JOHN CHEVEDDEN

To: Nancy Morris, Secretary, U.S. Securities and Exchange Commission
From: John Chevedden
Date: October 2, 2007
Re: Comment on File Number S7-16-07 – Adding text (in bold) to my August 24, 2007 Comment

I am writing to comment on File Number S7-16-07, the Release proposing amendments to the Rules under the Securities and Exchange Act of 1934 concerning shareholder proposals and electronic shareholder communications. This Release addresses access to the proxy for the nomination of directors as well as shareholder proposals. It is on the latter topic that I wish to provide comments. Specifically, as an investor who takes seriously my responsibility to be engaged and informed, I feel strongly that the SEC's suggested proposals to eliminate or curtail the shareholder resolution process should not be adopted.

I have sponsored shareowner proposals for more than 10-years and I conscientiously vote my proxies. I consider the proxy process to be a vitally important tool in communicating with the Board, management and other investors on key issues such as governance reforms, executive compensation, climate change, workforce diversity and human rights in overseas factories.

There is a long history of positive results from shareholder resolutions, demonstrated by companies making specific reforms, changing policies and increasing transparency. Annually, approximately one-quarter to one-third of resolutions are withdrawn because constructive dialogue with companies results in win-win agreements. The rising support votes for shareholder resolutions across a range of governance, environmental and social topics is evidence of the mounting importance of shareholder resolutions to the general investing public.

This is a most recent example of a company adopting significant parts of two shareholders proposals:
Risk & Governance Weekly
September 28, 2007
"In Brief
"HP Adopts Pay for Performance Plan, Poison Pill Bylaw
"Hewlett-Packard adopted a new pay plan amendment linking stock grants for executives to performance criteria, as well as a bylaw requiring a shareholder vote on future 'poison pill' takeover defenses.

"HP adopted both provisions in response to shareholder proposals that won over 50 percent of votes cast at the company's annual meeting in March. Investor William Steiner's proposal asking that most equity awards be tied to performance standards received 53.8 percent support, and shareholder Nick Rossi's poison pill bylaw proposal won 73.4 percent support. HP management opposed both resolutions."

The SEC asks for comments on the right of a company to "opt-out" of the shareholder resolution process, either by obtaining approval from shareholders through a proxy vote, or, if sanctioned under State law, by having a Board vote authorizing it to opt-out. Either option would have significant negative consequences. The most unresponsive companies would be most likely to opt-out because resolutions are an important mechanism to strengthen corporate accountability.

Furthermore, enabling companies to opt-out would result in an uneven playing field with some companies allowing resolutions and others prohibiting them.

This change would dilute the value of each of the shrinking number of shareholder proposals because it would give companies, that did not initially "opt-out" of the shareholder resolution process, the option to "opt-out" once a shareholder proposal topic won strong shareholder support.

The Release asks, "Should the Commission adopt a provision to enable companies to follow an electronic petition model for non-binding shareholder proposals in lieu of 14a-8?" I strongly oppose this proposed change. The current resolution process ensures that management and the Board focus a reasonable amount of attention to the issue at hand as they must determine their response to the shareholder proposal. In addition, each and every investor receives the proxy and has the opportunity to consider the issue. To hastily substitute experimental methods such as a chat room or other form of electronic petition for the current proven proxy process erodes significantly a valuable fiduciary responsibility. Chat rooms and electronic forums are welcome approaches – yet to be tried and refined – to enhance communication with investors, but not at the expense of the shareholder's right to file resolutions that has been tested and refined over a 70-year period.

In its Release, the Commission also asks for comments on increasing the votes required for resubmitting shareholder resolutions to 10% after the first year, 15% after year two, and 20% thereafter, compared to current thresholds of 3%, 6% and 10%, respectively. Raising the thresholds as proposed would make it much more difficult for investors to resubmit proposals for a vote, thus further insulating management from shareholder accountability. Over the last 40 years, many proxy topics initially received very modest levels of support, only to garner increased support over time as shareowner awareness and knowledge increased. Adding more restrictive thresholds on resubmitting resolutions simply makes it harder for investors seeking constructive engagement with companies. Hence, I oppose changes in the resubmission thresholds.

