Council of Institutional Investors®
The voice of corporate governance

Via Hand Delivery

June 6, 2018

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Re: June 7, 2018 Markup of H.R. 3861, H.R. 4557, H.R. 5054, H.R. 5756, H.R. 5783, H.R. 5877, and H.R. ____, the "Streamlining Communications for Investors Act"[1]

Dear Mr. Chairman and Ranking Member Waters:

I am writing on behalf of the Council of Institutional Investors (CII), a nonpartisan, nonprofit association of public, corporate, and union employee benefit funds, other employee benefit plans, foundations, and endowments with combined assets under management exceeding $3.5 trillion. Our member funds include major long-term shareholders with a duty to protect the retirement savings of millions of workers and their families.

Our associate members include a range of asset managers with more than $25 trillion in assets under management, most also with long-term investment horizons. CII members share a commitment to healthy public capital markets and strong corporate governance.[2]

The purpose of this letter is to share with you our views on two issues and related bills that we understand will be considered at the markup.[3] We would respectfully request that this letter be included in the public record.

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[1] Financial Services Committee, Markups, https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=403542

[2] For more information about the Council of Institutional Investors (CII) and our members, please visit CII's website at http://www.cii.org/about_us.

[3] *See* Memorandum from FSC Majority Staff to Members of the Committee on Financial Services 1 (June 4, 2018), https://financialservices.house.gov/uploadedfiles/060718_fc_markup_memo.pdf.

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Improving Corporate Governance

CII has long held that good corporate governance—defined to include market transparency, integrity and accountability of management to boards and shareowners—is in the best long-term interests of shareowners and their beneficiaries, and the U.S. capital markets.[4]

We believe that shareowners, along with other investors and other stakeholders, benefit when rules and regulations provide adequate protections to owners and ensure that important information is promptly and transparently provided to the marketplace.[5]

The value of good governance structures and practices within public companies—such as substantially independent boards,[6] all-independent key committees[7] and other board accountability policies and practices[8]—is backed by common sense and experience. We believe such structures and practices ensure that board members have the necessary independence from management to, among other things, monitor and assess corporate performance; select, monitor, evaluate and, when necessary, fire the chief executive and other senior managers; oversee management succession; and structure, monitor and approve compensation paid to the chief executive and other senior managers. Appropriate structures also ensure that board members are accountable to shareowners.

We are unaware of any evidence of a causal connection between federally imposed improvements to corporate governance and the decline in the number initial public offerings (IPOs) or U.S. public businesses.[9] We offer the following summary discussion of CII views on

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[4] CII, Policies on Other Issues, Value of Corporate Governance, http://www.cii.org/policies_other_issues#value_corp_gov.

[5] *Id.*

[6] *See* CII Corporate Governance Policies § 2.3 Independent Board (Updated September 15, 2017).

[7] *See* Corporate Governance Policies § 2.5 All-independent Board Committees.

[8] *See e.g.*, Corporate Governance Policies § 2.1 Annual Election of Directors; *id.* § 2.6 Board Accountability to Shareholders (stating that boards should seek shareholder views on important governance, management, and performance matters and take actions recommended by shareholder proposals that receive a majority of votes cast for and against).

[9] *See* Michael J. Mauboussin et al., Credit Suisse, "The Incredible Shrinking Universe of Stocks, The Causes and Consequences of Fewer U.S. Equities" 20 (Mar. 22, 2017) ("the shrinkage in the population of listed companies started well before . . . [Sarbanes-Oxley Act] was implemented"), https://www.cmgwealth.com/wp-content/uploads/2017/03/document_1072753661.pdf; Office of Investor Advocate, U.S. Securities and Exchange Commission, Report on Objectives 6 (2018) ("recent academic studies demonstrate that it is difficult to establish any causal connection between disclosure mandates and IPO activity"), https://www.sec.gov/files/sec-office-investor-advocate-report-on-objectives-fy2018.pdf; "Legislative Proposals to Help Fuel Capital and Growth on Main Street:" Hearing before the H. Subcomm. Cap. Markets, Sec., & Investment, 115th Cong. (May 23, 2018) (Statement of Professor John C. Coffee, Jr., Adolf A. Berle Professor of Law, Columbia University Law School at 2) ("the decline of IPO's . . . cannot be blamed on an over-regulating national regulator"), https://financialservices.house.gov/uploadedfiles/hhrg-115-ba16-wstate-jcoffee-20180523.pdf; Elisabeth de Fontenay, "The Deregulation of Private Capital and the Decline of the Public Company," 68 Hastings L.J. 445, 448 (Mar. 29, 2017) ("even if public company disclosure requirements had remained constant over the last three decades, there would likely still be a dearth of public companies today, due to the increasing ease of raising capital privately") *available at* https://www.sec.gov/spotlight/investor-advisory-committee-2012/elisabeth-de-fontenay-deregulation-private-capital.pdf.

