

E-Proxy – the new world of electronic distribution of proxy materials

The SEC establishes new rules for the Internet availability of proxy materials designed to substantially decrease the costs incurred by issuers and others soliciting proxies.

The newly adopted SEC rule allows companies to furnish proxy material to shareholders through the Internet using the “Notice and Access” model starting July 1, 2007. While current procedures approved by the SEC are optional, the commission has opened a 60 day comment period on a proposal to make them mandatory for all companies for 2008. This comment period is scheduled to expire on March 30, 2007.

Below are some important steps that must be met if the “Notice and Access” procedure is chosen:

- All material must be written in plain English and must include the date, time, and location of the meeting at hand.
- Must include where to access the material on the web and also include a toll free number, email address, and website for shareholders to request a copy of the material.
- Must include a clear and impartial description of every detail to be discussed at the meeting.
- Must send the notice at least 40 days prior to the meeting date.
- A proxy card cannot accompany the initial notice, but a proxy card can be accompanied by another notice 10 days or more after the initial notice.
- The notice must provide instructions for shareholders who wish to receive hard copy of proxy materi-

als. Company has 3 business days from the shareholders date of request to send out the material.

- The compliance date for these amendments is effective as of July 1, 2007 for those issuers volunteering the electronic method of delivery.

Potential Impact

While there is inevitably a decrease in cost to issuers for printing and mailing services, some argue that these cost estimates are overblown as issuers must incur the costs of material fulfillment needs or “print-on-demand” for those opting out of electronic delivery by requesting hard copies of the proxy material.

The Notice & Access model will also provide activists, potential dissidents and other shareholder groups with a more cost-effective means to undertake their own proxy solicitations against an issuer. This increases the likelihood for solicitation battles on the horizon from shareholders who in past years may have been reluctant to launch a fight due to the expenses incurred with a proxy contest.

Will this change affect the responsiveness of voters and potentially decrease the vote response? Even though paper delivery will remain an option, we are concerned that voter turn-out will decline-- perhaps precipitously-- under this new rule. We are convinced that an individual is less likely to either request a printed proxy or read a written notice and log onto the Internet to

access a company's proxy materials before voting on line than they are to fill out and return a paper ballot that is automatically mailed to them. Add this into an environment where companies are already having

to deal with the impact of majority vote and the looming elimination of discretionary voting on director elections, and this could have some real tangible impact.

About The Altman Group: The Altman Group is one of the premier proxy solicitation corporate governance, shareholder identification, and bankruptcy services firms in the United States and winner of the 2006 TOPS Award as the Highest Rated Proxy Solicitation Firm.

For more information please contact us at info@altmangroup.com or call us toll-free at 866-Go-Proxy.