

The Honorable Jeb Hensarling  
Chairman  
House Committee on Financial Services  
2129 Rayburn House Office Building  
Washington, DC 20515

The Honorable Maxine Waters  
Ranking Member  
House Committee on Financial Services  
4340 Thomas P. O'Neill Jr. Federal Office Building  
Washington, DC 20515

## **CORPORATE GOVERNANCE REFORM AND TRANSPARENCY ACT OF 2016 (H.R. 5311)**

Dear Mr Chairman and Ranking Member Waters,

I'm writing on behalf of the United Nations-supported Principles for Responsible Investment (PRI), the world's leading initiative on responsible investment, in response to the Corporate Governance Reform and Transparency Act of 2016 (H.R. 5311).

Since 2006, over 1500 investors globally with over USD\$60 trillion in assets under management have signed the Principles, committing to including environmental, social and corporate governance (ESG) factors in investment decision making, voting and engagement. The United States is the PRI's largest market with 273 signatories and USD\$33 trillion assets under management.

The PRI is concerned that the requirements contained in H.R. 5311 would significantly weaken the role institutional investors play in the corporate governance of US companies.

Under Rule 14a-2(b)(3) of the Exchange Act, proxy advisory firms are already required to disclose any significant relationship with a soliciting company or shareowner proponent or material interest in a matter that is the subject of a voting recommendation. The PRI believes this requirement already provides transparency for investors and companies. Therefore the additional provisions of H.R. 5311 are not necessary.

In particular, H.R. 5311 appears to require:

- Commission oversight of proxy advisory firms in making their voting recommendations available to companies in advance of publication.

- Proxy advisory firms to employ an ombudsman to receive complaints “from the subjects” of voting recommendations.
- Proxy advisory firms with operations based in the US, including any subsidiary or office, as well as proxy advisory firms providing research to US registered investment advisors / US clients to register with the Securities and Exchange Commission.

Therefore, the proposed bill would:

- **Give company management inappropriate influence over reports about their companies.**

Proxy advisory firms only provide research and recommendations to institutional investors. Voting decisions are generally based on the mandate and investment strategies of individual institutional investors.

Institutional investors need unbiased, reliable, well-resourced research to exercise voting rights on the companies in which they invest. Companies are not ultimate clients and they do not pay for this service, therefore they should not have a right to unduly influence the final product.

Further SEC oversight is an unnecessary provision and challenges the need for impartiality of proxy advisory firms.

- **Impose disproportionate compliance costs on proxy advisory firms and add substantial expense to institutional investors, including**

- 1) Cost of registration with the Securities and Exchange Commission

Noting larger proxy advisory firms already register with the Commission, the cost of registration would disproportionately impact new or smaller firms providing analysis and voting recommendations.

- 2) Cost of employing an Ombudsman

The cost of employee and administering an ombudsman would negatively impact firms providing analysis and voting recommendations.

- 3) Cost of voting

The draft bill exposes proxy advisors to share their research methodology and confidential intellectual property. The PRI is concerned that this would force institutional investors to develop greater capacity in-house or pay more for services that are in shorter supply.

All costs would need to be passed onto institutional investors.

- **Limit the confidence of investment managers and pension funds to engage company boards on ESG factors.**

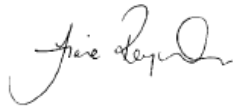
Fiduciary duties require investors to pay attention to long-term investment value drivers, including environmental, social and governance (ESG) factors, in their investment processes and in their active ownership and voting activities.

This was clarified by the Department of Labor in its October 2015 Interpretive Bulletin to ERISA fiduciaries, which stated that ESG factors were appropriately part of the analysis of a prudent investment decision. The Securities and Exchange Commission is also currently consulting with stakeholders on business and financial disclosure requirements, including ESG factors, in regulation S-K.

This bill challenges the role proxy advisory firms play in providing investors with timely research and analysis on companies in advance of shareholder votes<sup>1</sup>. The PRI believes provisions in this bill would therefore compromise the ability of institutional investors to fulfil their fiduciary duties.

The PRI endorses the Council of Institutional Investors (CII) letter of June 13, 2016 and recommends the bill is withdrawn.

Yours sincerely,



Fiona Reynolds  
Managing Director  
Principles for Responsible Investment

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<sup>1</sup> See PRI, UNEP FI: Fiduciary Duty in the 21<sup>st</sup> Century:  
[www.unepfi.org/fileadmin/documents/fiduciary\\_duty\\_21st\\_century.pdf](http://www.unepfi.org/fileadmin/documents/fiduciary_duty_21st_century.pdf)