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September 10, 2003

Jonathan G. Katz

Secretary,

U.S. Securities and Exchange Commission

450 Fifth Street, NW,

Washington, DC 20549-0609

**Re: File No. S7-14-03**

**Disclosure on Nominating Committee Functions and Communications between Security Holders and Board of Directors**

Dear Mr. Katz,

I am writing to you on behalf of the California Public Employees' Retirement System (CalPERS). CalPERS is the largest public pension system in the U.S., with approximately \$144 billion in assets. We manage retirement benefits and health insurance on behalf of nearly 1.3 million members.

CalPERS is pleased to provide comment on the Commission's proposed rule on disclosure regarding Nominating Committee functions and communications between shareowners and Boards of Directors. We applaud the Commission's decision to further pursue the Nominating Committee disclosure standards currently found in Item 7 of Exchange Act Schedule 14A and require enhanced disclosure. We support the intent of the proposed disclosure requirements to ensure transparency of the policies of Boards of Directors, with the goal of providing shareowners access to the directors, as well as a better understanding of the functions and activities of the boards of the companies in which they invest.

Overall, CalPERS is very supportive of the Commission's responsiveness to public concern regarding the process for nominating candidates for elections as directors and the ability of shareowners to communicate effectively with Boards of Directors. CalPERS recognizes as a shareowner that we must strike a balance in our communication with Boards. Shareowners should be provided access to boards; however, we realize too much communication may effectively distract the Board.

SEC Proposal:

The Commission requests input on specific questions addressed in this proposal. CalPERS regards increased disclosure as an effective means to increase shareowners' understanding of the nominating process, board accountability, board responsiveness and governance policies. CalPERS consistently advocates that companies provide shareowners detailed information to enhance understanding of their processes. We support transparency as a rule. Furthermore, we agree that identifying the process under which candidates are identified and evaluated including the qualifications and standards for director nominees, the source of these candidates and naming third parties receiving compensation for identifying and evaluating candidates, provides shareowners better tools to evaluate the election process and individual board members.

CalPERS advocates the requirement that investors be provided a copy of the Nominating Committee Charter upon request. In fact, we have advocated that companies post committee charters on their web sites. Not only has this caused no harm to the companies, it may actually decrease the burden placed on the company from forcing shareowners to request the material. We agree that the proposed changes should apply to all companies, including small companies and mutual fund companies, with registered securities.

Although we believe the Commission's proposed amendments would mark a substantial step forward if adopted "as is," we would like to offer a few suggestions for strengthening these proposals:

- Require prompt filing of an 8-K to disclose any changes made to procedures to nominate a board candidate or if qualification requirements are not met by proposed candidates.
- Require disclosure of any financial interest between the candidate and sponsor nominating the candidate.
- Require the naming of any candidate's sponsor(s), disclosing the sponsor's title, firm, and any professional, familial or financial relationships between the candidate, sponsor, company and company executives.
- Require naming of all rejected candidates and disclosure of the reasons for rejection.
- Require that companies disclose a method to allow shareowners confidential access to communicate directly with the presiding director or with other non-management board members on an individual basis. Disclosure of the communication process should include the manner in which shareowners can send communications and how board members accept communications. If board members do not take communication directly, then disclosure should provide a description of the filtering and relaying process; as well as a description of any material action taken by the board during the preceding fiscal year as a result of communications from shareowners.
- Clarify "record" holder for means of verifying ownership as identified in Instructions to paragraph (d) (2). The Commission should provide more guidance on definition of record holder of securities.

Additionally, issues not addressed in this proposed release in which CalPERS recommend be included:

- 1) Provide guidance to boards in nominating new directors. Boards should utilize a self-evaluation process to help identify key areas in which the board could be strengthened, including skill-sets and experience. With each director nomination recommendation, the board should consider the mix of director characteristics, experiences, diverse perspectives and skills that are most appropriate for the company.
- 2) Provide that each board establish performance criteria, not only for itself (acting as a collective body) but also individual behavioral expectations for its directors. Minimally, these criteria should address the level of the director's: attendance, preparedness, participation, and candor.

Thank you for the opportunity to comment. Please feel free to contact Ted White, Director, Corporate Governance, at (916) 341-2731 with any questions.

Sincerely,



Mark Anson,  
Chief Investment Officer  
CalPERS

Cc:  
CalPERS Board of Administration  
Ted White, Director, Corporate Governance