specific issues addressed by two of the bills that we understand will be considered by the Committee at the mark-up. In both cases, we believe the proposed legislation, if enacted, would be inconsistent with improving corporate governance in the U.S. capital markets.[10]

1. EXtensible Business Reporting Language (XBRL)

CII has long supported expanded use of data tagging to facilitate more accurate and less costly extraction and use of data in public company filings.[11] We agree with Securities and Exchange Commission (SEC or Commission) Commissioner Kara Stein that machine readable data, including data that can result from XBRL tagging requirements, allows users to select only those data elements they want and present it in a format they find useful, regardless of the particular format used by registrants.[12]

Given the various audiences for disclosure and the increasing diversity of investor strategies, such customization makes disclosure documents—both individually and across registrants—more usable.[13] The benefits to investors and the U.S. capital markets are many and include more cost effective and enhanced regulatory compliance.[14] As a result, we believe many investors place a significant value on having required SEC disclosures subject to XBRL tagging requirements.[15]

H.R. 5054[16]

H.R. 5054 would require the Commission to amend its regulations to exempt certain issuers from the requirements to format their SEC filings using machine readable XBRL. The bill would create (1) a permanent exemption for companies qualifying as "emerging growth companies" (EGCs) and (2) a temporary exemption for companies with less than $250 million in annual gross revenue.[17]

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[10] *See* Professor John C. Coffee, Jr., Adolf A. Berle Professor of Law, Columbia University Law School at 3 ("relaxing disclosure and transparency rules and downsizing important corporate governance protections (such as . . . the Rule 14a-8 shareholder proposal rule) represent a dubious policy for Congress to follow").
[11] *See, e.g.,* Letter from Kenneth A. Bertsch, Executive Director, Council of Institutional Investors, to Brent J. Fields, Secretary, U.S. Securities and Exchange Commission 3 (July 8, 2016), https://www.cii.org/files/issues_and_advocacy/correspondence/2016/07_08_16%20CII%20S-K.pdf.
[12] *See* Commissioner Kara M. Stein, "Disclosure in the Digital Age: Time for a New Revolution," Speech before the 48th Annual Rocky Mountain Securities Conference 3 (May 6, 2016) (machine readability data "allows data to be pulled out of filings and presented according to the needs of consumers"), https://www.sec.gov/news/speech/speech-stein-05062016.html.
[13] Letter from Kenneth A. Bertsch at 3.
[14] *See, e.g.,* Scott W. Bauguess, Deputy Chief Econ. & Deputy Director, Division of Econ. & Risk Analysis, SEC, Keynote Address at the FIMA Conference 5 (May 3, 2018) ("there is tremendous potential for enhanced regulatory compliance"), https://www.sec.gov/news/speech/speech-bauguess-050318.
[15] Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors, to Brent J. Fields, Secretary Securities and Exchange Commission 4 (Sept. 22, 2016), https://www.cii.org/files/issues_and_advocacy/correspondence/2016/September%2022%202016%20comment%20letter%20(final%20with%20letterhead)%20KAB.pdf.
[16] H.R. 5054, 115th Cong. (Feb. 15, 2018), https://financialservices.house.gov/uploadedfiles/bills-115hr5054ih.pdf.
[17] *Id.* at § 2.

