Presentation to NCPERS
May 5, 2015
The NYC Pension Funds
Five funds, $160 billion

New York City Pension Funds

2014 Shareowner Initiatives
POSTSEASON REPORT

New York City Comptroller
Scott M. Stringer
“Zombie” Directors Highlight Accountability Gap

Source: Council of Institutional Investors, based on data from ISS as of 12/31/14
Accounting Scandals of 2001-2002

“The Board of Directors failed in its oversight duties.”

Report of the Special Investigative Committee of the Enron Board of Directors
(February 1, 2002)

December 17, 2001
SEC Proposes Giving Holders More Clout in Picking Directors

By Deborah Solomon

WASHINGTON—The Securities and Exchange Commission recommended giving shareholders more power to nominate and elect directors and said companies should disclose more information about how they select their own candidates.

In a report released yesterday, SEC staff members recommended that independent shareholders be given the right to have been critical of any attempt to give shareholders access to proxy materials—which include ballots and background information on candidates and the company—and told the SEC in letters last month that such a move would be costly and disruptive.

Mr. Donaldson acknowledged that the SEC’s recommendations may not sit well with the business community. “I don’t expect some people to think this is the greatest idea in the world,” he said.
Proxy Access: How it Works

Current System

Board of Directors

Corporate Proxy Ballot

Company’s Nominees

Proposed Reform

Long-Term Shareholders

Shareholders’ Nominees

Bureau of Asset Management
NYC Comptroller’s Office
“In our inquiry, we found dramatic breakdowns of corporate governance, profound lapses in regulatory oversight, and near fatal flaws in our financial system.
SEC Briefly Enacts Proxy Access in 2010
Corporate backlash quashes rule

- 2009: SEC proposes new proxy access rule – key response to financial crisis
  - “Universal” access based on 3% ownership for 3 years, up to 25% of board
  - “Private ordering” – rule permits shareholder proposals seeking to lower thresholds
- July 2010: Dodd Frank Act affirms SEC’s authority to issue rule
- September 2010: SEC approves rule
- October 2010: BRT and U.S. Chamber sue SEC to overturn rule
- 2011: DC Circuit Court vacates universal rule on procedural grounds
- 2012: Shareowners permitted to file proposals requesting access
Proxy Access: Too Important to Wait

- "The results …suggest that proxy access has the potential to enhance board performance and raise overall U.S. market capitalization by between $3.5 billion and $140.3 billion."

- "These estimates reflect between 0.023% and 1.134% of total US market capitalization."

- Proxy access “would serve as a useful tool for shareowners in the United States and would ultimately benefit both the markets and corporate boardrooms, with little cost or disruption to companies and the markets as a whole.”
NYC’s Boardroom Accountability Project

The effort by the New York City pension funds will focus on companies that have been unwilling to change practices in three areas: board diversity, climate change and executive compensation. Companies with no women as directors or those with little or no ethnic diversity were identified, along with companies whose shareholders had recently expressed dissatisfaction with executive pay practices but had done nothing to address them. On climate change, more than a third of the companies identified by the shareholder group are in the energy industry.
Public Fund Collaborators and Supporters

- California Public Employee Retirement System (CalPERS)
- California State Teachers Retirement System (CalSTRS)
- Connecticut Retirement Plans and Trust Funds
- Illinois State Board of Investment
- Kansas City Firefighters’ Pension System
- Miami Firefighters’ Relief and Pension Fund
- New York State Common Retirement Fund
- North Carolina Retirement Systems
- Philadelphia Board of Pensions
- UAW Retiree Medical Benefits Trust
SEC Permits Major Company to Exclude Proposal
Floodgates open as dozens more companies seek to game SEC rules

“SEC Grants Whole Foods No-Action Relief to Exclude Proxy Access Proposal,” Bloomberg BNA, December 5, 2014


“Oil Companies Seek to Bypass Proxy Access Proposals,” Compliance Week, December 29, 2014

“Fossil fuel firms Marathon and Cabot seek to derail Stringer’s zombie director campaign,” Responsible Investor, January 7, 2015
Institutional Investors Weigh In
Back SEC appeal by retail shareowner

January 9, 2015
Keith F. Higgins
Director, Division of Corporation Finance
Securities and Exchange Commission

January 15, 2015
Kathleen E. Diaz
Office of the Comptroller
Scott M. Steiger
Office of the General Counsel
City of New York
New York, NY 10007

BY EMAIL
January 9, 2015
Keith F. Higgins
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Kathleen E. Diaz
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Scott M. Steiger
Office of the General Counsel
City of New York
New York, NY 10007

January 16, 2015
VIA EMAIL (shareholderproposals@sec.gov)
Mr. Bront J. Fields, Secretary
U.S. Securities and Exchange Commission
Office of the Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: Letter from The Firefighters’ Pension System of the City of Kansas City, Missouri, Trust,
The Miami Firefighters’ Relief and Pension Fund, and Marco Consulting Group Trust I in support of
James McIntilfe’s December 23, 2014 Appeal Request for Reconsideration of the No Action
Determination Regarding His Proxy Access Proposal At Whole Foods Market, Inc. dated
December 1, 2014

Ladies and Gentlemen:

California Public Employees’ Retirement System
Investment Office
P.O. Box 2749
Sacramento, CA 95812-2749
TTY: (916) 795-3400 phone: (916) 795-2843
Fax: (916) 795-2802
www.calpers.ca.gov

January 16, 2015
Via E-Mail: dcaoletters@sec.gov

Keith F. Higgins
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E. Washington, D.C. 20549

