State of Connecticut
Office of the Treasurer

DENISE L. NAPPIER
TREASURER

September 25, 2007

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

Re: File No. S7-16-07
File No. S7-17-07

Dear Ms. Morris,

As principal fiduciary of the $26 billion Connecticut Retirement Plans and Trust Funds ("CRPTF"), I herewith submit comments concerning Proposed Rules S7-16-07 and S7-17-07 which would amend certain provisions of the Securities Exchange Act of 1934 governing shareholder proposals related to director elections.

I very much appreciate the opportunity to share with the Commission the perspective of an institutional investor with holdings in more than 2,100 publicly-traded companies. The election of directors is one of the most important stock ownership rights that shareholders can exercise -- and it is with reverence for that right that I express my concerns over key elements of the proposed rules, as summarized below and explained in more detail in the attachment.

- Proposed Rule S7-17-07 (a.k.a. the "short rule") would deny shareholders the ability to use the shareholder proposal rule to communicate with other shareholders regarding access to the company proxy statement, and would essentially close the avenue opened to shareholders in *AFSCME v. AIG*.[1] For this reason, I oppose this rule.

- The concept of shareholder access to the proxy, as set forth in Proposed Rule S7-16-07 (a.k.a. the "long rule") is a sound one. I oppose, however,

[1] *American Federation of State, County and Municipal Employees, Employees Pension Plan v. American International Group, Inc.*, 462 F.3d 121 (2d Cir. 2006).

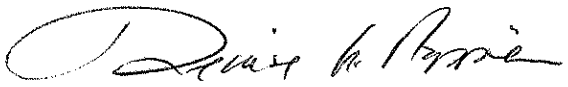
the precise mechanism contemplated by the long rule because it would be unworkable and ultimately of little benefit to shareholders.

- Electronic Shareholder Forums, as described in the long rule, is a similarly sound concept that can augment existing shareholder-corporate communication. The rule as currently drafted, however, if combined with other changes to the proxy rules, could potentially limit the rights that shareholders currently enjoy. If this rule were to be construed as replacing existing shareholder rights currently allowed under the proxy rules, I would oppose this provision.

- The limitation of shareholders' ability to file non-binding advisory resolutions under Rule 14a-8, as discussed in the long rule, is of great concern to institutional funds such as ours. This aspect of the long rule could pose a major setback in the more than 65-year history of communications between shareholders and management. It is on these grounds that I oppose any limitation to shareholders' ability to file shareholder resolutions under Rule 14a-8.

Thank you very much for affording investors the opportunity to share their views with the Commission on these important issues. If I may be of further assistance to you or the Commission, please do not hesitate to contact me.

Sincerely,



Denise L. Nappier
State Treasurer

Enclosure

The Following Statement Accompanies the
9-25-07 letter from Connecticut State Treasurer Denise L. Nappier to
Nancy M. Morris, Secretary, U.S. Securities and Exchange Commission (SEC)

Re: File No. S7-17-07
File No. S7-16-07

Summary of Comments

File S7-17-07 (the "short rule") would essentially close the avenue opened to shareholders in AFSCME vs. AIG. We oppose this proposal. The proposal would deny shareholders the ability to use the current shareholder proposal rule to communicate with other shareholders regarding the desirability of affording shareholders access to the company proxy statement. In our corporate governance system, which places so much authority and discretion in the hands of the board of directors, the accountability of the board to shareholders is of paramount importance. The SEC should not prohibit shareholders from putting forward reasonable proxy access proposals at companies where shareholders believe such a reform would enhance long-term value.

The SEC's other proposal S7-16-07 (the "long rule") would permit holders of over 5% of a company's shares to submit a binding proxy access proposal and represents an improvement over its proposal simply to ban these resolutions. We support the intent of this proposal. However, the precise mechanism contemplated by the proposal would be unworkable and ultimately of little benefit to shareholders, and we therefore oppose its adoption. We encourage the SEC to work with shareholders to craft a workable rule that permits meaningful shareholder communication and the ability to implement proxy access while ensuring that the Commission's other proxy rules are not circumvented.

With regard to the SEC's request in the long rule for comment on possible changes to the advisory shareholder resolution process currently in place under Rule 14a-8, we urge the Commission not to limit in any way shareholders' rights to submit non-binding proposals under this rule. For 65 years, non-binding proposals have effectively promoted communication between shareholders and management (as well as among shareholders) and facilitated nuanced, market-driven changes in corporate governance practices. The elimination of outside director pensions and the adoption of majority voting standards for director elections are two examples of significant changes in the governance landscape effected by non-binding shareholder proposals.

