



Brocade
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December 5, 2014

Via Email and Overnight Courier

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of the Chief Counsel
100 F Street, NE
Washington, D.C. 20549

Re: Brocade Communications Systems, Inc. – Stockholder Proposal Submitted by Kenneth Steiner

Dear Sir or Madam:

In accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), Brocade Communications Systems, Inc., a Delaware corporation ("Brocade" or the "Company"), hereby gives notice of the Company's intention to omit from its proxy statement (the "2015 Proxy Statement") for its 2015 Annual Meeting of Stockholders (the "2015 Annual Meeting") a stockholder proposal (the "Stockholder Proposal") submitted to the Company by Kenneth Steiner (the "Proponent") under cover of a letter dated October 10, 2014. A copy of the Stockholder Proposal together with the related supporting statement is attached as Exhibit A.

We hereby request confirmation that the staff of the Division of Corporate Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") will not recommend any enforcement action if the Company omits the Stockholder Proposal from the 2015 Proxy Statement on the grounds that (i) the Stockholder Proposal directly conflicts with one of the Company's own proposals, in reliance on the provisions of Rule 14a-8(i)(9); (ii) the Stockholder Proposal is vague and indefinite, in reliance on the provisions of Rule 14a-8(i)(3) and (iii) the Stockholder Proposal will have been substantially implemented, in reliance on the provisions of Rule 14a-8(i)(10).

The Company currently expects to file its definitive 2015 Proxy Statement with the Commission on or about February 24, 2015. Accordingly, as contemplated by Rule 14a-8(j), this letter is being filed with the Commission more than 80 calendar days before the date upon which the Company expects to file the definitive 2015 Proxy Statement. Pursuant to Rule 14a-8(j), we are enclosing herewith six copies of each of this letter and the accompanying attachments. In accordance with Rule 14a-8(j), a copy of this submission is being forwarded simultaneously to the Proponent. This letter constitutes the Company's statement of the reasons it deems the omission of the Stockholder Proposal to be proper.

I. The Stockholder Proposal

The full text of the Stockholder Proposal and supporting statement is as follows:

SHAREOWNER PROPOSAL

4- Recovery of Unearned Management Bonuses

RESOLVED, that shareholders request the Compensation Committee of the Board of Directors to adopt an incentive compensation recoupment policy to provide that the Committee will (a) review, and determine whether to seek recoupment of incentive compensation paid, granted or awarded to a senior executive if, in the Committee's judgment, (i) there has been misconduct resulting in a violation of law or company policy, that causes significant financial or reputational harm to the company and (ii) the senior executive either committed the misconduct or failed in his or her responsibility to manage or monitor conduct or risks; and (b) disclosure to shareholders the circumstances of any recoupment, and of any Committee decision not to pursue recoupment in instances that meet criteria (i) and (ii). The Policy should mandate that the above recoupment provisions be included in all future incentive plans and award agreements and that the policy be posted on the company website.

Recoupment includes (a) recovery of compensation already paid and (b) forfeiture, recapture, reduction or cancellation of amounts awarded or granted to an executive over which the company retains control. The Policy should operate prospectively, so as not to affect any compensation paid, awarded or granted before it takes effect.

Compensation policies should promote sustainable value creation. Former GE general counsel Ben Heineman Jr. said that recoupment policies with business-related misconduct triggers are "a powerful mechanism for holding senior leadership accountable to the fundamental mission of the corporation: proper risk taking balanced with proper risk management and the robust fusion of high performance with high integrity." (<http://blogs.law.harvard.edu/corpgov/2010/08/13/making-sense-out-of-clawbacks/>) Such policies allow boards to recoup incentive payouts that may have been the undeserved result of erroneous or fraudulent financial reporting.

Please vote to protect shareholder value:

Recovery of Unearned Management Bonuses – Proposal 4

II. The Stockholder Proposal May Be Excluded Under Rule 14a-8(i)(9) Because The Stockholder Proposal Directly Conflicts With One Of The Company's Own Proposals To Be Submitted To The Stockholders At The 2015 Annual Meeting

A. Background

Rule 14a-8(i)(9) permits a company to exclude a stockholder proposal from its proxy materials "[i]f the proposal directly conflicts with one of the company's own proposals to be submitted to stockholders at the same meeting." The Commission has stated that the proposals need not be "identical in scope or focus" in order for this exclusion to be available. See Exchange Act Release No. 34-40018, n.27 (May 21, 1998).

The Company expects to amend its 2009 Stock Plan (the "Plan") before filing its proxy statement for the 2015 Annual Meeting to, among other things, include a clawback provision (the "Clawback") and increase the number of shares reserved for issuance under the Plan. The Company anticipates submitting the applicable Plan amendments to stockholders at the 2015 Annual Meeting for approval of the necessary amendments, as required under the Listing Rules of the NASDAQ Stock Market.

