DEUTSCHES AKTIENINSTITUT

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Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE

Washington, DC 20549-1090

21 October 2010

Dear Ms. Murphy,

as the association of German stock-exchange listed companies and other institutions and organisations interested and engaged in the development of capital markets, Deutsches Aktieninstitut appreciates the opportunity to comment on the SEC's consultation document on the US Proxy System. While the release focuses exclusively on the US System we nevertheless want to address some remarks with regard to US persons holding shares in German issuers.

Due to the increasing immobilization and dematerialization of securities, intermediaries and other professional service providers have come to play an important part concerning the exercise of rights by the shareholders. They inter alia pass crucial information from the issuers to the shareholder. Moreover, they provide shareholders a certificate confirming its holdings which is often a prerequisite for the exercise of rights either directly or through intermediaries. As proxy intermediaries may even represent shareholders in the general meeting.

Especially foreign shareholders of German issuers are often hindered to execute their rights. This results from the fact that the chain of intermediaries between the issuers and their foreign shareholders is much extended and comprises the central depositories as well as several intermediaries. Consequently, foreign shareholders are often not informed about general meetings of an issuer; they have no practicable and cost-effective way of exercising their voting rights and cannot grant powers of attorney.

Taking this into consideration we think that it should be a "core duty" of security intermediaries to enable shareholders to exercise their rights. Although there is no doubt that most intermediaries are cooperative and efficient in serving their clients, some weak links in the chain can be identified. As a consequence the chain can only be as strong as its weakest link. Therefore, we support the initiative of the SEC to strengthen the role of the beneficial owner vis-à-vis the security intermediary with respect to the casting of votes. A similar initiative was recently launched by the European Commission within the so called Securities Law Directive.

To enact legislation with regard to intermediaries' core duties is one way to overcome the severe difficulties that result from indirect ownership. Another way is the share register as an instrument which grants the issuer the feasibility to directly communicate with shareholders. The share register is therefore an efficient vehicle to enable shareholders to exercise their rights. Therefore, we support the approach of the SEC to discuss further steps to promote issuer communication with shareholders. We see also the problem that to facilitate the dialogue with shareholders share registers should be complete. However, the practice of registering other entities than the shareholders – usually intermediaries as "nominees" - is still widespread. This applies particularly to foreign shareholders, so that companies do not know who their shareholders are and how to communicate with them.

The German legislator already addressed the misuse of register shares by amending the corporate law, which gives issuers the right to limit nominee-positions in their share registers and to ask intermediaries who's behind a nominee registered. Unfortunately, experience shows that such requests cannot always be effectively enforced along the chain of intermediaries in different countries. Therefore we see a necessity for foreign intermediaries also in the United States to disclose the identity of shareholders upon request of German issuers or at least to forward these requests to the respective intermediary as part of their duties. Securities account-provisions, e.g. the distinction between "objecting beneficial owners" and "non-objecting beneficial owners", should not run counter to these duties which we kindly ask you to take into consideration.

Please do not hesitate to contact me if you have further queries.

Sincerely yours

Prof. Dr. Rüdiger von Rosen