THE STA
SECURITIES TRANSFER ASSOCIATION, INC.

June 2, 2010

The Honorable Mary Schapiro
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Re: Proxy Communication Fees

Dear Chairman Schapiro:

On behalf of The Securities Transfer Association ("STA"), I am writing to request that the Securities and Exchange Commission ("Commission") examine the current fee system for proxy communication established by the New York Stock Exchange ("NYSE") under NYSE Rule 465. The STA is a trade association comprised of the transfer agents who provide services to over 12,000 large and small public companies in the United States. The STA and its members work directly with issuers on a variety of public policy matters and have been active for many years in advocating a fair and efficient system of proxy communication.

The proxy communication process is extremely important to the effective operation of the capital markets in the United States. Both the Commission and NYSE rules regarding proxy communication are tremendously broad, applying to over 12,000 corporate events each year that are estimated to affect 350 million active shareholder positions.[1] As you know, however, the fees established by the NYSE that issuers must pay to brokers to distribute proxies have not been publicly examined by the NYSE in over ten years and do not fully reflect changes in technology, current Commission regulations, or the development of new financial products.

[1] Source: Broadridge Financial Solutions, Inc.

We firmly assert that the current proxy communication fee structure no longer reflects reasonable reimbursement of expenses borne by brokers, and that the Commission should take immediate action to require the NYSE to publicly review these fees. We also want to encourage the Commission, and the NYSE, to consider and put in place an alternative to the current proxy communication system that will introduce competition into this market and eliminate the need for the NYSE to engage in ratemaking. We believe that the NYSE does not wish to be in the business of ratemaking for services provided by one group of stakeholders (brokers) to another group of stakeholders (issuers).

In addition to the foregoing, we specifically want to draw the Commission's attention to one practice that has developed in recent years which cannot be justified on any equitable or legal basis. We believe that many issuers are being assessed unreasonable fees under Rule 465 related to share ownership in separately managed accounts ("SMAs") in which the investor has delegated responsibility for management of the account and is not being provided with any proxy materials. The practice of charging issuers for not communicating with SMAs results in the unnecessary diversion of many millions of dollars in capital each year to intermediaries that otherwise would be used by companies to benefit their shareholders. In our view, this situation has developed both from the lack of market competition and a standing industry committee, chaired by the NYSE, that is not well placed to achieve any significant reform in this area. We urge the Commission to investigate this practice.

Finally, we want to commend the Commission for the efforts that it has made in recent years to improve communication between issuers and their shareholders. We are particularly pleased that the Commission has indicated that it is likely to publish a concept release this summer providing an opportunity to comment on issues related to "proxy plumbing." As part of the concept release, we encourage the Commission specifically to request comment on ways in which market forces may play a greater role in establishing proxy communication fees.

I. Overview - Shareholder Communication

As you know, Commission rules place primary responsibility on brokers and banks to distribute proxy materials for annual and special shareholder meetings. Over 70% of all share ownership is held in "street name" by brokerage firms and other intermediaries. The Securities Exchange Act of 1934 ("Exchange Act") requires brokers to provide proxy communication to "street name accounts", and also requires issuers to reimburse brokers for their "reasonable expenses" in providing this service

Although issuers must bear the cost for proxy communication services, they have no choice regarding how proxy communication will be provided by brokers to street

name accounts, and little control over their expenses. The NYSE and Financial Industry Regulatory Authority ("FINRA") rules establish a fee schedule for the reimbursement of the "reasonable expenses" incurred by brokers in distributing proxy materials and other issuer communication to street name accounts.[2] Brokers typically outsource proxy communication services to Broadridge Financial Solutions ("Broadridge"), a service provider that compiles the contact information and manages the distribution and proxy communication function. Since at least 1997, Broadridge has controlled 99% of the market for proxy communication services to street name accounts. There has been virtually no competition in this market, and no yardstick to judge whether the fees established by the NYSE, and imposed on issuers, are reasonable; or whether competition might result in lower costs and greater efficiency.

