

Via E-Mail

May 5, 2015

Speaker Carl E. Heastie  
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Assembly Majority Leader Joseph D. Morelle  
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In re: A5781

Dear Speaker Heastie and Majority Leader Morelle:

I am writing on behalf of the Council of Institutional Investors (“CII”), an association of corporate, union and public employee benefit plans, foundations and endowments with combined assets exceeding \$3 trillion. The purpose of this letter is to convey our general support for A5781, which seeks to provide New York corporations the flexibility to provide shareholders who are not present at shareholder meetings the ability to participate through electronic means.<sup>1</sup>

The shareholder meeting plays a vital role in enabling shareholders to hold directors accountable for the decisions and recommendations they make throughout the year on behalf of the company’s owners. While much of that oversight function is fulfilled through proxy voting, the meeting itself presents a special opportunity for meaningful, live interaction between companies and shareholders. Attending the meeting in person is not practical for most shareholders due to travel costs and time commitments, but these impediments can be mitigated with technology enabling remote attendance.

As state codes are revised to accommodate the use of this technology and companies increasingly embrace it, it is critical to remember the core objective of this technology is to broaden shareholder participation. CII is concerned that some companies are unnecessarily eliminating their in-person meeting in conjunction with enabling online participation.<sup>2</sup> CII

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<sup>1</sup> New York State Assembly bill A5781, sponsored by Representative Brian Kavanagh, available at [http://assembly.state.ny.us/leg/?default\\_fld=&bn=A05781&term=2015&Summary=Y&Actions=Y&Text=Y&Votes=Y](http://assembly.state.ny.us/leg/?default_fld=&bn=A05781&term=2015&Summary=Y&Actions=Y&Text=Y&Votes=Y).

<sup>2</sup> According to Broadridge, more than half of all companies that put their meetings online in 2014 had no physical in-person meeting. See “The Annual Shareholders’ Meeting Will Now Come To Order Online”, May 1, 2015, Available at <http://www.npr.org/blogs/alltechconsidered/2015/05/01/403593453/the-annual-shareholders-meeting-will-now-come-to-order-online>

encourages companies to continue to hold an in-person meeting and ensure that any online platform enables remote attendees to participate, as nearly as possible, as if they were attending the physical meeting.<sup>3</sup>

CII generally supports A5781 as it gives boards the discretion to harness this promising technology to the benefit of broader shareholder participation while preserving the requirement for an in-person meeting.<sup>4</sup> Thank you for the opportunity to comment on this important legislation.

Sincerely,



Glenn Davis  
Director of Research

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<sup>3</sup> CII's stances against "remote-only" meetings and in favor of robust participation capability for remote attendees are supported by Section 4.7 of CII's member-approved corporate governance policies, available at [http://www.cii.org/corp\\_gov\\_policies#shareowner\\_meetings](http://www.cii.org/corp_gov_policies#shareowner_meetings).

<sup>4</sup> CII notes A5781 does not amend Section 602(a) of the New York code, available at <http://codes.lp.findlaw.com/nycode/BSC/6/602>, which establishes that shareholder meetings may be held at such *place* [italics added for emphasis] as set forth in the bylaws. By contrast, Section 211 of the Delaware code, available at <http://delcode.delaware.gov/title8/c001/sc07/>, gives boards the explicit authority to "determine that the meeting shall not be held at any place, but instead be held solely by means of remote communication..."