The Release seeks comment concerning a proposed serious weakening of the shareholder resolution process – a process which has made great strides over a 70-year period. "Institutional investor activism would not have been possible were it not for the legendary Gilbert brothers, who cleared the path according to "Power and Accountability" by Robert AG Monks and Nell Minow. In 1932, Lewis Gilbert attended the annual meeting of New York City's Consolidated Gas Co. Gilbert, who held only 10 shares of the company's stock, was disturbed by the chairman's refusal to recognize shareholder questions from the floor.[42]

Gilbert formed a group with his brother to purchase small amounts of a company's stock and attend its meeting to introduce proposals from the floor. When the SEC adopted Rule 14a-8 in 1942, requiring companies to put shareholder resolutions to a vote, the Gilberts were able to express their corporate governance concerns directly to shareholders via the proxy process. The Gilberts focused on expanding corporate democracy and making management financially accountable to owners, with proposals on such issues as locating meetings at sites that encouraged a large attendance, issuing postseason reports, and opening up the election process.[43]

42 This section is adapted freely from Lauren Talner, The Origins of Shareholder Activism, Investor Responsibility Research Center, Washington, D.C., July 1983, and Helen Booth, The Shareholder Proposal Rule: SEC Interpretations & Lawsuits, Investor Responsibility Research Center. January 1987.
43 Talner, p. 3."

Source: “Power and Accountability” by Robert AG Monks and Nell Minow.

According to “Roots of Activism”
Ref.
http://corpgov.net/news/archives2006/October.html

“Because of Lewis Gilbert, shareholder resolutions are included on the proxy. That right was codified in 1942 so that shareholders could police potential “fraud and mismanagement” in the companies they owned. In the SEC v. Transamerica Corp., 1947, Gilbert got the court to write, 'a corporation is run for the benefit of its shareholders and not that of its management.'

“The Gilberts pushed issues such as:

“Ending staggered boards
Appointing independent outside directors
Separating the chair from the CEO
Connecting director and executive pay with performance
Shareholder approval of company auditors and stock options for executives
Requiring directors to own company stock
Representation on the board for shareholding groups through proportional representation

“Up until 1987 Lewis Gilbert was 0-for-2000 on his shareholder proposals. Then he was quoted in a WSJ article on the majority vote at Chock Full O'Nuts Corp. on January 30, 1987. Gilbert said, ‘It's the first time we won against management in 50 years.’ ”

Lewis Gilbert, pioneered the resolution process and subsequently a growing number of investors (ranging from huge institutional investors such as TIAA-CREF, CalPERS, New York State and State of Connecticut pension funds, to religious investors, foundations, trade union pension funds, individuals, and socially concerned mutual funds and investment managers) have filed shareholder resolutions on a wide-range of governance reforms and social and environmental issues.

Until 1987 no shareholder proposal had ever won a majority vote. Yet in 2007 alone the following 42 advisory proposals by individual investors won majority votes in a single year **(and these “more than 40 proposals” were cited in “2007 Postseason Report,” October 2007 by RiskMetrics Group). Also according to RiskMetrics Group (Oct. 2 /PRNewswire/), “So far this year, 107 shareholder proposals have earned a majority of votes cast.”** If the following companies are allowed to “opt-out” of the shareholder resolution process, there would be no incentive for each of them to respond positively to votes of their shareholders for greater accountability.

Staples (SPLS):
71% for Simple Majority Vote

Pep Boys (PBY):
62% for Poison Pill Vote

Lowe’s (LOW):

72% for Annual Election of Each Director by

PPL Corporation (PPL):
70% for Simple Majority Vote

Motorola (MOT):
51% for Say on Pay
59% for Recoup Unearned Management Bonuses

Borders (BGP):
68% for Right to Call Special Shareholder Meetings

Time Warner (TWX):
79% for Simple Majority Vote
64% for Shareholder Right to Call a Special Meeting

RadioShack Corporation (RSH):
“Passed comfortably” for Shareholder Right to Call a Special Meeting

AMR Corporation (AMR):
54% for Shareholder Right to Call a Special Meeting

Allegheny Energy (AYE):
50.2% for Majority Vote Director Election Standard
57% for Shareholder Right to Call a Special Meeting
51.7% for Performance-Based Stock Options

FirstEnergy Corp. (FE):
76% for Simple Majority Vote

Zimmer Holdings (ZMH):
78% for Simple Majority Vote

Sierra Pacific Resources (SRP):
62% for Annual Election of Each Director

Newell Rubbermaid (NWL):
80% for Simple Majority Vote

EMC Corp. (EMC):
82% for Simple Majority Vote

IMS Health (RX):
75% for Annual Election of Each Director

CVS/Caremark (CVS):
52% for Independent Board Chairman

MeadWestvaco (MWV):
78% for Poison Pill Shareholder Vote

CSX Corp. (CSX):
67% for Shareholder Right to Call a Special Meeting

EMC Corp. (EMC):
82% for Simple Majority Vote

Colgate-Palmolive (CL):
64% for Shareholder Right to Call a Special Meeting

R.H. Donnelley (RHD):
70% for Annual Election of Each Director

Fortune (FO):
68% for Annual Election of Each Director

Newmount Mining (NEM):
51% for Independent Board Chair

McGraw-Hill (MHP)
77% for Annual Election of Each Director

Sempra Energy (SRE):
77% for Simple Majority Vote

Nicor (GAS):
64% for Simple majority vote

Kimberly-Clark (KMB):
80% for Simple Majority Vote

Wyeth (WYE):
52% for Recoup Unearned Management Bonuses

Corning (GLW):
73% for Annual Election of Each Director

AT&T (T)
66% for Shareholder Right to Call a Special Meeting

Hewlett-Packard (HPQ):
72% for Poison Pill Shareholder Vote
53% for Linking Pay to Performance

