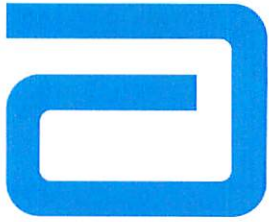


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October 19, 2007

VIA E-MAIL

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

RE: Shareholder Proposals Relating to the Election of Directors – File No. S7-17-07
Shareholder Proposals – File No. S7-16-07

Dear Ms. Morris:

We are pleased to submit this letter to the Securities and Exchange Commission (the "Commission") in response to the Commission's request for comments with respect to its proposed changes to Rule 14a-8 ("Rule 14a-8") of the Securities Exchange Act of 1934 (the "Exchange Act") as set forth in Release No. 34-56161 (the "Non-Access Proposal") and Release No. 34-56160 (the "Access Proposal"). The Non-Access Proposal would codify the Commission's longstanding interpretative position that companies may exclude from their proxy materials, under Rule 14a-8, any shareholder proposal relating to the (a) election of shareholder director nominees and (b) adoption of bylaw amendments to include shareholder director nominees in a company's proxy materials. By contrast, the Access Proposal would allow certain shareholders to include in a company's proxy materials proposed bylaw amendments establishing procedures for shareholder nominations of directors in a company's proxy statement. On October 1, 2007, the Business Roundtable submitted a letter to the Commission expressing its support for the Non-Access Proposal and urging the Commission to reject the Access Proposal (the "BRT Letter"). We write to endorse the views of the Business Roundtable as expressed in the BRT Letter and emphasize the importance of implementing the Non-Access Proposal.

As the Commission stated in Exchange Act Release No. 34-12598 (July 7, 1976), the principal purpose of Rule 14a-8(i)(8) is to "make clear, with respect to corporate elections, that Rule 14a-8 is not the proper means for conducting campaigns or effecting reforms in elections of that nature, since other proxy rules" serve that function. Since that time, the Commission has established a well-documented history of construing the Rule 14a-8(i)(8) carve-out to apply to both attempts by shareholders to nominate directors in a company's proxy statement and to procedures that could result in contested elections to the board, relying instead on a carefully crafted regulatory framework with respect to contested proxy solicitations. Affirming the foregoing application of Rule 14a-8, the Commission acknowledged in Exchange Act Release No. 34-31326 (Oct. 16, 1992) that proposals requiring a company to include shareholder director nominees in its proxy statement, rather than in the dissident's own proxy statement, "would represent a substantial change in the Commission's proxy rules."

We firmly support the position advocated by the BRT Letter urging the Commission to codify its longstanding application of Rule 14a-8 as reflected in the Non-Access Proposal. We oppose the adoption of the Access Proposal because it would harm companies in a number of ways. First, giving shareholders direct access to company proxy materials would transform annual director elections into contested elections. In turn, this would (i) require companies to expend significant time and corporate resources to support board-nominated candidates; (ii) facilitate the election of directors who are beholden to the narrow concerns of the special interest groups that nominated them, rather than the interests of the company and shareholders as a whole; (iii) discourage qualified directors from serving on corporate boards; (iv) disrupt boardroom dynamics and (v) increase the cost of preparing proxy materials, which will be borne by companies and, ultimately, their shareholders. Accordingly, we believe that the Commission should reject the Access Proposal given its potential for hindering boards from working efficiently in pursuing the long-term interests of shareholders, employees and their communities. Nevertheless, even absent further Commission action in the short-term, to reduce litigation costs and bring more certainty to the 2008 proxy season, we urge the Commission to reinstate the granting of no-action requests to permit companies to exclude shareholder nominations of directors and related bylaw amendment proposals from their proxy materials.

We also believe that the Access Proposal is unnecessary. Among other alternatives, shareholders have always possessed the ability to run viable election contests by soliciting votes and filing their own proxy materials. The recent implementation of electronic proxy filing procedures will also substantially reduce the cost of running election contests. In addition, most public companies already provide mechanisms for shareholders to recommend director nominees to a company's nominating committee. Under the New York Stock Exchange, Inc. ("NYSE") corporate governance listing standards, companies must have a majority of independent directors and a nominating/corporate governance committee composed entirely of independent directors. These independence standards suggest that nominating committees are better positioned than individual shareholders or groups of shareholders to evaluate director candidacies from the standpoint of the long-term best interests of a company and the needs of a board as a whole.

More importantly, recent corporate governance reforms, which have given shareholders increased influence in director elections, undermine the notion that adopting the Access Proposal is necessary. In recent years, a growing number of companies have adopted majority voting standards for uncontested elections of directors. Majority voting has rendered "withhold" the vote recommendations by proxy advisory firms more meaningful, raising the possibility that underperforming directors will not be re-elected. Furthermore, the NYSE has proposed, and the Commission is considering, the elimination of broker discretionary voting in uncontested director elections, a shift that would further increase institutional shareholders' voting power. In light of these developments, surely there is no need for "a substantial change in the Commission's proxy rules."

Ms. Nancy M. Morris

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Apart from the Access and Non-Access Proposals discussed above, we concur with the BRT Letter's position that the Commission should take action to prevent shareholders without a significant stake in a company from diverting corporate resources by submitting non-binding proposals that deal with issues previously addressed by companies or with little economic relevance to other shareholders. To address this issue, we urge the Commission to raise the shareholder eligibility threshold for making non-binding proposals and tighten the threshold for resubmitting such proposals as set forth in more detail in the BRT Letter. We believe that these changes are appropriate under the current corporate governance landscape, which includes proposals favoring electronic shareholder forums that would leverage the Internet and other technological advances to facilitate greater communication among shareholders.

Given the above considerations, we reach the same conclusions articulated in the BRT Letter and urge the Commission to reaffirm its long-held view that Rule 14a-8 permits companies to exclude from their proxy materials any proposals that would result in an immediate election contest or that would initiate a process whereby shareholders could conduct a future election contest by requiring that a company's proxy materials for a subsequent meeting include director candidates nominated by shareholders. While implementing the Access Proposal would lead to a surge in divisive election contests and the fragmentation of boards as directors focused on special interests claim more board seats, the Non-Access Proposal, coupled with the current corporate governance landscape, best preserves a framework whereby largely independent corporate boards, subject to deep-rooted federal and state regulatory regimes, focus on the long-term success of their companies. Accordingly, we share the Business Roundtable's views as expressed in the BRT Letter that the Commission can best preserve and enhance the director election and shareholder proposal processes for the benefit of all shareholders by codifying the Commission's time-tested interpretative position reflected in the Non-Access Proposal and rejecting the Access Proposal.

Very truly yours,



John A. Berry

JAB/pk

cc: Hon. Christopher Cox, Chairman
Hon. Paul S. Atkins, Commissioner
Hon. Annette L. Nazareth, Commissioner
Hon. Kathleen Casey, Commissioner
Mr. John W. White, Director, Division of Corporation Finance
Mr. Brian G. Cartwright, General Counsel