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August 14, 2009

Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F. Street, NE
Washington, DC 20549-1091

Subject: Facilitating Shareholder Director Nominations (the "Proposal")
Release Nos. 33-9046; 34-60089; IC-28765
File No. S7-1-09

Dear Ms. Murphy:

I am Vice President - Investor Relations and Secretary of Exxon Mobil Corporation ("ExxonMobil"). ExxonMobil has long experience with the federal proxy rules, having been subject to these rules continuously since their original enactment. We are also one of the most widely-held public companies in America, with over two and a half million registered and beneficial shareholder accounts. I am writing on behalf of ExxonMobil to comment on the Proposal.

General Comments.

State-law pre-emption. Under current state laws, shareholders and directors have the right to craft the specific governance arrangements that best suit each company.[1] The Proposal would replace this flexible, responsive, and largely successful model with a "one-size-fits-all" federal mandate.[2] This radical departure from the historic framework of state regulation of corporate governance is not warranted.

The current system has proven to be highly responsive to evolving shareholder expectations. For example, director elections at many larger companies have changed from a plurality to a majority voting standard. This significant change was effected in a short period of time in response to shareholder activism, without the need for federal pre-emption.

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[1] Under Section 14A:2-9 of the New Jersey Business Corporation Act governing ExxonMobil, for example, both the board of directors and shareholders may adopt company by-laws.

[2] The Proposal would only allow shareholders to relax a particular company's nomination standards. Shareholders would not be allowed to implement different or alternative measures, or to opt out of the regime altogether, as might be most appropriate under the circumstances.

Similarly, corporate practice has evolved in recent years to reflect shareholder preferences on a wide range of issues, from the structure of equity compensation plans,[3] to the widespread move to dismantle defensive governance measures,[4] to limitations on the amount of non-audit services provided by a firm's independent auditors.[5]

State law itself continues to be responsive, as shown by recent amendments to the Delaware General Corporation Law ("DGCL"). These amendments already allow measures such as proxy access, or provisions for reimbursement of a successful dissident's expenses, to be adopted on such terms as a particular company's directors or shareholders deem appropriate.

These developments show that reforms continue to be readily implemented within the current system. This system not only allows shareholders and boards to tailor governance arrangements on a case-by-case basis, but also allows maximum flexibility for future evolution. These benefits would be lost under the Proposal.

Proxy contests. The apparent intent of proposed Rule 14a-11 is to increase the frequency of "short slate" proxy contests by reducing the cost and regulatory requirements for such campaigns. We do not believe this objective is in the long-term best interest of shareholders.

A board acting in accordance with its fiduciary duty will nominate the director candidates it believes to be most qualified.[6] Conversely, if the board finds a shareholder nominee to be less qualified than the board's own nominees, the same fiduciary duty would compel the board to oppose the dissident nominee. Given this reality, there is no reason to believe a proxy contest conducted under Rule 14a-11 would be any less vigorous -- or would entail less time or ultimate expense (including costs of additional solicitation efforts) -- than a traditional short-slate campaign.

In the current challenging business environment, we believe it is especially important for management to focus its attention on sound business performance, not on costly and time-consuming proxy contests or the protracted litigation that inevitably follows.

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[3] Equity compensation plans now must typically include specific provisions, such as a prohibition on option re-pricing without shareholder approval and limits on the ability to re-use shares, required by the voting guidelines of major investors and proxy advisors.

[4] Many companies have adopted policies requiring shareholder approval of poison pills, and have taken action to de-stagger or de-classify their boards.

[5] For many large investors, an excessive ratio of non-audit to audit services, even if permitted under the auditor independence provisions of the Securities Exchange Act, will trigger a withhold or against vote for incumbent members of a firm's audit committee.

[6] If the board believes a shareholder candidate is more qualified than one of the board's own nominees, the board would be obligated to replace its candidate with the shareholder nominee.

We also believe many well qualified directors would be unwilling to serve under a politicized model of routine election contests. In the current economic and regulatory environment, companies are already challenged to identify director candidates who are qualified, willing, and able to serve. The Commission should not take action that would further diminish the pool of good candidates.

We further question whether the current proxy voting and solicitation system could reliably handle the significant increase in proxy contests we believe would result from the proposal.

Alternative measures. Even if the objective of streamlining the process for proxy contests were desirable, the objective could be achieved through more limited reforms that do not undermine core principles of the current system. These measures include:

- Reform of the proxy rules to eliminate unnecessary compliance burdens.[7]
- The availability of e-proxy to reduce mailing costs.[8]
- Adoption of company policies or by-laws to reimburse the cost of successful dissident campaigns.[9]

These alternative measures would also allow each party soliciting on behalf of a nominee to remain responsible for its own proxy material. This would be preferable to the combined company/dissident proxy statement and card envisioned by the Proposal, which we believe would be confusing for shareholders. A combined proxy statement would also create inappropriate potential legal liability for companies, as discussed below.

Specific Comments.