Dear Mr. Higgins:
SEC Reversal Levels Playing Field for Investors
Sets stage for impactful 2015 proxy season


“Shareholders threaten boards over proxy access,” *USA Today*, January 27, 2015

“After SEC flip, funds look to flex muscle at shareholder meetings,” *Politico*, January 30, 2015


January 22, 2015

Mr. Gary Retelny
President & CEO
Institutional Shareholder Services Inc.
1177 Avenue of the Americas
2nd Floor
New York, NY 10036

Ms. Katherine Rabin
Chief Executive Officer
Glass Lewis & Co., LLC
One Sansome Street
Suite 2300
San Francisco, CA 94104

Re: Response to Recent SEC Announcements on Conflicting Proposals

Dear Mr. Retelny and Ms. Rabin:

This letter is submitted on behalf of Business Roundtable (the “Roundtable”), an association of the chief executive officers of leading U.S. companies. Our member companies produce $7.2 trillion in annual revenues and employ more than 16 million employees world-wide. Roundtable companies comprise more than a third of the total value of the U.S. stock market, and annually pay more than $2.8 trillion in dividends to shareholders, generate more than $1.4 trillion in sales for small and medium-sized businesses, and invest $1.9 trillion in research and development—equal to 70 percent of U.S. private research and development spending. Our members also give more than $33 billion a year in combined charitable contributions.

We write with respect to recent developments related to Rule 14a-8(i)(9) of the Securities Exchange Act of 1934, which allows a company to exclude a shareholder proposal that “directly conflicts” with a company proposal. On January 16, 2015, the Division of Corporation Finance of the U.S. Securities and Exchange Commission suddenly announced that going forward it “will express no views on the application of Rule 14a-8(i)(9) during the current proxy season.”

The Division’s announcement followed an equally unexpected statement from Chair Mary Jo White directing the Division staff “to review the rule and report to the Commission on its review.” The
Investors Fight Back

“Investors will hold boards ‘accountable’ if they litigate over proxy access – Council of Institutional Investors,”
*Responsible Investor*, February 10, 2015

“GE to allow to Proxy Access for Big Investors,” Wall Street Journal, February 11, 2015


“Bank of America adopts proxy access after discussions with 3 major pension funds,” Pensions & Investments, March 20, 2015
In Shift, Firms Give Investors New Clout Over Board Seats

Move rattles some as proxy access could give pension funds, unions greater influence over firms’ strategic choices

By ANDREW ACKERMAN and JOANN S. LUBLIN
March 16, 2015 7:55 p.m. ET

WASHINGTON—Several big U.S. companies are poised to hand activist investors the keys to their boardrooms following intense shareholder pressure and a regulatory shift that disrupted firms’ ability to block investor initiatives.

At least 14 companies, including Yum Brands Inc., Citigroup Inc. and General Electric Co., have agreed in recent weeks to support giving shareholders the ability to nominate their own directors for corporate ballots.
Major Institutional Investors Step Up Support

“Exclusive: TIAA-CREF joins 'proxy access' push with letter to top holdings,” Reuters, March 12, 2015

“Norway Oil Fund to Back Activist Shareholders,” Wall Street Journal, April 22, 2015

“CalPERS’ campaign to support “proxy access” expands to 34 companies,” Responsible Investor, April 29, 2015
Focus Now Shifts to 2015 Shareowner Votes

April 28, 2015

Dear Fellow Chipotle Mexican Grill, Inc. Shareowner:

**VOTE “FOR” PROXY ACCESS PROPOSAL #8, “AGAINST” PROPOSAL #7**

Support Shareowner Proposal #8 Requesting Proxy Access

The California Public Employees Retirement System (CalPERS) and the New York City Pension Funds urge shareowners to vote “FOR” Proposal #8 – a non-binding proposal to give shareowners effective access to the director nomination process – at the Chipotle Mexican Grill, Inc. annual meeting on May 13, 2015. Collectively, our funds have $468 billion in assets and are substantial long-term Chipotle Mexican Grill, Inc. shareowners, with 145,866 shares.

Proxy Access a Fundamental Shareowner Right

Providing access to a company’s proxy to permit shareowners the ability to nominate directors to the board is one of the most important rights given to the owners of a company. Without effective proxy access, the director election process simply becomes a ratification of corporate management’s slate of nominees. Therefore, we believe long-term shareowners should have meaningful access to this process on the terms specified in proposal #8. The proposed thresholds include:

- Beneficial ownership of at least 3 percent of the outstanding stock;
- Three years of continuous ownership; and
- Ability to nominate up to 25 percent of the board.
Early Returns Demonstrate Strong Investor Support
Every vote counts

Voting Results Since April 15

- Citigroup: 87%
- AES Corporation: 67%
- Marathon Oil: 66%
- Occidental Petroleum: 66%
- eBay Inc.: 62%
- AIMCO: 61%
- HCP Inc.: 60%
- EOG Resources: 59%
- Cabot Oil & Gas: 58%
- Exelon Corporation: 55%
- Noble Energy: 51%
- Coca Cola: 46%
- TCF Financial: 46%
- Cabot Oil & Gas: 45%
- EQT Corporation: 44%
- VCA Antech Inc.: 42%
- American Electric Power: 42%
- PACCAR: 41%
- Arch Coal: 36%

50% threshold
Action Items for Funds/Trustees

- Fund policies and votes
- Investment manager policies and votes
- Contact NYC Comptroller’s Office for information