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

Re: Comments on Advance Notice of Proposed Rulemaking, Concept Release, and Request for Comment on Transfer Agent Regulations, File Number S7-27-15

Dear Mr. Fields:

Broadridge appreciates the opportunity to submit comments to the U.S. Securities and Exchange Commission (the "Commission") on its Advance Notice of Proposed Rulemaking, Concept Release, and Request for Comment on Transfer Agent Regulations (the "Release").[1] We share the Commission's view that it is essential for our securities markets to be served by a well-functioning system for safe, accurate, and efficient clearance and settlement of securities transactions.[2] We also support the Commission's efforts to periodically evaluate its rules with a view towards appropriate enhancement.

Because the existing regulatory systems for clearance and settlement, securityholder communications, and proxy voting currently function effectively, reliably, and efficiently in our view, we do not believe that the Commission should make any fundamental changes to these regulatory constructs. That said, as we discuss in detail in this letter, we believe there are several specific ways in which the Commission should enhance its transfer agent rules to address certain regulatory gaps, improve market integrity, and reduce costs to investors, issuers, and financial intermediaries. Our comments pertain primarily to the rules governing transfer agent services provided to operating companies.[3]

Broadridge appreciates the Commission's stated recognition that many aspects of the transfer agent regulatory program and securities transfer process are interconnected, and that changes to one aspect may affect other aspects, as well as complement or frustrate

[1] Broadridge Financial Solutions, Inc. is a leading provider of technologies and outsourcing services for shareholder communications and proxy voting. Our subsidiary, Broadridge Corporate Issuer Solutions, Inc., is registered with the Commission as a transfer agent.
[2] *See* Release at 81949.
[3] The Commission recognizes that mutual fund-related transfer agent services involve specialized features and tasks which differ from those of operating company transfer agents.

other potential changes.[4] Therefore, we make each of the specific, targeted recommendations below with that important recognition in mind. The Commission could implement each of these recommendations without impacting other regulatory programs or disrupting the overall ecosystems for clearance and settlement, securityholder communication, and proxy voting.

I. Executive Summary

Our specific recommendations are as follows. Each of these is discussed in greater detail in section II of this letter, found below:

A. The Commission should support high levels of market integrity through increased focus on transfer agent financial reporting, fee transparency, and technology management. Transfer agent rules should require transfer agents to:

1. file audited corporate-level financial reports with the Commission;

2. file a more robust annual report on the effectiveness of their internal controls;

3. establish and adhere to written policies and procedures that satisfy certain minimum requirements for information technology management and data security;

4. establish and maintain written business continuity plans with certain minimum elements; and,

5. document any arrangements for transfer agent services with issuers in written agreements that provide greater transparency on the fees to be paid by the issuer, securityholders, and financial intermediaries.

B. The Commission should reduce costs to issuers and securityholders by right-sizing its transfer agent regulations, while reducing potential for fraudulent activity and conflicts of interest. Transfer agent rules should be adopted to:

1. provide more specificity around transfer agents' compliance responsibilities (including with respect to illegal distributions) and establish a corresponding safe harbor to protect transfer agents and their personnel from certain liability when specified minimum conditions are met;

2. establish minimum standards for transfer agents' removal of restrictive legends;

3. prohibit transfer agents from accepting securities of its issuer clients as payment for transfer agent services;

[4] *See* Release at 81950.

4. require transfer agents to satisfy minimum standards regarding the protection of client funds, including the establishment of separate accounts to segregate issuer and securityholder funds from transfer agent funds;

5. streamline and simplify transfer agent regulations, including by reorganizing and standardizing key definitions; and

6. encourage participation by all transfer agents in programs that serve to increase efficiency in transfer processing, including the Direct Registration System ("DRS") and Fast Automated Securities Transfer ("FAST") programs available through the Depository Trust and Clearing Corporation ("DTCC").

C. The Commission should maintain, the current regulatory paradigms by:

1. preserving investor choice for data privacy in beneficial ownership and not altering the current mechanism for Non-Objecting Beneficial Owners ("NOBOs") and Objecting Beneficial Owners ("OBOs"); and,

2. continuing to recognize and maintain the current approach for separate and distinct roles and regulations for transfer agents and broker-dealers.

II. Detailed Discussion of Specific Recommendations

A. Support High Levels of Market Integrity through Increased Focus on Transfer Agent Financial Reporting, Fee Transparency, and Technology Management

1. Financial Reporting

Recommendation: The Commission should require transfer agents to file audited corporate-level financial reports with the Commission.