Among the charges for proxy mailings and vote tabulations, the NYSE and FINRA authorize brokers to charge issuers the following payments for each street name account: (1) a basic proxy processing fee of $0.40; (2) a fee of $0.06 for Proxy Edge[3]3 voting at the beneficial owner level; and (3) an intermediary fee of $0.10.[4] Brokers also are authorized to charge a "suppression" fee of as much as $0.50 per account even when they do not provide proxies to a shareholder. As we note in the attached Appendix, this "suppression" fee originally was designed to provide an incentive for the elimination of paper mailings to beneficial owner accounts, through the use of householding or by distributing proxy materials electronically.

II. Charging Suppression Fees for SMA Accounts is Inappropriate

We understand that for some time the NYSE has taken an informal position that issuers may not be charged suppression fees for providing proxy communication services to holders of WRAP accounts. These accounts are managed by industry professionals with discretionary authority over day-to-day management of the assets. As we understand the NYSE's position, the suppression fee was not intended to be used for WRAP accounts, where neither paper mailings nor electronic delivery are required or necessary at the beneficial owner level.

When investors agree to have their accounts managed in this fashion, they generally do not wish to receive what may be hundreds of pieces of materials from the

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[2] See NYSE Rule 451, NYSE Rule 465, and section 402.10 of the NYSE Listed Company Manual; and FINRA Rules 2010, 2260, 2430, and IM-2260.

[3] Proxy Edge is a proprietary product developed by Broadridge for institutions that offers a suite of electronic voting services.

[4] Since 2002, the suppression fee has been $0.25 for Large Issuers, defined as those with shares held in at least 200,000 nominee accounts. 67 Fed. Reg. 15,440 (Apr. 1, 2002).

individual issuers whose securities may be held in their accounts. Nor do they desire to receive transaction-by-transaction confirmations. In adopting Rule 3a-4 under the Investment Company Act of 1940 (a safe harbor from registration for managed accounts) the Commission specifically recognized this fact in 1997. It stated with respect to WRAP accounts:

> If a client delegates voting rights to another person, the proxies, proxy materials, and, if applicable, annual reports, need be furnished only to the party exercising the delegated voting authority.[5]

We are puzzled why the NYSE has permitted brokers to charge suppression fees for SMAs. We do not believe there should be any distinction drawn between WRAP accounts and SMAs for purposes of proxy communication under the NYSE fee schedule.

WRAP accounts have been popular with brokers since the late 1980s. However, as you are aware, SMAs have become a much larger portion of the retail market in recent years - with assets of more than $1 trillion.[6] SMAs were developed as an alternative to both WRAP accounts and retail and institutional mutual funds. In each case, both with WRAP accounts and SMAs, the individual investor has delegated day-to-day management to an investment professional.

Just as with a WRAP account, in establishing SMAs a broker or other financial intermediary exercising investment discretion over the account typically is authorized by the account opening documents: (1) to receive proxy materials and other related materials from issuers on behalf of a beneficial owner, and (2) to vote proxies on behalf of such beneficial owner. SMA account documentation is standardized and the accounts are flagged at the time they are created for the broker's own purposes, as well as to suppress transaction confirmations and issuer communications. However, under the current NYSE interpretations we believe that in many cases issuers are being asked to pay (in the case of those with less than 200,000 beneficial holders) a basic processing fee of $0.40, a suppression fee of $0.50, a Proxy Edge voting fee of $0.06, and an intermediary fee of $0.10, for each beneficial owner of an SMA. Thus, issuers may be billed $1.06 per SMA - an amount which appears to have very little relationship to the expenses that are actually incurred by either the broker or Broadridge. In addition, issuers relying on the

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[5] Investment Company Act Release No. 22579 (March 24, 1997).

