GovernanceMetrics

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August 14, 2009

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

VIA E-MAIL

Re: Facilitating Shareholder Director Nominations (File No. S7-10-09)

Dear Ms. Murphy:

I am writing on behalf of GovernanceMetrics International (GMI), the corporate governance research and ratings firm, to support the Commission's proposed rules that would allow shareholders to include a limited number of their director nominees in a company's proxy statement under certain circumstances (the "SEC Proposal").

To start, we fully respect and understand the concerns of the corporate community. Board nominations are a critically important part of the governance process. We think there is a legitimate concern that should the SEC Proposal be adopted we might see some nominees with narrow and / or short-term agendas which might not be in the best interests of the company. We also appreciate the concerns of sitting board members who worry that they will need to spend time "campaigning" for re-election rather than actually governing.

However, we think these are manageable risks and see a number of positive results should the SEC Proposal be adopted.

Nomination is not the same as election. It would be hard to imagine a "special interest" nominee being elected by a majority of shareholders. Any large shareholder or shareholder group who might want to nominate a candidate under the SEC Proposal will surely know this, which is why we expect any such nominees will be of very high caliber.

Board diversity can be beneficial. While one study is far from conclusive, findings in the May 2009 *Effectiveness of Hybrid Boards* report were quite striking: "On average, the study found that total shareholder returns at ongoing companies with hybrid boards were 19.1% – 16.6 percentage points better than peers – from the beginning of the contest period through the hybrid board's one year anniversary. More than half of these gains came during a three-month period leading up to the formation of the hybrid board, providing strong evidence for a sizeable contest effect increase in share prices, as the market priced in its expectations of changes a hybrid board might bring."[1]

[1] The report is available at www.irrcinstitute.org. In keeping with full disclosure, I am a member of the board of the IRRC Institute, which sponsored the study.

Corporate governance needs to evolve to remain effective. We have seen a number of positive developments in the last 20 years, including the now common practice of non-executive directors meeting in executive session. Some of these developments have come naturally as boards consider how to best fulfill their responsibilities. But to be fair, many have been sparked by an outside catalyst. No one at GMI thinks there's such a thing as perfect governance, not even at companies that earn our highest rating of 10.0.[2] Having a choice in an election should help all nominees and sitting directors focus on what shareholders are most concerned about at any given annual meeting, and thereby serve as a positive catalyst for change.

Overall, our experience of working in the corporate governance field leads us to believe the benefits of the SEC Proposal will outweigh any negative consequences. We therefore support the Commission's efforts in this area and agree that the SEC Proposal should:

- Permit shareholders to aggregate their holdings to meet the minimum share ownership thresholds
- Grant only long-term shareowners, those holding stock for at least one year, access to nominate directors
- Employ safeguards to ensure that access is not used as a takeover mechanism by short-term profit seekers
- Outline strong independence standards for director nominees
- Require full and accurate disclosure by nominating groups, including pertinent information about nominated directors
- Allow nominating shareholders to make statements of opposition against the election of other board members on the company's slate in the proxy statement
- Authorize shareholders to file resolutions related to the issue of board elections
- Become effective immediately without a lengthy implementation period, associated triggering mechanism or exemption or delay for smaller issuers

Thank you for the opportunity to comment. We would be happy to answer any questions.

Sincerely yours,

Howard Sherman

Howard Sherman
Chief Executive

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[2] GMI ratings are calculated on a relative basis. A rating of 10.0 means that company has a relatively stronger corporate governance profile compared to others in the same country, region or worldwide, depending on the comparison.

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