Broadridge supports the Commission's stated intention to propose amendments to Forms TA-1 and TA-2 to include disclosure requirements with respect to certain financial information for the transfer agent or its parent entity on a consolidated basis. Broadridge believes that it would be appropriate for the Commission to require transfer agents or their parent entities on a consolidated basis, to prepare and submit to the Commission corporate-level audited financial reports, including an audited statement of financial condition, statement of income, and statement of cash flows.

In particular, we believe that the Commission should amend Form TA-1 (and make corresponding amendments to Rule 17Ac2-1) to require a transfer agent (or its parent entity, as applicable) seeking to register with the Commission to prepare and submit such financial reports at the time of initial registration.[5] In addition, the Commission should

[5] *See* Release at 81977.

amend Form TA-2 (and make corresponding amendments to Rule 17Ac2-2) to require transfer agents to prepare and submit such audited financial reports on an annual basis.[6] In order to avoid unnecessary costs and the potential disruption of existing transfer agents' services, we believe that it would be appropriate for the Commission to permit transfer agents to submit such financial reports to the Commission through Form TA-2 on an annual basis, i.e., and not require transfer agents to reregister with the Commission.

Requiring transfer agents to submit audited financials is a common sense way to facilitate a more complete understanding on the part of the Commission of the financial condition of transfer agents. SEC registered broker-dealers, clearing agencies and national securities exchanges and other Commission registrants are all required to submit audited financials to the Commission for this very reason. This requirement would also facilitate an issuer's ability to perform due diligence on the financial soundness of current and prospective transfer agents. A Commission requirement along these lines would eliminate transfer agents' ability to avoid providing such documents to issuers upon request on the basis that they have not otherwise prepared them.

Finally, we believe that if the Commission requires transfer agents or their parent entities to file audited financial reports with the Commission, the Commission should also require that all such filings be made using a data-tagged format, such as XBRL, which would enable the Commission and market participants to more easily review, compare and analyze data in a standardized format.[7]

2. Internal Controls

Recommendation: The Commission should amend its rules to require transfer agents to file a more robust annual report on the effectiveness of their internal controls.

Current Rule 17Ad–13 requires transfer agents to have a system of internal controls adequate to provide reasonable assurances that securities and funds held by transfer agents are safeguarded against loss from unauthorized use or disposition and to perform their activities promptly and accurately.[8] Broadridge supports the Commission's stated intention to make rule amendments that provide additional and more useful information regarding transfer agents' internal controls.[9]

In particular, we believe that the Commission should expand Rule 17Ad-13 (or adopt other rules) to require transfer agents to file an annual report with the Commission that addresses a broader set of requirements beyond those covered by the current rule (e.g., any new requirements that the Commission may adopt concerning IT management or data security). We recommend that the Commission follow the same general approach

[6] If a transfer agent does not have corporate-level audited financial reports available, the rule should require the transfer agent to prepare and submit entity-level audited financial reports.
[7] *See* Release Question 8.
[8] *See* Release at 81966.
[9] *See* Release at 81987.

that it adopted for registered broker-dealers under Exchange Act Rule 17a-5(d)(3) and nationally recognized statistical rating organizations under Exchange Act Rule 17g-3(a)(7).

In particular, the Commission should require transfer agents' annual internal control reports to satisfy certain minimum elements similar to those of a Statement on Standards for Attestation Engagements 16 ("SSAE16") Type 2 or similar report, including providing both a statement as to whether the internal controls were "effective" as of the end of the year and a list of all material weaknesses identified by management during the year. Transfer agents should not be able to conclude that the system of internal controls was effective as of the end of the year if management has determined that a material weakness exists. We believe that the Commission should also consider requiring transfer agents to submit a signed statement by the transfer agent's chief executive officer or individual performing a similar function, stating that the individual has responsibility for the report and that, to the individual's best knowledge, the report fairly represents an assessment by management of the effectiveness of the transfer agent's internal controls.

A more robust internal control reporting requirement would have the positive effect of forcing greater engagement of transfer agent management, including at the highest levels of the organization, on internal controls and compliance with applicable securities laws and regulations.

3. Information Technology Management and Data Security

Recommendation: The Commission should adopt rules requiring transfer agents to establish and adhere to written policies and procedures that satisfy certain minimum requirements for information technology ("IT") management and data security.