We agree with Professor John C. Coffee who in recent testimony before the Subcommittee on Capital Markets, Securities and Investment (Subcommittee) said: "This proposal seems overboard [*sic*] because it would exempt not only EGCs, but also more mature 'non-accelerated filers' that may have been 'reporting companies' for many years."[18]

It is our understanding that if H.R. 5054 were enacted more than 60% of public companies would likely be exempt from XBRL tagging requirements.[19] We agree with the SEC's Investor Advocate Rick Fleming that exempting such a large percentage of public companies "would seriously impede the ability of the SEC to bring disclosure into the 21st Century." Such an exemption would lessen the value and usefulness to investors of the data provided in public company filings.[20]

We note that investors in smaller SEC reporting companies—and the companies themselves—are perhaps the biggest beneficiaries of the machine readable data that can be provided by XBRL.[21] Compared to larger public companies, smaller public company financial statements are much more likely to "escape coverage by data vendors, and thus market analysts" in the absence of XBRL reporting.[22] Thus, as explained in Professor Coffee's testimony, "there is some inconsistency between the recurring complaint [by some special interests] . . . that analysts do not conduct sufficient research on smaller firms and this proposal that makes such research harder (and more costly) to conduct."[23]

We look forward to the SEC's adoption of final rules on its outstanding "inline XBRL" proposal that is expected to further reduce company costs for XBRL tagging going forward.[24]

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[18] Statement of Professor John C. Coffee, Jr., Adolf A. Berle Professor of Law, Columbia University Law School at 10-11.
[19] *See* Daniel Castro et al., "Congress Should Not Undo Progress on Financial Data Reform," Hill, Feb. 11, 2015, at 1 (indicating that "data reporting exemptions . . . [in predecessor bill to H.R. 5054] would apply to 61 percent of public companies, and thus a massive amount of financial data would be lost as a public resource"), http://thehill.com/blogs/pundits-blog/finance/232417-congress-should-not-undo-progress-on-financial-data-reform.
[20] Rick A. Fleming, Investor Advocate, "Effective Disclosure for the 21st Century Investor" 2 (Feb. 20, 2015) (commenting on Title VII of H.R. 37, the "Promoting Job Creation and Reducing Small Business Burdens Act"), http://www.lexissecuritiesmosaic.com/gateway/sec/Speech/022015-spchraf.html.htm.
[21] *See* Scott W. Bauguess at 4 (Responding to the "myth" that retail investors don't need machine-readable data).
[22] *Id.*
[23] Statement of Professor John C. Coffee, Jr., Adolf A. Berle Professor of Law, Columbia University Law School at 11.
[24] Inline XBRL Filing of Tagged Data, Securities Act Release No. 10,323, Exchange Act Release No. 80,133, Investment Company Act Release No. 32,518, 82 Fed. Reg. 14,282, 14,283 (proposed rule Mar. 17, 2017) (amendments intended to decrease "filing costs by decreasing XBRL preparation costs"), https://www.gpo.gov/fdsys/pkg/FR-2017-03-17/pdf/2017-04366.pdf; *see* Scott W. Bauguess at 2 (explaining that "proposed rule . . . would create a single document designed to be read *equally* well by humans *and* machines").

2. Shareholder Proposals

CII and its members have a deep interest in ensuring that Rule 14a-8,[25] the federal rule that governs shareholder proposals, is a fair and workable standard for shareowners and companies.[26] The rule provides an orderly means to mediate differences between managers and owners.

We are mindful that many positive advances in U.S. corporate governance practices simply would not have occurred without a robust shareowner proposal process in place.[27] For example:

- Shareholder proposals were the impetus behind the now required practice—currently mandated by major U.S. stock exchanges' listing standards—that independent directors constitute at least a majority of the board, and that all the members of the following board committees are independent: audit, compensation, nominating and corporate governance. Similarly, the concept of independent board leadership, now prevalent at U.S. companies through independent lead directors or independent chairs, was pressed by investors in the 1990s mainly through shareholder proposals.[28]
- In 1987, an average of 16% of shareholders voted in favor of shareholder proposals to declassify boards so that directors stand for election each year. In 2012, these proposals enjoyed an 81% level of support on average. Ten years ago, less than

