OFFICE OF
STATE TREASURER
DENISE L. NAPPIER

NEWS

FOR IMMEDIATE RELEASE
Thursday, October 2, 2003

State Pension Officials Strongly Oppose Barriers in SEC's Proposed Proxy Access Rules

A group of eleven state and local pension fund officials representing assets of more than $640 billion today released a letter they sent to Securities and Exchange Commission Chairman William H. Donaldson expressing their opposition to the barriers to access in the proposed proxy access rules the Commission is expected to issue for comment next week. The rule will, for the first time, allow investors to nominate directors and have those nominees placed on the proxy materials that public corporations send out to all stockholders. But the rule as proposed would create severe limitations on proxy access.

The letter was signed by Connecticut Treasurer Denise L. Nappier, New York State Comptroller Alan Hevesi, California Treasurer Phil Angelides, CalPERS Board President Sean Harrigan, California Controller Steve Westly, North Carolina Treasurer Richard Moore, Pennsylvania Treasurer Barbara Hafer, Kentucky Treasurer Jonathan Miller, Iowa Treasurer Michael Fitzgerald, Oregon Treasurer Randall Edwards and New York City Comptroller William Thompson.

In the letter, the officials wrote, "We are troubled that this opportunity for meaningful and lasting reform may be squandered. According to a number of credible reports, the Commission is expected to propose rules with a number of trigger requirements that will create nearly insurmountable barriers to the effective use of proxy access for major institutional shareowners such as ourselves…

"Our understanding of the current proposal is that it is excessively restrictive, going well beyond deterring frivolous nominations and preventing abuse by corporate raiders. In particular, the use of triggering requirements would force undue delay and could effectively render any new rules meaningless at all but a handful of companies. This would create the illusion of access and the appearance of reform without offering actual access or real reform. Any rule that does not give shareholders timely proxy rights at all companies, especially companies in crisis such as those with multiple significant financial restatements or those under SEC investigation, will be harmful."

According to a number of reliable reports, the SEC proposed proxy access rules will include "triggers," events that must occur before shareholders are granted access to the proxy. Such triggers could include management failing to act on a proxy resolution passed by a majority, a majority shareholder vote for proxy access, or a substantial number of shareholders withholding their vote from management nominees for director. This would set up a two-year process to permit investors to nominate directors -- meeting the trigger requirement one year and then nominating the next.

CONTACT: BERNARD L. KAVALER
DIRECTOR OF COMMUNICATION
(860) 702-3277 FAX (860) 702-3043
BERNARD.KAVALER@PO.STATE.CT.US

In addition, the draft rule will likely require that shareholders' nominees would have to be completely independent of the nominating shareholders. This would mean that a public pension fund could not nominate a business person who served on an advisory committee to the fund or an expert at an investment fund in which the pension fund had an investment. This would eliminate the main source of potential nominees with both business expertise and the confidence of institutional investors.

“Too many board members at too many companies have failed to adequately fulfill their responsibilities and have not been acting in the best interests of shareholders. When this happens, shareholders need a process that allows them to replace those board members and install qualified replacements. Access to the company's proxy ballot is the best mechanism to achieve this goal,” said Nappier, principal fiduciary of the $18.6 billion Connecticut Retirement Plans and Trust Funds.

"This might seem like an obscure and technical issue, but it is of vital importance to every American. The wave of corporate scandals taught us we need stronger, more accountable boards of directors to prevent more scandals. Allowing shareholders, the owners of the company, to nominate directors, is one of the best ways to increase accountability and avoid scandals. The rules as proposed would make proxy access and increased accountability all but impossible," said New York State Comptroller Alan G. Hevesi.

"While moving quickly on this issue of proxy access is of great importance, and we appreciate the SEC's willingness to do so, it is important the rule be meaningful and bring about real reform," said North Carolina State Treasurer Richard Moore. "I believe large public institutional investors have a unique perspective to share with the SEC before they release the rule."

"The Securities and Exchange Commission, under the leadership of Chairman Donaldson, has taken positive steps to improve corporate governance and accountability on the boards of publicly traded companies," New York City Comptroller William C. Thompson, Jr. said. "The SEC must stay that course by creating a proxy access rule. Shareholders -- the real owners of public corporations -- must have the right to participate fully in the nomination of candidates in board elections. Proxy access must not be restricted to only very limited situations. Amid the climate of investor mistrust of corporate boards, the unintended consequence would be the creation of a major roadblock to the restoration of investor confidence in the governance of publicly traded companies."

Contacts:
New York State *Comptroller, David Neustadt, 212-681-4839, 917-468-5616*
California *Treasurer, Mitchel Benson, 916-653-4052*
CalPERS*, Pat Macht, 916-326-3850*
California *Controller, Sandy Harrison, 916-324-2356*
Kentucky *Treasurer, Terry Sebastian, 502-564-4722*
North Carolina *Treasurer, Julie White, 919-508-1024*
New York City *Comptroller, Nicole Lise 212-669-2701*
Iowa *Treasurer, Karen Sinclair, 515-281-7677*
Connecticut *Treasurer, Bernard Kavaler, 860-702-3277*
Pennsylvania *Treasurer, John Caltagirone, 717-787-2991*
Oregon *Treasurer, Todd Jones, 503-378-4329, 503-559-3965*

CONTACT: BERNARD L. KAVALER
DIRECTOR OF COMMUNICATION
(860) 702-3277 FAX (860) 702-3043
BERNARD.KAVALER@PO.STATE.CT.US