

Proposed questions for the confirmation hearing of SEC Chair Nominee Jay Clayton

- Present SEC rules make it extremely difficult for shareowners to vote for a mixed slate of directors in a proxy contest without physically attending the annual meeting of shareowners. This result has left shareholders having to vote either the management slate of directors or the dissident slate. Many have cited the obvious resolution of establishing a universal proxy to remedy this, and as such last October the SEC issued a proposed rule to make universal proxies compulsory. If confirmed, will you support finalizing the proposed rule mandating the use of universal proxies?
- SEC Rule 14a-8 facilitates the rights of shareholders to submit proposals at public corporations to a vote at the annual meeting of shareholders. While generally advisory, these proposals encourage companies to communicate with shareowners on important policy issues. In the past, shareholder proposals have led companies to voluntarily adopt important corporate governance reforms such as the annual director elections and policies and board diversity. Special interest groups representing public corporations, are currently advocating for substantial revisions to the shareholder proposal that would prohibit most shareowners from filing shareholder proposals. Do you believe Congress or the SEC should propose more restrictions on the ability of shareowners to submit shareholder proposals?
- Many market participants believe that executives who reap additional incentive pay for “hitting the numbers” should not be rewarded when they fail to hit the numbers. This principle is encompassed in Dodd-Frank’s enhancement of existing federal requirements on claw backs. Do you commit to giving priority to finalizing the proposed SEC rulemaking to implement the claw-back provisions of Dodd-Frank?
- Many long-term shareholders believe it is in investors’ best interests to know whether and how executives may be using derivatives to hedge their equity compensation. Will you prioritize finalizing the proposed SEC rulemaking required by Dodd-Frank mandating that public companies disclose their hedging policies on company-stock compensation?
- More than 70 percent of S&P 500 companies have adopted a majority voting standard, up from just 16 percent in 2006. Moreover, during the 2015 proxy season, the support for shareowner resolutions to adopt majority voting averaged more than 76.6%, an all-time high for such proposals. Despite this, majority voting is still not compulsory and directors in uncontested elections continue to be elected by a plurality of votes cast, rather than by a majority of votes cast. At times, this has allowed for a director to be elected or reelected so long as she receives any votes in her favor, even if most shareholders do not vote for her. Can you commit to finalizing the proposed SEC provisions contained in the universal proxy proposal requiring company’s to provide better disclosure in their proxy statements about the voting

standard they use for the uncontested election of directors and how that standard impacts the voting results?

- Many long-term investors support several of the requirements found in Dodd-Frank related to executive compensation. Where do you stand on the SEC's remaining executive compensation related rulemakings mandated by Dodd-Frank that have yet to be finalized, including the completion of the SEC's proposed rules on recovery of executive compensation and disclosure of employee and director hedging?
- The SEC is the only independent federal agency that is explicitly tasked with protecting and advocating on behalf of investors. Can you commit to preserving the independence of the SEC's rulemaking and enforcement functions so that the Commission's staff can continue to pursue the SEC's mission of investor protection? Further, can you commit to supporting adequate funding for the SEC so that they may fully pursue their mission?
- Snap Inc.'s IPO was listed by the NYSE despite having "zero" voting rights for public shareholders. This listing has caused unease amongst many long-term investors as they are concerned that they will be unable to hold Snap's board accountable. In light of this, how do you reconcile multi-class common stock structures with different voting rights with the rights of long-term investors to make a positive impact on the boards of companies that they hold?
- Two major proxy advisory firms control approximately 97% of the market. An increase in regulatory burdens for these firms, as may be proposed in the pending House Financial CHOICE Act, would impose excessive costs on those firms, potentially causing one of the two firms to exit the market, as well as prohibit new market entrants. Investors, the primary consumers of these firms' services, believe that increased regulation in this field is unnecessary and inhibits the ability of the firms to provide timely and objective information to their clients. Do you believe that proxy advisory firms should be subject increased federal regulation?