

COMMERCIAL METALS CO
Form PRER14A
December 05, 2011
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the
Securities Exchange Act of 1934

(Amendment No. 1)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to §240.14a-12

COMMERCIAL METALS COMPANY

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

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- 2) Aggregate number of securities to which transaction applies:

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- 1) Amount Previously Paid:

- 2) Form, Schedule or Registration Statement No.:

- 3) Filing Party:

- 4) Date Filed:

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PRELIMINARY COPY SUBJECT TO COMPLETION

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

To Be Held On _____, 2012

The annual meeting of stockholders (the Annual Meeting) of Commercial Metals Company, a Delaware corporation (Commercial Metals Company or the Company or we), will be held at _____, on _____, 2012, at _____, Central Standard Time. If you are planning to attend the Annual Meeting in person, please follow the instructions as outlined on the accompanying **WHITE** Proxy Card. Directions to the Annual Meeting are included at the end of the accompanying proxy statement.

The Annual Meeting will be held for the following purposes:

- (1) To elect three persons to serve as directors until the 2015 annual meeting of stockholders and until their successors are elected;
- (2) To ratify the appointment of Deloitte & Touche LLP as our independent registered public accounting firm for the fiscal year ending August 31, 2012;
- (3) To hold an advisory vote on executive compensation;
- (4) To hold an advisory vote on the frequency of future advisory votes on executive compensation;
- (5) To vote on a proposal from High River Limited Partnership and certain of its affiliated entities led by Carl C. Icahn (the Icahn Group) to adopt a resolution urging the Board of Directors of the Company (the Board) to immediately redeem any and all outstanding Rights under the Company's Rights Agreement dated July 30, 2011;
- (6) To vote on a proposal from the Icahn Group to amend the Company's second amended and restated bylaws to require stockholder approval in order to authorize, establish, adopt or amend any rights plan or similar plan;
- (7) To vote on a proposal from the Icahn Group to adopt a resolution that would repeal any provision of the Company's second amended and restated bylaws in effect at the time of the Annual Meeting that was not included in the Company's second amended and restated bylaws as publicly filed with the Securities and Exchange Commission prior to October 18, 2011, and is inconsistent with any of the foregoing proposals by the Icahn Group that are approved by stockholders at the Annual Meeting; and
- (8) To transact such other business as may properly come before the Annual Meeting or any adjournments or postponement of the Annual Meeting.

The Icahn Group has stated its intention to present three proposals (Proposals 5, 6 and 7) for consideration at the Annual Meeting and to propose three director nominees for election at the Annual Meeting. **THE BOARD URGES YOU TO VOTE ONLY FOR THE BOARD'S PROPOSED NOMINEES AND PROPOSALS BY USING THE ENCLOSED WHITE PROXY CARD AND NOT TO SIGN OR RETURN OR VOTE ANY PROXY CARD SENT TO YOU BY THE ICAHN GROUP.** If you have already voted using a proxy card sent to you by the Icahn Group, you can revoke it by subsequently executing and delivering the **WHITE** Proxy Card or by voting in person at the Annual Meeting, by telephone or by Internet. Only your last-dated proxy will count, and any proxy may be revoked at any time prior to its exercise at the Annual Meeting as described in this proxy statement.

You are invited to attend the Annual Meeting. Whether or not you plan to attend the Annual Meeting, please vote your shares either by telephone, Internet or mail as described in the accompanying **WHITE** Proxy Card in order to be certain your shares are represented at the Annual Meeting. Proxies forwarded by or for banks, brokers or other fiduciaries should be returned as requested by them. The prompt return of proxies will save the expense involved in further communication.

The Board recommends that you vote **FOR ALL OF THE BOARD'S NOMINEES** on Proposal 1, **FOR** Proposals 2 and 3, for **ONE YEAR** on Proposal 4 and **AGAINST** Proposals 5, 6 and 7 identified above.