With regard to the proposal to change the proxy rules to permit companies to create electronic forums for its shareholders, we can support this as a potential enhancement to existing communication avenues. However, we would oppose it if it were to substitute for any shareholder rights currently in the proxy rules.

Advisory Shareholder Resolutions—The Long Rule

In the long rule the SEC is soliciting comments on possible changes in the proxy rules with respect to advisory shareholder resolutions currently governed by rule 14a-8.

The current Commission's Rule 14a-8, the shareholder proposal rule, requires companies to include in the company proxy statement, shareholder resolutions submitted by shareholders who satisfy the rule's procedural and substantive requirements. The rule is intended to ensure that shareholders' state-law rights to put shareholder resolutions before other shareholders remain intact in a system of proxy voting in which shareholder voting takes place before the meeting. The rule was intended "to give true vitality to the concept of corporate democracy," according to the Court of Appeals for the D.C. Circuit.[1]

The shareholder proposal rule has contributed a great deal to the dialogue over corporate governance and to the proliferation of value-enhancing governance reforms during the 65 years of its existence. The company-specific nature of shareholder resolutions affords some important advantages: first, it allows both shareholder resolutions and settlements to be tailored to individual companies' circumstances. For instance, at a company where unreasonably high CEO compensation is driven by stock options, a proponent might submit a shareholder resolution asking that options be performance-based; another company where CEO compensation consists primarily of a large annual bonus might receive a shareholder resolution aimed at making performance targets more challenging. In addition, company-specific shareholder resolutions allow the shareholders of a particular company—the group with the strongest incentives to favor value-maximizing reforms—to decide whether a proposed reform makes sense at the company.

Further, the non-binding nature of most shareholder resolutions confers benefits. It is not unusual for proponents and companies to discuss the subject of a shareholder resolution, sometimes at length, before or after the shareholder resolution comes to a vote. This process can be educational for both parties, and a proponent may realize that a compromise solution is superior to the original shareholder resolution formulation. With a non-binding shareholder resolution, even a shareholder resolution that is passed by shareholders need not be implemented precisely as drafted.

The Connecticut Retirement Plans and Trust Funds' (CRPTF) own experience with shareholder resolutions illustrates these broader points. In the past three proxy seasons, the CRPTF was the primary filer of 11 shareholder resolutions and co-filed 24 shareholder resolutions. A number of these shareholder resolutions led to dialogue with the companies, and the CRPTF withdrew some of the shareholder resolutions before the proxy statements were issued. At Walt Disney Company, for example, the company agreed to formalize its policy regarding the separation of the chairman and CEO positions following a 2004 shareholder resolution submitted by the CRPTF. Similarly, both

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[1] Medical Committee for Human Rights v. SEC, 432 F.2d 659, 676 (D.C. Cir. 1970).

American Electric Power and Ford Motor Company agreed to produce reports to shareholders on climate change in response to shareholder resolutions submitted by the CRPTF.

As a result, we view with concern any effort by the Commission to limit shareholders' ability to submit shareholder resolutions. Shareholder resolutions serve as the vehicle for promoting constructive dialogue and yields governance reforms that increase shareholder value. We are concerned that eliminating advisory shareholder resolutions could create an unintended consequence where the only option open to shareholders would have inflexible consequences, such as voting against director nominees, or submit more binding shareholder resolutions that take effect immediately upon adoption rather than after negotiation. This outcome would not be desirable from the corporate or shareholder perspective. There is no reason to believe that the process, as currently constituted, has broken down to such an extent that this kind of change is warranted.

Proxy Access Shareholder Proposals—The Short and Long Rules

The concept of access to the proxy is addressed in both the short rule, and the long rule.

Shareholder access to the company proxy statement for the purpose of nominating director candidates has emerged in the past several years as a compelling solution to the collective action problem common to widely-held public corporations. By allowing significant, long-term shareholders to nominate director candidates using the company's proxy materials, proxy access decreases the cost of mounting such challenges. Facilitating short slate challenges, but not efforts to obtain control of the board, also reduces reliance on control contests as a means of addressing underperforming boards. For these reasons, we supported the Commission's 2003 rulemaking proposal that would have created a limited proxy access right for significant long term shareholders of public corporations.

