitted to the SEC by supposedly regular people, shows they are the product of a misleading -- and laughably clumsy -- public relations campaign by corporate interests."³

This proposal, supported by three of the Commission's five members, is attempting to solve problems that do not exist. It is well documented elsewhere that the number of proposals is not increasing over time, and current rules already screen out proposals that are not significant to the company or that reflect a personal grievance.

Claims that the current system is excessively costly are vastly overstated. Proposals submitted by the UUA have been opposed by some companies. They have copied us

¹ <https://www.reuters.com/article/us-usa-sec-proxyadvisers/u-s-sec-to-propose-rules-that-could-limit-shareholders-voice-in-corporate-voting-proposals-idUSKBN1XF1YN>

² <https://www.sec.gov/news/public-statement/statement-clayton-2019-11-05-open-meeting>

³ <https://www.bloomberg.com/news/articles/2019-11-19/sec-chairman-cites-fishy-letters-in-support-of-policy-change>

on lengthy submissions to the SEC requesting permission to omit the proposal from the proxy statement. These filings are often prepared by outside counsel from top law firms. This indeed must be expensive. But there is a very simple, and nearly free, alternative: simply allow the proposal to be presented at the AGM and let the shareholders vote. This will take up about a page of the proxy book and no more than a few of minutes of the meeting. And as a side benefit, the company's management and board of directors will learn something important about investor priorities and concerns. Proposals that get very low levels of support can be safely ignored; proposals that get significant support will warrant more research and consideration.

In the UUA's experience, shareholder proposals that we have submitted have led to positive change, and many were well received by corporate management. Very few of these received majority support, but in many cases, companies agreed to issue disclosures or make policy changes consistent with the proposal. Shareholders, the markets, and the companies benefitted.

Here is an example. Over the last decade, the UUA has filed resolutions with several companies urging them to add gender identity and expression to their non-discrimination policies. Among them are Walmart, Verizon, Home Depot, and Travelers Insurance. Many other shareholders also pressed this issue with portfolio companies. In the early 2000s, only 3% of the Fortune 500 had such policies. Today 91% have gender identity protections enumerated in their nondiscrimination policies⁴ largely due to the efforts of active shareholders. More than 2.9 million employees in companies engaged by the UUA had this protection added to their nondiscrimination policies. And none of these resolutions received a majority vote. As one corporate secretary said in response to our resolution, "Thank you for submitting this. We appreciate when shareholders highlight important issues for us." They went on to add this nondiscrimination policy for their employees.

The proposed rule changes, by changing submission and resubmission thresholds, will make it significantly more difficult for investors to get critical issues on the meeting agendas of publicly traded companies. The resubmission thresholds provide an opportunity for proposals to be carefully considered by shareholders and company management, gaining support over time.

One rule change is positively mean-spirited. It is proposed that a representative at a company AGM may submit only one proposal for one shareholder at a given company. In practice, small ("main street") investors will ask one person who is attending a given meeting to present proposals from several investors. This is important because if a proposal is not presented in person, it will not be voted on.

⁴ https://assets2.hrc.org/files/assets/resources/CEI-2020.pdf?_ga=2.100538781.261622734.1580224752-932316947.1580224752 p. 5

But incurring travel expense to get a representative to the meeting for the purpose of a two-minute presentation is expensive and would be prohibitive for many investors. Having one presenter for several proposals saves money and allows smaller investors to be actively engaged. If the Commission is truly concerned about reducing the costs of the shareholder resolution process, this would be a productive area for attention.

Proposals from small investors have proved to be important. According to data compiled by the Sustainable Investments Institute, 176 resolutions on social and environmental topics came to a vote at US companies in the spring of 2019. Many of these were filed by investors with relatively small stakes consistent with the existing filing thresholds. The proposals received on average of 25.5 % support, indicating that many large institutional investors supported the proposal.⁵ These numbers demonstrate that proposals of interest to a large portion of a company's shareholder base can and do originate with smaller individual and institutional investors.

Rule 14a-8 is working for investors. The revisions put forward are unacceptable. The SEC should protect investors' ability to hold publicly traded companies accountable rather than creating higher thresholds that only serve to shield corporate managers from accountability.

For the above reasons, we strongly urge the SEC to reject the proposed rule changes.

Respectfully submitted,

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy Brennan", with a stylized flourish at the end.

Timothy Brennan,
Special Advisor on Responsible Investing

⁵ <https://siinstitute.org/>