



ICGN

International Corporate Governance Network

9 February 2018

William H. Hinman
Director
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street NE.,
Washington, DC 20549

Re: Forced arbitration provisions in public company governing documents

Dear Mr. Hinman:

The International Corporate Governance Network (ICGN) is a global investor-led body based in London, whose mission is to promote effective standards of corporate governance and investor stewardship to advance efficient markets and sustainable economies world-wide.

ICGN was established in 1995, and today our network of governance professionals spans over 45 countries and includes investors representing assets under management in excess of \$26 trillion. As such, ICGN offers an important investor perspective on corporate governance to help inform public policy development and the encouragement of good practices by capital market participants. Our policy positions are guided by the ICGN Global Governance Principles and Global Stewardship Principles, both of which have been developed in consultation with ICGN Members and as part of a wider peer review.¹ ICGN has a Disclosure and Transparency policy committee focused on enhancing company communications through robust integrated reporting, quality audit and metrics.

We represent investors who are committed to improving corporate transparency and the quality of disclosures. We are writing to express our members' concern that the SEC is reportedly² considering a substantial policy change to allow companies to add mandatory arbitration clauses to their organic documents. We would interpret this as working against the rights and interests of minority shareholders.

ICGN strongly opposes any effort that would force shareholders into mandatory arbitration provisions. Such provisions would undermine much of the work we do in getting US companies to

¹ For access to ICGN's Global Governance Principles and Global Stewardship Principles, along with other policy statements, including ICGN's 2018 Policy Priorities, please visit: www.icgn.org.

² Benjamin Bain, "SEC Weighs a Big Gift to Companies: Blocking Investor Lawsuits," Bloomberg Politics, Jan. 26, 2018, at 2, <https://www.bloomberg.com/news/articles/2018-01-26/trump-s-sec-mulls-big-gift-to-companies-blocking-investor-suits>.

disclose material information fairly. Ironically, the first prong of the SEC's mission is to protect investors; however the contemplated policy shift would undercut the ability of shareholders to protect themselves.

Put simply, permitting companies to block shareholder access to the court system will directly harm investors and weaken the US capital markets, to the primary benefit of companies that are weak in disclosure or that may have actually committed fraud.

ICGN operates to enhance investor rights and improve markets. We hope the SEC would be similarly focused. If the SEC pursues the anti-investor initiative suggested by Benjamin Bain, we would respectfully request that it engage in a robust consultation involving all stakeholders, prior to taking an action that would significantly reduce investor rights.

We hope that our input is helpful in your decision-making, and we look forward to engaging with you in this or other matters where we could provide meaningful input. Should you wish to discuss our comments further, please contact me or George Dallas, ICGN's Policy Director, by email at george.dallas@icgn.org.

Yours faithfully,



Kerrie Waring,

Executive Director, ICGN

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