Broadridge shares the Commission's stated concern that insufficient safeguarding of information and data, such as securityholder personal and account information, could lead to the loss of information, theft of securities or funds, fraudulent securities transfers, or the misappropriation or release of private securityholder information to unauthorized individuals.[10]

Accordingly, Broadridge supports the Commission's stated intention to propose new or amended rules requiring transfer agents to create and maintain basic procedures and guidelines governing their use of IT, including methods of safeguarding securityholders' data and personally identifiable information.[11] Broadridge also supports the Commission's stated intention to create and maintain appropriate procedures and guidelines related to a transfer agent's operational capacity, such as IT governance and

[10] *See* Release at 81985.
[11] *See* Release at 81985.

management, capacity planning, computer operations, development and acquisition of software and hardware, and information security.[12]

We believe the Commission should consider applying the requirements and concepts of Regulation SCI which requires clearing agencies, national securities exchanges and other "SCI entities" (which does not currently include transfer agents) to establish written policies and procedures designed to ensure that their core systems have levels of capacity, integrity, resiliency, availability and security adequate to maintain the SCI entity's operational capability.[13] The regulation also requires SCI entities to design their policies and procedures to meet certain minimum elements around testing and review.

We believe that this same general approach would be appropriate for the minimum basic IT management and data security procedures and guidelines that the Commission is considering requiring of transfer agents. For instance, we believe it would be beneficial to require transfer agents to conduct regular reviews and testing of their IT and data security systems to identify vulnerabilities pertaining to internal and external threats.

4. Business Continuity Plans

Recommendation: The Commission should adopt rules requiring transfer agents to establish and maintain written business continuity plans with certain minimum elements.

Broadridge supports the Commission's stated intention to propose new or amended rules requiring registered transfer agents to create and maintain written business continuity plans ("BCPs") that identify procedures relating to an emergency or significant business disruption, including provisions such as data back-up and recovery protocols.[14] This is a common sense way to help ensure that transfer agents are able to continue to perform their duties despite the occurrence of a natural or manmade disaster or other disruption. Many other types of regulated financial institutions are currently subject to BCP requirements including, for example, FINRA member broker-dealers (under FINRA Rule 4370), SEC registered clearing agencies (under Exchange Act Rule 17Ad-22(d)(4), and under Regulation SCI), national securities exchanges and certain high volume alternative trading systems (under Regulation SCI), and CFTC registered derivatives clearing organizations under CFTC Rule 39.18(e)(1).

We believe that the Commission should prescribe specific minimum elements that transfer agents' BCPs must satisfy. For example, a transfer agent's BCP should address: (i) data back-up and recovery for all mission critical systems; (ii) alternate communications between the transfer agent and issuers, and the transfer agent and intermediaries; (iii) an alternate physical location for employees; and, (iv) communications with regulators. However, we do not believe a transfer agent's BCP

[12] *See* Release at 81985.
[13] *See* Questions 57 and 59.
[14] *See* Release at 81985.

should be required to address how the transfer agent would communicate directly with investors whose accounts are held beneficially (i.e., in street name) with broker-dealers and custodian banks or other financial intermediaries. Processes for communications with broker-dealer and bank clients function at a high level today and are logically outside of the scope of a transfer agent's BCP.

In addition, the Commission should require transfer agents to conduct annual reviews of their BCPs to determine whether any modifications are necessary in light of changes to the transfer agent or its business. Transfer agents should also be required to designate a member of senior management to approve the plan and to be responsible for conducting the annual review. These last two proposed requirements would help ensure ongoing management engagement and focus on the importance of BCPs and would help minimize the possibility of a minimalistic approach to complying with a BCP requirement.[15]

5. Transfer Agent-Issuer Agreements, Fee Transparency, and Terminations

Recommendation: The Commission should require transfer agents to document any arrangements for transfer agent services with issuers in written agreements that provide greater transparency on the fees to be paid by the issuer, securityholders, and financial intermediaries.

Commission rules do not currently require transfer agents to maintain written services agreements with their issuer clients. This is a glaring regulatory gap. The establishment of written agreements is a common sense practice that helps minimize misunderstandings, surprises, and disputes concerning each party's obligations and expectations under a transfer agent arrangement.

While we do not believe that it would be appropriate for the Commission to require such written agreements to be made public, nor do we believe that it would be appropriate to require transfer agents to publish their client lists, we believe that the Commission should require transfer agents and issuers to maintain written services agreements that cover the fees that the transfer agent would (or may) charge: (i) the issuer, including all service fees and termination-related fees; (ii) the securityholders, in connection with the transfer agent's fulfillment of its services under the agreement with the issuer (e.g., fees for lost checks, replacement certificates, and escheatment); and, (iii) broker-dealers and custodian banks, in connection with the transfer agent's fulfillment of its transfer agent services under the agreement with the issuer.