The Compensation Committee (the "Compensation Committee") of the Board of Directors (the "Board") recently met to consider a draft Clawback proposed by the Company's management. The Compensation Committee decided that it would like to add a Clawback to the Company's incentive plans for its executives (contemplated to be all vice presidents and above who report to the Chief Executive Officer) which would include adding a Clawback not only for the Plan, but also the Company's Senior Leadership Plan, a cash based incentive plan. The Compensation Committee further directed management to formulate certain specific provisions of the Clawback in accordance with direction given at the foregoing meeting and the Clawback is on the agenda for approval at the Compensation Committee's upcoming meeting in December 2014.

In January 2015, prior to the filing of the 2015 Proxy Statement, the Compensation Committee plans to approve the inclusion of the Clawback in the Plan - as well as the Company's Senior Leadership Plan - in accordance with the Company's standard cadence for its review of such plans.¹ The Compensation Committee's approval of the amendment to the Plan for the increase in number of shares reserved for issuance under the Plan will require approval of the Company's stockholders under the NASDAQ Rules. Accordingly, prior to the filing of 2015 Proxy Statement, the Compensation Committee will (i) approve a resolution approving amendments to the Plan and declaring such amendments advisable, (ii) approve the submission of the necessary amendments to the Plan to the stockholders for consideration at the 2015 Annual Meeting, and (iii) recommend that the stockholders vote in favor of the amendments. In addition, the Board will (x) approve the submission of the necessary amendments to the Plan to the stockholders for consideration at the 2015 Annual Meeting, and (y) recommend that the stockholders vote in favor of the amendments.

¹ For purposes of clarity, we do not believe the amendment of the Plan to include the Clawback requires stockholder approval under the Listing Rules of the NASDAQ Stock Market (the "NASDAQ Rules"). Therefore, it is expected that the Clawback will become effective immediately upon the Compensation Committee's approval of its inclusion in the Plan and the Company's Senior Leadership Plan.

B. Basis for Exclusion

The Staff has consistently permitted the exclusion of stockholder proposals under Rule 14a-8(i)(9) where stockholders voting on the stockholder proposal and a company-sponsored proposal to adopt an equity incentive plan would face alternative and conflicting decisions. See, e.g., The Boeing Company (February 24, 2014) (permitting exclusion of a shareholder proposal providing for the amendment of existing clawback provisions in Boeing's equity incentive plan because the company was submitting the amendment and restatement of the equity incentive plan for stockholder approval at the annual meeting); Sysco Corporation (Sept. 20, 2013) (permitting exclusion of a proposal that would have prohibited accelerated vesting of equity awards upon a change of control, where the company's proposed equity incentive plan provided for accelerated vesting in the event of a change of control); Abercrombie & Fitch Co. (May 2, 2005) (permitting exclusion of a proposal that stock options be performance-based where it conflicted with the terms and conditions of the company's proposal to adopt a stock option plan providing for time-based options); and AOL Time Warner Inc. (March 3, 2003) (permitting exclusion of a proposal prohibiting issuance of additional stock options to senior executives where the terms and conditions of the company's proposal to approve a stock option plan would permit granting of stock options to all employees).

The Stockholder Proposal promotes a policy initiative designed to permit the Compensation Committee to seek recoupment of compensation for a wide range of real or perceived misconduct in ambiguous and undefined circumstances, or real or perceived failure to manage or monitor conduct or risks. This policy initiative will clearly directly conflict with the Company's anticipated proposal, which is not expected to require the Compensation Committee to evaluate or seek recoupment as a result of failure to monitor others' misconduct and further, is not expected to require the Compensation Committee to evaluate or seek recoupment in the event of reputational harm to the Company. It is precisely these desired policies that conflict directly with the Company's anticipated Clawback which will be included in the Plan submitted to stockholders at the 2015 Annual Meeting. Further, the Company does not currently have a clawback policy in place beyond the requirements of the Sarbanes-Oxley Act of 2002 in this regard. The first opportunity for the stockholders of the Company to vote on the Plan incorporating a clawback provision will be at the 2015 Annual Meeting. If both the Stockholder Proposal and the amendments to the Plan are approved at the 2015 Annual Meeting, the fact that the conflicts exist will make it difficult, if not impossible, for the Compensation Committee to determine the stockholders' intent with respect to a clawback policy.

For the foregoing reasons, we believe that the Stockholder Proposal may be excluded from the 2015 Proxy Materials under Rule 14a-8(i)(9) because the Stockholder Proposal directly conflicts with the Company's proposal to be submitted to stockholders at the 2015 Annual Meeting.

