



California Public Employees' Retirement System

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Ms. Vanessa A. Countryman, Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

June 7, 2021

Subject: File No. S7-24-16 – Reopening of Comment Period for Universal Proxy

Dear Secretary Countryman,

On behalf of the California Public Employees' Retirement System (CalPERS), thank you for the opportunity to comment on the Securities and Exchange Commission's (SEC or Commission) proposed amendments to the federal proxy rules that would require the use of universal proxy cards in contested board elections.

CalPERS is the largest defined benefit plan public pension fund in the United States, distributing nearly \$25.8 billion annually in retirement benefits to more than two million members. As a fiduciary, we manage approximately \$450 billion in global assets.

The proxy system is the principal means by which shareowners of public companies exercise their voting rights.¹ Proxy voting rights enhance the efficiency of capital markets and promote accountability of corporate directors to shareowners. Given the significant number of companies in CalPERS' portfolio, we rely on the proxy voting system to exercise our voting rights efficiently and consistent with our Investment Beliefs,² Governance and Sustainability Principles (Principles),³ Proxy Voting Guidelines,⁴ and internal policies.

In light of our experience, we are confident that reforming federal proxy rules to authorize shareowners to vote by proxy for any board of director candidate combination would provide an effective mechanism for shareowners to hold corporate directors accountable. As discussed below, we believe that the proposed amendments would level the playing field between

¹ See 81 Fed. Reg. 79122 (Nov. 10, 2016).

² <https://www.calpers.ca.gov/page/about/organization/calpers-story/our-mission-vision#investment-beliefs>.

³ <https://www.calpers.ca.gov/docs/forms-publications/governance-and-sustainability-principles.pdf>.

⁴ <https://www.calpers.ca.gov/docs/proxy-voting-guidelines.pdf>.

shareowners and corporate directors by eliminating burdensome voting constraints and protecting the voting rights of shareowners who are unable to attend in-person meetings.

Proposed Amendments to Implement Universal Proxy

We have supported a rulemaking to mandate adoption of the universal proxy card for many years. In 2015, we submitted a letter to the SEC following its Proxy Voting Roundtable to express our support for a mandatory universal proxy card as well as technical fixes to the definition of a “bona fide nominee” and other measures to ensure that the proxy voting system empowers shareowners to vote for the full slate of board of director candidates.⁵ We also supported these amendments in our 2017 comment letter to the Commission’s original request for comment on universal proxy.⁶

Consistent with our prior positions, we support the proposed amendments, which would require proxy contestants to furnish shareowners a universal proxy card that includes the names of both management and dissident director nominees in an election contest in a manner that reflects, as closely as possible, the voting process available in-person. We believe that these proposed amendments continue to be necessary and do not believe that any developments have occurred since the prior comment period closed that undermine the value of these reforms.

We are also pleased that, in addition to requiring universal proxy cards in all non-exempt solicitations in contested elections, the proposed amendments would revise and expand the definition of a “bona fide nominee” under Rule 14a-4(d) to include all director nominees on universal proxy cards. In effect, the proposed amendments would provide shareowners the ability to vote by proxy for any combination of candidates in contested elections, similar to voting in-person.

The proposed amendments reflect the reality that most shareowners vote by proxy, thereby enabling companies to have a quorum to conduct annual meetings without necessitating shareowners spend valuable time and resources to physically attend shareowner meetings. The proposed amendments are consistent with our Principles which state: “To facilitate the shareowner voting process in contested elections - opposing sides engaged in the contest should utilize a proxy card naming all management nominees and all dissident nominees, providing every nominee equal prominence on the proxy card.”⁷ Moreover, the proposed amendments are consistent with our Investment Beliefs and Governance and Sustainability Principles. Our Investment Belief 4 states that “Long-term value creation requires effective management of three forms of capital: financial, physical and human. Governance is the primary tool to align interests between CalPERS and managers of its capital...” As discussed, the proposed amendments will make it easier for investors to ensure that public companies are being governed effectively.

⁵ <https://www.sec.gov/comments/4-681/4681-10.pdf>.

⁶ <https://www.sec.gov/comments/s7-24-16/s72416-1470820-130402.pdf>.

⁷ <https://www.calpers.ca.gov/docs/forms-publications/governance-and-sustainability-principles.pdf> (p. 8).

Proposed Amendments Relating to Voting Options and Standards in All Director Elections

We also support the proposed amendments to Rule 14a-4(b) that would (1) require proxy cards to specify the applicable shareowner voting options in all director elections, and (2) require proxy statements to contain a disclosure regarding the effect of a shareowner's election to withhold a vote in director elections. CalPERS believes that the proposed amendments are consistent with congressional intent that the SEC's proxy rules ensure the form of proxy and proxy statement disclosure requirements clearly specify applicable voting options and standards in all director elections.

In sum, CalPERS believes that the proposed amendments would strengthen the proxy voting system and promote greater accountability of corporate directors to shareowners through a more efficient annual election process. We, therefore, strongly urge the SEC to advance the proposed amendments.

If you have any questions, please do not hesitate to contact Anne Simpson, Managing Investment Director, Board Governance & Sustainability at (916) 795-9672, or Danny Brown, Chief, Legislative Affairs Division at (916) 882-5813. Thank you for considering these views.

Sincerely,

Marcie Frost
Chief Executive Officer

cc: Anne Simpson
Danny Brown