STATE BOARD OF ADMINISTRATION OF FLORIDA

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March 27, 2009

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

Re: Proposal to Eliminate Broker Discretionary Voting for the Election of Directors
(File Number: SR-NYSE-2006-92)

Dear Ms. Murphy:

I am writing on behalf of the Florida State Board of Administration (SBA) to express our support for the recently amended proposal by the New York Stock Exchange (NYSE) to reform portions of NYSE Rule 452. The SBA believes the proposed amendment to Rule 452 represents an important step toward ensuring better corporate governance for listed companies. The SBA manages the Florida Retirement System (FRS) on behalf of approximately 970,000 beneficiaries and retirees. In combination with our other mandates, SBA assets under management total approximately $117 billion.

The SBA believes Rule 452 has a significant impact on voting outcomes and presently undermines the integrity of director elections. We fully support the NYSE's proposal to reclassify the election of directors as a non-routine matter, which would no longer permit brokers to cast votes for uninstructed shares. As the Council of Institutional Investors notes in its March 19, 2009 comments, "In today's governance environment, no ballot item submitted for shareowner approval is so 'routine' that brokers should have the ability to vote on the matter without instructions from the beneficial owners."[1] We also support CII's call for implementation of an early effective date for the NYSE proposal. Transparent and accurate shareowner elections, free from broker vote distortions, should not be delayed until 2010 or beyond.

Many companies have submitted comments in opposition to this amendment because the broker votes are a significant boost for management's proposed directors. However, this practice dilutes the strength of the true owners' votes. This amendment is a simple solution to a straightforward problem, and the NYSE and shareowners have been awaiting its approval since 2006. The Business Roundtable proposes the SEC undertake a thorough review of the proxy voting and shareowner communication system, and yet this would no doubt result in the same conclusions for broker voting as the NYSE's careful consideration and analysis. Thus, there is no reason to delay this implementation until the entirety of the complex voting and communication system is studied.

We believe the ability to vote for directors is an essential right, and it is important that the votes of shareowners not be diluted or skewed by brokers who have authority to vote uninstructed shares, but lack the necessary economic and ownership incentive. Brokers may even have conflicts with the interests of shareowners due to financial service relationships with company management.

The U.S. remains an outlier among nations in allowing broker voting, while the majority of countries have long rejected such a practice for the election of directors. Broker voting in the U.S. was originally adopted in 1937 to help many companies achieve a quorum in the Depression era. The usefulness of this 1937 rule is now outweighed by the

[1] Council of Institutional Investors (CII) comments to the SEC re: "Proposal to Eliminate Broker Discretionary Voting for the Election of Directors (File Number: SR-NYSE-2006-92)" March 19, 2009.

unintended consequences. The scope of broker influence in the U.S. is revealed in Broadridge's 2008 proxy season statistics: 16.5 percent of total shares processed were voted with broker discretion and 19 percent of total shares voted were based on broker discretion.[2] With almost one in five votes cast without the direction of beneficial owners, the U.S. process is past due for reform.

One example of the harmful impact of broker voting occurred at the 2007 annual meeting of CVS/Caremark Corp., at which one director received 57 percent of the votes cast. It has been reported that without broker votes, this director would have garnered only 43 percent of the votes cast, implying that broker votes secured his reelection under CVS/Caremark's majority-vote standard for director elections.

Again in 2008, a significant vote was altered by broker voting. At Washington Mutual's annual meeting, broker voting accounted for approximately 26 percent of total votes. Including these broker votes resulted in no directors receiving a majority withhold. In stark contrast, three directors would have received a majority of withhold votes if broker voting had been eliminated. Although currently permitted, we believe the inclusion of broker votes is inappropriate and, in cases such as these, thwarts the will of the actual owners voting at the meeting.

The objections raised by opponents of the NYSE proposal are manageable and, to some extent, are already being addressed on an ad hoc basis. For instance, the concern over quorum requirements is not a valid reason to allow brokers to vote uninstructed shares. A 2008 Broadridge study (commissioned by CII) noted that the elimination of broker voting would delay the attainment of a quorum in some cases, but would not reduce actual quorum levels. However, if necessary, broker voting should be counted only for purposes of establishing a quorum.

In addition, some companies have already adopted less than optimal replacements for broker voting. Schwab, Ameritrade, Morgan Stanley, Merrill Lynch, and Goldman Sachs have allowed proportional voting for retail investors in recent years.[3] We believe it would be preferrable for the SEC to provide a more comprehensive and equitable solution by adopting the NYSE proposal.

The NYSE has recommended that certain exemptions be made in this proposal. We recognize the cost considerations for exempting registered investment companies from the proposed amendments. However, we strongly endorse a future review of whether cost barriers have continued. Although such a release may be warranted, mutual fund governance remains a key issue for the SBA, as we have advocated for independent board chairpersons as well as supermajority levels of independence for members of boards of trustees. We believe the exemption of such investment companies from the proposed amendments to Rule 452 is currently warranted, but this should be re-evaluated in the future.

We appreciate the NYSE's efforts in crafting recommendations on these complex matters. We hope the SEC will act quickly to allow the NYSE to implement these recommendations and extend the NYSE's leadership on governance and shareowners' rights. Thank you for your consideration of this significant issue impacting our pension investments. If you have any questions, please contact Mike McCauley, Senior Corporate Governance Officer, at (850) 413-1252 or at governance@sbafla.com.

Sincerely,

Ashbel C. Williams
Executive Director & CIO

cc: Chairman Mary L. Schapiro
Commissioner Kathleen L. Casey
Commissioner Elisse B. Walter
Commissioner Luis A. Aguilar
Commissioner Troy A. Paredes

[2] Broadridge Message from the President, "2008 Proxy Season, Key Statistics & Performance Ratings."
[3] Melissa Klein Aguilar, "NYSE's Broker-Voting Rule Makes a Comeback." ComplianceWeek, March 10, 2009.