



October 1, 2007

Via Email: rule-comments@sec.gov

Via U.S. Postal Service

Ms. Nancy Morris, Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: File Numbers S7-16-07 and S7-17-07

Dear Secretary Morris:

UFCW-Affiliated Pension and Benefit funds hold approximately \$32 billion in assets representing the retirement security of approximately 1.5 million active and retired members of the United Food and Commercial Workers (UFCW) Union. On their behalf, I submit the following comment on the Securities and Exchange Commission's (SEC) proposed rules regarding the shareholder resolutions related to the election of directors and the filing of non-binding resolutions under Rule 14a-8.

First, we believe that the proposed rules roll back shareholders rights in **the board election process** in following ways:

- The changes would deny shareholders the right to submit resolutions urging companies to adopt procedures to include shareholder-nominated director candidates in their proxy solicitations.
- They would also create cumbersome and unworkable procedures for investors to influence the process of board elections. Moreover, these procedures would limit this new procedure to a group of shareholders that own five percent or more of the company's stock. However, shareholders would only have to have held their stock for one year. This approach would disparately empower short-term investors and large shareholders that are more likely to be hedge funds than the public pension funds and other long-term investors that favor good corporate governance.

Second, we believe the proposed changes would curb shareholder rights in the **filing of non-binding resolutions** in following ways:

- By allowing companies to “opt-out” of the resolution process, the SEC would enable companies with poor governance practices to avoid accountability and create an uneven playing field among companies, with some allowing resolutions and others prohibiting them. This opt-out provision would empower corporations, which have a poor record of responsiveness to shareholders, to remove one of the few tools whereby shareholders can hold corporate management accountable.
- Access to an electronic communication forum or chat room for shareholders is by no means a substitute for the right to file resolutions, which fosters productive dialogue between shareholders and corporate management. In addition, the responsibility of voting is deemed to be a fiduciary duty by many investors who value their right to vote on these resolutions. Implementing the proposed rule would interfere with the fiduciary duty of investors and roll back the right of shareholders to submit and vote on resolutions.
- The proposed changes in submission thresholds—increasing asset holding and resubmission requirements—would disenfranchise small investors and suppress debate, respectively, on important subjects that could later command significant or even majority shareholder support, and, in turn, create or increase shareholder value.

With the recent corporate scandals, including backdating of management stock options and unjustified executive pay awards, there clearly remain serious deficiencies in the board oversight of corporate management. By proposing to limit the right of shareholders to hold boards accountable through director elections and to file shareholder resolutions, the SEC will erode investor confidence in “fair, orderly, and efficient markets” and place itself in direct contradiction to its stated mission, which is to regulate corporate behavior and protect investors’ interests.

An example of how the current electoral proxy process fosters shareholder interests can be illustrated in the following cases. Last year, the federal courts made it clear that, under the SEC’s current rules, investors have the right to raise through the shareholder resolution process the issue of shareholder-nominated board candidates being included on the company’s proxy solicitation.

As a result, this year, the proxy access issue came to a vote at Hewlett-Packard and UnitedHealth, where both resolutions received extraordinarily high levels of support. These developments constitute an improvement in our corporate governance system. There is no evidence that the return of the proxy access issue to the shareholder resolution system has harmed investors, companies or the markets.

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Electoral proxy process is a critical tool that garners powerful shareholder support. It is an exceptional process that allows investors to directly engage corporate management, request accountability and protect the value of their investment. We oppose both of the proposed rules and urge the SEC not to adopt any changes that would impact proxy access or roll-back shareholder rights as provided by Rule 14a-8.

Thank you for the opportunity to present our views on this important matter.

Sincerely,

Bill McDonough
Executive Vice President and Director
Collective Bargaining Department
United Food and Commercial Workers International