

**Securities and Exchange Commission Investor Advisory Committee
Minutes of February 22, 2010 Meeting¹**

The Securities and Exchange Commission Investor Advisory Committee convened its third meeting at 9:00 a.m. on February 22, 2010, in the multipurpose room of the Securities and Exchange Commission's headquarters in Washington, D.C. The meeting lasted until approximately 2:30 p.m. (with a break for lunch) and was open to the public. Those present were:

United States Securities and Exchange Commissioners

Chairman Mary L. Schapiro (attended in part)
Commissioner Luis A. Aguilar
Commissioner Elisse Walter (attended in part)

Advisory Committee Members

Hye-Won Choi, Committee Co-Chair
Richard (Mac) Hisey, Committee Co-Chair
Jeff Brown
Mercer Bullard
Stephen Davis
Abe Friedman
Mellody Hobson (participating telephonically)
Adam Kanzer
Mark Latham
Barbara Roper
Dallas Salisbury
Kurt Schacht
Damon Silvers
Kurt Stocker
Ann Yerger

Official Observer

Fred Joseph

Advisory Committee Securities and Exchange Commission Staff

Kayla Gillan, Designated Federal Official
Brian Breheny
Susan Nash
David Fredrickson
Bill Lenox

¹ A Webcast of the meeting and copies of materials distributed at the meeting are available at <http://www.sec.gov/spotlight/investoradvisorycommittee.shtml>.

Owen Donley
Zak May
Smeeta Ramarathnam

OPENING REMARKS²

Ms. Choi opened the meeting. Chairman Schapiro and Commissioner Aguilar offered opening remarks. Chairman Schapiro's remarks included a brief description of some recent activities by the Commission. In addition, Chairman Schapiro introduced Lori Schock, Director of the Commission's Office of Investor Education and Advocacy, as well as two new Deputy Directors, Richard Ferlauto and Kathy Floyd. Commissioner Aguilar welcomed members of the Committee and encouraged them to represent the voices of investors who have neither the resources nor the time to speak to the Commission. He also encouraged the Committee to think creatively about how to draw in retail investor participation.

DRAFT RECUSAL POLICY

Ms. Gillan discussed a revised draft recusal policy. She noted the revised version was intended to narrow the meaning of the term "conflict of interest" to include only private financial relationships, as opposed to public relationships. Mr. Lenox, the Commission's ethics counsel, noted that Committee members represent particular interests within the investor community, and are not subject to the definition of "conflict of interest" as that term is defined in Section 208 of Title XVIII of the U.S. Code or the Office of Government Ethics regulations that implement that statute, 5 CFR § 2635(d). Mr. Friedman moved to approve the draft and Mr. Salisbury seconded the motion. The Committee unanimously adopted the policy.

INVESTOR AS OWNER SUBCOMMITTEE RECOMMENDATIONS

Mr. Davis discussed the first of two proposed resolutions for the Committee. The first recommendation was:

The Investor Advisory Committee recommends that the Commission issue staff interpretive guidance to suggest ways in which issuers can address Regulation FD compliance concerns about the selective disclosure of material corporate governance information in private meetings with investors.

Mr. Davis reiterated the decision to recommend staff interpretive guidance, and noted the Subcommittee attempted to address comments from other Committee members in the draft recommendation. In response to questions, Mr. Breheny of the Division of Corporation Finance indicated that staff action could take less time than action by the

² For purposes of these minutes, descriptions of discussions have been grouped and listed *seriatim*, even though the discussions of different items overlapped on occasion.

Commission itself; he also noted that the staff would inform the Commission of any staff action on the issue. He further indicated he expected any staff guidance would likely be akin to pointing out best practices in the area. Mr. Salisbury moved to adopt the proposal and Ms. Yerger seconded it. The recommendation was adopted.

