



Román D. Hernández  
National President

September 16, 2009

Elizabeth M. Murphy  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

**Re: Proxy Disclosure and Solicitation Enhancements (File No. S7-13-09, Release No. 34-60280 )**

Dear Ms. Murphy,

On behalf of the Hispanic National Bar Association (“HNBA”)<sup>1</sup>, we are very pleased to respond to Release No. 34-60280 (the “Release”), in which the Securities and Exchange Commission (“SEC”) solicits comments on its proposed rules to enhance the disclosure registrants are required to make about director and nominee qualifications. We are specifically writing to express our strong support for the SEC’s proposed amendment to Item 407 (c)(2)(v) of Regulation S-K to require disclosure of additional factors that a nominating committee considers when selecting someone for a position on a registrant’s board, specifically including diversity. We believe that diversity is very relevant to investors when evaluating director and nominee qualifications.

The HNBA believes that detailed disclosures regarding director and nominee qualifications will provide investors with important information regarding the management and oversight of the companies in which they invest. In particular, requiring enhanced and specific diversity disclosures will help investors to make more informed voting decisions and allow them to better assess the efficacy of the director nomination process and the backgrounds of director nominees. We welcome the opportunity to comment on these critical provisions and will specifically address the need for (1) disclosure of whether diversity is considered in the director nomination process, and (2) disclosure of the gender and racial breakdown of directors and director nominees.

We believe that healthy businesses are characterized by sound corporate governance and overall corporate social responsibility. The well-governed sustainable and responsible business enterprise meets high standards of corporate ethics and operates in the best interests not only of investors but also of other stakeholders, including employees, customers, communities and the

---

<sup>1</sup> The HNBA is a not-for-profit, non-partisan national membership organization which represents the interests of more than 100,000 Hispanic attorneys, judges, paralegals and law students in the United States and Puerto Rico.

environment. In our view, companies that combine good governance and corporate social responsibility avoid unnecessary financial risk and are better positioned for long-term success. Over the past year, we have seen a series of corporate governance failures that can be laid directly at the doors of various actors including directors - who assume an ethical duty to represent the interests of all investors. Scores of directors failed to properly manage these duties, and millions of investors as well as many other stakeholders have been harmed.

Against this backdrop, we believe now is an appropriate time to re-examine the rules governing nominee and director qualification disclosures. The current methodology that guides the disclosure of the director, nominee, and the nomination process has resulted in boilerplate generalities at best, and little or no meaningful disclosure. Indeed, as investors we research thousands of companies annually, and it is rare that we receive proxy disclosures adequate to properly assess a directors' background or their ability to fulfill their duties as a director.

We believe in particular that diversity is a critical attribute to a well functioning board and an essential measure of good governance. In an increasingly complex global marketplace, the ability to draw on a wide range of viewpoints, backgrounds, skills, experience and expertise internally increases the likelihood of identifying opportunities, assessing risks and making the right decisions. We believe director and nominee diversity that includes race, gender, culture, age, thought and geography helps to ensure that different perspectives are brought to bear on issues, while enhancing the likelihood that proposed solutions will be nuanced and comprehensive. This diversity of thought may have mitigated the shortcomings in oversight of risk management that we witnessed this past year.

While many have confirmed the notion of diversity as good business, progress has been slow. According to Catalyst, in 2008 women represented 15.2 percent of Fortune 500 directors, versus 13.6 percent in 2003. Corporate boardrooms are far from reflecting the diversity of the global marketplace.

A broad and growing group of investors has increasingly supported boardroom diversity in its investment policies. Earlier this year, the Council of Institutional Investors amended its Corporate Governance Policies to explicitly support a diverse board in background, experience, age, race, gender, ethnicity, and culture.

- **Disclosure of whether diversity is considered in the director nomination process**

We believe leading businesses are those that include a specific mention of diversity in race and gender in their director selection criteria and consider candidates from both traditional and non-traditional areas. Further, businesses should ensure that every time a slate of directors is provided, qualified women and minority candidates are included as part of the pool from which they are chosen. We encourage the SEC to require registrants to disclose whether they do, or do not, and a description of the diversity factors considered, if any, in the nomination of director nominees. Such disclosure would give investors confidence that nominating committees are searching beyond the traditional circles to consider fresh and independent viewpoints.

Elizabeth M. Murphy  
Secretary  
Securities and Exchange Commission  
Page 3 of 3

- **Disclosure of gender and racial breakdown of directors and nominees**

Further, we feel it is necessary for registrants to disclose director and nominee race/ethnic and gender representation data. Gender representation can sometimes be determined by analyzing the proxy statement. However, investors are unable to accurately determine the level of minority representation on corporate boards. Investors have long sought representation data to make more informed voting decisions and to adequately evaluate board composition. Investors need this additional disclosure to assess the makeup of boards and generate comparisons across companies, highlighting boards with little or no diversity. We strongly believe this type of disclosure would have a positive impact on the overall effectiveness of boards.

In closing, we feel current proxy disclosures limit investors' ability to assess director nominees and board composition. We feel additional disclosure with regard to board diversity - both in the qualification of candidates and in representation data - is critical to providing investors the necessary information to assess the management and oversight capability of the companies in which they invest. We thank you for the opportunity to comment and hope the SEC will expand proxy disclosure requirements to include these important diversity disclosures.

Sincerely,

Román D. Hernández, Esq.  
National President

cc: HNBA Executive Committee