By Order of the Board of Directors,

ANN J. BRUDER
Corporate Secretary

Irving, Texas

, 2011

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Important Notice Regarding the Availability of Proxy Materials for the

Annual Meeting of Stockholders to be held on _____, 2012:

This Proxy Statement and the Annual Report to Stockholders for the fiscal year ended August 31, 2011

are available for viewing, printing and downloading at www.ViewOurMaterial.com/CMC.

YOUR VOTE IS IMPORTANT, NO MATTER HOW MANY OR HOW FEW SHARES YOU OWN

If you have questions about how to vote your shares, or need additional assistance, please contact MacKenzie Partners, Inc., who is assisting the Company in the solicitation of proxies:

105 Madison Avenue New York, New York 10016

Stockholders may call toll-free at (800) 322-2885 or call collect at (212) 929-5500 with any questions

IMPORTANT

The Board urges you **NOT** to sign any proxy card sent to you by the Icahn Group, which has notified the Company it intends to put forth its own slate of director nominees and to present three stockholder proposals at the Annual Meeting. If you have already signed any Icahn Group proxy card, you have every legal right to change your vote by using the enclosed **WHITE** Proxy Card to vote TODAY by telephone, by Internet, or by signing, dating and returning the **WHITE** Proxy Card in the postage-paid envelope provided.

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PRELIMINARY PROXY STATEMENT DATED NOVEMBER 23, 2011

SUBJECT TO COMPLETION

COMMERCIAL METALS COMPANY

6565 North MacArthur Boulevard, Suite 800

Irving, Texas 75039

Telephone (214) 689-4300

PROXY STATEMENT

FOR

ANNUAL MEETING OF STOCKHOLDERS

To Be Held On _____, 2012

This proxy statement is furnished in connection with the solicitation of proxies by the Board of Directors (the Board) of Commercial Metals Company (we or the Company) for use at the annual meeting of our stockholders to be held on _____, 2012 at _____ (the Annual Meeting), and at any and all postponements or adjournments of the Annual Meeting. The approximate date on which this proxy statement and accompanying **WHITE** Proxy Card are first being made available to stockholders is _____, 2011. The annual report to stockholders for fiscal year 2011 has been mailed to stockholders with this proxy statement or previously, and this proxy statement should be read in conjunction with the annual report.

Shares represented by each proxy, if properly executed and returned to us prior to the Annual Meeting in accordance with the instructions in the accompanying **WHITE** Proxy Card, will be voted as directed, but if not otherwise specified, will be voted (i) for the election of the three directors nominated by the Board and named in this proxy statement, (ii) to ratify the appointment of Deloitte & Touche LLP as our independent registered public accounting firm, (iii) for the approval of the advisory resolution on executive compensation, (iv) in favor of a frequency of every year for future advisory votes on executive compensation and (v) against the three proposals to be presented by High River Limited Partnership and certain of its affiliated entities led by Carl C. Icahn (the Icahn Group). A stockholder executing a proxy may revoke it at any time before it is voted by giving written notice to the Corporate Secretary of Commercial Metals Company, by subsequently executing and delivering a new proxy or by voting in person at the Annual Meeting.

Stockholders of record can simplify their voting and reduce our cost by voting their shares via telephone or the Internet. The telephone and Internet voting procedures are designed to authenticate stockholders' identities, to allow stockholders to vote their shares and to confirm that their instructions have been properly recorded. If a stockholder's shares are held in the name of a bank or broker, the availability of telephone and Internet voting will depend upon the voting processes of the bank or broker. Accordingly, stockholders should follow the voting instructions on the form they receive from their bank or broker.

Stockholders who elect to vote via the Internet may incur telecommunications and Internet access charges and other costs for which they are solely responsible. The Internet and telephone voting facilities for stockholders of record will close at 11:59 p.m., Eastern Standard Time, on the evening before the Annual Meeting. Instructions for voting via telephone or the Internet are contained in the accompanying **WHITE** Proxy Card.