Since the Commission abandoned that rulemaking, shareholders have sought to promote proxy access at specific companies using the shareholder proposal rule. These proposals would establish generic procedures for use in future elections and have been submitted in binding and non-binding forms. We joined with other investors, including state pension funds in North Carolina and New York and the AFSCME Employees Pension Fund in submitting such a resolution at Hewlett Packard (HP). The resolution was supported by 43% of HP's shareholders. Two other proposals were also submitted in the 2007 season—one received majority support, while the other was supported by 45%. This shows that proxy access is not a fringe or radical issue – but one supported by large main stream investors.

Prior to the 2007 proxy season, the Staff of the Division of Corporation Finance permitted exclusion of such resolutions using an interpretation of Rule 14a-8(i)(8) (the "Election Exclusion") that the court found inconsistent with SEC rules, and therefore

improper. It is this Staff interpretation the Commission has now proposed to codify in the "short rule" in response to the holding in AFSCME v. AIG. Doing so does not make sense as a matter of interpretation or policy, and therefore adoption of the short rule is unnecessary. We therefore oppose adoption of the short rule.

A proxy access regime need not conflict with the proxy rules. Indeed, the proposal at issue in the AFSCME v. AIG case required that shareholders availing themselves of the access right comply with all of the Commission's rules, including the proxy rules. This fact, along with the requirement that company proxy statements (including those containing shareholder-nominated candidates) comply with the proxy rules, led the AFSCME v. AIG court to question the existence of a conflict between a proxy access right and the proxy rules, as had been alleged by both AIG and the Commission in its brief. Moreover, the Commission's solution to this perceived conflict in the short rule is far broader than necessary: The concern could be addressed by amending the Election Exclusion to provide that companies may exclude proxy access proposals that do not contain language requiring the nominating shareholder to comply with the proxy rules, and/or provide whatever information the Commission deems necessary.

It is worth noting that Comverse Technology, Inc. has amended its bylaws to create a shareholder proxy access right requiring that nominating shareholders agree to comply with all laws and regulations. Developments like this suggest that amendment of the proxy rules to reflect the possibility of shareholder-nominated directors on the company proxy statement—independent of any process under Rule 14a-8--would be useful.

The Commission has stated in the context of these rulemakings that one of its goals is facilitating shareholders' exercise of their state-law rights. The interpretation of the Election Exclusion proposed in the short rule is less, not more, faithful to shareholders' state-law rights than the interpretation advanced in the 1976 Release and by the court in AFSCME v. AIG. The law of most states, including Delaware, allows shareholders to amend the bylaws absent a limitation in the charter or bylaws. The permissible subject matter of bylaw amendments depends on state statutory and case law delineating the scope of the board's power vis a vis shareholders. The bylaw proposed in the AFSCME v. AIG case was supported by an opinion of Delaware counsel stating that a Delaware court would likely hold that the bylaw was proper under state law. It is not appropriate to suggest that prohibiting shareholders from submitting proxy access proposals that would otherwise be proper under state law somehow protects shareholders' state-law rights.

The 5% Proposal – The Long Rule

In the long rule, the Commission has proposed to prohibit all proxy access proposals except those that satisfy a set of stringent criteria, including ownership of more than 5% of the company's outstanding stock for one year, submission of a binding proposal and compliance with extensive disclosure requirements. The rule as currently

proposed would be unusable by long-term, diversified shareholders such as the CRPTF and would impose recordkeeping and disclosure burdens well beyond any informational benefits to shareholders.

As an initial matter, the logic for requiring greater ownership for proxy access proposals is unclear. A proxy access proposal, if successful, would not have any different level of impact on a company's governance arrangements than a bylaw amendment dealing with a poison pill, supermajority voting requirement or majority voting for director election. Moreover, other shareholders respond not to the holdings of the proponent but to the merits of the proposal when voting on it.

But even assuming that a higher threshold is appropriate, the requirement proposed by the Commission is too high. Especially at larger public companies, the requirement that proponents own more than 5% of a company's outstanding shares ensures that diversified shareholders like the CRPTF would not be eligible to submit a proxy access proposal, even if it joined with several other similar holders. For example, the CRPTF's largest holding is ExxonMobil – where the value of ALL of the CRPTF assets - $25 billion – is equal to 5% of the current value of Exxon Mobil. More broadly, based on information compiled from FactSet Research Systems, Inc., if the 10 largest public pension fund holders of Exxon Mobil Corporation (a large-cap stock), Precision Castparts Corp. (a mid-cap stock), and The Manitowoc Company, Inc. (a small-cap stock) were to aggregate their ownership interests, the resulting percentage holdings for those shareholder groups would be approximately 3.01, 3.59, and 3.56, respectively.

