

Follow-Up

A Return Visit to Earlier Stories

SEC to Review Proxy-Voting Rules

THE U.S. SECURITIES AND EXCHANGE COMMISSION announced last week that it would hold a staff roundtable on the proxy process this fall. An SEC spokesman said an exact date hasn't been set.

The move comes just weeks after a *Barron's* cover story ("The Proxy Mess," July 7) argued that the proxy system is broken and needs to be improved to make sure shareholder votes are recorded and tabulated properly.

In a statement, the SEC said the roundtable is being held "in light of the many changes in our markets, technology, and how companies operate since the [SEC's 2010 concept release on the proxy voting process]...."

The SEC staff will hear from investors, issuers, and other market participants about whether the SEC's proxy rules should be changed. "We must regularly review whether our existing rules are achieving their objectives effectively in light of changes in our marketplace," the SEC said, adding that the roundtable is intended to facilitate such a review.

The agency said it will list the agenda items shortly. Among the topics to be examined are accuracy, transparency, and efficiency in the proxy system.

Areas that might warrant particular attention include the potential for over-voting and undervoting of securities by broker-dealers, and difficulties in confirming whether an investor's shares have been voted in accordance with the investor's instructions. The challenges could be attributable to the number of participants that might be involved in the process, including issuers, transfer agents, third-party administrators, vote tabulators, securities intermediaries, and proxy-service providers.

The SEC also said it would examine whether new technologies, such as blockchain, or a distributed ledger, can be used to make the proxy process more efficient and create more accountability.

Professor Edward Rock, an authority on proxy rules, notes that the roundtable fits well with SEC Chairman Jay Clayton's agenda to improve the system for Main Street investors. Rock is a law professor and director of the Institute for Corporate Governance and Finance at New York University



School of Law. He co-wrote a 2008 study that remains the primer on the system and its flaws, and says that the SEC's job should say what the proxy system ought to accomplish and then let industry propose ways to fix it.

Rock says that among the items the SEC should work toward are distribution of a preliminary shareholder list one week before the record date, and an ability for shareholders to check their positions to make sure that they are as they thought, allowing time to fix mistakes. Also, after the record date, shareholders should receive a unique voting code, which would be used to cast a vote with immediate indication that the vote has been accepted or rejected.

"A system that provided the above changes could have prevented many of the problems seen in the **Procter & Gamble** [ticker: PG]-Triam Fund Management proxy battle," Rock says.

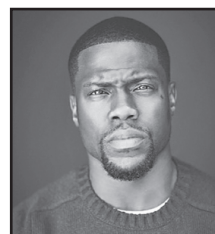
In the P&G vote, many proxy cards were disallowed. The shareholders who submitted them weren't informed.

Amy Borrus, deputy director of the Council of Institutional Investors, says her organization has been urging the SEC to hold a proxy forum. That regulators will hear all sides and propose fixes is a welcome development, she says.

While the process could take years, Borrus says the SEC has to prioritize which problems need immediate attention. High on the list would be voter confirmation, as "there is no surefire way" for investors to know that their votes were recorded as cast, and counted.

—VITO J. RACANELLI

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