

January 31, 2006

Jonathan G. Katz, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-0609

Dear Mr. Katz:

My company specializes in researching and evaluating large-cap corporate issuers' online disclosure and communication practices. We review the investor relations websites of more than 500 large-cap international companies for 133 attributes. Most of these companies are SEC registrants and most are listed on the New York Stock Exchange.

We fully support wider use of the Internet to provide all investors with equal access to information that can help them make more informed investment decisions. You could argue that we have a vested interest to see companies forsake printed disclosures for Web-based ones. However, **I do not support** the proposed rule because it will be detrimental to investor protection in the United States and other countries.

The following four points outline the reasons I do not support the proposed rule.

1. The proposed rule will have negative consequences for investor protection by discouraging active retail shareholder participation.

The proposed rule uses a negative option process that delays investors' access to the proxy information and heightens the likelihood of them putting off action. Currently, shareholders receive proxy materials by mail and have immediate access to the information. It is an intrusive, immediate delivery model.

However, under the proposed "notice and access" model, investors will not have immediate access to the information. They must use their initiative to obtain the information via one of the proposed methods. The delay between receiving the notice and actual access to the disclosure may be anything from a few minutes to a few days, depending on a large number of factors that cannot be predicted.

If we presume, as the proposed rule seems to do, that many people don't bother reading proxy statements because they are not motivated to, then likely only the most highly motivated

shareholders will either request a mailing and/or go online to access the information. For these users, this rule presents no or only a modest additional burden. And issuers will benefit handsomely through mailing and printing cost savings.

However, the delay in access and extra effort required will very likely discourage impulse use by retail shareholders who may be on the fringe between apathy and engagement. Instead of encouraging these people into the fold of active and informed investors, the rule will make it harder for them to inform themselves. This is detrimental to investor protection.

Large numbers of retail shareholders fall into this category. They know they should read these documents, but they do not because the documents are dull, technical and not user friendly. By creating a delay between notice and access, the proposed rule will make it much less likely that these investors will make an effort to inform themselves.

In the current opt-in model, there is no delay and all shareholders are given an equal and unhindered opportunity to become engaged and exercise their rights as owners. Of course, the system is costly to issuers, but that is a cost of the privilege of using investors' money.

Even so, the commission already allows issuers the option of securing the consent of shareholders to deliver materials electronically. As ADP's statistics show, technology and increasing ownership concentration is already saving companies many millions of dollars each year. It is hard to argue then that the current opt-in system is a burden on companies.

2. The proposed rule offers no incentive for companies to adopt best practice online disclosure practices.

There is existing research that provides insight into the needs of investors when accessing information online. This is supported by an even greater amount of research into the usability needs of the general Web population.

In the research my company has done of 525 large-cap issuers, we find that the vast majority of these companies largely ignore the available research and post information in forms that pose a significant disincentive for investors to use it.

Proxy statements, for instance, are particularly poorly presented on the Web. Of the 213 U.S. issuers in our survey, only 11% current provide their proxy statements on their websites in an HTML form that can easily be navigated (the preferred approach according to research with investors.)

The most common methods of website posting of proxy statements pose significant burdens on investors being able to access and use the information on their computer screens. They are:

- Posting online proxy statements in large, unstructured PDF documents (PDF Blobs) that usability research shows is a most ineffective format when users want to consume information online without printing it out.
- Posting online proxy statements in image-based documents that create almost as many problems for Web users as large PDF files.
- Linking to Edgar filings, which are also extremely difficult to use because they are presented as a single river of text on a single web page that lacks navigation support.

The above three online publishing methods discourage investors from accessing and reading the information in proxy statements and other disclosure documents. And they are far inferior to the best practice, which is to publish a well-designed HTML document that can be navigated and searched, offers a choice of alternative formats for downloading, and which meets web accessibility standards such as those contained in [Section 508 of the Rehabilitation Act](#) and the guidelines of the [World Wide Web Consortium's Web Accessibility Initiative](#).

The poor usability of online disclosure information is likely one reason for the current low proportion of investors who have voluntarily elected to receive their shareholder materials electronically.

The proposed rule contains no requirements for issuers to post information online in formats that will ensure widespread unfettered access in the most usable formats. Indeed, I am concerned that it includes language that will discourage best practice (see 3 below).

