



**American Federation  
of Labor and  
Congress of Industrial  
Organizations**

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# AFL-CIO

AMERICA'S UNIONS

**Sent via electronic mail: [rule-comments@sec.gov](mailto:rule-comments@sec.gov)**

January 6, 2017

Mr. Brent J. Fields  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

**Re: *Universal Proxy (File No. S7-24-16)***

Dear Mr. Fields:

On behalf of the American Federation of Labor and Congress of Industrial Organizations (the "AFL-CIO"), I appreciate the opportunity to comment on the Securities and Exchange Commission (the "SEC") proposed amendments to the federal proxy rules that will enable investors to cast their votes for the management and dissident nominees of their choice in contested director elections. We support the proposed universal proxy rule and urge that it be adopted.

The AFL-CIO is the umbrella federation of U.S. labor unions, including 56 unions representing 12.5 million members. Union-sponsored and Taft-Hartley pension and employee benefit plans hold more than \$646 billion in assets. Union members also participate directly in the capital markets as individual members and as participants in pension plans sponsored by corporate and public-sector employers.

The current proxy rules limit the ability of shareholders who vote by proxy in contested director elections to support their preferred candidates. Shareholders voting by proxy must choose whether to vote for the director nominees that appear on the management proxy card or the dissident proxy card. In contrast, shareholders voting in person at shareholder meetings receive a ballot that lists all the director nominees, and they may vote for any combination of candidates.

The proposed amendments to federal proxy rules will require the use of a single "universal proxy" card listing all director nominees in contested board elections, and thereby allow shareholders to split their vote between nominees fielded by management and dissidents. The

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proposed rulemaking will give investors voting by proxy the same ability to vote for their preferred combination of management and dissident nominees as those attending an annual shareholder meeting in person.

The SEC's universal proxy proposal follows years of consideration. The SEC's Investor Advisory Committee (the "IAC") recommended that the SEC explore adopting universal proxy cards in July 2013.<sup>1</sup> In its recommendations, the IAC noted that universal proxy cards would allow "all shareholders to have a low-cost, equal opportunity to vote in a manner that is available to all in-person attendees at shareholder meetings." The IAC also noted that any voter confusion about competing director nominees could be avoided through "conspicuous disclosure" on proxy cards.

In January 2014, the Council of Institutional Investors (the "CII") submitted a petition to the SEC to permit the use of universal proxy cards in contested elections.<sup>2</sup> In its petition, CII stated that the rule changes it recommended would result in only minimal increase in the costs of proxy contests, and that "the benefits to the shareholder voting franchise would far outweigh these costs." CII also noted that universal proxy cards are logistically feasible as demonstrated by their previous use in Canada. The IAC and CII universal proxy recommendations were debated extensively in a Proxy Voting Roundtable hosted by the SEC in February 2015.<sup>3</sup>

We fully support the SEC's proposal on universal proxy cards which incorporates the recommendations of both the IAC and CII. As SEC Chair Mary Jo White observed, the proposal "would allow shareholders through the proxy process to more fully exercise their vote for the director nominees they prefer."<sup>4</sup> And, it will enable shareholders to vote for their preferred director nominees without incurring the cost of attending annual shareholder meetings in person. Such a change will more fully enfranchise the vast majority of investors who vote by proxy for shareholder meetings.

We support the SEC's proposed requirement to make the use of universal proxy cards mandatory for proxy solicitations. The existing proxy rules permit the use of universal proxy cards with the consent of all nominees, but in practice this consent is rarely granted by proxy contest participants. For this reason, we question whether the use of universal proxy cards will become routine if they are not required. We also agree

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<sup>1</sup> Recommendations of the Investor Advisory Committee Regarding SEC Rulemaking to Explore Universal Proxy Ballots, adopted July 25, 2013. Available at: <https://www.sec.gov/spotlight/investor-advisory-committee-2012/universal-proxy-recommendation-072613.pdf>

<sup>2</sup> Council of Institutional Investors rulemaking petition, dated January 8, 2014. Available at: [http://www.cii.org/files/issues\\_and\\_advocacy/correspondence/2014/01\\_08\\_14\\_CII\\_letter\\_to\\_sec\\_petition%20for\\_rulemaking.pdf](http://www.cii.org/files/issues_and_advocacy/correspondence/2014/01_08_14_CII_letter_to_sec_petition%20for_rulemaking.pdf)

<sup>3</sup> Transcript of SEC Proxy Voting Roundtable, February 19, 2015. Available at:

<https://www.sec.gov/spotlight/proxy-voting-roundtable/proxy-voting-roundtable-transcript.txt>

<sup>4</sup> SEC press release dated October 26, 2016. Available at: <https://www.sec.gov/news/pressrelease/2016-225.html>

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with the SEC that the short slate rule that permits dissidents to include management nominees on their proxy cards will become redundant by universal proxies.

For these reasons, we support the SEC's proposal on universal proxy cards to enhance the ability of shareholders to vote for director nominees of their choice. We appreciate the opportunity to comment on this important rulemaking. If the AFL-CIO can be of further assistance, please contact me at [REDACTED].

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Rees', written in a cursive style.

Brandon Rees, Deputy Director,  
Office of Investment

BJR/sdw  
opeiu #2, afl-cio