NATIONAL LEGAL AND POLICY CENTER

October 20, 2026

Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: File No. S7-2026-33 — Proxy Solicitation Modernization, Release No. 33-11439

Dear Secretary Countryman:

National Legal and Policy Center ("NLPC") submits these comments on the Commission's proposal to rescind Rule 14a-6(g) and end the submission of Notices of Exempt Solicitation on EDGAR (the "Proposal").[1] NLPC addresses only that part of the Proposal. References to the Proposal appear in parentheses by page, with "n." and a number added when the material is in a footnote (for example, "Release at 20 n.47").

NLPC asks the Commission to keep a channel on the subject company's EDGAR page for shareholders addressing a matter to be considered at that company's meeting. At a minimum, the Commission should keep it for proponents whose proposals appear in the company's proxy materials.

I. NLPC's Experience

For several years NLPC submitted voluntary Notices of Exempt Solicitation in support of its shareholder proposals. It protested when the Division’s January 2026 guidance said the staff would object to voluntary notices while large holders kept access. The Proposal would end that unequal treatment only by closing the channel to everyone.

In the 2026 season NLPC continued to write solicitation reports, posted them on its website, and sent them to a growing list of shareholders and investment firms. Distribution was always the filer's job. A notice on EDGAR never replaced it.

What EDGAR provided was different. It reached holders not on any proponent's list. It placed the shareholder's case in the record that investors, analysts, and data services watch. Those functions are what the Proposal would remove.

II. Companies Keep EDGAR; Shareholders Lose It

On October 7, 2026, six days before its annual meeting, Procter & Gamble filed supplemental soliciting material urging shareholders to vote against NLPC's proposal on shareholder proposal eligibility.[2] That filing sits on Procter & Gamble's EDGAR page beside the proxy statement. NLPC's exempt solicitation supporting the proposal was relegated to nlpc.org.[3]

Under the Proposal, this would become the rule at every company. Management's additional soliciting materials would continue to appear on the company's EDGAR page. A shareholder's response on the same ballot item would not.

The Proposal faults voluntary notices because they let shareholders "whose views do not necessarily represent the views of other shareholders" disseminate those views "inexpensively and prominently on EDGAR" (Release at 19). Management's views on a contested shareholder proposal do not represent all shareholders either. Both sides solicit votes on the same item. Only one would keep the channel investors watch.

A companion proposal sharpens the imbalance. If Rule 14a-8 is rescinded, a shareholder who wants a vote must present a matter from the floor and solicit on its own.[4] Under the proposed amendments to Rule 14a-4(c), management would write the only description of that matter most voters see, and the proponent would have no right to comment on it (Release No. 34-106383 at 69 n.216). The proponent's own solicitation would be the only way voters hear the other side. This Proposal would push that solicitation off the page where investors look.

III. The Record Does Not Support the Confusion Rationale

Voluntary notices, the Proposal says, "can be confusing to shareholders because they appear on a registrant's EDGAR page but are not submitted by the registrant" (Release at 19).

EDGAR identifies the filer of every document. A notice submitted by a shareholder says so on its first page. The staff's own guidance required it: a voluntary notice had to come under a cover stating that the filer owned no more than $5 million of the company's securities and was filing voluntarily.[5] Each notice NLPC submitted opened with a cover naming the company, NLPC as the filer, and NLPC's address. It then stated that NLPC did not own more than $5 million of the company's securities, that the submission was "not required of this filer" and was "made voluntarily," and that the material was "not a solicitation of authority to vote your proxy."[6]

A reader learns in the opening lines who wrote the document and why. Investors who track a company's filings closely enough to open a shareholder's notice are the investors least likely to mistake it for the company's own.

Nonetheless, the Proposal's support for the confusion claim is a letter from the Society for Corporate Governance, the trade association of corporate secretaries, asserting that such filings "have caused investor confusion" (Release at 20 n.47).

The Commission's own evidence points the other way. The study it cites found a positive stock price reaction when notices became public, "consistent with investors obtaining value-relevant information." It found that most notices were viewed by investment banks and a leading financial information platform, and that downloads of notices were "comparable to the number of downloads of proxy statements" (Release at 55).

Those findings are inconsistent with the suggestion that voluntary notices are generally confusing or lack informational value. They indicate that investors and financial intermediaries use the notices and that the information can be relevant to market participants.

As a replacement channel, the Commission names Proxy Open Exchange, a platform created by As You Sow (Release at 21 n.49). A website run by one proponent organization is no substitute for the federal record.