[6] Don F. Wilkinson, Separately Managed Accounts: In the Mainstream, Producers Web, July 10, 2006, available at http://www.producersweb.com/r/DFW/d/contentFocus/?adcID=235eed241a35d48119b74517995f5808; and Ian Salisbury, Mergers May Reshape Managed Accounts, The Wall Street Journal, Mar. 11, 2009, at D3.

Commission's "notice and access" provisions for proxy communication may be charged an additional amount per SMA of up to $0.25. Accordingly, for these issuers the cost to not have brokers supply proxy materials to individual SMAs may be as much as $1.36 per account.

Since SMAs may hold in excess of one hundred individual security positions, the fees collectively charged to issuers can be very substantial. For example, an SMA with 150 positions may collectively cost issuers from $159 to $196.50. In some cases in which the broker holds "mini-SMA accounts" the fees assessed issuers may be based on per account beneficial ownership of less than a single share. Moreover, *an issuer generally is assessed these fees each year*, even though the accounts are coded only a single time.[7] The STA estimates that issuers may have been assessed $50 million or more in 2008 and as much as $40 million in the first four (4) months of 2009 by brokers for not providing issuer communications to SMA investors.[8] Moreover, these same fees must be borne in some cases by investors who are seeking changes in corporate governance through proxy initiatives, creating a substantial barrier to shareholder activism.

There is no justification for billing unreasonable suppression fees to issuers for either WRAP accounts or SMAs, and no basis for making a distinction between the two types of accounts for this purpose. The regulatory history on the paper elimination incentive fee (i.e., suppression fee), which we set forth in the attached Appendix, demonstrates clearly that this incentive fee was developed to encourage the use of householding and the increased use of electronic distribution to beneficial owners. We believe that the practice of billing these fees at the beneficial owner level should not be occurring, and is clearly inconsistent with the letter and the spirit of the Exchange Act.

III. NYSE Interpretations Regarding WRAP Accounts and SMAs under Rule 465 Should be Filed with the Commission Pursuant to Rule 19b-4.

As we noted above, it is our understanding that the NYSE position with respect to the application of suppression fees to WRAP accounts is informal. In 2008, however, there was communication between the CEO of NYSE Regulation and an officer (who we understand currently is employed by Broadridge) of the Securities Industry and Financial

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[7] NYSE rules are not subject to the same economic analysis required of Commission rules. However, we note that in connection with its recently proposed large trader reporting requirements, the Commission has provided an economic analysis suggesting that once an account is coded (which may be for other purposes), there is little, if any, ongoing expense incurred by the broker. See Exchange Act Release No. 61908 (April 14, 2010).

[8] These estimates are drawn from data made publicly available by Broadridge.

Markets Association ("SIFMA") (the dominant trade association for brokers) in which NYSE Regulation indicated that it is permissible to charge suppression fees for "managed accounts."[9] It is not clear to us, however, what the context of that communication was or the extent to which brokers are relying on the communication to justify charging suppression fees for SMAs.

We also understand, based on that 2008 communication that, in light of the growth of the SMA market, the NYSE was interested in reviewing whether the practice of charging suppression fees for SMAs needed to be changed. Over two years, and in excess of a hundred million dollars later, no change has been made. The NYSE seems to have overlooked a wholesale shift in the development of investment products and ignored the unnecessary expenses borne by issuers.

Under Rule 19b-4 of the Exchange Act a "stated policy, practice, or interpretation" provided by self-regulatory organizations ("SRO") must be submitted by the SRO to the Commission for approval.[10] While there is an exception for stated policies, practices, or interpretations that are "reasonably and fairly implied" by an existing rule of the SRO, we cannot see that this exception is applicable in the context of NYSE Rule 465 as it relates to charging suppression charges for SMAs. As we outline in the attached Appendix, we find no public evidence that the NYSE rules contemplated allowing suppression fees to be charged for SMAs. Moreover, if the NYSE's apparent position on WRAP accounts has not been filed with the Commission for approval because it is "reasonably and fairly implied" under Rule 465, then the position taken by the NYSE in the attached letter with respect to SMAs cannot also be "fairly and reasonably implied," since there is little difference between the two types of accounts.

