AMERICA'S MUTUAL BANKS

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Mutual Alert

SEC Proxy Advisory Firm Rule Changes Exposes Converted Mutuals to Corporate Raiders

In a November 17th meeting, the SEC proposed repealing an earlier Trump Administration engagement requirement on proxy advisory firms. This engagement requirement, implemented in 2020, makes the advice shared by proxy advisory firms available to companies on or before the time they make the advice available to investors. The current change eliminates the engagement requirement that the proxy advisory firm engage the issuer prior to releasing its recommendations. More importantly, the fear is that the repeal of Trump era rules and the reinstatement of the pre Trump rule would allow institutional investors to blindly rely on proxy advisory firm voting recommendations without liability. Advocates for these restrictions note that they lead to greater transparency surrounding proxy votes and advice. Opponents believe the Trump rules severely limited the independence of proxy advisory firms and imposed undue compliance costs on institutional investment firms.

The rollback of this rule could have profound impacts on mutuals contemplating conversion. Analysis of mutual stock conversions shows that the average converted savings institution has approximately five years before being acquired. With these new rule changes, this period would undoubtedly shrink. Additionally, eliminating the engagement requirement would allow rogue investors and corporate raiders, looking to eliminate recently converted mutual institution independence. The SEC, along with the federal banking regulators have largely ignored the effects of a series of rule changes pertaining to post conversion acquisition of controlling influence in converted mutuals and have consistently abdicated their responsibility in protecting local communities, and the institutions that serve them. Instead, they have inadvertently stacked the deck against widely held institutions and exposed converted mutuals to takeover. Converted mutual which are especially cash rich over capitalized institutions are attractive targets to corporate raiders who will exploit the regulatory mandated overcapitalization. The vulnerability of converted institutions undoubtedly will fuel the efforts by professional depositors to become more active in pressuring mutuals to convert. Attached is a dissenting statement by SEC Commissioner Roisman.

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