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[25] 17 CFR 240.14a-8 (Sept. 16, 2010), *available at* https://www.law.cornell.edu/cfr/text/17/240.14a-8.
[26] *See* "Examining the U.S. Proxy Voting System: Is it Working for Everyone," Corporate Governance Roundtable, Hosted by Rep. Scott Garrett, 114th Cong (Nov. 16, 2015) (Statement of Amy Borrus, Interim Executive Director, Council of Institutional Investors at 7), http://www.cii.org/files/issues_and_advocacy/correspondence/2015/11_16_15_cii_Rep%20_Garrett_roundtable_submission_amy_borrus.pdf; *See generally* Joint Statement on Defending Fundamental Shareowner Rights 1 (June 2, 2017) (commenting that "**ability of shareowners to file shareholder proposals is a fundamental investor right first established by the federal government in 1942 for reasons that remain vital today**," and signed by Comptrollers, Controllers, and/or Treasurers of the City of New York, and states of California, Connecticut, Illinois, Maryland, Massachusetts, New York, Oregon, Pennsylvania, and Rhode Island), https://www.cii.org/files/issues_and_advocacy/financial_regulation/Joint%20Statement%20on%20Shareowner%20Rights%206_2_2017%20FINAL.pdf.
[27] *See* Letter from Thomas P. DiNapoli, State Comptroller, State of New York, Office of the State Comptroller, to the Honorable Jeb Hensarling, Chairman, Committee on Financial Services, United States House of Representatives 1 (Apr. 26, 2017) ("It has been my experience over the past ten years as Comptroller that shareholder resolutions are an effective means to voice concerns and propose changes in order to protect Fund investments and encourage sustainable, robust corporate practices at our portfolio companies."), http://www.osc.state.ny.us/press/releases/apr17/choice-act-letter.pdf; Statement of New York City Comptroller Scott M. Stringer on the April 19th Discussion Draft of the Financial CHOICE Act of 2017 (Act) 3 (Apr. 25, 2017) (describing some of the many achievements "made possible because of the NYC Pension Funds' long-standing right and ability to file shareholder proposals—a right and ability that would be pointlessly eviscerated by the passage of the Act"), https://comptroller.nyc.gov/newsroom/testimonies/statement-of-new-york-city-comptroller-scott-m-stringer-on-the-april-19th-discussion-draft-of-the-financial-choice-act-of-2017-act/.
[28] *See* Joint Statement on Defending Fundamental Shareowner Rights at 2 (commenting on advancements in U.S. corporate governance practices that has resulted from "*Independent Directors*" shareowner proposals); Ceres et al., "The Business Case for the Current SEC Shareholder Proposal Process" 6 (Apr. 2017), https://www.ussif.org/files/Public_Policy/Comment_Letters/Business%20Case%20for%2014a-8.pdf; *see also* IRRC Corporate Governance Bulletin, "Independence of Directors Emerges as Major 1993 Issue," IRRC (Nov./Dec. 1992) (on file with CII).

40% of S&P 500 companies held annual director elections compared to more than two thirds of these companies today.[29]

- Electing directors in uncontested elections by majority (rather than plurality) vote was considered a radical idea a decade ago when shareholders pressed for it in proposals they filed with numerous companies. Today, 90% of large-cap U.S. companies elect directors by majority vote, largely as a result of robust shareholder support for majority voting proposals.[30]
- A proposal that built momentum even more rapidly and influenced the practices of hundreds of companies in the last few years is the request for proxy access. Resolutions filed by the New York City Comptroller to allow shareholders meeting certain eligibility requirements to nominate directors on the company's proxy ballot achieved majority votes at numerous companies. As a result, since 2015, more than 400 public companies have adopted proxy access bylaws.[31]

Benefits to Companies

The cost to public companies of the existing shareholder proposal process is generally low and the process often results in benefits to companies.[32] It is important to note that most companies receive few, if any, shareholder proposals.[33]

The average Russell 3000 company can expect to receive a proposal every 7.7 years.[34] In addition, proposals are typically filed with larger companies (i.e., S&P 500) that have the resources to address such shareholder input.[35]

For companies that receive a proposal, the median number of proposals is one per year.[36] When proposals are filed, companies often agree to act on the request made in the proposal. In this respect, an average of 37.5% of shareholder proposals broadly related to climate change during the 2012-2016 proxy seasons were withdrawn by filers in response to the company agreeing to the request in some way.[37]