We believe that the Exchange Act plainly requires that interpretations of SROs must be filed with and approved by the Commission. As a matter of equity and law, issuers who are being charged should have the opportunity to comment on the practice.

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[9] We have attached a letter from NYSE Regulation to SIFMA dated February 11, 2008 suggesting that it was appropriate for SIFMA members to charge suppression fees for SMAs.

[10] The term means:

> Any material aspect of the operation of the facilities of the self-regulatory organization; or any statement made generally available to the membership of, to all participants in, or to persons having or seeking access (including, in the case of national securities exchanges or registered securities associations, through a member) to facilities of, the self-regulatory organization ("specified persons"), or to a group or category of specified persons, that establishes or changes any standard, limit, or guideline with respect to: the rights, obligations, or privileges of specified persons or, in the case of national securities exchanges or registered securities associations, persons associated with specified persons; or the meaning, administration, or enforcement of an existing rule.

Any money that has been unreasonably charged for this purpose to date could have been employed by issuers to benefit their shareholders. The money does not belong to intermediaries who have not earned it. The NYSE should rescind the communication between itself and SIFMA and act immediately to file its interpretations with the Commission as required under Rule 19b-4.

IV. A Broader Analysis is Required.

These issues are not new. However, neither the NYSE Proxy Working Group (in its various forms) nor the NYSE itself has vigorously engaged in any regular review of proxy fees or sought to reduce any unnecessary fees borne by issuers. The most recent NYSE Proxy Working Group Report in 2006, for example, recommended:

> The NYSE should engage an independent third party to analyze what is a "reasonable" amount for issuers to be charged pursuant to Rule 465 and to conduct cost studies of the current services provided by [Broadridge] and commission an audit of [Broadridge] costs and revenues for proxy mailings.[11]

With respect to the current relationship between the brokerage industry and Broadridge, the Proxy Working Group noted:

> The Working Group also recommends that the NYSE review [Broadridge's] contract arrangements with brokers. It is understood that these contracts are designed to cover the brokers' costs of providing information about beneficial owners to [Broadridge], but since this reimbursement is tied to the fees regulated by the NYSE, they should be carefully reviewed to make sure that these agreements are not covering other costs unrelated to beneficial owners.[12]

As evident from the current fee structure, and the existence of the suppression fees for SMAs, neither of these recommendations has been implemented by the NYSE. We would encourage the Commission itself to investigate whether many of the fees charged issuers are fair in light of the Commission's existing rules, and whether there are more equitable alternatives. With respect to SMAs and other managed accounts, one approach the STA believes should be considered is to require brokers and other financial intermediaries with investment discretion to consolidate their subaccounts prior to transmitting data to Broadridge for the purpose of proxy solicitation. Once Broadridge has the data, then a single nominee fee and a single Proxy Edge voting fee could be charged for the consolidated shares maintained by a broker or other institution with investment discretion.

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[11] Report and Recommendations of the Proxy Working Group to the New York Stock Exchange (June 5, 2006).

[12] Id.

V. These Issues are Not New; It is Time to Make Changes

Finally, we want to note that the Commission has allowed the current fee system to exist since the 1980s. During this period, it has advocated market-based solutions to establish reasonable proxy communication expenses. In 1997, for example, the Commission stated:

> "The Commission believes that ultimately market competition should determine "reasonable expenses" and recommends that issuers, broker-dealers and the NYSE develop an approach that may foster competition in this area."[13]

The NYSE responded publicly to the Commission stating that in light of the fact that the market for proxy communication was almost entirely controlled by a single firm – ADP (the predecessor to Broadridge) – "it is unlikely that competition will develop to the extent necessary to relieve the Exchange of its role in establishing reimbursement guidelines."[14] In 2002, however, the Commission repeated its preference for a system of proxy communication fees established by competitive forces and again challenged the NYSE to examine alternatives.[15]

The same view regarding the need for competition in the proxy communication system has continued to echo elsewhere across the financial services industry - coming not just from issuers. For example, the Council of Institutional Investors, which represents the largest public and private pension funds in the United States (holding assets of millions of retired employees), among others, testified to the NYSE Proxy Working Group:

> [T]he Council has long expressed concerns that the NYSE regulated fees and resulting "fee sharing" (a.k.a. "rebating" or "cost recovery") arrangements between [Broadridge] and the major brokerage firms have stifled market innovation and deterred competition.

