

# Rule 452: WHAT it means to YOU!

by Artie Regan \*

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Annual Meetings held on or after 1/1/10 WILL experience a significant *decrease* in the total shares actually cast on management director nominees AND the aggregate number of shares voted "For" *each* management director nominee will *substantially* decrease – **GUARANTEED!**

Depending on HOW you are involved in the process will dictate WHAT you will have to do to compensate for this ... *brand new world*.

## **Corporate Secretaries, Investor Relations Professionals & Individuals responsible for the conduct of Annual Meetings**

Throughout *recent* history, essentially 100% of the shares held in "broker name" (*behind* Cede & Co.) were represented at all Annual Meetings (provided a certain mailing requirement was met) with the VAST majority of *those* shares voted "For" all management nominees (with the exception of contested meetings.) Not *any* more. **Starting with Annual Meetings held on or after 1/1/10 the *only* shares that will be voted behind broker name (on director nominees) will be the ones who *actually* vote.** Specifically, what has come to be known as the "discretionary voting rule" is being eliminated for the annual election of management's director nominees.

To ascertain the *minimum* impact that this change will have for YOUR *next* Annual Meeting, conduct this simple analysis. **Take 50% of the total shares held by all brokers for your *last* Annual Meeting and deduct *that* number from the final "For" vote for each nominee.** The result will be *roughly* WHAT your final vote *would* have looked like *IF* Rule 452 had already been in place; in some cases, it could be worse. Issuers that need to elect all of their director nominees with a majority of the outstanding affirmative vote are going to have the *BIGGEST* problem.

In preparation for your *next* Annual Meeting, discuss the results of the aforementioned analysis with your senior management team *and* (if warranted) contact us so that one of *our* experts can develop a customized strategy to address *your* company's actual needs.

## **SEC Lawyers, Transfer Agent Representatives & Investment Bankers**

Many of your clients accustomed to the seemingly routine nature of the Annual Meeting process are going to be rudely shocked by the disappearance of their 80% (or *higher*) quorums; *those days* are gone ... unless *additional* effort is expended to replace the "lost" broker votes.

*Fortunately*, the U.S. has many established proxy solicitors that already exist to *increase* participation (amongst shareholders) in the voting process. It would be prudent to review the shareholder profiles (of your clients) with an eye towards discovering which ones are heavily held by brokers; those that *are* should be supplied with our phone number so that we could provide the appropriate assistance.

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