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[29] *See* Joint Statement on Defending Fundamental Shareowner Rights at 2 (commenting on advancements in U.S. corporate governance practices that has resulted from "*Annual Election of Directors*" shareowner proposals); Ceres et al. at 6.
[30] *See* Joint Statement on Defending Fundamental Shareowner Rights at 2 (commenting on advancements in U.S. corporate governance practices that has resulted from "*Majority Voting for Election of Directors*" shareowner proposals); Ceres et al. at 6.
[31] Joint Statement on Defending Fundamental Shareowner Rights at 2 (commenting on advancements in U.S. corporate governance practices that has resulted from "*Shareowner Access to the Proxy*" shareholder proposals); Ceres et al. at 6.
[32] *See* Ceres et al. at 11-12 (providing an analysis of the potential range of company costs).
[33] According to the ISS Voting Analytics database of Russell 3000 companies on file with CII, shareholders submitted an average of 836 proposals at 386 companies per year between 2004 and 2017. The number of submitted proposals fluctuated between approximately 800-900 proposals per year, except for a dip to 603 proposals in 2011 and 673 proposals in 2012 after the SEC's adoption of say-on-pay vote requirements.
[34] ISS Voting Analytics database (on file with CII).
[35] *See* Ceres et al. at 12 (discussion of frequency of shareholder proposals at public companies).
[36] *Id*.
[37] Data compiled by Ceres (on file with CII).

The withdrawal rates for several other topics are much higher.[38] This appears to suggest that many companies find benefits from committing to act on shareholder proposals prior to a vote.

Additionally, there is a mechanism in place that allows companies to challenge shareholder proposals.[39] In particular, the SEC oversees a robust "no-action letter" process that allows companies to exclude proposals from the proxy ballot that do not meet certain procedural and/or substantive hurdles. This provides companies a means by which to know whether the SEC staff would recommend no enforcement action if a company excludes the proposal from the proxy. Companies have been actively utilizing this system. In fact, during the 2013-2015 proxy seasons, companies challenged nearly one-third of the shareholder proposals that were submitted and approximately half of those challenged proposals were omitted from the proxy with SEC approval.[40]

Importantly, the SEC has issued guidance that allows companies to exclude from the proxy any resolutions pertaining to a company's ordinary business, stating appropriately that resolutions need to pertain to "significant policy issues" faced by companies.[41] We believe this approach strikes the needed balance between respecting the board's role on corporate governance and management's discretion to make routine business decisions, while at the same time recognizing the existence of policy issues significant enough to necessitate a shareholder vote.

H.R. 5756[42]

At the outset, it should be noted that H.R. 5756 has relatively little, if anything, to do with EGCs or IPOs and would apply broadly to all issuers, including public companies like Equifax, Wells Fargo, and Facebook.[43]

H.R. 5756 would increase the regulatory hurdles for shareholder proposals.[44] Current rules permit a shareholder to re-file a proposal only if within the previous five years it has received at least 3% of the vote on its first submission, 6% on the second and 10% on the third.[45]

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[38] *See* Ceres et al. at 11 ("The New York City Comptroller's Office withdrew 80 percent of the 45 proxy access resolutions it filed during the 2016 and 2017 proxy seasons due to commitments by 36 companies.").
[39] *See, e.g.*, Joint Statement on Defending Fundamental Shareowner Rights at 1 (commenting that "**the robust shareholder proposal process, as currently structured and administered under SEC Rule 14a-8, works well for investors, public companies and capital markets**").
[40] *See* Ceres et al. at 12.
[41] *See, e.g.*, Division of Corporation Finance, Securities and Exchange Commission, Shareholder Proposals, Staff Legal Bulletin No. 14E at 2 (Oct. 27, 2009), https://www.sec.gov/interps/legal/cfslb14e.htm.
[42] H.R. 5756, 115th Cong. (Mar. 14, 2018), https://financialservices.house.gov/uploadedfiles/bills-115-duffy_097.pdf.
[43] *See* Statement of Professor John C. Coffee, Jr., Adolf A. Berle Professor of Law, Columbia University Law School at 11 ("Initially, it should be noted that this proposal has relatively little to do with EGCs or IPO's, and would apply as well to IBM, Citicorp, or Apple").
[44] *Id.*
[45] 17 C.F.R § 240.14a-8(i)(12) (Sept. 16. 2010), *available at* https://www.law.cornell.edu/cfr/text/17/240.14a-8.

H.R. 5756 would, in effect, more than double the existing thresholds to 6%, 15% and 30%, respectively.[46] Those higher hurdles could knock out many important governance proposals that, if adopted, could enhance long-term shareowner value. Note that the five-year look-back means that a proposal is excluded for an extended time, even if circumstances at the company have changed dramatically between the previous vote and the relevant annual meeting. Thus, the bill represents a major retreat in U.S. corporate governance.[47]

Experience indicates that it often takes several years for a proposal regarding an emerging issue to gain enough traction with investors to achieve double-digit votes because a process of investor education is necessary.[48] In many cases, these proposals eventually receive substantial support, leading to widespread adoption by companies.