Maintaining the highest quality system for proxy distribution and vote tabulation is of paramount importance to Council members. The Council is interested in ensuring that communication processes are as efficient and effective as possible.

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[13] Exchange Act Release No. 38406 (March 14, 1997).

[14] Exchange Act Release No. 39774 (March 19, 1998).

[15] See, e.g. Exchange Act Release No. 45644 (March 25, 2002). ("[T]he Commission continues to believe that ultimately market competition should determine reasonable rates and expects the NYSE to continue its ongoing review of the proxy fee process, including considering alternatives to SRO standards that would provide a more efficient, competitive, and fair process.")

> The Council believes the current system, which has grown in an ad hoc manner over the years and largely fails to recognize advancements in technologies, could be significantly improved. Unfortunately reforming the system has seemed impossible, largely because powerful groups, including [Broadridge] and Wall Street brokerage firms, have resisted meaningful changes to the current systems.[16]

Despite the tremendous improvements that competition has fostered in the securities markets since 1997 - as a result of fair access and new technology - we are not aware of any significant efforts to foster competition in proxy communication. We believe that the technology constraints that may have required consolidation of broker service providers in the 1980s and 1990s are no longer present. It is time for the Commission to reconsider broader issues relating to proxy communication in the forthcoming concept release, and to encourage alternatives that will provide for competition.

VI. Conclusion.

The practice of charging account-based proxy processing, suppression, Proxy Edge voting, and intermediary fees for SMAs is inconsistent with the requirement under Section 14 of the Exchange Act requiring issuers to reimburse brokers for their "reasonable expenses". We believe that it has resulted in many hundreds of millions of dollars in fees being improperly collected from issuers. We encourage the Commission to investigate the practice, request that the NYSE to immediately rescind the NYSE Regulation letter to SIFMA, and require that any private interpretations under the current provisions of Rule 465 related to both WRAP accounts and SMAs be filed with the Commission and published for comment - so that both issuers and brokers can submit their views. Any delay in addressing these issues will come at the expense of issuers or their shareholders who are paying bills for services they do not receive.

We also want to again applaud the actions of the Commission to effect proxy reform measures. As we noted at the outset, the Commission and NYSE rules concerning proxy communication apply to 12,000 corporate events each year, involving 350 million shareholder positions. The scale and importance of regulation in this area is extremely significant

We encourage the Commission to propose specific alternatives in connection with the proxy concept release that will invite comment on ways to introduce competition. We sincerely hope that following publication of the proxy concept release, both the

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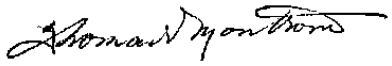
[16] See Council Testimony to NYSE Working Group (Undated). Available on the website of the Council of Institutional Investors.

NYSE and Commission will act to implement changes. In a competitive market in which issuers pay directly for proxy communication services, there is little likelihood that market forces would permit unwarranted fees, such as those described above, or fees that are not reasonably related to costs.

Please feel free to call me with any questions.

