October 2, 2007

Via email: rule-comments@sec.gov

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

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

I am pleased to submit the following comments on behalf of Cummins Inc. with respect to the Securities and Exchange Commission's proposed changes to Rule 14a-8 of the Securities Exchange Act of 1934 as outlined in the SEC's Release No. 34-56161, and the shareholder access proposal in SEC Release No. 34-56160.

Cummins designs, manufactures, distributes and services diesel and natural gas engines, electric power generation systems and engine-related component products, including filtration and emissions solutions, fuel systems, controls and air handling systems.

Cummins strongly supports the Commission's interpretation and proposal to revise the "director election exclusion" in Rule 14a-8(i)(8) under the Securities Exchange Act of 1934 in a manner consistent with the Commission's longstanding interpretation of the rule. We believe that this interpretation and the proposed revisions are necessary and appropriate in light of the investor protection mandate embodied in the Commission's proxy rules. While the Commission's interpretation addresses the uncertainty created by AFSCME v. AIG, we believe that revising the rule will provide additional clarity about its scope and meaning.

The director election exclusion is an essential element of a carefully constructed regulatory framework intended to further the goal of full and accurate disclosure. As discussed in the Interpretive Release, the Commission and its staff historically have permitted companies to exclude from their proxy materials any shareholder proposal that may result in a contested election. This includes any proposal that would set up a process for shareholders to conduct an election contest in the future, such as an access bylaw. Interpreting the exclusion otherwise would allow shareholders to place their nominees in a company's proxy materials, creating a contested election without a separate proxy solicitation and the attendant disclosures mandated by Commission rules governing contested solicitations.

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In view of the Commission's adoption in the Interpretative Release of the interpretation that "a proposal may be excluded under Rule 14a-8(i)(8) if it would result in an immediate election contest (e.g. by making or opposing a director nomination for a particular meeting) or would set up a process for shareholders to conduct an election contest in the future by requiring the company to include shareholders' director nominees in the company's proxy materials for subsequent meetings," its staff should once again grant no-action relief to companies allowing them to exclude access bylaw proposals under Rule 14a-8(i)(8). Doing so is consistent with the Second Circuit's decision in AFSCME v. AIG. In that decision, the Court requested that the Commission explain its interpretation of the rule, and the Commission has now done so.

Cummins recognizes that the right to vote in the election of directors is one of the most significant rights of shareholders. We support an effective and meaningful voice for shareholders in the director election process. However, we do not believe that amending the Commission's rules to facilitate the proposal of "access bylaws" allowing shareholders to place their nominees in company proxy materials is the appropriate way to achieve this goal. We believe there are significant, negative consequences to permitting widespread shareholder access to company proxy materials to nominate directors. Moreover, such proxy access is unnecessary in light of the sweeping changes in the corporate governance landscape that have occurred in the past several years and that remain ongoing at this time.

We note the statements in the Shareholder Proposal Release that the Commission "has sought to use its authority" to regulate disclosure and mechanics related to the proxy process "in a manner that does not conflict with the primary role of the states in establishing corporate governance rights." We believe that any Commission rulemaking allowing shareholders to nominate directors in company proxy materials would represent a sea change in corporate governance practice and would inject the Commission into an area traditionally reserved to state law. In this regard, the practical impact of the Commission's "bylaw access" proposed rule, if adopted, would be fundamentally inconsistent with the Commission's stated objective of "ensuring that any new rule is consistent with the principle that the federal proxy rules should facilitate shareholders' exercise of state law rights, and not alter those rights."

Further, even though shareholders would furnish "the bulk of the additional disclosure" required under the Commission's proposal, if the proposal is adopted, it will increase the costs of preparing and disseminating company proxy materials, as the Commission acknowledges in the Shareholder Proposal Release. Among other things, companies will be forced to expend substantial time and resources reviewing information that shareholders provide about their nominees, conducting any necessary follow-up with shareholders, and incorporating the information into the proxy statement. In addition, the Commission staff may find itself in the position of having to resolve disputes between companies and shareholders about wording and content, a situation about which the staff has previously expressed concern in the shareholder proposal area.

The Commission has solicited comment on whether it should amend Rule 14a-8 to revise the existing ownership threshold for submitting shareholder proposals. Under current Commission rules, a shareholder is eligible to submit a Rule 14a-8 proposal if the shareholder has continuously held at least $2,000 in market value, or 1%, of the company's shares for at least one year. The Commission has not adjusted this threshold since 1998, when it raised the threshold from $1,000 to the current $2,000 eligibility threshold. Nearly ten years later, this increase has been rendered relatively meaningless given increased investments by shareholders.

Essentially, a shareholder holding a de minimis investment has the ability to use the company's resources (and by extension, the resources of all the company's shareholders) to put forth his or her agenda. Every year, companies spend significant time and financial resources responding to shareholder proposals, negotiating with proponents, and deciding whether to adopt proposals, include them in the proxy statement or attempt to exclude them by submitting no-action requests to the Commission. In turn, the Commission staff must respond in a short time frame to each no-action request that it receives from a company. Consequently, the time and expense associated with Rule 14a-8 proposals necessitates a significant increase from the current $2,000 eligibility threshold in order to justify the burden and cost on companies, shareholders and the Commission. Thus, we urge the Commission to increase the eligibility threshold significantly.

The Commission has requested comment on whether it should amend Rule 14a-8 to alter the resubmission thresholds for proposals that deal with substantially the same subject matter as another proposal that previously has been included in the company's proxy materials. Rule 14a-8(i)(12) currently permits the exclusion of a shareholder proposal concerning substantially the same subject matter as a prior proposal included in the company's proxy materials within the preceding five calendar years where the proposal received: (1) less than 3% of votes cast, if proposed once during such period; (2) less than 6% of votes cast, if proposed twice during such period; or (3) less than 10% of votes cast if proposed three or more times during such period. These resubmission thresholds have not been changed since 1954.

The average votes cast for shareholder proposals has increased significantly. For example, in 1997, the average vote received by all shareholder proposals was 15.1% of votes cast. In contrast, the average vote received by all shareholder proposals in 2007 (through early September) has been 32%. Nevertheless, while support for non-binding shareholder proposals has increased in recent years, many of these proposals continue to receive a relatively low percentage of votes cast.

Respectfully,