News Flash: Investors Respond to Proposed U.S. Regulation of Proxy Advisors

A new bill proposing to regulate proxy advisors has been introduced by U.S. Congress – if passed, it will have significant implications on how proxy advisor firms conduct business

- **The Corporate Governance Reform and Transparency Act of 2016 was introduced in the House of Representatives on May 24 2016**
  - The Bill (HR 5311) was introduced to "improve the quality of proxy advisory firms for the protection of investors and the U.S. economy, and in the public interest, by fostering accountability, transparency, responsiveness, and competition in the proxy advisory firm industry"
  - Specifically, the Bill proposes to create a new mandatory registration scheme for proxy advisory firms, including mandatory filing of annual reports with the SEC and disclosure of any conflicts of interest

- **Institutional investors have co-signed a letter sent to the U.S. House Financial Services Committee opposing the Bill**
  - The Council of Institutional Investors (CII), a not-for-profit association of investors representing over $3 trillion in assets sent a letter on June 13 2016, stating that they "strongly oppose HR 5311"
    - Co-signers of the letter include U.S. public pension funds and asset managers
  - CII believes the legislation would impose onerous requirements that could weaken public company corporate governance and the fiduciary duty of proxy advisors to investor clients
  - The letter sets out the institutional perspective on arguments against proxy advisors as well as the Bill itself, including:
    - Proxy advisors follow rather than lead investors on governance policy
    - The role of a proxy advisor is less central than 10 years ago given the advent of direct engagement
    - HR 5311 appears premised on the assumption that proxy advisors serve "companies" (versus their own clients, the investors), giving them the right to preview reports and lobby to have recommendations changed (in stark contrast to sell-side research)
    - HR 5311 as proposed would require a proxy advisor ombudsman to receive and resolve issuer complaints, and would give issuers and potentially dissident shareholders the right to sue proxy advisors

- **The Bill advanced out of the House Financial Services Committee on June 16 2016 by a 41-18 vote**