Only stockholders of record on _____, 2011 are entitled to notice of and to attend and/or vote at the Annual Meeting or any adjournments of the Annual Meeting. A complete list of stockholders entitled to vote at the Annual Meeting will be available for examination at our principal executive offices located at 6565 North MacArthur Boulevard, Suite 800, Irving, Texas 75039 for a period of ten days prior to the Annual Meeting. The list of stockholders will also be available for inspection at the Annual Meeting and may be inspected by any stockholder for any purpose germane to the Annual Meeting. Proof of ownership of Commercial Metals Company common stock, as well as a form of personal photo identification, must be presented in order to be admitted to the Annual Meeting. If your shares are held in the name of a broker, nominee or other intermediary, you must bring proof of ownership with you to the meeting. A recent account statement, letter or proxy from your broker,

nominee or other intermediary will suffice.

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This summary highlights information contained elsewhere in this proxy statement. This summary does not contain all of the information that you should consider, and you should read the entire proxy statement carefully before voting.

Annual Meeting of Stockholders

Time and Date	
Place	
Record date	
Voting	Stockholders as of the record date are entitled to vote. Each share of common stock is entitled to one vote for each director to be elected and one vote for each of the other matters to be voted on.
Admission	Proof of ownership of our common stock and a form of personal photo identification must be presented in order to be admitted to the Annual Meeting.

Voting Matters

	Board Vote Recommendation	Page Reference (for more detail)
1. Election of three directors	FOR EACH OF THE BOARD'S DIRECTOR NOMINEES	13
2. Ratification of Deloitte & Touche LLP as independent registered public accounting firm for fiscal year ended August 31, 2012	FOR	63
3. Advisory vote on executive compensation	FOR	64
4. Advisory vote on the frequency of future advisory votes on executive compensation	FOR ONE YEAR	65
Icahn Group Proposals		
5. Non-binding resolution for redemption of outstanding rights	AGAINST	66
6. Bylaw amendment to require stockholder approval of rights plans	AGAINST	67
7. Bylaw repeal amendments	AGAINST	68

The Board urges you to vote for the Board's nominees and proposals by using the enclosed WHITE proxy card and not to sign or return or vote any proxy card sent to you by the Icahn Group.

Election of Directors

The Board has nominated three candidates for election to our Board of Directors as Class II directors, with a term expiring at the 2015 annual meeting of stockholders. A brief description of the director nominees follows. Additional detail on the director nominees can be found beginning on page 15 of this proxy statement. In addition, the name, age, years of service, biographical description and qualifications of each of the Class I and Class III directors continuing in office are provided beginning on page 17 of this proxy statement.

Harold L. Adams, age 72, has served on our Board since 2004. He has served as Chairman Emeritus of RTKL Associates Inc., a global design firm, since April 2003. Mr. Adams has accumulated broad experience in managerial and leadership matters in over 36 years of service as Chairman, President and Chief Executive Officer of an international architecture firm. Mr. Adams brings to the Board extensive knowledge of the construction industry, having served as Chairman of The Design-Build Institute of America and as a member of

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the National Academy of Construction. His service on the Board of Directors of other publicly traded companies provides our Board with additional perspective on the Company's operations and in the areas of management, operations and strategy. In addition, Mr. Adams has served as a leader on U.S. business advisory councils with Korea and China and the Services Policy Advisory Board to the U.S. Trade Negotiator and is Chairman of the Governor's International Advisory Council for the State of Maryland. In these roles, Mr. Adams worked in many major international markets in a myriad of economic climates and cultures.

Joseph Alvarado, age 59, has served on our Board since September 2011. Mr. Alvarado joined the Company in April 2010 as Executive Vice President and Chief Operating Officer. He was named President and Chief Operating Officer on April 6, 2011, and in June 2011, he was appointed President and CEO effective September 1, 2011. Mr. Alvarado has extensive experience in the metals, trading and manufacturing industries, which provides him with a keen understanding of the Company's industry and customer and consumer dynamics. Mr. Alvarado's vast experience in the steel industry has provided him with valuable knowledge of accounting, sales, manufacturing, planning and operations, all of which are relevant to his leadership of the Company and his service on the Board. His experience in domestic and global, integrated and minimill, and flat and long products further qualify him to lead the Company and serve on our Board. His service as our President and CEO provides the Board with significant perspective on our global operations. His in-depth knowledge of the Company's strategic priorities and operations enable him to provide valuable contributions and facilitate effective communication between management and the Board. His role as President and CEO also enables him to provide important contributions to strengthening the Company's leadership, operations, strategy, growth and long-range plans.

