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November 22, 2005

Mr. Christopher Cox  
Chairman  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

Dear Chairman Cox:

An open meeting of the Commission will be held on Tuesday, November 29, 2005, to discuss changes to proxy rules under Section 14 of the Securities Exchange Act of 1934. These changes would allow companies conducting proxy solicitations, and other soliciting persons, to satisfy the requirements to furnish proxy materials by posting those materials on an Internet website and providing shareholders with notice of the Internet availability of the materials.

ADP's role in the proxy process is that of an information processor and servicing agent to custodian banks and broker-dealer nominees. ADP distributes (both physically and electronically) proxy materials to beneficial shareholders and tabulates such shareholders' voting instructions.

ADP has become the leader in providing an *access equals delivery* solution for all investors who choose it. We have made substantial, sustained investments in technology solutions, and worked in lockstep with the SEC to increase investor participation and protection, and provide increasing efficiencies to issuers. In the recent 2005 proxy season, approximately 88% of the shares held in street name by investors were voted in public company annual meetings. Over 71% of investors voted electronically, covering 85% of the shares. In addition, ADP technologies successfully eliminated 41% of the physical mailings during the season, and will result in calendar year savings to issuers that are estimated to exceed \$700 million. Today's levels of electronic distribution, electronic delivery, and elimination of paper and postage were not within the realm of imagination five years ago. In fact, they are not universally understood or always appreciated today.

ADP does not take a position on potential rule changes, or the policies behind them, unless they would have an impact on the operational efficiency of the current proxy process. Accordingly, even though we have not seen the details of the potential amendments for *e-proxy*, we believe it is important that a number of potential processing implications and questions be addressed.

Initially, *e-proxy* seems simple and beneficial for everyone -- eliminate paper, save on costs associated with printing and mailing proxy materials, and give investors a way to opt-in for paper if that is their preferred method of access and use. Upon closer inspection, there are a number of serious issues that could undermine the goals of the Commission's initiative.

Our recommendations for advancing the objectives of further reducing costs, meaningfully increasing retail investor participation, and the thoughtful use of technology are discussed below.

### **Implications for Retail Investor Protection**

**We believe that changes which do not address investor preferences and behavior will result in lower response rates by individual/retail investors.**

Under the current approach, over 10 million investors are now enrolled in e-delivery. Since e-delivery was made a legal means to communicate with shareholders, 2.4 million investors who initially elected e-delivery have dropped out of the program. From these 2.4 million investors, ADP has received over 600 thousand comments expressing the reasons why they changed their mind. Many investors who initially opt for e-delivery discover that they prefer the convenience of physical materials. They express concerns about the security of financial information over the Internet, the difficulty of reading materials on a computer screen, concerns with technology and email generally, and concerns about the cost of printing materials shifting to them from issuers. Many investors also express concerns that they do not have Internet access at all times of the year.

It is important to recognize that investors are not failing to opt for e-delivery due to a lack of awareness of the solutions available. Since e-delivery options became available, ADP has distributed over 3 billion notifications to millions of investors. In spite of this, some 70 million investors continue to not want e-delivery. None of these shareholders seem to want to trade paper for electronic access.

The potential amendments would negatively impact investor response rates given the extra steps and time required to obtain paper materials. A written notification containing a website address and a nominee-managed toll-free 800 telephone number would not result in the levels of voter response which issuers and investors enjoy today. Turnaround times would be significantly impacted for investors who elect to receive physical materials. When a complete package of hardcopy materials is provided, ADP's analysis of voter response rates indicates that investors are three times more likely to respond by paper than by Internet. Lower response rates will impact the ability of issuers to obtain 'instructed votes' and to understand the preferences of retail investors as opposed to those of institutional investors and vote agents.

The answer of course is not either/or. It is important that investors have it their way, have choice, find it easy to vote, and regard SEC rules associated with their voting rights as making it easier. This is borne out by studies of retail preferences by e-Bay, Amazon, Frost & Sullivan, the United States Postal Service, CAP Ventures, and numerous other entities. High percentages of investors who use electronic means for shopping, executing trades, paying bills, and conducting financial transactions also want to receive paper catalogues, paper confirmations and paper statements.

In addition, a broker-administered toll-free 800 number would be an important safeguard for investor confidentiality.