For example, as recently explained in a letter you received from Thomas P. DiNapoli, Comptroller of the State of New York, and Trustee of the third largest public pension fund in the United States, with an estimated $206.9 billion in assets under management as of March 31, 2018:

> [W]hen shareowners first filed proposals encouraging board diversity, they initially received votes in the low single digits. Now, because of the persistent efforts of shareowners, board diversity policies have received high votes. This includes majority support for board diversity shareholder proposals, as was the case with the Fund's 2016 board diversity proposal at Fleetcor Technologies, Inc. that received 61% support from shareowners.
>
> Issues raised by shareholders can have a significant impact on the company's long-term success. In 2015, the GAO released a report, requested by Representative Carolyn Maloney, examining gender diversity on corporate boards. The report highlighted the slow pace toward parity and research supporting positive financial performance and better decision-making on gender diverse boards, The GAO report confirmed the importance of board diversity for the economic success of companies, and the need for investors to have the ability to engage with companies on the issue. If H.R. 5756 had been enacted during the nascent stages of board diversity proposals, shareowners would have been thwarted in advancing this emerging issue that has resulted in improved value for shareholders.[49]

We believe the current thresholds provide a reasonable amount of time for emerging issues to gain support among investors while ensuring that only those proposals that garner meaningful support remain on the ballot for multiple years.

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[46] H.R. 5756 § 1.

[47] *See* Statement of Professor John C. Coffee, Jr., Adolf A. Berle Professor of Law, Columbia University Law School at 20 ("the modifications to the shareholder proposal rule (Rule 14a-8) . . . and the generally hostile attitude toward proxy advisory firms – represent major retreats in corporate governance").

[48] *Id.* at 12 ("[s]hareholder proposals may receive an initial low level of support because a process of investor education is necessary").

[49] Letter from Thomas P. DiNapoli, State Comptroller, State of New York, Office of The State Comptroller, to the Honorable Jeb Hensarling, Chairman, Committee on Financial Services et al. 2 (May 24, 2018) (on file with CII).

Resubmission of proposals receiving less than 20% support for a third or fourth time is very rare. According to Institutional Shareholder Services data, since 2010, shareholders resubmitted environmental and social issue proposals in only 35 instances after receiving votes under 20% for two or more years. This affected only 26 companies.

Restricting the shareholder proposal process is likely to reduce corporate accountability to shareholders and could create greater conflict between shareowners and public companies. For example, restricting shareholder proposals is likely to lead to shareowners more often availing themselves of the blunt instrument of votes against directors, and increased reliance on hedge fund activists to push for needed corporate changes.[50]

As Professor Coffee explained in his testimony before the Subcommittee:

> Shareholder proposals can play a "safety valve" function in corporate governance, allowing issues to be presented that need attention: for example, gender diversity on boards, climate change, executive compensation, etc. This attempt to silence these proposals will do little to encourage more IPOs but will suppress needed debate.[51]

Taken together with SEC rules that preclude proposals relating to ordinary business and the SEC no-action system that prevents abuses by special interests, we believe the SEC's existing rules and thresholds related to shareholder proposals have and continue to benefit both investors and U.S. public companies.

Thank you for considering our views. We would be very happy to discuss our perspective on these and other issues with you or your staff at your convenience. I am available at jeff@cii.org or by telephone at (202) 822-0800.

Sincerely,

Jeff Mahoney

Jeffrey P. Mahoney
General Counsel

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[50] *See, e.g.,* "ON**POINT**/A Legal Update from Dechert's Corporate Governance Practice, Shareholder Proposal Reform under the Financial CHOICE Act of 2017: A Welcome Development for Companies or a Trojan Horse?" 2 (May 2017) ("If that outlet for complaints is removed, aggrieved shareholders may have no choice but to resort to more direct, blunt action, such as binding bylaw proposals, withhold vote for director campaigns, or even the ouster of company directors via proxy access or in a conventional contest."), https://info.dechert.com/10/8636/may-2017/shareholder-proposal-reform-under-the-financial-choice-act-of-2017--a-welcome-development-for-companies-or-a-trojan-horse-(1).asp?sid=45fff908-ffb8-4889-9feb-0a5fb8b5eda5.
[51] Statement of Professor John C. Coffee, Jr., Adolf A. Berle Professor of Law, Columbia University Law School at 12.