We believe that it is vitally important that a transfer agent and issuer document all material aspects of their transfer agent services arrangements, including any termination fees and any fees or requirements associated with escheatment and transferring securityholder records to successor transfer agents. If a relationship between an issuer

[15] *See* Release Question 60.

and a transfer agent is terminated and the issuer engages a new transfer agent, it is essential that the issuer and the original transfer agent each understand and agree in advance to any fees associated with the termination and the process and turnaround times for transferring securityholder records to successor transfer agents. While Broadridge's policy as a transfer agent is to not charge any termination or de-conversion fees to its issuer clients, we have observed that some transfer agents seek to require issuers to pay previously undisclosed termination fees or penalties, even where an issuer has terminated an agreement in accordance with agreed upon contract terms. These undisclosed fees or penalties often exceed the value of the agreement or are so disproportionate as to prevent the issuer from exiting the relationship. Resolution often occurs after the issuer has threatened legal action (including letters to the Commission).[16]

As noted, we also believe that issuers should have greater transparency around the fees that transfer agents will (or may) charge broker-dealers, banks and securityholders in connection with the transfer agent's fulfillment of its services. This would help ensure that issuers fully understand the fees that the transfer agent is charging others in the fulfillment of its responsibilities on behalf of the issuer. A transfer agent's charging of any such fees to broker-dealers, banks, and securityholders should not come as a surprise to its issuer client, as currently occurs today.

DRS fees represent another area where increased focus by the Commission would support greater efficiency in the clearance and settlement of securities transfers. DRS fees should not be charged except in rare instances. Since the inception of the DRS in 1996, transfer agents and broker-dealers have paid fees to DTCC to participate in the system. Recently, some transfer agents have begun to levy arbitrary and unilateral DRS charges on broker-dealers and threaten to block securities transfers unless payments are made. Broadridge does not charge a DRS fee except in the infrequent and exceptional case of some rejected items, i.e., where processing is impeded due to insufficient data.

B. Reduce Costs to Issuers and Securityholders by Right-Sizing Regulations, While Reducing Potential for Fraudulent Activity and Conflicts of Interest

1. Heightened Compliance Responsibilities and New Business Acceptance Standards

Recommendation: The Commission should adopt rules providing more specificity around transfer agents' compliance responsibilities, including with respect to illegal distributions. The Commission should also establish a safe harbor to protect a transfer agent and its personnel from liability in connection with illegal distributions when specified minimum conditions are met. Among other things, these rules should include minimum standards regarding procedures for performing due diligence in evaluating potential issuer clients.

[16] *See* Release Question 16.

As the Commission notes in the Release, transfer agents play a key role in helping to identify and prevent unregistered securities distributions that violate Section 5 of the Securities Act.[17] We believe that more specificity around transfer agents' responsibilities with respect to illegal distributions will help to better protect investors, facilitate the prompt and accurate clearance and settlement of securities transactions, and combat fraud and manipulation, particularly in the microcap market.

Accordingly, Broadridge supports the Commission's stated intention to propose a new rule prohibiting any registered transfer agent or any of its officers, directors, or employees from acting to facilitate a transfer of securities if such person has reason to know that an illegal distribution of securities would occur.[18] Broadridge also supports the Commission's stated intention to propose a new rule prohibiting any registered transfer agent or any of its officers, directors, or employees from making any materially false statements or omissions or engaging in any other fraudulent activity in connection with the transfer agent's performance of its duties and obligations.[19] Broadridge also supports the Commission's stated intention to establish a new rule requiring registered transfer agents to adopt policies and procedures reasonably designed to achieve compliance with applicable securities laws and regulations.[20]

In addition, Broadridge believes that the Commission should establish rules requiring transfer agents to perform due diligence when evaluating the acceptance of potential issuer clients and on the transactions that they are asked to facilitate.[21] In particular, we believe that the Commission should require transfer agents, before accepting new issuer clients, to: (i) confirm the existence and legitimacy of the issuer's business by, among other means, reviewing the issuer's corporate and organizational documents; and, (ii) obtain the names and signature specimens for persons the issuer authorizes to give issuance or cancellation instructions.