Morgan Stanley (MS):
58% for Simple Majority Vote

Goodyear (GT):
65% for Simple Majority Vote

Bank of New York (BK):
70% for Simple Majority Vote

Electronic Data Systems (EDS):
58% for Shareholder Right to Call a Special Meeting

Weyerhaeuser (WY):
77% for Simple Majority Vote

Additionally and perhaps more significantly, in 2007 there were 20 non-binding shareholder proposals, each submitted by individual investors, that were transformed by companies into successful binding proposals. These 20 adopted proposals show that non-binding proposals do work. If the following companies are now allowed to "opt-out" of the shareholder resolution process, there would be an incentive for each of them to reverse their specific steps forward in greater accountability to shareholders.

3M (MMM) Simple Majority Vote:
A 2007 shareholder proposal on this topic was submitted.

Allstate (ALL) Simple Majority Vote:
The 2006 rule 14a-8 proposal on this topic won 72%.

Amgen (AMGN) Annual Election of Each Director:
A 2007 shareholder proposal on this topic was submitted.

Baker Hughes (BHI) Simple Majority Vote:
A 2007 shareholder proposal on this topic was submitted.

Chevron Corporation (CVX) Simple Majority Vote:
A 2007 shareholder proposal on this topic was submitted.

Dow Chemical (DOW) Simple Majority Vote:
A 2007 shareholder proposal on this topic was submitted.

EMC Corp. (EMC) Annual Election of Each Director:
The 2006 rule 14a-8 proposal on this topic won 84%.

Genuine Parts Company (GPC) Simple Majority Vote:
A 2007 shareholder proposal on this topic was submitted.

International Business Machines Corporation (IBM) Simple Majority Vote:
The 2006 rule 14a-8 proposal on this topic won 61%.

Kimberly-Clark Corp. (KMB) Annual Election of Each Director:
The 2006 rule 14a-8 proposal on this topic won 78%.

Marathon Oil Corporation (MRO) Simple Majority Vote:
The 2006 rule 14a-8 proposal on this topic won 83%.

Merck & Co., Inc. (MRK) Simple Majority Vote:
The 2006 rule 14a-8 proposal on this topic won 78%.

Pinnacle West (PNW) Annual Election of Each Director:
The 2006 rule 14a-8 proposal on this topic won 82%.

R. R. Donnelley (RRD) Annual Election of Each Director:
The 2006 rule 14a-8 proposal on this topic won 78%.

Schering-Plough (SGP) Simple Majority Vote:
The 2006 proposal on this topic won 62%.

Time Warner (TWX) proposal to remove some super majority voting requirements won 87% of shares outstanding and was adopted:
The 2006 proposal on removing all supermajority provisions won 83%.

UST Inc. (UST) Annual Election of Each Director:
The 2006 proposal on this topic won 64%.

Visteon (VC) Annual Election of Each Director:
The 2006 proposal on this topic won 84%.

Wyeth (WYE) Simple Majority Vote:
The 2006 rule 14a-8 proposal on this topic won 78%.

Zimmer Holdings (ZMH) Annual Election of Each Director:
The 2006 proposal on this topic won 77%.

It would be inappropriate for the SEC, having long established the rule 14a- system for allowing shareowners to place precatory resolutions on the proxy, to now "devolve" these rights to the states or allow corporations to set their own rules regarding how much shareowner democracy will be permissible. The system of advisory resolutions that the SEC has established is too important and central to the American system of corporate governance to allow corporations or states to "opt out" of these important mechanisms.

While new methods, not yet tried and refined, to improve investor – management communications would be welcome, eliminating our hard-won right as investors to petition the Board and management and to garner support of other shareowners through resolutions would be a disastrous step backward.

I urge the SEC to uphold the right of investors to sponsor resolutions for a vote at stockholder meetings. The current proposals to enable companies "opt-out" of the shareholder resolution process and to increase the votes required for resubmitting shareholder resolutions are contrary to constructive investor-management relations.

I strongly oppose any move to take away shareholder rights to file advisory resolutions – especially as they are attaining an apex of success as shown in the 62 examples above for 2007 alone.

Sincerely,

John Chevedden