Davis Polk

Changes to Proxy Mechanics Could Affect Proxy Contests

February 10, 2014 | Client Update

Broadridge has announced a new policy that during proxy contests, each party will only receive the interim results of votes cast for its own proxy card, **reports** the *WSJ*. Companies and dissidents can share voting information if both sign confidentiality agreements. This new policy could make it more difficult for solicitations, including determining whether an investor has not voted at all, or has instead voted for the other side.

A possible **effort** by the ABA to ask the SEC to shorten the period required to conduct broker search cards could also impact proxy contests. Currently, SEC Rule 14a-13 requires issuers to notify or "search" the banks and brokers at least 20 business days prior to the record date. A petition may seek to shorten that time to five days. Some argue that the lengthy period does not account for technological advancements, and a shorter period would facilitate the process for voting on major transactions and allow for a shorter period before annual meetings take place. Others, however, contend that the compressed broker search period would affect the time for activists and others aligned with their views to invest in the stock prior to the record date, or permit a competing offer for transactions.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

Ning Chiu
+1 212 450 4908
ning.chiu@davispolk.com