MATTHEW F. COHEN

[redacted]

October 19, 2010

Ms. Elizabeth Murphy
United States Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549

Re: Concept Release on the U.S. Proxy System; Release No. 34-62495

Dear Ms. Murphy:

This letter specifically concerns the empty voting and decoupling issues raised in the Commission's concept release. I applaud the Commission's efforts to address this issue. The growing prevalence of hedging strategies and leverage brings the fundamental assumptions of our corporate governance laws into question. Such laws presuppose that the owners of a company are best fit for making corporate decisions because their fortunes rise and fall with the prosperity of the company i.e. securities are voted with an interest in increasing shareholder value. Empty voters with a negative economic interest clearly pose the biggest challenge to this concept. I believe the Commission can successfully address empty voting by mandating disclosures and encouraging action at the state and corporate level.

Although the lag between the record date and voting date can be a breeding ground for empty voting, I believe it presents an opportunity for required disclosures and shareholder action following the record date. Shareholders with a "negative economic interest," which would be defined by a percentage of hedged economic interest out of total shares held (via put options, swaps, or ownership of other assets), could be required to disclose the extent to which their voting power is decoupled from their economic interest as of the record date. Disclosures would have to be made sufficiently close to the record date and ahead of the voting date so that other shareholders would be informed and could take appropriate action, if any. Disclosure thresholds could be set for record date shareholders based on both the amount of shares owned and the amount of shares hedged. For example, disclosure could be required for owners of 5% or more of a company's stock that have hedged more than 75% of their economic interest in those shares. Because many retail investors are increasingly using put options as a means of protection against share value and volatility, ownership thresholds are important in alleviating a disclosure burden to the everyday investor. While this disclosure system would increase transparency, it still clearly leaves room for shareholders to engage in hedging strategies after the disclosure date but before the voting date. For this reason, it may be beneficial to supplement these disclosures with a additional regulatory approaches.

One option would be to require disclosure of a shareholder's hedged economic interest on the VIF, and allow for dilution of that shareholders vote in some proportion to the voter's hedged positions upon tallying of the votes. The dilution component of this idea would

be implemented through state law and corporate bylaws, but the Commission could play some role. Again, disclosure thresholds would be useful to ensure that only shareholders with "material" hedging strategies would be forced to disclose. The mere specter of dilution may deter those with a negative economic interest from voting their shares. Ultimately, it may restore the concept of "one share one vote."

Please feel free to contact me with any questions or comments regarding the foregoing ideas. I look forward to following the Commission's approach on this issue.

Very truly yours,

Matthew F. Cohen, Esq.