

The Investors' Working Group

Via Facsimile

March 19, 2010

The Honorable Christopher J. Dodd
Chairman
Committee on Banking, Housing, and
Urban Affairs
SD-534 Dirksen Senate Office Building
Washington, D.C. 20510-6075

The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing, and
Urban Affairs
SD-534 Dirksen Senate Office Building
Washington, D.C. 20510-6075

Dear Chairman Dodd and Ranking Member Shelby:

We are writing to reiterate the Investors' Working Group's ("IWG") strong support for the corporate governance provisions contained in the Committee Print of the Restoring American Financial Stability Act of 2010 ("Act"). Those provisions, particularly Sec. 972—reaffirming the Securities and Exchange Commission's authority to issue a uniform proxy access rule, and Sec. 971—requiring majority voting for the election of directors, are critical to addressing the failure of oversight by corporate directors that directly contributed to the financial crisis.

The IWG, an independent blue ribbon panel of industry and market experts created by CFA Institute and the Council of Institutional Investors to study and report on financial regulatory reform from the viewpoint of investors, carefully considered the need to improve corporate governance as a key element of financial regulatory reform. That consideration resulted in a number of findings and specific recommendations included in our July 2009 report – *U.S. Financial Regulatory Reform: The Investors' Perspective* ("IWG Report").

The IWG's findings on the need to improve corporate governance include the following:

The global financial crisis represents a massive failure of oversight. Vigorous regulation alone cannot address all of the abuses that paved the way to financial disaster. Shareowner-driven market discipline is also critical. Too many CEOs pursued excessively risky strategies or investments that bankrupted their companies or weakened them financially for years to come. Boards were often complacent, failing to challenge or rein in reckless senior executives who threw caution to the wind. And too many boards approved executive compensation plans that rewarded excessive risk-taking.



Council of Institutional Investors
The Voice of Corporate Governance



About the Investors' Working Group: The Investors' Working Group (IWG) is an independent, nonpartisan commission co-sponsored by the Council of Institutional Investors and the CFA Institute to recommend ways to improve the regulation of U.S. financial markets. The IWG was established to ensure that investor views are heard in debate about how to modernize the financial regulatory system. Co-chairs of the IWG are William H. Donaldson, CFA, and Arthur Levitt Jr.

About the IWG sponsors: The [Council of Institutional Investors](#) is a nonprofit association of public, union and corporate pension funds with combined assets that exceed \$3 trillion. The Council is a leading voice for good corporate governance, strong shareowner rights and related investment issues. [CFA Institute](#) is the global association for investment professionals. It administers the CFA and CIPM curriculum and exam programs worldwide; publishes research; conducts professional development programs; and sets voluntary, ethics-based professional and performance-reporting standards for the investment industry.

But shareowners currently have few ways to hold directors' feet to the fire. The primary role of shareowners is to elect and remove directors, but major roadblocks bar the way. Federal proxy rules prohibit shareowners from placing the names of their own director candidates on proxy cards. Shareowners who want to run their own candidates for board seats must mount costly full-blown election contests. Another wrinkle in the proxy voting system is that relatively few U.S. companies have adopted majority voting for directors. Most elect directors using the plurality standard, by which shareowners may vote for, but not against, a nominee. If they oppose a particular nominee, they may only withhold their votes. As a consequence, a nominee only needs one "for" vote to be elected and unseating a director is virtually impossible.

Consideration of the above findings led the IWG to propose a number of specific recommendations to improve corporate governance as a central component of financial regulatory reform. Those recommendations include:

1. In uncontested elections, directors should be elected by a majority of votes cast. At many U.S. public companies, directors in uncontested elections are elected by a plurality of votes cast. An uncontested election occurs when the number of director candidates equals the number of available board seats. Plurality voting in uncontested situations results in "rubber stamp" elections. Majority voting in uncontested elections ensures that shareowners' votes count and makes directors more accountable to shareowners. Plurality voting for *contested* elections should be allowed because investors have a more meaningful choice in those elections.

2. Shareowners should have the right to place director nominees on the company's proxy. In the United States, unlike most of Europe, the only way that shareowners can run their own candidates is by waging a full-blown election contest, printing and mailing their own proxy cards to shareowners. For most investors, that is onerous and prohibitively expensive. A measured right of access would invigorate board elections and make boards more responsive to shareowners, more thoughtful about whom they nominate to serve as directors and more vigilant in their oversight of companies. Federal securities laws should be amended to affirm the SEC's authority to promulgate rules allowing shareowners to place their nominees for directors on the company's proxy card.

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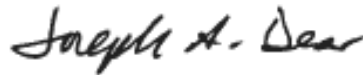
More details regarding the background and basis for the above findings and recommendations can be found on pages 22-23 of the IWG Report available in electronic form at [http://www.cii.org/UserFiles/file/resource%20center/investment%20issues/Investors'%20Working%20Group%20Report%20\(July%202009\).pdf](http://www.cii.org/UserFiles/file/resource%20center/investment%20issues/Investors'%20Working%20Group%20Report%20(July%202009).pdf).

Thank you for your consideration of the IWG views in connection with this very important piece of regulatory reform contained in the Act. As always, we would welcome the opportunity to have a member of the IWG discuss these issues with you or your staff at your convenience. Please feel to contact James Allen at 434.951.5558 or james.allen@cfainstitute.org, or Jeff Mahoney at 202.261.7081 or jeff@cii.org, to arrange for such a meeting or if you should have any questions or comments regarding this letter.

Sincerely,



Kurt Schacht, CFA
Managing Director, CFA Institute Centre for
Financial Market Integrity
Co-Sponsor, Investors' Working Group



Joe Dear
Chair, Council of Institutional Investors
Co-Sponsor, Investors' Working Group

CC: The Honorable Senator Tim Johnson (via email)
The Honorable Senator Jack Reed (via email)
The Honorable Senator Charles E. Schumer (via email)
The Honorable Senator Evan Bayh (via email)
The Honorable Senator Robert Menendez (via email)
The Honorable Senator Daniel K. Akaka (via email)
The Honorable Senator Sherrod Brown (via email)
The Honorable Senator Jon Tester (via email)
The Honorable Senator Herb Kohl (via email)
The Honorable Senator Mark Warner (via email)
The Honorable Senator Jeff Merkley (via email)
The Honorable Senator Michael Bennet (via email)
The Honorable Senator Robert F. Bennett (via email)
The Honorable Senator Jim Bunning (via email)
The Honorable Senator Mike Crapo (via email)
The Honorable Senator Bob Corker (via email)
The Honorable Senator Jim DeMint (via email)
The Honorable Senator David Vitter (via email)
The Honorable Senator Mike Johanns (via email)
The Honorable Senator Kay Bailey Hutchison (via email)
The Honorable Senator Judd Gregg (via email)