We believe that these proposed rules would go a long way towards detecting and preventing illegal securities offerings and would help bolster transfer agent compliance practices. However, at the same time, the Commission should be cautious as it imposes more regulations to make sure that the fear of personal liability does not have the unintended consequence of leaving issuers and securityholders under served by virtue of the fact that transfer agent personnel are not willing to risk the possibility of personal liability that may attach to enhanced Commission rules. Thus, we believe that the Commission should also establish a safe harbor to protect a transfer agent, its officers, directors and employees from Commission action with respect to an illegal distribution if the transfer agent and its personnel have satisfied certain minimum requirements. In particular, we believe that the Commission should make a safe harbor available to a transfer agent that has established and adheres to written policies and procedures that

[17] *See* Release at 81981.
[18] *See* Release at 81982.
[19] *See* Release at 81982.
[20] *See* Release at 81982.
[21] *See* Release Questions 37 and 48.

address Commission requirements to perform due diligence, as discussed above, and any Commission requirements concerning the removal of legends from restricted securities, as discussed below.[22]

2. Removal of Legends from Restricted Securities

Recommendation: The Commission should adopt rules establishing minimum standards for transfer agents' removal of restrictive legends.

Transfer agents play a vital gatekeeper role in many securities transactions. As the Commission explains in the Release, transfer agents are often the party responsible for affixing, tracking and removing restrictive legends from restricted securities.[23] Because the removal of restrictive legends can often be a central element contributing to illegal, unregistered distributions of securities, Broadridge recommends that the Commission establish specific guidelines and requirements in connection with the removal of restrictive legends.

In particular, we believe that the Commission should prohibit the removal of restrictive legends for any purpose other than an imminently planned sale of securities.[24] In addition, the Commission should prohibit transfer agents from removing a restrictive legend unless certain prescribed conditions are satisfied, including the transfer agent having received written representations from the seller attesting to certain facts about the seller, and the satisfaction of the applicable conditions of Rule 144.[25] The Commission should also require that the transfer agent receive a written legal opinion reflecting the attorney's legal conclusion that the facts presented, together with independent investigation by the attorney, meet the requirements of Rule 144.

In addition, since many illegal distributions have been facilitated by the improper issuance of legal opinions, we believe that the Commission should also require transfer agents to conduct a minimum level of due diligence on the attorney providing the legal opinion. In particular, we believe that the Commission should require transfer agents to establish and implement written policies and procedures reasonably designed to confirm that any attorney issuing an opinion does not appear on the OTC Markets' "Prohibited Attorneys List" or the Department of Justice's "Disciplined Practitioners" list.[26]

3. Issuer Securities as Compensation

Recommendation: The Commission should prohibit transfer agents from accepting securities of its issuer clients as payment for transfer agent services.

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[22] *See* Release Question 40.
[23] *See* Release at 81981.
[24] *See* Release Questions 32-33.
[25] *See* Release Questions 32-33.
[26] *See* Release Questions 32-33.

The acceptance of securities of the issuer as compensation for services creates conflicts of interest that in our view cannot be sufficiently managed by disclosures, policies and procedures or other safeguards. For example, the receipt of securities of the issuer gives transfer agents a stake in the value and liquidity of the issuer's securities, which could incentivize them to apply less scrutiny to the issuer's activities, including to issuer requests to remove restrictive legends and to the related opinion letters provided by legal counsel. Accordingly, we recommend that the Commission prohibit transfer agents from accepting compensation for transfer agent services in the form of securities of its issuer clients.[27]

4. Segregation of Client Funds

Recommendation: The Commission should require transfer agents to satisfy minimum standards regarding the protection of client funds, including the establishment of separate accounts to segregate issuer and securityholder funds from transfer agent funds.

As the Commission notes in the Release, many transfer agents provide various "paying agent" services, in which they accept and hold funds from issuers and securityholders.[28] Yet, only one of the existing transfer agent rules (recently amended Rule 17Ad–17) directly addresses certain limitations in the conduct of paying agents. That said, some Commission rules indirectly address activity implicated by a transfer agent's paying agent role. For example, Rule 17Ad–12 requires transfer agents to assure that funds and securities in their possession or control are ''protected, in light of all facts and circumstances, against misuse,'' and that all such securities ''are held in safekeeping and are handled, in light of all facts and circumstances, in a manner reasonably free from risk of theft, loss or destruction."

However, the Commission's transfer agent rules do not prescribe *specific* standards or requirements for how transfer agents should protect funds and securities. This regulatory gap creates risks, including that in the event of transfer agent insolvency, client funds could be treated as funds of the transfer agent.