Anthony A. Massaro, age 67, has served on our Board since 1999. Mr. Massaro served as President and Chief Executive Officer of Lincoln Electric Holdings, Inc., a manufacturer of welding and cutting equipment, from 1996 to January 2005, and as Chairman from May 1997 to October 2005. Mr. Massaro has broad experience in leading a significant industrial enterprise, particularly with respect to international operations and business management. His service as the Chairman, President and Chief Executive Officer of Lincoln Electric Holdings, Inc. provides the Board with strong global business acumen and financial and strategic planning expertise. His strong international background provides our Board with additional perspective on corporate strategy and opportunities for current and future international operations. In addition, his public company directorship service provides our Board with experience in the areas of management, operations and strategy and provides additional perspective on the Company's operations. Mr. Massaro is currently our Lead Director, and effective as of January 1, 2012, he will serve as the independent, non-executive Chairman of our Board.

Independent Registered Public Accounting Firm

As a matter of good corporate governance, we are asking our stockholders to ratify the selection of Deloitte & Touche LLP as our independent registered public accounting firm for the fiscal year ending August 31, 2012. Set forth below is summary information with respect to Deloitte & Touche's fees for services provided in fiscal years 2011 and 2010.

Type of Fees	Fiscal Year 2011	Fiscal Year 2010
Audit Fees	\$ 4,432,255	\$ 3,692,000
Audit-Related Fees	\$ 4,250	\$ 105,250
Tax Fees	\$ 0	\$ 0
All Other Fees	\$ 2,345	\$ 2,345
Total	\$ 4,438,850	\$ 3,799,595

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We are asking stockholders to approve on an advisory basis our named executive officer compensation. The Board recommends a FOR vote because it believes that our compensation policies and practices are reasonable, competitive and highly-focused on pay-for-performance principles.

The Board also recommends that stockholders vote in favor of holding the advisory vote on executive compensation EVERY YEAR.

Executive Compensation Elements

PROGRAM	DESCRIPTION	OBJECTIVES
ANNUAL COMPENSATION:		
Base Salary	Annual cash compensation.	Retention.
Annual Cash Incentive Bonus	Bonus plan based on performance periods set by the Compensation Committee (the Committee) typically utilizing formula-driven target awards based upon performance goals. Bonus payout for formulaic bonus features may be reduced below (but not increased above) formula results at the discretion of the Committee.	Recognition of individual performance. Focus executives on achieving pre-established performance goals, such as return on invested capital or net assets, operating profit, net earnings or working capital reduction.
Annual Discretionary Incentive Bonus	Cash bonuses awarded at the discretion of the Committee. The Committee may consider any circumstances it deems appropriate in awarding these discretionary bonuses.	Provides the Committee with flexibility to reward individual performance not reflected in formulaic metrics. Focus employees on performance. Reviewed annually for individual contribution in context of Company performance and internal pay equity and external benchmarking.
LONG-TERM COMPENSATION:		
Long-Term Incentive Program	A long-term incentive program using a combination of time-vested and performance-based awards. The performance-based awards are subject to a multi-year performance period, currently based on growth in EBITDA and ROIC targets. For the fiscal year 2011-2013 performance period, awards will be settled in time-vested restricted stock units and performance-based stock units, with the performance-based stock units settled in 50% cash and 50% Company stock.	Focus on long-term Company performance and long-term success. Retention. Employee alignment with stockholders via performance goals and stock ownership.