Sincerely,



Thomas L. Montrone
Chairman, STA Proxy Communications Committee
Member, Board of Directors
The Securities Transfer Association

Attachments

cc: The Honorable Kathleen Casey
The Honorable Elisse Walter
The Honorable Luis Aguilar
The Honorable Troy Paredes

Division of Corporation Finance
Meredith Cross
Brian Breheny
Tom Kim

Division of Trading and Markets
Robert Cook
David Shillman

New York Stock Exchange
James Duffy
John Carey
Scott Cutler

Appendix

Overview of Suppression Fees for Shareholder Communications

I. NYSE Rules

Since 1997, the NYSE and the SEC have authorized a paper elimination incentive fee to encourage brokers and Broadridge to reduce mailing costs to beneficial owners. Under this incentive program, issuers are charged a "suppression" fee for the elimination of proxy mailings in certain defined circumstances. The first circumstance involves the use of "householding," where multiple proxy instruction forms and a single set of paper materials are included in one envelope to beneficial owners residing at the same address. This householding process can include the consolidation of multiple accounts held by the same beneficial owner.

The incentive fee also was intended to encourage firms to increase the electronic delivery of proxy materials, either through the electronic transmission of proxy materials to multiple beneficial owners and accounts, or through electronic distribution of proxy materials to a household.[17] In authorizing the incentive fee, the SEC stated the following in its initial Order:

> The NYSE proposes a new incentive fee to compensate member organizations for eliminating materials in paper form (*i.e.*, additional fee of $.50 ($.10 for a quarterly report) for each set of material that is not mailed). … The Exchange has represented to the Commission that the householding fee is intended to encourage member firms to apply technology to distribute materials electronically. The Commission believes that, if the incentive fee only reimburses the cost of eliminating the duplicate mailings, nominees would have no incentive to provide these services because nominees would be reimbursed for their costs regardless of whether they provide these types of services. Moreover, the Commission notes that the fee would produce the unquantifiable benefit of reducing shareholder frustration and confusion by eliminating duplicate mailings to shareholders.[18]

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[17] In its original proposal to the SEC, the NYSE noted that a broker can earn this "paper elimination fee by distributing multiple proxy instruction forms electronically or be [sic] distributing all material to a household electronically." 61 Fed. Reg. 68,082, 68,084 (Dec. 26, 1996).

[18] 62 Fed. Reg. 13,922, 13,929 (Mar. 24, 1997).

A review of subsequent Federal Register notices on proxy fees clearly indicates that the original purpose of the incentive fee has not changed in subsequent years.[19] In fact, the SEC confirmed the purpose of the incentive fee when it approved the NYSE request to permanently adopt its proxy fee schedule guidelines in 2002:

> In this proposed rule change, as amended, the Exchange proposes to amend certain reimbursement fees under the Pilot Program and has requested permanent approval. The proposed amendments seek to decrease the basic mailing fees paid by large issuers by 5 [sic] (from 50 to 45) and to cut in half (from 50 to 25) the incentive 'suppression' fee that large issuers pay to member organizations that succeed in reducing the number of sets of materials that need to be distributed, such as by sending one set of materials to a household holding multiple positions in the issuer's securities.[20]

Additionally, public statements by Broadridge and its predecessor, Automatic Data Processing ("ADP"), confirm the purpose of the incentive fee to reduce proxy mailing costs through the use of householding and increased electronic delivery of proxy materials.[21]

SMAs do not require any paper mailings or electronic delivery at the beneficial owner level, as investment discretion resides with the investment adviser that holds the shares and is authorized to receive and vote proxies. And, it is clear that the incentive fee provided for in the NYSE Rules is not authorized for SMAs at the beneficial owner or subaccount level.

II. FINRA Rules

FINRA Rules operate in exactly the same manner as NYSE Rules regarding proxy reimbursements. FINRA Rule 2260 authorizes the Board of Governors to "establish a suggested rate of reimbursement of members for expenses incurred in connection with transmitting the proxy solicitation to the beneficial owners of the

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[19] 63 Fed. Reg. 14,745 (Mar. 26, 1998); 64 Fed. Reg. 14,294 (Mar. 24, 1999); 67 Fed. Reg. 2,264 (Jan. 16, 2002); and 67 Fed. Reg. 15,440 (Apr. 1, 2002).

[20] 67 Fed. Reg. 15,440 (Apr. 1, 2002).

