

# Railways Pension Trustee Company Limited

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Elizabeth M. Murphy  
Secretary  
Securities and Exchange Commission  
100 F Street NE  
Washington DC 20549-1090

15<sup>th</sup> April 2009

Dear Ms Murphy

## **Amendment to NYSE Rule 452; File No. SR-NYSE-2006-92: Broker Discretionary Voting**

We write in support of the proposed amendment to NYSE Rule 452 on the elimination of broker discretionary voting for the election of directors. We consider that this change is long overdue and we encourage the Securities and Exchange Commission (SEC) to approve this amendment.

Railpen Investments is the investment monitoring arm of the Railways Pension Trustee Company Limited, one of the UK's largest pension fund with assets under management of approximately £15 billion (\$22 billion) and we have \$1.7 billion in exposure to US equities. The Trustee Company, as a major institutional investor, is committed to ensuring good corporate governance in respect of all of its holdings. Our stance has been nurtured over the longer term and we have had an active voting policy for UK companies since 1992, with a bespoke policy introduced for the USA in 2005. It follows that we have a keen interest in policy changes that the SEC is currently considering to ensure better rights for investors in US companies.

We are encouraged to see the proposed rule change on broker voting on the election of directors as we consider that this will further strengthen the rights of shareholders to appoint directors and hold them to account effectively, especially in light of the increasing number of companies adopting majority voting for the election of directors. We consider that it should be shareholders, as long-term owners of companies, and not brokers, who should determine which directors serve as their agents on the boards of the companies they invest in. In the USA, we have retained Governance for Owners as a consultant and through the work of Peter Clapman on the NYSE Working Group, we were closely involved in developments on this issue. We believe it is important to make the majority vote requirements for director elections more meaningful by counting only the votes actually cast by the beneficial owners; thus, we support the proposed NYSE rule interpretation change as we agree that the election, especially in the current climate, is not a 'routine' matter for a corporation and if shareholders have not instructed their brokers of their voting intentions, the voting by brokers in support of directors fundamentally dilutes the informed voting decisions taken by other shareholders.

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We were signatories to a letter to President Obama, Ms Nancy Pelosi and Mr Harry Reid of 13<sup>th</sup> February 2009, sent by a group of global investors and pension funds, which set out the key governance reforms required to improve the rights of shareholders in US public corporations listed there. The elimination of broker voting was one of these key reforms so we are aware that this change is sought by other like-minded long-term investors also.

Once again, we urge the SEC to approve the proposed change to NYSE Rule 452.

Yours sincerely



Frank Curtiss  
Head of Corporate Governance  
Railpen Investments