



February 3, 2020

Ms. Vanessa A. Countryman  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington DC 20549-1090

*Via email to rule-comments@sec.gov*

Re: Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8  
(File No. S7-23-19) and Amendments to Exemptions from the Proxy Rules for Proxy  
Voting Advice (File No. S7-22-19)

Dear Ms. Countryman:

I am writing on behalf of Domini Impact Investments LLC (“Domini”), an investment adviser and sponsor of a proprietary family of mutual funds, to respectfully oppose the Securities and Exchange Commission’s (“SEC” or “Commission”) proposed rules pertaining to shareholder proposals (“the proposed rule”) and to proxy advisors (“the proposed proxy advisor rule”).

Domini has been engaged in responsible investing since the 1990s. Corporate engagement, including shareholder proposals and proxy voting, is a core component of how we steward our investments and seek to create value for our clients and the firms in which we invest. The current proposed rule appears in many places to be inconsistent with our experience. We hope this letter may add a different perspective for the Commission’s consideration.

**Shareholder proposals are a tool for long-term value creation.** The inflow of assets to “sustainable investing” supports the growing consensus that environmental, social and governance (“ESG”) concerns are connected to long-term value creation.<sup>i</sup> We raise material ESG issues with companies based on our in-house research. These efforts nearly always begin outside of the 14a-8 process. When companies are not responsive, our ability to file a proposal has been an essential tool for raising ESG issues. When we do file, we often look for opportunities to negotiate a withdrawal of the proposal.<sup>ii</sup> Since 1994, one third of the 290 proposals we have filed have been withdrawn, suggesting that a productive outcome for the company and all its shareholders was reached because of the proposal.<sup>iii</sup> Additionally, companies may be more willing to engage in dialogue because they seek to avoid using the shareholder proposal process. Accordingly, efforts to restrict access to the shareholder proposal process may have the perverse effect of reducing corporate engagements outside the 14a-8 process and reducing overall corporate accountability.



**The current shareholder proposal process works well and is not in need of reform.** We have not observed the “need for rulemaking” as described by the Commission. Existing limitations provide adequate safeguards for many of the concerns raised. Proposed changes would impose significant costs and inefficiencies and, in some cases, insert uncertainty into an otherwise functional process. The harm to our ability to work productively with companies significantly outweighs the stated benefits of the proposal.

**The economic analysis conducted by the Commission overlooks key considerations that may enable a valid and useful assessment.** Specifically, the proposal would benefit from a more detailed review of the costs borne by proponents and companies associated with filing a proposal (including itemization of costs that are shifted to companies, the costs of alternatives to shareholder proposals, the costs of potentially reduced corporate engagement, costs of resubmissions versus original submissions, and costs distinguished based on the various courses of action a company may elect to pursue) and the benefits generated by the proposal process (including proposals that are withdrawn and proposals that receive low votes). The explicit exclusion from consideration of the value created by proposals raises serious concerns. Supporting long-term value is central to the proposals we file and should be an essential part of the Commission’s consideration.

**The ownership thresholds should not be adjusted.** While Domini’s ability to file proposals would likely not be affected by the change in ownership thresholds, excluding the voices of smaller investors would be a detriment to other shareholders. We frequently support proposals filed by small shareholders; they often raise important risks or opportunities before they are widely recognized. Mandating specific terms of engagement would be unduly cumbersome for proponents, companies and enforcement staff. It may also introduce new opportunities for abuse for example by drawing out a scheduling process in order to affect the eligibility of a proposal. Additionally, any contemplated requirement related to engagement should apply not only to the party filing the resolution but to the company as well.

**The proposed changes to resubmission thresholds would stifle the growing call for corporate sustainability.** Share owners are more actively exercising their voices in order to fill gaps in corporate accountability and risk management. The associated higher vote results should not be used as a basis to limit that exercise.

Focusing on a 51% threshold misunderstands the value and importance of the process for communicating the concerns of shareholders to the company. Proposals that raise major risks often receive low votes for many years before the issues are broadly taken up. We believe companies often consider proposals that receive less than majority support as a matter of good corporate governance. The momentum provision would also undermine the elevation of these important issues and may lead to illogical results as proposals with high absolute support may be excluded.

**Representation provisions are vague and unnecessary.** It is unclear if and what part of these proposed rules would apply to Domini. We often rely on a local representative to move our



proposal at a company's meeting in order to defray travel costs. If the rule intends to reach this conduct, such clarification should be made and issued in a new proposed rule with the appropriate period for public comment.

**The proposed changes to the proxy voting advisory bodies ("PVABs") would be costly and harmful to our proxy voting process.** We see no need for issuers to intervene in our private contract with a third party; companies have ample channels to communicate with investors. Mandating that the companies that are the subject of independent research be able to affect that research will compromise both its timeliness and reliability. PVABs have improved shareholder participation in the proxy process and overall corporate governance as a result, to the benefit of companies, investors and the markets as a whole.

Thank you for your consideration of these important matters and for this opportunity to share our perspective as investors. We would welcome the opportunity to discuss these issues or provide any additional information or clarification that might be helpful. I can be reached at [cklemmer@domini.com](mailto:cklemmer@domini.com) or (212)217-1027.

Sincerely,

Corey Klemmer, Esq.  
Director of Corporate Engagement

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<sup>i</sup> George Kell, "The Remarkable Rise of ESG" *Forbes* (July 11, 2018). Available at: <https://www.forbes.com/sites/georgkell/2018/07/11/the-remarkable-rise-of-esg/#652b52b01695>.

<sup>ii</sup> See <https://www.domini.com/investing-for-impact/engagement/shareholder-proposals>

<sup>iii</sup> See Soltes, Eugene F. and Srinivasan, Suraj and Vijayaraghavan, Rajesh, What Else Do Shareholders Want? Shareholder Proposals Contested by Firm Management (July 14, 2017). Harvard Business School Accounting & Management Unit Working Paper . Available at SSRN: <https://ssrn.com/abstract=2771114> or <http://dx.doi.org/10.2139/ssrn.2771114>