[21] Claude Solnik, ADP fees for online proxies come under fire, Long Island Business News, June 15, 2001, at A5 ("It's a paper and postage elimination fee … [w]e have technology and have to continue to develop technology to eliminate these proxies." (quoting Maryellen Anderson, Vice President, Corporate and Institutional Relations, ADP)); and Chris Kentouris, FINRA to Investigate Proxy Suppression Fees for SMAs, Securities Industry News, Oct. 19, 2007 ("[The suppression fees were established to] incentivize broker-dealers to create the necessary technology and procedures to reduce proxy mailings." (quoting Chuck Callan, Senior Vice President, Regulatory Affairs, Broadridge)).

securities … or in transmitting information statements or other materials to the beneficial owners of securities ….”[22] Since 2003, the terms and conditions for the incentive fee have been contained in FINRA IM-2260:

> An ‘incentive fee’ (as defined below) for proxy material mailings, including the annual report, and 10 cents for interim report mailings, with respect to each account where the member has eliminated the need to send materials in paper format through the mails (such as by including multiple proxy ballots or forms in one envelope with one set of material mailed to the same household, by distributing multiple proxy ballots or forms electronically thereby reducing the sets of material mailed, or by distributing some or all material electronically) shall be: (i) 25 cents with respect to issuers whose shares are held in at least 200,000 nominee accounts; and (ii) 50 cents with respect to issuers whose shares are held in fewer than 200,000 nominee accounts.[23]

[22] FINRA Rule 2260, Forwarding of Proxy and Other Materials.

[23] 68 Fed. Reg. 9730, 9731 (Feb. 28, 2003); and Notice to Members: Proxy Reimbursement Rates, National Association of Securities Dealers, March 2003, p. 130. This language and fee schedule are also contained in NYSE Rule 465.20, and NYSE Listed Company Manual 402.10.

Correspondence Between
Richard Ketchum, Chief Executive Officer, NYSE Regulation,
and
Donald Kittell, Chief Financial Officer, SIFMA

SIFMA
Securities Industry and
Financial Markets Association

Attachment #2

MEMORANDUM

To: Rick Ketchum
NYSE

CC: Jim Duffy
NYSE

Steve Walsh
NYSE

From: Donald D. Kittell

Date: February 11, 2008

Subject: NYSE Rule 465: Proxy Suppression Fees on Managed Accounts

Thank you for your time last February 5, on this subject.

I would like to confirm my understanding of the NYSE's position on Suppression Fees on Managed Accounts under NYSE Rule 465.

Based on our discussions, I understand that the NYSE has looked into the practice of broker-dealers' charging Suppression Fees to issuers for Managed Accounts and concluded that this practice is within the original intent and letter of Rule 465.

The NYSE is interested in reviewing whether the Rule needs to be amended in the future in light of the growth in Managed Accounts, changes in technology and other factors, and has asked its Proxy Working Group to conduct that review.

Please let me know if my understanding is accurate or needs to be modified.

SIFMA stands ready to assist the NYSE and the Proxy Working Group on its review of this and other Proxy-related matters.

Sincerely,

Donald D. Kittell
Chief Financial Officer

DDK:djk

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Attachment #3

Richard Ketchum
Chief Executive Officer
NYSE Regulation

NYSE Regulation

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April 29, 2008

Donald D. Kittell
Chief Financial Officer
SIFMA
120 Broadway, 35th Floor
New York, NY 10017

Dear Don,

I received your Memorandum dated February 11, 2008 regarding "NYSE Rule 465: Proxy Suppression Fees on Managed Accounts", and can confirm to you that your understanding of our February 5th discussion, as set forth in your Memorandum, is correct.

Thank you for SIFMA's interest and cooperation, and we will welcome SIFMA's assistance in the ongoing work on this and other Proxy-related matters.

Sincerely,

Richard Ketchum
Chief Executive Officer
NYSE Regulation

Cc: Jim Duffy
Steve Walsh