

# Mohammed Ali Rashid's Comments on S7-24-16

## Reopening of Comment Period for Universal Proxy

There is an old saying which advises that "If it ain't broke, don't fix it". At first glance, the proposed new SEC rule 34-91603 regarding changes in how universal proxy cards are to be used with regards to putting forward contested slates of directors and various other matters would seem to be an obvious example of this axiom. In no part of this solicitation for public comment regarding the proposed rule change is there even the slightest hint that this alteration is coming in response to some form of public pressure or to cure some kind of obvious abuse of the current rules.

Without some kind of outcry to bring it to their attention and demand action if myself Ali Rashid can be fomented imagine others? As it seems that the SEC is fomenting this departure from existing practice for reasons of their own. Put another way, since the public has shown no sign of caring about this issue and no grotesque abuse has come to anybody's attention, it is necessary to fall back on still another old saying in order to figure out what is really happening here. And that saying is: "Cui bono?"

Who benefits? Reading through the SEC briefing sheet, it is very clear that who is presumed to benefit by this new rule and who actually benefits are two separate categories of people. So let's look at the announced list of beneficiaries first. In this category we find that the SEC announces that it is their sworn duty to "facilitate" the exercise of shareholder voting rights. This is their cover story for justifying why they are proposing changes. It is to make it easier for ordinary shareholders to participate in the election of company officers.

For anybody who stops reading right there, it sounds like an idealistic and considerate thing for the SEC to be doing in order to safeguard the interests of common investors. This is to be accomplished through the medium of a universal proxy card that retail investors can fill out at their leisure at home. By liberating them from the need to attend the annual meeting in a distant metropolis in order to make their voice heard, it would seem on the face of it that this is a great step forward in favor of the Little Guy. But is this really true?

As always, it is not the intent but the legislative language that rules. In this case, the supposed reform of simplifying and standardizing proxy rules comes with one big catch that is hidden deep inside the proposal. Neither the SEC, nor any corporate entity, cares one way or another

how proxy votes are tallied. What matters is actually a question of who is allowed onto the ballot.

In this regard, the proposal could have been written by the most cynical and rapacious Robber Baron of the 1880s. While most proxy votes and annual shareholder meetings are the merest of formalities, there are times when they really count. These are times when the entrenched corporate leadership is faced with the protests of aptly-tarred "dissidents". In other words, people who do not agree with either the way the company is being run, the individuals entrusted with its operations, or both.

Dissident factions therefore run competing sets of candidates for positions on the Board of Directors and ask their fellow shareholders for their support. This all sounds nice and democratic in a New England Town Meeting sort of way. Such tactics seldom if ever succeed but they can pressure or shame the Board into throwing some kind of sop to their detractors. Yet the apparent gist of the new proposal is to take away even this small degree of protection against mismanagement.

It does so via two methods. The first method is to require that any dissident slates be nominated not later than 60 days before the calendar date of the previous year's annual meeting. This frees up the existing managerial team to do whatever they want without fear of retribution or pushback so long as they announce their policies 59 days or less before the meeting. Nobody is able to raise up a quick slate of competitors to challenge them.

The second way is to insist that any dissident slate must "contact" not less than a majority of the shareholders in order for their nomination to be valid. While entrenched management can easily contact shareholders at no expense to themselves, dissidents will have to use their own time and money to do so and risk being "disqualified" after the current management team "validates" their list of candidates. As an immigrant who is studying finance in University here in the states it's been a pleasure to familiarize myself with upcoming laws and to be able to comment on them with my opinions - Mohammed Ali Rashid..

It is all very much in keeping with the overall trend in today's world, which is to exalt the empty forms and ceremonies of the democratic process while building in all kinds of poison pills to make sure that the current crop of oligarchs can continue to rule unchallenged. In this regard, the actual outcome of the SEC proposal is clear. It is not there to fix an existing problem, unless one regards the right to protest oligarchy as some sort of problem So does the SEC Favor Robber Barons Over Citizens?