IV. Displaying Notices Only on the Filer's Page Would Not Work

Question 10 asks whether notices could instead appear somewhere other than the company's filing list (Release at 22). Investors, analysts, and data services follow the subject company's page. A notice moved to the filer's own page, or to a separate search screen, would remain public in form and unseen in practice.

V. NLPC's Request

NLPC asks the Commission to adopt one of the following, in order of preference:

- **Any voting shareholder.** Any shareholder entitled to vote at a meeting may submit to the company's EDGAR page written material addressing a matter on that meeting's ballot. No dollar minimum should apply. The filer would certify, at the top of the submission, that it owned shares as of the record date, as voluntary filers already state their holdings. The Commission itself asks whether filers should certify ownership "with the appropriate liability for such a certification" (Release at 22). A false certification could expose the filer to applicable antifraud or other legal consequences. To address clutter, the Commission could limit each filer to one or two submissions per meeting.

- **At minimum, proponents.** The proponent of a proposal included in the company's proxy materials, or described by management under amended Rule 14a-4(c), may submit material addressing that proposal to the company's EDGAR page.

- **For either, a filter.** If the Commission remains concerned about clutter, it can keep these submissions on the company's page behind the default filter it describes in Question 10, which users can remove (Release at 22).

Eligibility tied to the right to vote at the meeting needs no ownership threshold. A shareholder entitled to vote on a matter has a stake in how others vote on it.

VI. Congress's Purpose Favors a Timely Reply

The Commission's own account of Section 14(a) says Congress sought to prevent "irresponsible outsiders" and "unscrupulous corporate officials" from "concealing and distorting facts" in proxy solicitations (Release No. 34-106383 at 17). A shareholder's written response to management's soliciting material is disclosure, the function the Commission says Section 14(a) serves. Keeping a channel for it lies within even the Commission's narrow reading of its authority.

Rule 14a-9 does not fill the gap. Antifraud litigation comes after the vote, costs far more than a filing, and reaches only material misstatements. A reply posted where investors look before the vote is the timely remedy.

VII. The Pieces Compound

The modernization package would also shorten the minimum broker search period to five business days. The Commission acknowledges that this change "could compound" the reduced frequency or success of shareholder campaigns that other changes may cause (Release at 65). Taken with the rescission of Rule 14a-8, the Rule 14a-4(c) check box, and the end of EDGAR access, the burden on shareholders who seek a hearing grows at each step while management's channels remain.

Question 11 asks whether a shareholder conducting an exempt solicitation should have to deliver its material to the company (Release at 23). If shareholders must give companies their materials, fairness suggests companies' supplemental materials on shareholder proposals should reach those proponents as well. At minimum, shareholders should keep a place to answer them.

Respectfully submitted,

Paul Chesser
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National Legal and Policy Center

Endnotes

1 "Proxy Solicitation Modernization," U.S. Securities and Exchange Commission, Release No. 33-11439, September 16, 2026. See https://www.sec.gov/files/rules/proposed/2026/33-11439.pdf

2 "Supplemental Information Regarding Item 5 — Shareholder Proposal on Shareholder Proposal Eligibility Thresholds (Definitive Additional Materials)," The Procter & Gamble Company, October 7, 2026. See https://d18rn0p25nwr6d.cloudfront.net/CIK-0000080424/6400c937-3ea8-4d39-a32c-83a3388ea22e.pdf

3 "Notice of Exempt Solicitation: The Procter & Gamble Company, Item 5, Preservation of Shareholder Proposal Access Rights," National Legal and Policy Center, September 2026. See https://nlpc.org/wp-content/uploads/2026/09/PG-Procter-Gamble-Company-NYSE-PG-PX14A6G-Notice-Exempt-Solicitation-2026.pdf

4 "Rescission of Rule 14a-8's Federal Regulation of Shareholder Proposals and Amendments to Rule 14a-4," U.S. Securities and Exchange Commission, Release No. 34-106383, September 16, 2026. See https://www.sec.gov/files/rules/proposed/2026/34-106383.pdf

5 "Exchange Act Proxy Rules and Schedules 14A/14C, Compliance and Disclosure Interpretations, Question 126.06 (comparison of prior and revised versions)," U.S. Securities and Exchange Commission, January 2026. See https://www.sec.gov/files/corpfin/proxy-rules-schedules-14a14c-comparison-12606.pdf

6 "Notice of Exempt Solicitation: The Walt Disney Company," National Legal and Policy Center, February 21, 2025. See https://www.sec.gov/Archives/edgar/data/1958085/000109690625000179/nlpc_px14a6g.htm