

Supporting the Definition of Issues to Be Considered by Investors

With thanks to all the Forum participants who contributed to the several rounds of its drafting, we are adopting the new policies presented [below](#) for the definition of issues to be considered by a company's shareholders in their in their capital commitment or voting decisions.

The ability to define issues is an essential foundation of informed decisions by both the investors and the corporate managers who share a common interest in a company's long term value. Our policies for supporting that ability were developed to satisfy the following marketplace requirements that became apparent in the recent controversy about a proposed activist-controlled "referendum,"¹ as well as in our past two years of attention to a broad range of investor access and "engagement" practices:²

- **Control of issue definition** – Someone responsible for an investment, especially a fiduciary with duties to exercise independent judgment, must be able to determine what issues should be considered in making an informed decision. Ceding the definition of issues to an agent, such as a professional activist or a proxy advisor, effectively delegates responsibility for determining what is relevant.
- **Relevance to a range of investors** – A reliable determination of an issue's relevance to a range of key investor perspectives, rather than to a narrow constituency, is required as a basis for effective corporate response as well as for consideration by broader investor audiences.
- **Investor exchange of views** – Investors must be able to exchange views and questions, either anonymously or for attribution, acting as independent participants without any implication of agreements to coordinate or form groups.
- **Fair access and fair disclosure** – Any information relevant to investor decisions must be equally accessible to all investors, in compliance with laws as well as marketplace views of fairness.
- **Reasonable costs** – Ideally, a subject company's assumption of responsibility for an issue definition process would distribute the relatively modest costs ratably among all of the shareholders that benefit from it. To make initiation of the process practical for minority shareholders, though, provisions are needed to encourage a company's reimbursement of the shareholder's advanced payments, and also to minimize the shareholder's burden of leadership if a company's managers decline responsibility. Pricing should in any event be based on efficiently managed, specialized resources.

¹ For initially identified concerns and links to subsequent observations, see [May 21, 2014 Forum Report: Questions About Shareholder-Hosted Meetings of Shareholders](#).

² See [June 27, 2014 Forum Report: Preliminary Review of Objectives for Investor Initiation of Issues](#); for earlier attention to agency control of decision-making information, see [February 6, 2013 Forum Report: What Sources Should Investors Rely Upon?](#)

We will of course be continuing to consider revisions of the policies, as well as refinements of the Forum's processes. Your advice will be welcomed to guide our progress with the ultimate objective of issue control by people who are actually responsible for long term investor interests.

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Initiating the Definition of Issues

The following policies have been established to provide anyone responsible for investor interests with a practical means of controlling a definition of issues to be considered in shareholder capital commitment or voting decisions. Suggestions of policy modifications will be welcomed to support the intended review of common interests in long term company value.

1. **Eligibility of Initiator** – Any investor or representative of investor interests in a subject company, including the company’s management, may act as an “Initiator” of a request upon agreeing to conditions for either specific or categorical identification by the Forum. Generally, the Forum will support Initiator anonymity to the extent that it will not be misleading.
2. **Request for definition of issue** – Based only upon its determination that a briefly stated matter is relevant to long term investor interests, the Forum shall accept any request to define issues that an eligible Initiator believes investors should consider in decisions relating to the subject company.
3. **Confidential independent review and definition** – The Forum will interview representatives of various marketplace perspectives, including the subject company’s management as well as a range of investors, assuring participants confidentiality to encourage their candid observations. Conferring privately with the Initiator, the Forum will then develop a concisely stated definition of issues in terms that (a) are clearly relevant to broad investor interests rather than a narrow constituency and (b) justify the attention of the company’s management to assure informed investor decisions.
4. **Reporting of defined issues and company response** – If and as approved by the Initiator, the Forum will present its statement of defined issues to the subject company, delivering copies to both the board’s chairman and the chief investor relations officer. The company will be invited to assume responsibility for addressing the issues, whether the company or an investor was the Initiator, according to Forum policy supporting the duties of corporate directors and officers regarding stockholder interests. The company’s response, or lack of one, will be reported to the Initiator and to participants in the review, and will be publicly posted with the defined issues on the Forum’s website.
5. **Optional plans to address questions** – If the Initiator wishes to consider additional support at any time before or after issues are defined, the Forum will develop proposed plans for processes (such as shareholder surveys, independent peer reviews of company reports, or Forum-moderated open meetings) to address questions that may be raised by either investors or the company’s management. Any optional process will require the Initiator’s written approval of a proposed plan, including costs.
6. **Costs** – The Initiator will pay 40% of the standard charge for Forum definition of issues upon acceptance of the request, and the balance upon the Initiator’s approval of the Forum’s statement of defined issues for presentation. However, if the Initiator is a shareholder owning less than 5% of the subject company, it will be required to advance only half the standard charges, and those advances will be reimbursed if the company’s management assumes responsibility for the costs of addressing the defined issues for the benefit of all shareholders. The Initiator will not be responsible for any other costs unless it agrees to them specifically in writing.

The Shareholder Forum will manage all requests for definition of issues as an independent moderator, according to its standard policies that allow investors to participate in exchanges of information and views either anonymously or for attribution, without acting in concert. The following provisions are more fully stated in the Forum’s posted “[Conditions of Participation](#).”

Confidentiality: The Forum will consider all communications with someone exploring or initiating a request for issue definition to be confidential unless a specific disclosure is authorized, according to conventional understandings for research projects. Other participants in the review will not be identified unless they grant permission.

Independence: The Forum will have no responsibility or authority to represent or act on behalf of the Initiator or any other participant in a review, and neither the Forum nor any participant will be responsible for any acts or conduct of the other. Each participating investor, including the Initiator, will be expected to make independent use of information obtained through the Forum, and the Forum will not be involved in any agreements directly between participants. The Forum will of course have no direct or indirect ownership interest in a subject company, and will neither solicit nor accept proxies.