August 12, 2009

Dear Sir/Madam:

Please accept this e-mail as a comment to the rules proposed on June 18, 2009 in the Federal Register Notice titled ‘Facilitating Shareholder Director Nominations’ (File Number S7-10-09).

I support all the proposed rules. I write specifically to support proposed Exchange Act Rule 14a-11, which would require public companies (under certain circumstances) to disclose shareholder nominations for directors in the company’s proxy materials. The proposed rule, if I understand it correctly, would require the nominating shareholder (or group of shareholders) to own a long term interest in the company that constitutes a certain percentage of the company’s voting securities: 1%, 3% or 5%, depending on the company’s size. A higher percentage of ownership would be required for shareholders of smaller companies, a lower percentage for larger companies.

The primary reason for my support is a study cited in the SEC’s Notice at 74 Fed. Reg. 29023, 29074 n.349: Chris Cernich, et al., ‘Effectiveness of Hybrid Boards,’ IRRC Institute for Corporate Responsibility (May 2009). The IRRC Study found that when one or more shareholder-nominated directors served on a board, as opposed to when a board was entirely management-nominated, company performance improved where the nominating shareholder(s) owned 5% or more of the company at the time of the proxy contest, and improved even more where the nominating shareholder(s) owned more than 10%. This suggests that directors who have a significant stake in a company (or who represent shareholders who do) will perform better than directors who don’t; and the bigger the stake, the better the performance.

The IRRC Study should not be interpreted to mean that shareholder(s) with a stake of less than 5% but greater than 3% or 1% (as they case may be) should not have their nominees placed in proxy materials. The IRRC Study did not distinguish among the companies studied based on market capitalization, so a shareholder stake of 3% or 1% may be sufficient in larger companies for shareholder nominated directors to improve company performance.

Current market capitalizations of the largest public companies are over $100 billion. A $1 billion stake in a company is a significant amount to put at risk, and shareholders who take that risk can be expected to nominate directors who will protect the company’s, i.e., the shareholders’, interests.

Finally, to the extent that shareholder nominated directors can improve performance, the law should encourage that result by reducing the requisite stake for proxy inclusion of shareholder nominees as the company gets larger. Large firm failures requiring government bailouts are contrary to national interests. The IRRC Study suggests that boards with shareholder nominated directors may be better at avoiding imprudent risk than those without. It’s worth a try.

This comment is mine alone and does not necessarily reflect the views of Langsam Stevens & Silver LLP or its clients.

Sincerely,

David E. Romine

Langsam Stevens & Silver LLP

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