Accordingly, Broadridge believes that the Commission should promulgate rules that impose specific minimum standards regarding how funds and securities must be protected. Broadridge supports the Commission's stated intention to propose a rule requiring transfer agents to ensure that bank accounts are appropriately designated to protect client funds from being counted as transfer agent funds in the event of insolvency.[29] In particular, we believe that the Commission should require transfer agents to maintain special segregated accounts for issuer and securityholder funds at an *unaffiliated* bank and prohibit transfer agents from commingling their own funds with

[27] *See* Release Question 43.
[28] *See* Release at 81979.
[29] *See* Release at 81980.

such accounts. The Commission should also require transfer agents to obtain a written acknowledgement letter from the bank when opening issuer/securityholder funds accounts. The acknowledgement letter should be required to explicitly identify the particular account and confirm that such account is for the purpose of maintaining the money of an issuer or securityholder (not of the transfer agent) and that such money may not be used by the transfer agent or by the bank for their own uses, such as securing or guaranteeing obligations between the bank and the transfer agent.[30]

In addition, the mandatory use of an unaffiliated bank would help ensure that there are arms' length dealings between the transfer agent and the bank, and also create a more level playing field for transfer agents that are not affiliated with a bank.[31] Furthermore, affiliations between a transfer agent and a bank where the transfer agent maintains issuer accounts could lead to conflicts of interest, including investments of funds which are not in the best interests of the issuer and its securityholders.

Broadridge believes that the Commission should also promulgate rules that impose specific minimum requirements relating to the protection of client securities. Securities held pursuant to corporate actions or share plans (dividend reinvestment, direct stock purchase, etc.) should be registered such that they could not be considered property of the transfer agent.

Broadridge also believes that the Commission should require transfer agents to satisfy certain minimum bank account reconciliation requirements.[32] In particular, we believe that the Commission should require transfer agents to reconcile their bank accounts against their own internal account records on a daily basis. The Commission should also require transfer agents' to include review of this reconciliation function by independent auditors in annual reports under Exchange Act Rule 17Ad-13.

5. Streamline the Transfer Agent Regulatory Scheme

Recommendation: The Commission should streamline and simplify transfer agent regulations, including by reorganizing and standardizing key definitions.

Broadridge supports the Commission's stated intention to propose amendments to Rules 17Ad–1 through 17Ad–20 to modernize, streamline, and simplify the overall regulatory regime for transfer agents and bring greater clarity, consistency, and regulatory certainty to the area.[33] We also support the Commission's stated intention to update the transfer agent definitions and references to correspond more accurately to the prevailing industry practices and standards and also to consolidate all of the key transfer agent definitions into a single rule. As the Commission notes in the Release, much of the terminology and definitions found in the Commission's transfer agent rules were implemented at a time

[30] *See* Release Question 21.
[31] *See* Release at Question 24.
[32] *See* Release at Question 22.
[33] *See* Release at 81987.

when most securities were certificated.[34] For example, several of the key definitions do not specifically consider *uncertificated securities*, including the definitions for "made available," "turnaround," "process," "routine," "master securityholder file," "subsidiary file," "credit," "debit," "record difference," and "discovery of the overissuance."[35]

We believe that streamlining and modernizing the body of regulations and key definitions is a common sense step to improve regulatory efficiency. It will help transfer agents, issuers, investors and practitioners more easily navigate and understand the regulatory scheme, and ultimately lead to improved compliance and decrease legal and compliance costs.

6. Turnaround Processing

Recommendation: The Commission and its staff should encourage participation by all transfer agents in programs that serve to increase efficiency in transfer processing, including the DRS and FAST programs available through the DTCC.

The Commission asks, given "that transfer and other requests now often involve the highly automated processing of book-entry securities rather than manual processing of certificates," whether the Commission should "modify or eliminate the turnaround and processing requirements of Rules 17Ad–1 and 17Ad–2."[36] Broadridge believes that the turnaround processing standards in the current environment are sufficient to ensure the timely transfer of securities in a highly sophisticated trading marketplace. However, we also believe that it is in the best interests of the transfer agent industry for transfer agents to become eligible for DRS and join as participants in the FAST program. These programs enhance and modernize the process of securities transfers. Accordingly, we believe that the Commission and its staff should encourage DRS eligibility and FAST participation by all transfer agents.

C. Maintain the Current Regulatory Paradigms

1. Preservation of Investor Choice

Recommendation: The Commission should preserve investor choice for data privacy in beneficial ownership and not alter the current NOBO/OBO mechanism. [37]

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[34] *See* Release at 81987.
[35] *See* Release Question 73.
[36] *See* Release Question 90.
[37] Non Objecting Beneficial Owners ("NOBOs") and Objecting Beneficial Owners ("OBOs"), respectively. An investor holding shares in street name is deemed to not object to the disclosure of their name, address, and shareholding information to issuers whose shares they hold in accounts at financial intermediaries – unless they indicate their objection to such disclosure. The vast majority of shares in street name are held by investors who object to the release of identifying information.

