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Statement of the Shadow Financial Regulatory Committee

SEC Adoption of Communications Advances

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With new leadership at the Securities and Exchange Commission, the revolution in communications created by the Internet is finally penetrating securities regulation.

Last week, the SEC proposed for public comment a new rule for distributing proxy material. The proposed rule would permit companies to solicit proxies by posting proxy material on a website and sending a notice to their shareholders containing essential information about the meeting and its purpose. This would include the date, time and location of the meeting, the availability of the information posted on the website, and “a clear and impartial description of the matters to be considered at the meeting.” Shareholders that request printed materials would be entitled to receive copies. This reverses the current rule, in which companies can send proxy material to shareholders electronically if the shareholder consents. Significantly, the proposal would also permit persons other than the company to solicit proxies in much the same way.

The Shadow Financial Regulatory Committee endorses this proposal for two reasons. First, it will reduce companies' and brokers' costs of creating and transmitting proxy materials in connection with annual or special meetings. Second, it will make proxy contests less expensive for challengers to management, and thus go some distance toward invigorating the market for corporate control. That market, which is the most effective way of assuring efficient management of economic assets, has been restricted by statute and federal and state regulation since the takeover period in the 1980s.

In addition, over the last few months, Chairman Cox has publicly noted that the SEC's financial reporting must catch up with the advances in communication and information transfer that have occurred over the last two decades. To the extent that these statements presage the SEC's adoption of XBRL (Extensible Business Reporting Language) for corporate reporting, the Shadow Committee applauds this initiative.

XBRL is an application of a new Internet language to the reporting of financial information. Over many years, a consortium of companies and accounting firms has translated thousands of terms that appear in financial statements, footnotes and other company information into a standard format that can be accessed electronically. Companies can keep and report their financial information in any way they want, but XBRL serves in effect as a common language that allows analysts, researchers and others to find and download specific company information quickly and inexpensively. The XBRL format will, for example, allow an analyst to download into a spreadsheet the research and development expenses of every company in an industry. Currently, this information must be tortuously developed "by hand" from financial statements, and then entered separately into the relevant data file.

The Committee hopes that the SEC will follow up the new proxy proposal and the promise of XBRL with other advances in the use of electronic communications. The SEC has always required that a written prospectus be delivered to a purchaser of securities before or simultaneously with the confirmation of the purchase. This is a particularly burdensome requirement for mutual funds, which are continuously issuing shares. The Committee urges the SEC to consider extending Internet disclosure to prospective mutual fund and other investors. This would be an efficient way to deliver or otherwise make relevant information available to a prospective investor at a considerable saving in cost and time.