C. Supplemental Notification Following Board Action

The Company is submitting this no-action request at this time to address the timing Rule 14a-8. The Company will supplementally notify the Staff no later than February 18, 2015, after the Compensation Committee adopts the amendments to the Plan and the Board approves the submission of the Plan to the stockholders for approval at the 2015 Annual Meeting. The Staff has consistently held under Rule 14a-8(i)(9) that where a company intends to omit a stockholder proposal on the grounds that the board of directors is expected to take certain action it will be permitted to supplement its request for no-action relief by notifying the Staff after that action has been taken by

the board of directors. See, e.g., The Boeing Company (February 24, 2014) because the board of directors was expected to take action that would substantially implement the proposal, and the company supplementally notified the Staff of the board action. In this case, although the exact language of amendments to the Plan have not been adopted by the Compensation Committee in a resolution, the Compensation Committee has made the determination to approve the amendments to the Plan and recommend that the Board present the proposed amendments to the Plan to the Company's stockholders for approval at the 2015 Annual Meeting, and the Board is expected to recommend that the Company's stockholders vote in favor of the proposed amendments to the Plan.

For the reasons set forth above, we believe that the Stockholder Proposal is excludable under Rule 14a-8(i)(9) because the Stockholder Proposal directly conflicts with the Company's proposal to be submitted to stockholders for approval at the 2015 Annual Meeting.

III. The Stockholder Proposal May Be Excluded Under Rule 14a-8(i)(3) Because The Stockholder Proposal is Inherently Vague or Indefinite So As To Be Inherently Misleading in Violation of Rule 14a-9

A. Background

Rule 14a-8(i)(3) permits a company to exclude a stockholder proposal "if the proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false or misleading statements in proxy soliciting materials." The Staff has determined that proposals may be excluded pursuant to Rule 14a-8(i)(3) where "the resolution contained in the proposal is so inherently vague or indefinite that neither the stockholders in voting on the proposal, nor the company in implementing the proposal (if adopted), would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." See Staff Legal Bulletin 14B (Sept. 15, 2004) ("SLB 14B"). The Staff has also noted that a proposal may be materially misleading as vague and indefinite where "any action ultimately taken by the Company upon implementation [of the proposal] could be significantly different from the actions envisioned by the stockholders voting on the proposal." See Fuqua Industries, Inc. (March 12, 1991).

B. Vague and Indefinite Terms

The Stockholder Proposal is impermissibly vague and indefinite because it contains undefined key terms. As a result, the stockholders and the Company could have different interpretations of what the Stockholder Proposal requires, and neither the Company nor the stockholders would be able to determine with reasonable certainty what actions or measures the Stockholder Proposal requires. The undefined key terms consist of the terms listed immediately below, as well as those discussed elsewhere in this section.

"Senior executive" The term "senior executive" is not specifically defined in the Stockholder Proposal. On its face, it is unclear what group of individuals the Stockholder Proposal intended this term to cover. Application of differing standards, including "executive officers" or "named executive officers" as defined under Items 401 and 402 of Regulation S-K, respectively, "executive officers" as defined under Rule 3b-7 under the Securities Exchange Act of 1934 (the "Exchange Act"), or "officers" as defined for purposes of Section 16 of the Exchange Act, would yield a different group of affected employees in each instance, as would a more subjective definition of senior executive

employees of the Company. The Company notes that the Stockholder Proposal is distinguishable from other stockholder proposals where the proposed policy would apply to “senior executives.” In McKesson Corp. (May 1, 2013), the nature of the proposal limited the type of compensation at issue to “any awards granted under an equity incentive plan as defined in Item 402 of the SEC’s Regulation S-K, which address executive compensation” and the supporting statement provided additional examples of executives to whom the policy would apply. The Stockholder Proposal applies to all incentive compensation, which would presumably apply to all cash and equity bonus plans as well as any other compensation arrangements the Company may develop that may directly or indirectly be based on the performance of the Company. Assuming this is the Proponent’s intent, which itself is unclear, some portion of the compensation of nearly every employee of the Company is “incentive compensation.” Therefore, the universe of “senior executives” could include any number of management employees. While the Company recognizes that the Staff has generally not agreed that the argument that terms like “senior executives” render a proposal excludable on vagueness grounds, the Company believes that the ambiguity in this term combined with the ambiguity and vagueness in the other terms makes the proposal, as a whole, vague and ambiguous.