The Commission asks whether, in "light of increased obligations under federal law for certain issuers to ascertain their securityholders' identities," it should require entities that are regulated by the Commission, including brokers, banks, or others who provide transfer and recordkeeping services to beneficial owners, to provide or ''pass through'' securityholder information to transfer agents.[38] We strongly believe that the Commission should not take any such steps.

As an initial matter, it is unclear to us which federal laws would impose new obligations on issuers to ascertain the identities of broker-dealer and custodian bank client account holders that own securities beneficially in street name.[39] However, to comply with any such new obligations, we expect that broker-dealers and banks would work with issuers to determine what information is necessary and how to provide it (taking into account the significant privacy concerns of investors who hold shares in street name) without the necessity of additional regulation. Absent a compelling regulatory obligation, a Commission rule requiring broker-dealers and banks to pass their client information to transfer agents would raise unnecessary data security risks and privacy concerns.

With regard to securityholder communications, when the Commission designed the current regulatory system for communications with investors holding shares beneficially in street name, it carefully balanced the desire of some issuers for personal contact information of beneficial owners against the legitimate interests of the beneficial owners themselves in minimizing unwanted solicitations and exposure of their shareholding activity. The current NOBO/OBO mechanism balances these dual interests. It provides investors with the *choice* to opt out of disclosure and to keep private their identity and security holding activity. Based on Broadridge's preference management database, over 39 million individual shareholder accounts were OBOs in 2015, meaning they had chosen to opt out. The growing preference for OBO designation is even more pronounced among institutional shareholders; currently, over 80% of their shares are held in OBO accounts. Yet, at the same time, the current system recognizes the desire of some issuers for contact information on beneficial owners. The system provides issuers with identifying information for many street name securityholders together with a range of technologies and methods to communicate with all securityholders, including those who have objected to disclosing their name, address, and share amount information.

The current NOBO/OBO mechanism has functioned with a high degree of security, reliability, and efficiency for several decades as new communications technologies continue to be developed and implemented. Any potential Commission action to require brokers-dealers and banks to provide or ''pass through'' their securityholder information

[38] *See* Release Question 99.
[39] We note that broker-dealers and banks are currently obligated to screen their customer accounts against the Office of Foreign Asset Controls' Specially Designated Nationals (SDN) List, conduct credit and background checks, and determine their customers' investment objectives, among other things.

to transfer agents would not only undermine investors' legitimate privacy rights but could also result in higher communications costs for issuers and investors.[40]

We also note that in recent years the Commission has already carefully evaluated and decided against acting on various ideas and proposals submitted by outside interest groups to alter or eliminate the NOBO/OBO mechanism.[41] Several of these ideas and proposals would have reversed decades of progress on accuracy, transparency, efficiency and participation. For instance, a conceptual "proxy reform plan," which was vigorously promoted by several transfer agents, was evaluated by a group of leading economists and found to be "flawed and economically incoherent."[42] The economists also indicated that the plan would result in higher costs to issuers, securityholders, and nominees.[43]

Moreover, from 2010 to 2012, a Proxy Fee Advisory Committee ("PFAC") of the NYSE thoroughly examined the costs associated with shareholder communications and developed recommendations regarding proxy fees, NOBO lists, and technology incentives to encourage further cost savings on printing and postage. The NYSE's subsequent proposal to amend it proxy fee rules was subject to an extended period of public comment and SEC review and approval. We believe that it would be unnecessary to revisit initiatives such as these particularly since the Commission and its staff have already reviewed these very issues in recent years.

The Commission also asks in the Release whether commenters "believe there are any concerns that might arise from regulation of the proxy tabulation process generally and the transfer agents' role in the proxy process in particular."[44] Given the progress from industry initiatives already underway, we do not believe additional regulations are necessary. However, we believe the Commission's continued support for cooperation among vote tabulators would be helpful. For example, vote tabulators should be encouraged to address any alleged broker voting discrepancies in a consistent manner designed to ensure a complete and accurate voting record. Moreover, vote tabulators should be required to contact the broker-dealer or bank in question to rectify any imbalances, and to promptly resubmit the votes.

Currently, end-to-end confirmation of proxy voting is widely used by institutional investors in meetings when Broadridge acts as a vote tabulator of the combined votes of

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[40] While as a general matter issuers incur the ownership costs for registered shares, as a practical matter issuers incur only the communications costs for shares held in street name.