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PROGRAM	DESCRIPTION	OBJECTIVES
OTHER EXECUTIVE BENEFITS:		
Retirement Programs	Company offers an ERISA qualified defined contribution plan, a non-qualified plan designed to restore benefits that would have otherwise been received by participants but for applicable IRS limits, and pension retirement plans for designated employees located outside the U.S.	Attract qualified employees. Retention. Provide vehicle for retirement.
Perquisites	Company-provided automobiles and related insurance and maintenance (or, alternatively, an allowance for the same). Relocation benefits.	Attract qualified employees.
Other Benefits	Medical, dental, vision, life insurance, short and long-term disability, employee assistance program, employee stock purchase plan, and other welfare benefits.	Attract qualified employees. Retention. Provide health and welfare benefits to employees.

Other Key Compensation Features

No tax gross-ups for Executive Employment Continuity Agreements.

Double trigger required for receipt of cash severance payments.

Executives and directors are subject to stock ownership guidelines.

Benchmarking process is used for compensation metrics.

Metrics based on Company and executive performance.

2011 Compensation Decisions

In fiscal year 2011, the following compensation actions were taken:

no Annual Cash Incentive Bonus or Long-Term Cash Incentive (each as defined in the Compensation Discussion & Analysis) payments were made to the named executive officers for fiscal year 2011;

certain named executive officers received discretionary annual bonuses in recognition of their significant efforts and contributions to the Company in fiscal year 2011;

the Company awarded Messrs. McClean and Larson retirement bonuses in the amounts of \$750,000 and \$100,000, respectively. These retirement amounts were awarded in recognition of the years of dedication and service to the Company and the efforts of each executive in assisting with the transition of their responsibilities to their successors;

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the named executive officers received a combination of performance-based and time-vested restricted stock units, with vesting of the performance-based stock units being determined based on a cumulative three-year EBITDA and ROIC targets (each as defined in the Compensation Discussion & Analysis), subject to the Committee's exercise of negative discretion based on the Company's ranking in total stockholder return as compared to the members of the peer group;

the named executive officers received salary and/or promotional increases; and

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the Company entered into a retirement agreement and amended employment agreement with Messrs. Larson and McClean, respectively, in connection with each officer's transition from the role of an officer of the Company and eventual retirement from the Company.

Icahn Group Proposals

The Icahn Group has notified us that it intends to present (1) a non-binding stockholder proposal recommending that the Board redeem all rights under our Rights Agreement (as defined herein) and terminate the Rights Agreement immediately thereafter, (2) a stockholder proposal to adopt a resolution that would amend the Company's second amended and restated bylaws to require stockholder approval in order to authorize, establish, adopt or amend any rights plan or similar plan and (3) a stockholder proposal to adopt a resolution that would repeal any provision of the Company's second amended and restated bylaws in effect at the time of the Annual Meeting that was not included in the Company's second amended and restated bylaws as publicly filed with the Securities and Exchange Commission (SEC) prior to October 18, 2011 and is inconsistent with any of the Icahn Group's proposals to be presented at the Annual Meeting. If the Icahn Group does not present these proposals at the Annual Meeting, these proposals will not be submitted to a vote. After thorough consideration, the Board recommends that you vote AGAINST the Icahn Group proposals, if submitted to a vote.

THE BOARD URGES YOU TO VOTE FOR THE BOARD'S NOMINEES AND PROPOSALS AND AGAINST THE ICAHN GROUP PROPOSALS BY USING THE ENCLOSED WHITE PROXY CARD AND NOT TO SIGN OR RETURN OR VOTE ANY PROXY CARD SENT TO YOU BY THE ICAHN GROUP.

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INFORMATION ABOUT THE MEETING AND VOTING

Q: Why did you send me this proxy statement?

A: We sent you this proxy statement and the enclosed **WHITE** proxy card because the Board is soliciting your proxy to vote at our Annual Meeting, and at any postponements or adjournments of the Annual Meeting. This proxy statement summarizes information that is intended to assist you in making an informed vote on the proposals described in this proxy statement.

Q: Has the Company been notified that a stockholder intends to propose alternative director nominees at the Annual Meeting?