The second recommendation, presented by Mr. Latham, related to data tagging for certain voting-related filings. The Subcommittee had not voted on the recommendation for the full Committee. The recommendation involved data tagging: (i) the Form DEF 14A; (ii) for proxy votes, mutual funds' NPX filings; and (iii) voting results, filed in Form 8-K. Mr. Latham noted that tagging the data in those filings would make the information widely accessible in an organized format at low cost. Mr. Friedman indicated his support for the proposal, noting that tagging the data described in the proposals could be very useful to individual investors. It was also noted that a number of technologies, such as XBRL, might be useful. Mr. Davis moved to adopt the proposal and Mr. Silvers seconded it and the recommendation was adopted.

DISCUSSION ITEMS

Ms. Choi facilitated the discussion-only items raised by the Subcommittees:

Investor as Owner Subcommittee

Mr. Davis introduced Mr. Kanzer, who described the Subcommittee's first discussion item, a work plan on environmental, social, and governance (ESG) disclosure by public companies. Mr. Kanzer provided a chronology of related events, noting that, in December 2009, the Subcommittee reviewed a background memo on ESG; and in January 2010, the Subcommittee approved a work plan for the next six months. That work plan includes an April discussion on benefits of ESG disclosure and accounting standards and how they relate to social and environmental liabilities, a June discussion of ESG reporting formats and approaches, and a late summer public hearing on the topic. Mr. Kanzer noted that the end goal could be a statement by the Committee or Subcommittee on the issue.

The second discussion item was an "FYI" related to a non-Investor Advisory Committee action on financial reform legislation and its impact on the SEC. A number of members of the Subcommittee submitted letters about financial reform legislation. Neither was an official action of the Subcommittee, but rather each was from some members and a number of other persons and entities, including larger investors.

Mr. Friedman raised the issue of disclosure by companies regarding whether they utilize a majority voting standard, including whether Commission staff had considered the concept. Mr. Friedman emphasized that he did not want the Committee to do anything that would discourage related legislation. Mr. Davis asked about the Commission's authority to compel specific listing standards; Ms. Gillan indicated the staff would discuss the issues and respond back to the Committee and Subcommittee.

RECESS FOR BREAK

Investor Education Subcommittee

Mr. Salisbury reviewed the recent work of the Subcommittee. He first noted the Education Subcommittee's discussion of proposals offered by Mr. Latham relating to proxy voting. Those proposals were referred to the Investor as Owner Subcommittee. Mr. Salisbury next noted that the Office of Investor Education and Advocacy, staff of which participates in the Subcommittee's monthly call, has been revamped with permanent senior staff. Mr. Salisbury also noted that the Subcommittee had reviewed and discussed a major recent survey on financial literacy. He indicated that Ms. Hobson was focusing on the financial literacy work of the Subcommittee, Mr. Latham was focusing on shareholder and board communication issues, and Mr. Stocker was focusing on the Subcommittee's review of technology issues. Mr. Salisbury then reviewed an executive summary of FINRA's Financial Capabilities Study ("the survey").

Mr. Salisbury finally stated that the Subcommittee asked the staff of the Commission's Office of Investor Education and Advocacy keep the Subcommittee informed of the Commission's request for public input, and that the Office also let the Subcommittee know areas in which it seeks input. A number of Committee members then discussed their reaction to the survey.

Investor as Purchaser Subcommittee

Mr. Bullard led a discussion of fiduciary responsibility, based on an informational memo presented by the Subcommittee. He discussed subjects including: (i) the distinction between federal public duty and non-federal private duty; (ii) the structure of the broker exclusion; and (iii) the role of common law versus rule-based law. Ms. Roper noted, among other issues, that the Commission had a large role to play in addressing the issue, including the issue of the distinction between advice and sales activities. Mr. Hisey discussed the importance of considering the perspective of the individual investor. In response to a question from Mr. Friedman, Mr. Bullard described the issue of disclosure of broker-dealer fees in the context of fiduciary duty. Ms. Roper described the suitability standard for broker-dealers. Mr. Brown noted that there exists a diversity of opinion on the issue and that the Commission would have an active role to play. Mr. Stocker offered that there should be one standard for financial professionals, and that should be a fiduciary standard. Mr. Silvers noted his support of eliminating a hidden (from the perspective of individual investors) legal boundary with respect to financial professionals. Mr. Davis noted his interest in a different aspect of fiduciary duty, that of institutional investor trustees in the context of governance issues. Mr. Brown noted the importance of an effective regulatory regime in this area. Ms. Roper noted that there was agreement on a number of issues in this area, and that it was important not to ignore other related issues.

