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SEC Delves Into 'Proxy Plumbing'

By FAWN JOHNSON

WASHINGTON—The U.S. Securities and Exchange Commission voted 5-0 Wednesday to consider new rules to modernize shareholder voting, with a particular eye toward regulating proxy advisory firms.

The inquiry into proxy advisory firms comes as the SEC opens a broad review of the mechanics of shareholder voting, also addressing issues such as "empty voting," in which shareholders place votes even if they have little or no monetary interest in the firm, according to a summary of the proposal.

The commission also will explore "over-voting," in which a broker's clients cast more votes than a broker is actually entitled to vote on their behalf, and "under-voting," which occurs when investors who are allocated the ability to vote fail to do so.

Proxy advisory firms offer several services to corporations running shareholder elections, such as research and recommendations on particular proxy issues or casting the actual votes.

The SEC is considering whether proxy advisory firms like RiskMetrics Group, Egan-Jones Proxy Services, or Glass Lewis and Co. should be subject to greater oversight from regulators.

SEC Chairman Mary Schapiro says proxy advisory firms wield significant influence in shareholder elections, particularly for investors who may not have specialized expertise. Critics have suggested there may be a conflict of interest if those firms provide services to both corporations and investors.

The SEC will explore the potential conflicts of interest in proxy advisory firms and ask whether it makes sense to require eventual public disclosure by those firms of their voting recommendations in commission filings, according to the summary.

Regulators are interested in how proxy advisory firms get the information that they pass on to investors, and whether it is accurate.

Proxy advisory firms "should be subject to increased SEC oversight and should be required to make additional public disclosures regarding their standards, methodologies and conflicts of interest," the National Investor Relations Institute, a professional organization, said in a statement.

The SEC says more than 600 billion shares are voted every year at more than 13,000 shareholder meetings. The proxy is the principal means for shareholders and public companies to communicate with one another.

"To result in effective governance, the transmission of this communication must be, and must be perceived to be, timely, accurate, unbiased and fair," Ms. Schapiro said.

The inquiry could take the SEC in several directions. The commission is seeking comment for 90 days on numerous issues involving proxy voting.

Any actual rulemaking on proxy voting mechanics will coincide with a full plate of rules the SEC must write under the financial overhaul bill, which could pass Congress as early as this week. But proxy mechanics generate a lot of interest among commission staff and in the financial community, which could propel the process.

The SEC will look into proxy distribution fees, which are charged to issuers to reimburse brokers for the costs of forwarding proxy materials. Maximum fees are set by stock exchanges, but they haven't been revised since 2002.

The commission also will examine a system that gives shareholders the ability to keep their identities confidential from the issuer.

"With fresh insights, we will examine whether those policies still represent the most appropriate regulatory response to the competing interests of privacy versus effective shareholder-corporation communications," Ms. Schapiro said.

The Shareholder Communications Coalition, an advocacy organization, believes it is important to eliminate barriers between public companies and their beneficial owners holding shares, "so that companies are able to know who their shareholders are and can communicate with them directly," said Niels Holch, the coalition's executive director.

The coalition has recommended that beneficial owners wishing to remain anonymous should be permitted to register their shares in a nominee or custodial account with their broker or bank, Mr. Holch said.

Ms. Schapiro has dubbed the review "proxy plumbing" to underscore the notion that all technical aspects of proxy voting are under the radar. It is distinct from a more controversial proxy access rule under consideration that would give shareholders easier access to corporate ballots.

Ms. Schapiro has said she wants to finalize the proxy access rule this year, but it is expected to meet with stiff opposition from the business community and will likely be approved by the commission on a divided vote.

Write to Fawn Johnson at fawn.johnson@dowjones.com

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