While the proposal asks whether companies should be required to post HTML versions of their proxy materials, that alone is not sufficient because not all HTML documents are usable. Without explicit requirements or guidelines for how information should be provided online, companies will have no incentive to adopt best practice.

Although I suspect that certain pressures will force some companies to do everything in their ability to offer shareholders engaging, well-designed, plainly written and highly usable online proxy statements and other information, these circumstances will be infrequent.

For example, a company may be motivated to best practice if it is confronted by a dissident group that is using the Internet to effectively communicate its position to shareholders. Companies may also be encouraged to best practice if they are at risk of not obtaining a quorum. However, the infrequent occurrences of proxy contests, and the high concentration of institutional ownership, make these circumstances unusual rather than the norm.

Finally, although the proposed rule will free up substantial funds for companies to reinvest in usable online disclosure documents, there are no provisions to make sure that they actually do so.

I believe that a great benefit could be done for the protection of investors, the development of an “ownership culture,” and the integrity of the capital markets if online proxy statements and other disclosures were designed to meet established, measurable Web accessibility standards, and if the Commission encouraged greater and freer online interaction and discussion between the board and shareholders, and between shareholders themselves.

3. The proposed rule includes language that will discourage effective online communication.

The proposed rule presumes that a document designed for paper works equally as well in an online environment. It includes language that actively encourages issuers to post information online in a form that is “substantially identical” to the printed document.

However, this language will be interpreted in ways that will lead to many usability problems and actually encourage problem practices, such as those I listed in 2 above i.e. PDF blobs and image-based documents.

A simple difference between paper and the online medium illustrates this well. In printed documents, it is common practice for companies to set text across two columns. This is done to make reading easier for the user.

However, the same multi-column format is extremely cumbersome when reading online. This is because it almost always requires the user to scroll down the first column then up again to the top of the next column then repeat the pattern throughout the many pages in the document. This is a burden to even the most skilled Web user, but it creates serious challenges for older web users and people who have difficulty using a mouse due to a disability.

Furthermore, making online proxy statements identical to printed ones ignores the many possibilities that the Internet offers to engage shareholders and other stakeholders in companies' governance. For example, one could conceivably allow shareholders and other stakeholders the opportunity to publish online comments on particular proposals through a comment mechanism such as the SEC has provided for me to submit this comment letter.

The ability to participate and see their opinion expressed publicly could be a significant incentive for apathetic investors to become more involved and pay more attention to their investments. Directors would benefit from receiving the opinions of a broader cross-section of the company's stakeholders.

However, none of this seems possible under the proposal, which, combined with other factors, is likely to encourage issuers to post documents online in formats that will discourage their use, particularly by retail shareholders.

4. The current opt-in model needs a chance to succeed to allow for a gradual transition to Web-based disclosure.

The proposed rule provides little explanation for why the SEC views the current opt-in model as not sufficient to enable the transition of disclosure information away from print to web-based delivery and communication.

In our view, the current opt-in model is the better option, but has not gained traction because companies have not tried to make it work. They have not offered shareholders a viable, usable online alternative to printed documents. Right now, investors can choose between legible printed documents or a large PDF Blob\ gray Edgar filing, or a document in fuzzy images. It should not be a surprise that most choose not to opt in to e-delivery and want printed reports mailed to them.

Indeed, ADP claims that when companies make even a modest effort to improve the attractiveness of their online information, participation in annual meetings increases up to 50% See http://ics.adp.com/release11/public_site/products/corporations/interactive.html Please note that I do not approve of ADP's approach because it is not compliant with web accessibility requirements. Nonetheless, it illustrates the positive effects that can result when companies make even a modest effort to communicate effectively online.

Rather than throw the baby out with the bathwater, the commission should seek to address the barriers to wider adoption of the existing opt-in model. Sticking with the opt-in model, but encouraging companies to best practice, would likely also lead to a more gradual transition away

from printed documents and allow time for printers and others that rely on the mailing of shareholder materials to seek alternative revenue streams.

To sum up, I fully support the move away from expensive and wasteful print mailings. But I believe it should be done in a way that allows investors to choose when to make the transition, and in a way that leads to greater levels of investor protection by engaging shareholders and others through the interactivity and networking potential of the Internet. Companies that want to cut costs can already do so if they make a concerted effort to provide a viable online alternative to print. To date, most have made no effort to do so.

Thank you for the opportunity to comment on the proposal.

Yours truly,

Dominic Jones, President