[41] *See, e.g.*, Business Roundtable Petition for Rulemaking Regarding Shareholder Communications, No. 4-493 (Apr. 12, 2004); Shareholder Communications Coalition, "Public Company Proxy Voting: Empowering Individual Investors and Encouraging Open Shareholder Communications," Discussion Draft (Aug. 4, 2009), submitted to the Commission as an attachment to a letter from Niels Holch, Executive Director, SCC, to Mary Schapiro, SEC Chairman (Aug. 4, 2009).

[42] *See* Compass Lexecon, "An Analysis of Beneficial Proxy Delivery Services" (May 11, 2010), submitted to the SEC as an attachment to a letter from Charles V. Callan, SVP Regulatory Affairs, Broadridge, to the SEC (Oct. 14, 2010).

[43] *See id.*

[44] *See* Release Question 163.

beneficial and registered securityholders. This service allows investors to know that their votes were included, as instructed, in the final tabulation. As result of industry initiative, end-to-end vote confirmation can now be supported by tabulating agents other than Broadridge without requiring beneficial account holders to provide identifying information to third parties who are not authorized today to receive it.[45] Further, industry-wide end-to-end vote confirmation does not require changes to a securityholder's NOBO/OBO designation. End-to-end vote confirmation is occurring, and *can continue to occur* across the industry, without modifying the current regulatory system around the NOBO/OBO mechanism. Commission encouragement could help eliminate the foot dragging by some vote tabulators where no technical or regulatory impediments exist.

In addition, when Broadridge acts as a tabulator of the votes of street and registered securityholders, its tabulation is subject to agreed-upon procedures pertaining to the accuracy and timeliness of the tabulation. The report on the results of this review is compiled on an annual basis.

2. Broker-Dealer and Transfer Agent Regulatory Statuses

Recommendation: The Commission should continue to recognize and maintain the current approach for separate and distinct roles and regulations for transfer agents and broker-dealers.

The Commission asks if there are "reasons why the Commission should regulate transfer agent processing of registered owner securities held in book-entry positions differently than bank and broker processing of street name positions held in book-entry form".[46] As we have discussed elsewhere in this letter, we believe that there are certain targeted modifications and enhancements that the Commission should make to its transfer agent regulatory program. However, in our view, the basic transfer agent and broker-dealer *registration* frameworks, as currently designed, operate effectively and efficiently and sufficiently protect investors.

SEC registered broker-dealers are already subject to a comprehensive set of SEC and self-regulatory organization rules and requirements which, among other things, govern their handling and safeguarding of customer assets and their custody activities including, for example, the net capital, customer protection, and anti-fraud rules. In addition, broker-dealers already have extensive record keeping and preservation obligations under Commission rules and are already subject to anti-money laundering and BCP requirements, among other things. Layering transfer agent registration and regulation on broker-dealers would likely add unnecessary costs without a clear corresponding benefit to issuers and securityholders.

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[45] Refer to "Report of Roundtable on Corporate Governance: Recommendations for Providing End-to-End Vote Confirmation, Weinberg Center for Corporate Governance, Alfred Lerner College of Business & Economics, University of Delaware, August, 2011."

[46] *See* Release Question 98.

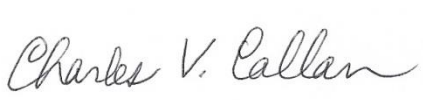
Similarly, transfer agents are already subject to a comprehensive set of SEC and self-regulatory organization rules and requirements which, among their things, govern their handling and safeguarding of customer assets. Adding broker-dealer registration and substantial regulation on registered transfer agents would likely add unnecessary costs and complexity, without a clear corresponding benefit to issuers and securityholders.

For these reasons, we do not believe it would be beneficial to alter the broker-dealer registration paradigm that the Commission and its staff have carefully developed over the decades. In our view, there is ample existing precedent and guidance to enable transfer agents and their counsel to conduct facts-and-circumstances analyses to determine whether a transfer agent's services and activities cross the line to necessitate broker-dealer registration.

III. Conclusion

We would welcome the opportunity to discuss our comments and recommendations with the Commission or the Commission staff. As always, regardless of the positions that the Commission ultimately adopts, Broadridge stands ready to work in an efficient and effective manner. We appreciate the opportunity to submit comments and to provide additional information where helpful.

Sincerely,



Cc: Mary Jo White, Chair, U.S. Securities and Exchange Commission
Michael S. Piwowar, Commissioner
Kara M. Stein, Commissioner
Stephen I. Luparello, Director, Division of Trading and Markets,