Tri-State Coalition for Responsible Investment

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Dear Chairman Hensarling and Ranking Member Waters:

On behalf of the Tri-State Coalition for Responsible Investment, I am writing about the attempt to limit the shareholder proposal rule, as currently anticipated in Section 844 of the Discussion Draft of the Financial CHOICE Act.[1] The existing shareholder proposal process under Securities and Exchange Commission rule 14a-8 is well functioning - it should not be changed as proposed in Section 844. Please oppose this section of the bill and any further attempts to limit the shareholder proposal process that would silence the voices of nearly all shareholders, especially minority shareholders.

The Tri-State Coalition is comprised of 40 Catholic institutional investors in the New York, New Jersey, and Connecticut area who use their shareholder power to engage with corporations in their investment portfolios to address risks related to environmental and human rights concerns. Coalition members filed or co-filed at least 28 shareholder resolutions in the past year, with proposal topics ranging from water stewardship, financial practices, to business planning to address the risks of climate change. Many member resolutions were filed for a second year, and the proposed changes to the voting thresholds for re-filing would have prevented these proposals from making it to the proxy in the subsequent years. Faith-based investors have historically played an influential role as shareholder advocates and it is important that religious institutional investors do not lose their ability to file resolutions due to the proposed holding requirements.

While we are deeply concerned about a number of provisions in the Discussion Draft of the Financial CHOICE Act and will be sharing those concerns later, for the time being we want to express our concerns on Section 844. Section 844 changes the SEC shareholder proposal by (1) changing the holding requirement to 1% ownership over a three year period (vs. 1% or $2000 for one year) to submit a proposal; (2) dramatically increasing resubmission thresholds to unreasonable levels; and (3) prohibiting proposal by a proxy other than the shareholder.

As an investor, I am adamantly opposed to these recommendations that would interfere with shareholder rights. For over 45 years the shareholder proposal process has served as a cost effective way for corporate management and boards to gain a better understanding of shareholder priorities and concerns. For an overview of some of the issues considered in shareholder proposals this year, I refer you to the ICCR Proxy Book.

[1] https://financialservices.house.gov/uploadedfiles/choice_2.0_discussion_draft.pdf

Below are several benefits of the current shareholder proposal rule:

- **Facilitates communication between shareholders and companies**. It provides shareholders of all types and sizes, from large pension funds to individual investors, an opportunity to communicate directly with corporate boards and management on issues of importance. Resolutions that are not withdrawn can be voted on by all holders of voting stock – giving the board and management input far beyond that of the shareholder(s) who initially filed the resolution.

- **Shareholder value and financial performance.** Over the years, the shareholder proposal process has contributed to many reforms that protect and enhance shareholder value, both at specific companies and in many cases to the benefit of the entire corporate and shareholder community. A 2015 study found that successful shareholder engagements can generate cumulative excess returns of +7.1%.[2] In another example, a 2012 and 2014 Credit Suisse Research Report "Gender Diversity and Corporate Performance", links board diversity – an issue that has been raised through dozens of shareholder proposals – to better stock market and financial performance (higher return on equity, lower leverage, and higher price/book ratios).[3]

- **Protects shareholder rights.** The right to file a proposal is part of the bundle of rights that an investor acquires when acquiring shares. Radically curtailing those rights and taking away this process through which investors can bring concerns to management's attention would undermine investor confidence in the stability of our arrangement of rights associated with share ownership. All trustees and fiduciaries have a duty to monitor risk, many extend that duty to filing proposals when necessary to probe risks and potential weaknesses, as well as improve performance.

It is clear that Section 844 is an overreach, representing radical and dramatic interference with an important shareholder right:

- **Requirement of 1% ownership over a three year period to submit a proposal:** This would require an investor in Wells Fargo to own $2.5 billion in shares in order to file a proposal. A coalition of faith based investors who have a resolution on the proxy next week at Wells Fargo on the recent ethics scandal would all be excluded from filing if this were the filing requirement. Improvements in business are driven by the marketplace of ideas, and minority shareholders are also important stakeholders.

- **Increase resubmission thresholds consistent with previous SEC proposal:** This would mean resubmission thresholds of 6% (year 1, from 3%); 15% (year 2, from 6%); and 30% (year 3, from 10%). From 2007 through 2009 only

[2] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2154724
[3] https://www.credit-suisse.com/us/en/articles/articles/news-and-expertise/2015/06/en/diveristy-on-board.html

about 17 percent of the proposals that came to a vote achieved the support of 30 percent of the shares voted, and from 2010 onwards, this has been approximately 30 percent of proposals filed.[4] Filings on new issues often require education of the shareholder community and consideration of emerging risks, and this germination process would be stymied by these proposed resubmission thresholds.

- **Prohibit proposal by a proxy other than the shareholder**: Investors have a fundamental right to empower their representatives to act on their behalf and the proxy is a basic mechanism for well-functioning corporate governance. The current language appears to be vague in defining which proxies would be prohibited, but this requirement would be burdensome, if not impractical.

To learn more about this issue, I refer you to a letter from organizations representing $65 trillion in opposition to these proposals and an in-depth briefing document. I urge you to oppose this attempt to limit shareholder rights.

I would be grateful for the opportunity to have a brief call with you about this issue and to have you raise these concerns at next Wednesday's hearing on the bill.

Sincerely,

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[4] Report on US Sustainable, Responsible and Impact Investing Trends, 2016 - http://www.ussif.org/trends