A: Yes. The Company received a notice dated October 18, 2011 from the Icahn Group stating its intention to propose three alternative director nominees for election at the Annual Meeting. The Icahn Group nominees have NOT been endorsed by the Board. We urge stockholders NOT to use any proxy card that you may receive from the Icahn Group. The Board urges you to use the **WHITE** proxy card and vote FOR ALL of our nominees for director.

OUR BOARD OF DIRECTORS URGES YOU NOT TO SIGN OR RETURN ANY PROXY CARD SENT TO YOU BY THE ICAHN GROUP.

We are not responsible for the accuracy of any information provided by or relating to the Icahn Group contained in any proxy solicitation materials filed or disseminated by, or on behalf of, the Icahn Group or any other statements that the Icahn Group may otherwise make.

Q: What additional contacts has the Company had with the Icahn Group subsequent to the Icahn Group's notice stating its intention to propose three alternative director nominees for election at the Annual Meeting?

A: On November 28, 2011, Mr. Icahn issued two press releases containing open letters to the Company's Board of Directors proposing to acquire all outstanding shares of the Company's common stock at a price of \$15.00 per share in cash. On that same day, the Company issued a press release indicating that its Board of Directors, in consultation with its independent financial and legal advisers, would review the proposal and determine a response that is in the best interests of the Company and its stockholders.

On December 2, 2011, Mr. Icahn issued a press release containing another open letter to the Company's Board of Directors stating that it is incumbent on the Company's Board of Directors to respond to Mr. Icahn's offer by 9:00 a.m., New York City time, on Monday, December 5, 2011, to schedule a meeting to discuss the offer.

On December 5, 2011, the Company issued a press release announcing that the Board of Directors had rejected Mr. Icahn's proposal. In the press release, the Company stated that the Board had unanimously determined that the proposal substantially undervalues the Company and its future prospects, is opportunistic and is not in the best interests of the Company's stockholders.

Q: Who is entitled to vote at the Annual Meeting?

A: Only stockholders of record on _____, 2011 are entitled to notice of and to attend and/or vote at the Annual Meeting or any postponements or adjournments of the Annual Meeting. Each share of our common stock is entitled to one vote for each director to be elected and upon all other matters to be brought to a vote.

Q: How can I vote my shares?

A: You can vote your shares in one of two ways: either by proxy or in person at the Annual Meeting by written ballot. If you choose to vote by proxy, you may vote your shares by signing, dating and returning the enclosed **WHITE** proxy card. For your convenience, you may also vote your shares by telephone and Internet by following the instructions on the enclosed **WHITE** proxy card. Each of these procedures is explained below. Even if you plan to attend the Annual Meeting, the Board recommends that you submit a **WHITE** proxy card in advance by telephone, Internet or mail. In this way, your shares of common stock will be voted as directed by you even if you should become unable to attend the Annual Meeting.

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Q: May I change my vote?

A: Yes. You may change your vote or revoke your proxy at any time before it is exercised at the Annual Meeting by taking any of the following actions:

- by giving written notice to the Corporate Secretary of Commercial Metals Company at 6565 North MacArthur Boulevard, Suite 800, Irving, Texas 75039;
- by subsequently executing and delivering a new proxy; or
- by voting in person at the Annual Meeting.

If you have previously signed any proxy card sent to you by the Icahn Group, you may change your vote by signing, dating and returning the enclosed **WHITE** proxy card in the accompanying postage-paid envelope or by voting by telephone or via the Internet by following the instructions on your **WHITE** proxy card. Please note that submitting an Icahn Group proxy card even if you vote in protest against the Icahn nominees will revoke any votes you previously made via the Company's **WHITE** proxy card.

Q: How many shares must be present to conduct the Annual Meeting?

A: We must have a quorum to conduct the Annual Meeting. A quorum is a majority of the outstanding shares of common stock entitled to vote at the meeting, present in person or by proxy. Abstentions will be counted for the purpose of determining a quorum. On _____, 2011, the record date for determining stockholders entitled to vote at the Annual Meeting, we had outstanding _____ shares of our common stock, par value \$.01 per share, not including _____ treasury shares. We had no shares of preferred stock outstanding at _____, 2011.