### **Implications for Costs to Issuers and Investors**

**To successfully reduce issuer costs, the new process would walk a tight rope between lower opt-in rates and higher per package costs.**

The *e-proxy* recommendations would not be seen as a success if high numbers of investors decide to opt back in for paper materials. Eliminating the current straight-through process would drastically reduce the economies of scale all issuers now realize in processing, distribution and postage. The new process would require ‘pick and pack’ or print-on-demand methods of fulfillment which would be at least three-to-five times more expensive on a per item basis than the current process. The savings resulting from lower opt-in rates for investors would be largely offset by higher per item costs. Additional per item costs include materials storage, the loss of mailing discounts for thousands of issuers, and administration of the broker-administered call center. The success to issuers of the SEC’s new model would therefore depend upon having just the right number of investors vote, and just the right number of investors not request paper. Given the different ownership patterns of institutional and retail investors, the uncertainty of where this line is drawn has significant cost and savings implications to large and small issuers.

**We believe the potential *e-proxy* amendments will not result in lower costs for investor-to-investor communications.**

We believe assumptions that the proposed *e-proxy* amendments will lower the cost of investor-to-investor communications are mistaken. Proxy solicitations by investors are usually accompanied by efforts to give the opposition group every possible advantage. We anticipate an opposition group would not leave its fate to the uncertainty of shareholders going to a website to access proxy materials. Both sides would hire proxy solicitors just as they do today. An opposition group would likely deliver physical as well as electronic materials to shareholders. Confronted with such an approach by an opposition group, it stands to reason management would behave the same way. It’s difficult to see any cost savings here.

Similarly, so called “Vote No” campaigns would be conducted the same as they are today.

### **Issues Pertaining to Regulatory Policy and Implementation**

**NYSE Rule 452, the so-called 10 Day Rule, or “Broker Vote” would become a more critical issue for issuers and investors.**

The Broker Vote is a complicated topic and the proposed amendments will make it more complicated.

On routine, uncontested proposals, a nominee has discretion to vote shares registered in its name if ten days before a meeting the nominee has not received voting instructions from investors. Analyses we have shared with the SEC and the NYSE indicate that without the Broker Vote several thousand issuers would have difficulty reaching quorum for their meetings, resulting in increased proxy solicitation costs. Given the high likelihood that fewer retail shares would be

voted in the *e-proxy* model being considered, for reasons listed above, the role of the Broker Vote becomes even more important and controversial. A higher proportion of Broker Votes would also represent a significant reversal from current trends and efforts to drive higher levels of instructed votes.

In addition, there are a number of processing implications associated with the *e-proxy* recommendations. Under the current process, there is a presumption that items deposited with the U.S. Postal Service accompanied by proper addressee information and sufficient postage will be received by the addressee. Investors who have chosen to receive electronic distribution are notified via email by their nominee that an electronic version of an issuer's proxy materials is available and where it can be accessed. Therefore, a nominee knows whether it can issue votes for un-instructed shares.

Brokers do not issue a Broker Vote unless they are certain they distributed, at least fifteen days prior to a meeting, either physical materials or an email notification containing a link to a website where the materials can be accessed (for those investors who expressed a preference for e-delivery). Under the proposed amendments investors will not have chosen electronic access to materials. Consequently brokers will have less confidence that investors have, in fact, accessed the materials and may very well be reluctant to issue a Broker Vote in certain situations. For example, if an investor who had not yet forwarded voting instructions requested delivery of physical materials fewer than ten days prior to a meeting, what would a broker do if it had already issued a Broker Vote?

Questions such as these leave open the issue of whether the Broker Vote would remain valid under the new model.

### **Additional Steps for the Commission to Achieve the Goals of Investor Protection and High Efficiencies**

#### **Electronic delivery as an automatic preference for investors who provide email addresses to their brokers**

Brokers play a critical role in driving investor participation and higher cost savings. Brokers today educate investors and serve investors' needs. If brokers were permitted to *automatically* enable electronic delivery of proxy materials -- in all cases where their customers provide them with email addresses -- the SEC would achieve significantly higher efficiencies without high risks to investor protection. Brokers have email addresses for clients who already express interest in electronic interaction.

We believe an automatic enrollment process could drive current suppression rates from 41% to well over 65%, without disenfranchising a segment of retail investors. We further believe the brokerage community would be supportive of adopting an automatic enrollment process but they are restrained from doing so due to the uncertainty of regulatory support. An SEC "no action" position would spur adoption.

### **Adoption of XBRL tagging**

The current opt-in model for electronic access would likely be adopted by significantly greater percentages of investors if proxy materials contained XBRL tagging and resided at a website with effective search tools. Implementation of XBRL tagging will add substantial value to the investor communication process. XBRL value can be implemented by ADP and brokers providing automated solutions to millions of investors. The ability to efficiently and intelligently search an on-line document in order to extract useful information would make on-line documents more user-friendly and should encourage greater participation.

We welcome the opportunity to continue to work with the SEC to provide facts and additional information on the above.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Daly". The signature is fluid and cursive, with the first name "Kevin" written in a larger, more prominent script than the last name "Daly".

cc: Paul S. Atkins  
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