The Commission should study the pattern of institutional shareholdings before settling on a threshold, rather than adopting a threshold that fits into an existing (but unrelated) regulatory structure.

Disclosure Requirements – The Long Rule

The disclosure requirements proposed in the long rule go far beyond anything shareholders would find useful in voting on a proxy access proposal. As with the ownership threshold, it is not clear that any additional disclosure is warranted simply because a proposal concerns proxy access. The proposal itself would not change the board's composition, that could only occur if the resolution were adopted, and then candidates were nominated by shareholders for the board the ensuing year. Also, submission of a proxy access proposal does not indicate an intention to use the proxy access right. Thus, disclosures aimed at shedding light on the motivation, history and relationships with the company and other similar matters of those filing a resolution to enact access to the proxy are not warranted. Institutional proxy voting guidelines, which focus on the substance of the proposal, suggest that this kind of information would not be used by institutional shareholders in making voting decisions on proxy access proposals.

We are concerned that the disclosures as currently drafted could impair the dialogue and negotiation process between companies and shareholders that currently take place and which both shareholders and corporate leaders have found to be very

beneficial. One element of the long rule proposal would require a shareholder that files a proxy access proposal to disclose details regarding each communication with the company for a 12-month period before the proposal is filed. Thus, a shareholder that has not foreclosed the possibility of filing a proxy access proposal – or participating with other shareholders in such a filing - at any company at any time would face the burden of documenting every communication with every company with which it is communicates. The long rule would require companies to make similar disclosure in its proxy statement regarding communications and relationships with proxy access proposal proponents. In addition, we are concerned that the potential liability for even minor errors in the required 13G disclosure filings would be a significant disincentive to participation in this process.

The proposal to disclose ownership of a competitor's stock fails to recognize that diversified shareholders like the CRPTF, which use passive as well as active investment strategies, usually are required by their asset allocation plans to own the stock of several companies in the same line of business. The disclosure requirements relating to ownership in competing companies will not provide any useful information to shareholders voting on a access to the proxy resolution. Like the requirement to disclose communications with the company, this requirement would be too burdensome and would not give shareholders information of any value in the voting process.

Finally, the proposed requirement that proponents disclose information about individuals "associated with" the plan to submit a proxy access proposal has no relationship to the voting process. This requirement, which includes disclosures regarding the selection process for and qualifications of the person(s) who participated in the decision to submit the proposal, is overly intrusive and would not provide information of value to shareholders making voting decisions. The proposal is to be voted on based on its merits, not a particular educational credential or fiduciary duties to beneficiaries of the proponent. Indeed, considering such information, which has no bearing on the merits of the proposal, might itself violate fiduciary duties to which an institutional shareholder is subject.

Electronic Forum – The Long Rule

The long rule also proposes changes to the proxy rules to facilitate electronic fora. We believe that electronic fora could serve a useful function by enhancing communication between companies and their shareholders, as well as communication among a company's shareholders. For that reason, we support efforts to develop electronic forums and to clarify the Commission's rules to remove regulatory barriers to participation.

However, there are a number of weaknesses in the electronic forum when compared directly to the advisory resolution process. Voting proxies is a fiduciary duty. Participating in the forum is not. The forum will not be a solicitation to all shareholders to address every issue, while the proxy statement is an opportunity (and a fiduciary duty) for all shareholders to vote. The beginning paragraphs of this section of the proposed rule note the goal of "efficient means of shareholder communication with management".

Shareholder resolutions are a communication with the Board. The Board issues statements in opposition, and therefore reviews all issues raised in the proxy. The forum, while it could involve board input, does not require it. It is the board – not management – who are elected by shareholders to represent their interests. The rule suggests tabulating certain comments. Without a specific request to ALL shareholders to weigh in on an issue, a tabulation only shows the results of a self-selected subset of shareholders. While communication throughout the year is a good thing, it is not a substitute for an annual vote on issues, such as election of the board, and voting on resolutions. The annual proxy (with specific lead time for review of issues) continues to be the best way to solicit the opinion of ALL shareholders on any issue.

For these reasons, substituting electronic fora for inclusion of proposals in proxy statement would curtail shareholders' rights and remove the leverage of a shareholder vote without which some companies will refuse to act.