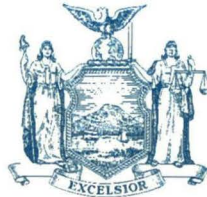


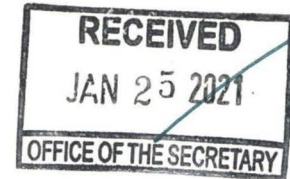
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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 27, 2021



Vanessa A. Countryman, Secretary
United States Securities and Exchange Commission
110 F Street NE
Washington, D.C. 20549

Re: Comments on Proposed Rule “Proxy Voting Advice” [Release No. 34-93595; File No. S7-17-21]

Dear Secretary Countryman:

I write as Trustee of the New York State Common Retirement Fund (Fund), which is the third largest public pension fund in the United States, with an estimated \$267.8 billion in assets under management as of September 30, 2021. The Fund holds and invests the assets of the New York State and Local Retirement System on behalf of more than 1.1 million members and beneficiaries and pays over \$1 billion per month in benefits.

I support the Proposed Rule and I hope that after the Commission completes its review and analysis of these comments, and others that have been submitted, it adopts the Proposed Rule.

The Fund, like other institutional investors, retains proxy advisors in order to obtain cost-efficient, informed, and independent research analysis and advice. Fund staff considers this information in addition to its own research and independent voting guidelines when casting proxy votes at over 3,000 portfolio companies. Additionally, the Fund uses proxy advisors' software to manage proxy voting workflow and execute votes. As a result, the Fund has long opposed rulemaking and legislation that would jeopardize proxy advisors' ability to provide timely and independent research and voting recommendations.

On February 3, 2020, I submitted a comment letter on the United States Securities and Exchange Commission's proposed rule regarding “Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice.”¹ This comment letter included extensive background on the Fund's proxy voting practices, and how the initial rule could adversely impact the research the Fund receives from proxy advisors. As stated in my comment, I believed the 2020 Proposed Rule would unnecessarily interfere in the privately ordered relationship between investors and their advisors in a way that could increase costs, inject complexity, and possibly tilt voting recommendations toward management preference rather than a balanced analysis of the merits of an issue.

¹ <https://www.sec.gov/comments/s7-22-19/s72219-6744322-207901.pdf>

The Final Rule, which was adopted on July 22, 2020, made substantial modifications to the proposal and did not allow commenters to weigh in on certain adopted features. The Final Rule included the same concerns that were identified in the proposal, including features that would jeopardize the independence of proxy advisors and their research, while imposing new costs and delays with the proxy voting process.

The Proposed Rule would rescind two of the most troubling aspects of the rule adopted by the Commission in 2020: issuer review and solicitation liability.

Under the 2020 rule, proxy advisors must share their voting advice with issuers at or prior to the time they disseminate it to their clients. They must also inform their clients when an issuer responds to that advice. As stated by proxy advisory firms, these requirements impose increased compliance costs for the organization while hindering their investor clients' "ability to vote in a timely, cost-effective, and objective manner."² I believe this rescission would help facilitate the provision of timely and independent proxy voting advice.

I also support amending Rule 14a-9 to remove Note (e). This provision of the rule adopted by the Commission in 2020 may lead to new litigation risks for proxy advisory firms, and thereby increasing costs for clients, and may impair the independence and quality of research by giving issuers additional grounds for threatened litigation.

Proxy voting is an important part of the prudent exercise of shareholder rights as it provides a direct means of influencing a company's governance and risk management. Independent proxy advisory firms that provide timely, cost-effective research are essential to the Fund's proxy voting program. Strengthening independence and ensuring that the costs of voting advice are not prohibitive for investors are worthy objectives for the Commission.

I appreciate the opportunity to submit comments on this important matter. I trust the Commission will conduct the necessary analysis and review of my comments and others that have been submitted, and adopt the Proposed Rule. Thank you for your attention to my comments.

Sincerely,



Thomas P. DiNapoli
State Comptroller

² <https://insights.issgovernance.com/posts/statement-from-iss-president-ceo-gary-retelny-on-todays-sec-actions/>;
http://images.info.issgovernance.com/Web/ISSGovernance/%7B56ad0ea3-5d24-461e-b9c7-4ba8c6327435%7D_20200914_FAQs_SEC_July-22-2020_Rules_Supplemental_Guidance_FINAL.pdf/