The meeting resumed after a lunch break with an announcement by Richard Ferlauto regarding a recent initiative of Commission staff to educate retail investors on proxy voting issues, including a new Spotlight page on sec.gov.

Mr. Bullard, after welcoming Commissioner Walter, resumed the discussion of the Investor as Purchaser Subcommittee. Mr. Schacht noted the complexity of the issue of fiduciary duty as it applies to investor protection. Mr. Brown noted that the issue of applying a uniform standard requires a complex analysis by the Commission. Ms. Roper added that while there was conceptual simplicity to the issue, there is also a real-world complexity in its application. She also offered that a person holding him or herself out as offering advice creates an expectation of reliance on which a duty may be premised. Mr. Stocker noted that while disclosure is useful in helping investors understand the duties of financial professionals, investors need to have trust in those with whom they work. Commissioner Walter stated that fiduciary duty can be applied across the board to financial professionals, and that the standard's application depends on what the professional is doing. She also noted that investor confusion in this area is an important area to address.

Mr. Bullard then led a discussion of mandatory arbitration, based on an informational memo. Mr. Stocker noted at the outset that the issue of fairness was key to the discussion of mandatory arbitration. Ms. Roper stated that having statistical information on a number of issues, such as whether there is a material difference between how public and non-public panel members decide cases, would be useful. Mr. Hisey noted that one of the purposes of arbitration was to give the small investor a fair shot in disputes with brokers. Mr. Silvers described arbitration in the context of labor law, and noted he was unaware of an investor group that is supportive of mandatory arbitration. Mr. Kanzer noted it was counterintuitive to him that investors benefited from not having a choice to opt out of arbitration. In response to a question from Ms. Choi, Mr. Bullard noted that, for the most part, the arbitration system is organized by FINRA. Commissioner Aguilar asked if data existed about a retail investor's ability to opt out of an arbitration provision. Mr. Brown suggested that generally a broker would not agree to a contract where a customer had manually crossed out the arbitration provision. Mr. Freidman noted that a cost-benefit analysis might reveal interesting information about investor decision-making and arbitration. Ms. Roper noted that mandatory arbitration exists in a number of contexts. Mr. Latham discussed the concept of using public funds to empower competing organizations to help investors, including with respect to arbitration issues. Ms. Yerger noted that some disputes should more logically go to arbitration than others. Commissioner Walter commented on the issue, including noting that some investors might choose arbitration in certain contexts if given the choice. Mr. Bullard noted pending legislation may impact the issue of the Commission's authority in the area. Commissioner Walter suggested that the Committee explore the related issue of whether FINRA members should be required to arbitrate at the request of customers, should arbitration not be mandatory. Mr. Bullard suggested that fact-finding in the area would be useful.

CONCLUDING REMARKS

For the record, Ms. Choi and Mr. Stocker advised members that they serve on the NYSE Corporate Governance Commission; Mr. Stocker also offered that he serves on the NYSE Individual Investors Advisory Board. After a discussion of holding a meeting outside of Washington, D.C., as well as a brief discussion of potential agenda items for the next meeting, Ms. Choi adjourned the meeting.

CO-CHAIR CERTIFICATION

I hereby certify the accuracy of this record of the proceedings of the Securities and Exchange Commission's Investor Advisory Committee.

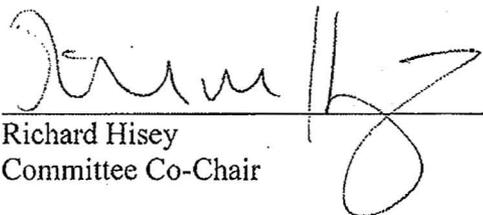


Hye-Won Choi
Committee Co-Chair

5/25/10
Date

CO-CHAIR CERTIFICATION

I hereby certify the accuracy of this record of the proceedings of the Securities and Exchange Commission's Investor Advisory Committee.



Richard Hisey
Committee Co-Chair

5/18/10
Date