Q: How do I vote if I cannot attend the Annual Meeting in person?

A: Because many stockholders cannot attend the Annual Meeting in person, it is necessary that a large number of stockholders be represented by proxy.

By signing, dating and returning the enclosed **WHITE** proxy card in the postage-paid envelope provided or by voting your shares by telephone or via the Internet by following the instructions on the enclosed **WHITE** proxy card, you will enable Joseph Alvarado, Barbara R. Smith and Ann J. Bruder, each of whom is named on the proxy card as a Proxy Holder, to vote your shares at the Annual Meeting in the manner you indicate on your proxy card. When you vote your proxy, you can specify whether your shares should be voted for each of the nominees for director identified in Proposal 1, or you can withhold your vote on the director nominees. You can also specify how you want your shares voted with respect to Proposals 2, 3, 4, 5, 6 and 7, which are described elsewhere in this proxy statement.

Management of the Company is not aware of any matters other than those described in this proxy statement that may be presented for action at the Annual Meeting. If any other matters are properly presented at the Annual Meeting for consideration, the proxy holders will have discretion to vote for you on those matters.

Voting by Mail. You can vote by mail by signing, dating and returning the enclosed **WHITE** proxy card in the postage-paid envelope provided.

Voting via the Internet. You can vote your shares via the Internet by following the instructions provided on the **WHITE** proxy card. The Internet voting procedures are designed to authenticate your identity and to allow you to vote your shares and confirm that your voting instructions have been properly recorded. Voting by Internet authorizes the named proxies to vote your shares in the same manner as if you had submitted a validly executed proxy card.

Voting by Telephone. You can vote your shares by telephone by following the instructions provided on the **WHITE** proxy card. The telephone voting procedures are designed to authenticate your identity and to allow you to vote your shares and confirm that your voting instructions have been properly recorded. Voting by telephone authorizes the named proxies to vote your shares in the same manner as if you had submitted a validly executed proxy card.

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Q: May I vote in person at the Annual Meeting?

A: Yes, you may vote your shares at the Annual Meeting if you attend in person and use a written ballot. However, if your shares are held in the name of a broker, trust, bank or other nominee, you must bring a legal proxy or other proof from that broker, trust, bank or nominee granting you authority to vote your shares directly at the Annual Meeting. If you vote by proxy and also attend the Annual Meeting, you do not need to vote again at the Annual Meeting unless you wish to change your vote. Even if you plan to attend the Annual Meeting, we strongly urge you to vote in advance by proxy by signing, dating and returning the **WHITE** proxy card.

Q: What is the difference between holding shares as a stockholder of record and as a beneficial owner?

A: If your shares are registered in your name with our transfer agent, Broadridge Corporate Issuers Solutions, Inc., you are the stockholder of record of those shares, and this proxy statement and any accompanying documents have been provided directly to you by the Company. In contrast, if you purchased your shares through a broker or other financial intermediary, the broker or other financial intermediary will be the stockholder of record of those shares.

Generally, when this occurs, the broker or other financial intermediary will automatically put your shares into street name, which means that the broker or other financial intermediary will hold your shares in its name or another nominee's name and not in your name, but will keep records showing you as the real or beneficial owner. If you hold shares beneficially in street name, this proxy statement and any accompanying documents have been forwarded to you by your broker, bank or other holder of record.

Q: What are broker non-votes?

A: A broker non-vote occurs when a bank, broker or other fiduciary does not receive voting instructions from the beneficial owner and does not have the discretion to direct the voting of the shares. Broker non-votes are not counted as votes against a proposal or as abstentions, and will not be counted for purposes of determining the number of votes present in person or represented by proxy and entitled to vote with respect to a particular proposal or the number of votes cast on a particular proposal. As described below, brokers will not have discretion to vote on any of the proposals described in this proxy statement.