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SEC Publishes Proxy Access Proposal

June 18, 2009 | Client Update

The SEC's proposed proxy access rules were released on June 10. Comments are due by August 17. The SEC's apparent goal is to adopt some form of proxy access rule in time for the 2010 proxy season. Some have argued that this goal is not achievable given the contentious nature of the issues, the extreme detail of the release (which is 250 pages long and seeks comment on hundreds of questions) and various procedural and other timing issues. However, the key issues on proxy access have been debated for over a decade, with the SEC having previously floated proposals in 2003 and again in 2007. The SEC is now, in the wake of the financial crisis, under tremendous political pressure to adopt a proxy access rule this year. A failure to act could well lead to Congress seizing control of the issue. For now, therefore, we believe it prudent to assume that proxy access, in some form, will be a fact of life for U.S. public companies in 2010.

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.

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