# Peltz Pushes Greater Latitude in Proxy Voting

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Shareholder activist Nelson Peltz on Monday applauded a provision in the Dodd-Frank financial-reform law, held up by a lawsuit from a top business lobby, intended to give stockholders a greater say in corporate board elections.

At issue is a so-called "shareholder access" rule that seeks to allow institutional investors and others to nominate a minority slate of one or two director candidates for election to boards of directors inexpensively using corporate proxy cards.

The Securities and Exchange Commission delayed implementation of the rule in response to a lawsuit initiated by the U.S. Chamber of Commerce. A federal court is scheduled to consider the rule in a hearing Thursday.

Peltz runs Trian Fund Management, an activist fund that typically buys large minority stakes in U.S. corporations and presses for long-term value creation through operational changes. Peltz has launched such campaigns against H. J. Heinz.Co. and Kraft Foods Inc., among others.

The shareholder access rule, Peltz said, would make life easier for institutional investors who want to support some dissident directors as well as some of management's slate in a proxy context.

With the current system, investors voting remotely must either return management's proxy card and vote for management's slate of director candidates or they can return the dissident's proxy card and vote for their slate of director candidates.

But to split their vote between management and dissident slates, investors must physically come to the meetings, adding "unnecessary costs," says Peltz.

Governance experts argue that Peltz is worried about scenarios where institutional investors end up backing management's slate even when they would prefer to vote for some combination of his candidates as well as management directors. This is the matter before the federal court.

"He wants and it seems a reasonable idea that once he satisfies all the disclosure requirements, there would be some card that has all the candidates, dissident and management candidates, and people can make their choices from the options there," said Harvard Law School Professor Lucian Bebchuk.

Should proxy access be approved by the court, investors could vote for some dissident and management director candidates remotely on the new proxy card that lists both groups of candidates. This scenario only would work when activist investors want to nominate a minority slate of dissident directors, not when the insurgent is seeking to replace the entire board and take control of the company.

Peltz cited how the lack of proxy access created problems where he nominated a minority short slate of director candidates to be put up for election to the board of Pittsburgh-based H.J. Heinz.

“Because of the way the rules work, Heinz shareholders could not mix-and-match our gold proxy card with management’s white card. Even in this day and age couldn’t mix proxy cards. They had to go to Pittsburgh and vote there,” Peltz said.

The process delayed the certification of election of directors for almost a month, according to Peltz.