AMERICAN COUNCIL FOR CAPITAL FORMATION

Outsized Influence, Minimal Oversight: New ACCF Report Finds that Proxy Advisory Firms Operate with Unchecked Power

WASHINGTON, D.C. (May 1, 2018) – A new report from the American Council for Capital Formation (ACCF) finds that proxy advisory firms like Institutional Shareholder Services ("ISS") and Glass, Lewis & Co. ("Glass Lewis") are currently operating with minimal oversight, making recommendations that materially impact public companies' proxy outcomes, operations and disclosure requirements.

This report, titled "The Conflicted Role of Proxy Advisors," explores the history of proxy advisory firms; the impact they have on major policies at most publicly traded companies; and their increasingly activist stance on social, political and environmental issues. Its launch comes on the heels of growing scrutiny of proxy advisory firms by academics, trade associations, and other institutions and individuals, including the Corporate Governance Reform and Transparency Act of 2017, a bipartisan bill co-sponsored by Congressmen Sean Duffy (R-WI) and Gregory Meeks (D-NY).

"In this increasingly complex investment and financial landscape, investors rely heavily on the services of proxy advisory firms to support their proxy voting decisions," said ***Tim Doyle, ACCF's vice president and general counsel, and author of the report****. "ISS and Glass Lewis regularly provide services to issuers and companies with shareholdings in most publicly traded companies, wielding outsized influence and raising concerns over numerous conflicts of interest. The objective of the report is to enlighten those within the financial community about the unchecked power that proxy advisory firms currently have and encourage more oversight of these powerful industry bodies."*

Proxy advisory firms exercise their influence by providing analysis, recommendations, and consulting services to issuers and companies about how annual and special proxies should be voted. The lack of accountability, transparency, responsiveness, and competition in the proxy advisory firm industry has given a small number of businesses significant influence over corporate governance practices and disclosure requirements.

Institutions often vote in line with ISS and Glass Lewis recommendations. Notably, when proxy advisors recommend voting in favor of a proposal, large institutional holders support the resolution 80 percent of the time. And some funds automatically vote with the proxy advisors nearly 100 percent of the time, in a troublesome practice known as "robo-voting."

As a result, proxy advisory firms have emerged as "quasi-regulators," wielding their influence to require additional disclosure from public companies without any statutory authority, particularly around environmental or social issues. These recommendations, which are drawn from unaudited data sources, create new disclosure requirements that ultimately encumber companies with additional costs and burdens. This type of quasi-regulatory process especially disadvantages small and mid-sized companies, in favor of larger companies that have the resources to comply.

Underlying the issues related to proxy advisory recommendations is a broad lack of oversight over these institutions. While the investment community typically considers proxy advisory firms to be neutral arbiters of good governance, they are in fact, for-profit enterprises that frequently cater to the needs and objectives of their clients. Problematic conflicts of interest arise because the firms are, by design, incentivized to align with the comments of those who use their services the most and change policy to create a better market for their company-side consulting services.