For the reasons discussed above, we strongly believe the Commission should not adopt proposed Rule 14a-11. However, should the Commission determine to proceed with the Rule, we are also providing the following comments on the Rule's specific provisions.

Share Ownership Threshold. For large companies, the Proposal would require shareholders or groups to own 1% of a company's outstanding shares to nominate a director. This threshold is too low.

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[7] Such reform should include changes to the OBO/NOBO system to make it easier and more cost effective for companies to communicate with their shareholders, and for shareholders to communicate with each other.

[8] This reform is already in place, but may require additional measures such as an effective educational campaign to foster greater participation by individual shareholders.

[9] This reform is already formalized by recent DGCL amendments, and can be implemented by voluntary company action or through binding shareholder proposals under Rule 14a-8.

According to the Release, the 1% threshold was chosen so that, at most subject companies, there would be at least one shareholder able to invoke proxy access by itself. A better approach would be to establish a minimum ownership level so that, in a majority of cases, several significant shareholders would need to work together to submit a nomination.

A threshold that requires a dissident shareholder to convince other substantial investors to support a campaign would serve a valuable "testing the waters" function. Put differently, a dissident nominee who is unable to attract significant co-sponsors is highly unlikely to be successful. Conducting a proxy contest with remote chance of success on behalf of such a nominee would not be a productive use of shareholder resources.

A higher threshold that requires multiple investors to cooperate would also help prevent special-interest campaigns initiated by shareholders pursuing a political, economic, or other objective not shared by shareholders as a group.

While we do not have the benefit of all the relevant data, it would appear that a threshold of at least 10% would be appropriate for aggregated holdings (no less than 5% for a single shareholder).

We also believe that, to be eligible for proxy access, a shareholder or group should have continuously held the required percentage of shares for a minimum of two consecutive years. There is a risk that shareholders with a short-term perspective may use proxy access to promote a short-term or overly risky corporate strategy that would not be in the best long-term interest of shareholders as a whole. To reduce this risk, proxy access should be limited to shareholders who demonstrate a long-term commitment to a company.

Trigger events. As discussed above under "General Comments," we believe it would be harmful to companies and shareholders if election contests were to become routine corporate events. To help prevent this result, proxy access under Rule 14a-11 should only be available in cases in which access would represent a reasonable response to an objectively determinable issue.[10] A trigger event requirement would also help reduce the potential for proxy access to be used to promote parochial or near-term objectives.

We believe appropriate trigger events for proxy access would be (i) failure of a company to respond, after a reasonable period of time, to a proposal that has been approved by a majority of votes cast at a shareholders' meeting, or (ii) failure to accept the resignation of a director who has received a majority AGAINST vote (or a majority of votes WITHHELD) in an election of directors. Of course, the latter trigger would need to include an exception for situations in which a company may be prevented from accepting

[10] The concept of trigger events was included in the Commission's prior proxy access proposal.

a resignation in order to maintain compliance with applicable regulatory or stock exchange requirements.

Independence. The determination of "independence," even under the objective standards of the national securities exchanges, is a complex process. In order for a company to verify that determination, the rules must require the nominee to complete the same form of director and officer questionnaire the board uses for its own nominees, and to submit that information to the company on a timely basis.

A candidate is not independent if, for example, either the candidate himself or the candidate's son, daughter, spouse, brother, sister, parent, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law, or daughter-in-law is involved in a financial or business relationship with the company (for example, by reason of being an owner of a sole proprietorship, executive officer of a company, or partner of a firm) exceeding a specified dollar amount per year. In order to verify independence, the company must be provided with information identifying the candidate; each of the candidate's relevant family members; and each business interest such person may have that could give rise to disqualification.

The company cannot rely solely on the candidate's own due diligence to determine independence. For example, a nominee or relative may have a business relationship with a company subsidiary without being aware of the ultimate parent's identity. A company must be able to check its own records to determine the nature and dollar volume of potentially disqualifying relationships.

A potential nominee must also provide the company with sufficient information to screen the candidate under relevant competition laws, including prohibitions against interlocking directorates between competitor companies.

We also urge the Commission to reinstate requirements included in a prior proxy access proposal that a candidate be verifiably independent from the nominating shareholder or group.

The rationale for independence requirements is to avoid even the potential for conflicts of interest. Congress, the Commission, and the stock exchanges have all determined that direct or indirect financial relationships between a company and a director, or a member of the director's extended family, could distract a director from making the best decision in the interest of all shareholders. The same potential for conflict of interest exists with respect to shareholder-nominated directors. A personal or family financial relationship with the nominating shareholder could lead a director to take actions favoring that particular shareholder, rather than shareholders as a group.

Requiring shareholder candidates to be independent of the nominating shareholders would also help reduce the opportunity for proxy access to be misused for change in control purposes.

