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AGENDA ITEM 11c

TO: MEMBERS OF THE INVESTMENT COMMITTEE

- I. SUBJECT:** Shareowner Proposal Delegation
- II. PROGRAM:** Global Equity – Corporate Governance
- III. RECOMMENDATION:** Approve staff delegation to sponsor, co-sponsor, and withdraw shareowner proposals at CalPERS portfolio companies that support implementation of Investment Office corporate governance programs, projects, and initiatives.

IV. ANALYSIS:

Staff is seeking Investment Committee approval to replace existing annual limitations on the number of shareowner proposals staff has been delegated to submit at CalPERS portfolio companies. Existing limitations would be amended to provide for the ability to submit as many proposals as necessary to carry out CalPERS shareowner activities consistent with its fiduciary duty including, but limited to proposals that support:

- Existing Global Equity Corporate Governance Programs such as the Focus List Program
- Adoption by portfolio companies of governance standards and practices that are consistent with CalPERS Global Principles of Accountable Corporate Governance
- Implementation of 2010 Global Equity strategic priorities including implementing majority standards for director elections at CalPERS equity portfolio companies.

Approval of staff's recommendation through this agenda item removes existing limitations that are in place with regard to the number of shareowner proposals

staff can file at companies related to the implementation of the Investment Office's 2010 strategic priorities.

Background

One effective strategy for engaging portfolio companies is the prudent exercise of our right as a shareowner to file shareholder proposals. The Shareholder Proposal Rule (Rule 14a-8 of the Securities Exchange Act of 1934) allows shareholders to communicate with each other as well as with management. Shareholder proposals typically specify an activity or policy change that the sponsor of the proposal is requesting a company to undertake. Proposals (also referred to as a shareholder resolution) can be filed with a company by any stockholder who has held a minimum amount of stock of the company for more than a specified period of time.

Current Delegation for Filing Shareholder Proposals

At its December 2004 meeting, the Investment Committee approved delegation for filing, co-filing and withdrawing shareholder proposals at CalPERS portfolio companies within the following limitations:

- Companies under CalPERS' Focus List methodology
- Up to 20 proposals per year at companies engaged under the Committee's strategic plan for executive compensation
- Up to 10 proposals per year for governance issues that are consistent with CalPERS Corporate Governance Principles that have already been identified by the Investment Committee as matters of special concern.

Removal of Existing Proposal Limitations Support Strategic Priorities

As identified in the Investment Office 2010 Roadmap, staff communicated the following five strategic governance priorities to be achieved in support of implementing the Investment Office financial market reform objectives:

1. Formalizing a Total Fund process for developing investment, environmental, social, and governance policy and practice.
2. Influencing capital market regulation as reflected in an evolving U.S. legislative and regulatory environment.
3. Developing a shareowner aligned director pool of talent.
4. Implementing majority voting standards for director elections at CalPERS equity portfolio companies.
5. Executing a financial sector engagement initiative to catalyze adoption of accountable corporate governance best practices.

Approval of staff's recommendation through this agenda item removes existing limitations that are in place with regard to the number of shareowner proposals staff can file at companies related to the implementation of the Investment Office 2010 strategic priorities. For example, successful execution of CalPERS majority voting strategic initiative could require the filing of shareowner proposals at portfolio companies identified as having plurality voting standards in uncontested director elections. The filing of proposals to support effective execution of this strategic initiative will likely result in the filing of proposals that exceed existing annual delegated caps on the number of proposals staff can file.

Shareowner Proposals to Implement Majority Voting

Following approval of this agenda item, staff will be initiating its constructive engagement of up to 58 of CalPERS' largest domestic companies based on market capitalization with a written request to adopt a majority voting standard in uncontested director elections (**Attachment 1**). This initial correspondence by letter will be followed by ongoing dialogue with corporate boards and management and subsequent potential filing of a shareowner proposal as needed.

Under the corporate law of all U.S. states, the default voting threshold for director election, the one that applies unless the company provides otherwise, is a plurality. A plurality standard means that the director who receives the most votes wins in contested elections; however, in uncontested elections, an incumbent director can be re-elected by a single vote. In some U.S. states, including Delaware, corporation law authorizes adoption of majority voting company bylaws, requiring that a candidate receive a majority of votes cast to be elected in a non-contested election. However, as of September 2009, approximately 30 percent of the S&P 500 and just over half of the Russell 1000 constituency maintain a plurality voting standard in director elections.

Corporate governance practices should focus board attention on aligning the economic interests of the company with those of shareowners and holding the board of directors accountable for those interests. One such governance practice, which is effective in holding directors accountable for creating shareowner value and encouraging better shareowner-director communication, is a director election standard which requires a majority of votes cast for a director to be elected/re-elected to the board.

CalPERS Global Principles state that in an uncontested director election, a majority of the proxies cast should be required to elect a director. In a contested election, a plurality of proxies cast should be required. Resignation for any director that receives a withhold vote greater than 50 percent of the votes cast should be required. Unless the incumbent director receiving less than the majority of votes cast has earlier resigned, the term of the incumbent director

should not exceed 90 days after the date on which the voting results are determined.

Amending the existing limitations on the number of proposals staff can currently sponsor would enable more effective execution on implementing the 2010 majority vote strategic priority. This amendment would also prove to be beneficial for portfolio company engagement related to future majority vote initiatives and other corporate governance priorities.

V. STRATEGIC PLAN:

This item will further the following goals of CalPERS Strategic Plan:

- Goal VIII. Manage the risk and volatility of assets and liabilities to ensure sufficient funds are available, first, to pay benefits and second, to minimize and stabilize contributions.
- Goal IX. Achieve long-term, sustainable, risk adjusted returns.

VI. RESULTS/COSTS:

Costs are included in existing budget.



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