Finally, proxy reform should not undermine the ability of companies to set high standards of independence as may be appropriate for them. Thus, shareholder nominees should be required to satisfy any objective independence standards the board may have adopted in addition to the exchange standards.[11]

Limitations on Number of Nominations Permitted. The current proposal establishes limits on the number of directors that can be nominated under Rule 14a-11. The proposal clearly recognizes the potential disruption to board operations should a large number of directors be replaced due to these actions. In our view, a more appropriate limitation would be 10% of the board seats up for election, not to exceed a maximum of two directors. It would be highly disruptive for a board to lose more than two of its experienced members in a single year, in addition to normal board turnover through retirement and other events.

In addition, the rules need to address the forward status of a dissident nominee if elected. Specifically, if a shareholder nominee is elected, that director should continue to count as a shareholder nominee (subject to the two director maximum we recommend) for at least three years, even if the individual is nominated for re-election as part of the board's own slate in future years.

Multiple Shareholder Nominations. Under the Proposal, if eligible shareholders submit nominees representing more than 25% of the board (or as we recommend, more than 10% of the board or two nominees), dissident candidates would be selected in the order of filing. Such a "first to file" standard will create a race to nominate; generate more nominations than would otherwise be filed as shareholders seek to preserve an option to nominate; and could result in the nominees with the most potential shareholder support not being including in the proxy statement. We also believe such a standard would be likely to generate protracted litigation. A better approach would be to select nominees on the basis of eligible shareholders with the largest direct investment in the company.

Form of Proxy. The Proposal would take away the option shareholders currently enjoy to vote FOR the Board's nominees as a group with a single selection on the proxy card. This change would be highly disruptive for corporate elections.

The ability to vote in favor of a particular slate with a single selection is an important feature of proxy voting. Many shareholders are accustomed to voting in this manner. At

[11] If shareholders do not believe a company's own independence standards are appropriate, those standards may be changed through the shareholder proposal process.

ExxonMobil's most recent annual meeting, over 80% of shareholders who completed a proxy card checked the single box to vote according to the board's recommendation.

This option would become even more critical if the proxy card were to include dissident nominees. We believe many shareholders will be confused by such a proxy. Requiring a vote on a nominee-by-nominee basis could result in widespread over-voting, or otherwise lead to the rejection of many incorrectly completed ballots.

More fundamentally, we believe most shareholders faced with a proxy contest make a binary voting decision to support either the company's slate or the dissident slate. The proxy card should be structured to allow shareholders to express that decision as simply and directly as possible.

No-Action Process. The Release contemplates that disputes concerning proxy access would be subject to a staff no-action process similar to the current process for shareholder proposals under Rule 14a-8.

Under Rule 14a-8, staff determinations are often issued no more than a few days or even hours before a company proxy statement goes to press to meet the established meeting schedule. This time frame is workable for most shareholder proposals, which infrequently involve administrative appeals or litigation. However, because of the high stakes involved in proxy contests, we believe many disputes under Rule 14a-11 would be taken to court. Accordingly, to avoid major disruptions to the proxy voting system that could result if large numbers of annual meetings were to be postponed, the regulatory deadlines should be adjusted so that the staff review process will be completed no less than 30 days prior a company's mailing date.

Rule 14a-8(i)(8). We believe a shareholder proposal to establish proxy access under Rule 14a-8 would be as significant for a company as a shareholder nomination under proposed Rule 14a-11. Accordingly, the ownership requirements for a shareholder or group submitting such a proposal should be the same as the ownership requirements for submitting a nomination under proposed Rule 14a-11.

Also, for the reasons discussed above under "General Comments," the Proposal should be modified to preserve to the greatest extent possible the flexibility that shareholders and companies enjoy under the current state law system. Specifically, proxy access under Rule 14a-11 should at most serve as a default standard. Shareholders should remain free to adopt alternative proxy access arrangements (whether more or less restrictive than the federal process), or to opt out of proxy access altogether,[12] as they deem appropriate for a particular company.

[12] Many shareholders, for example, might find a provision for reimbursement of a successful dissident's expenses to be preferable to proxy access.

Company Liability. Companies should have no liability for reprinting dissident shareholder materials in the company's proxy statement. Imposing a potential company liability for dissident material would create an obligation for companies to perform due diligence regarding disclosure over which the company has no control, and would expose companies to litigation for false statements made by dissidents.

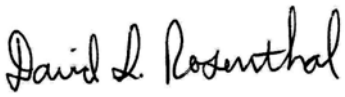
Under the current rules, dissidents prepare their own proxy material and companies have no liability for that material, even if the company is aware of false statements contained therein. This division of liability should not change simply because, as a cost-saving measure, dissident materials are printed and mailed in the same package as the company's proxy material.

Similarly, companies are not responsible for false or misleading statements submitted by proponents of shareholder proposals under Rule 14a-8(l)(2). We do not believe proponent statements in support of a nominee should be treated differently for company liability purposes than proponent statements in support of shareholder proposals.

Should the final rules continue to provide that a company may be liable for dissident materials, companies must be expressly allowed to exclude any dissident material they find to be false or misleading.

We thank the Commission for the opportunity to comment on these important issues. We would be happy to discuss any of these matters in more detail or to provide additional information at the staff's request.

Sincerely,



David S. Rosenthal, Vice President -
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