“Significant financial or reputational harm to the company” Stockholders may reasonably read “significant” as either synonymous with “material” (which would likely require a financial restatement to be filed with the Commission) or as involving a much lower threshold. Given that the consequences of that determination could include the need for a potentially lengthy and burdensome formal Compensation Committee recoupment review (especially when a financial restatement is not required to be filed with the Commission), it is imperative that a clear understanding of what constitutes “significant” under the language of the Stockholder Proposal is crucial to carrying out the intended result of the Stockholder Proposal. The Company has an established reputation with many different constituencies, including, but not limited to: our customers, our competitors, our stockholders, our suppliers, the markets on which the Company’s stock trades, industry and financial analysts and the general public. Neither the Stockholder Proposal nor the supporting statement provides any guidance regarding whose perception of the Company’s reputation needs to be diminished or by how much for a formal Compensation Committee recoupment review to be triggered. Similarly, the Stockholder Proposal provides no guidance regarding how “reputational harm” might be measured or quantified, particularly in the context of recouping compensation. Not only would it be impossible for stockholders to evaluate this standard, it would be impossible for the Company or the Compensation Committee to reliably implement this standard, including how to measure reputational harm and the effects any perceived reputational harm would have had on incentive compensation.

“Manage or monitor conduct or risks” Neither the Stockholder Proposal nor the supporting statement explains the meaning of “manage” or “monitor” or what “conduct” or “risks” the Committee must review. Furthermore, neither the Stockholder Proposal nor the supporting statement even requires that such “conduct” or “risks” relate to the Company. The Stockholder Proposal establishes no relationship between the “fail[ure]... to manage or monitor conduct or risks” and the “misconduct” cited earlier in the Stockholder Proposal. Under one possible reading, misconduct by a third party that resulted in “significant...harm” to the Company could automatically trigger a required formal Compensation Committee recoupment review, as all of the Company’s senior executives involved, directly or indirectly, in the third party’s actions on the Company’s behalf could reasonably be viewed as having “failed...to manage...conduct or risks,” even if they had acted diligently and reasonably at all times. Alternatively, stockholders could reasonably interpret these words as requiring some definable nexus between a senior executive’s conduct and the misconduct

in question. Under the second reading, however, the Stockholder Proposal includes no guidance as to what standard of conduct (e.g., negligence or gross negligence) would constitute a “failure in his or her responsibility.” As a threshold matter, whose “conduct” and what “risks” are to be covered by this policy? As the Stockholder Proposal is written, only the recoupment decision is at the Compensation Committee’s discretion—not the review itself. As a result, the universe of “conduct” or “risks” to be addressed, and what would constitute a “fail[ure] to manage or monitor” them, are key elements of the Proposal that are not sufficiently defined.

The Staff has consistently permitted the exclusion of stockholder proposals related to executive compensation that failed to define or sufficiently explain key terms or that are subject to materially different interpretations such that neither stockholders nor the company would be able to determine with reasonable certainty exactly what actions the proposal requires. See, e.g., Boeing Co. (March 2, 2011) (permitting exclusion of a proposal regarding executive compensation where the term “executive pay rights” was insufficiently defined); General Motors Corp. (March 26, 2009) (permitting exclusion of proposal seeking elimination of incentives for CEOs and directors but that failed to define “incentives”); Verizon Communications, Inc. (Feb. 21, 2008) (permitting exclusion of a proposal seeking new short- and long-term award criteria because the proposal failed to define key terms, set forth formulas for calculating awards or otherwise explain how the proposal would be implemented); and Prudential Financial, Inc. (Feb. 16, 2007) (permitting exclusion of a proposal seeking stockholder approval of “senior management incentive compensation programs which provide benefits only for earnings increases based only on management controlled programs and in dollars stated on a constant dollar value basis”).

This Stockholder Proposal is distinguishable from other recent stockholder proposals addressing a similar subject matter. In McKesson Corp. (May 17, 2013) and Bank of America Corp. (March 8, 2011), the Staff did not concur with the exclusion under Rule 14a-8(i)(3) of proposals requesting amendments to company clawback policies. However, neither of those proposals required actions based on “significant financial or reputational harm” and/or a failure to “manage or monitor conduct or risks.” Rather, the proposed changes in McKesson Corp. involved the elimination of requirements in the company’s existing policy that misconduct covered by the policy be “intentional” or result in “material” impacts on the company’s financial results. Similarly, the Bank of America Corp. proposal required that any recoupment reviews be tied to “financial or operating metric(s)” and did not purport to require such reviews based on “reputational harm” or monitoring of “conduct or risks” that lacked any explicit or implicit link to company performance. We further distinguish the stockholder proposal addressed in The Boeing Company No-Action Letter (February 25, 2014) in which the Staff did not reach the question of whether the stockholder proposal was excludable under Rule 14a-8(i)(3), but found it excludable on other grounds. In Boeing, the stockholder proposal at issue included a supporting statement that, while vague, purported to define or explain certain terms in the resolution. The Stockholder Proposal here contains only a brief supporting statement citing to a former general counsel’s view on recoupment policies, but does not provide any color or guidance on what may be intended by these terms.

If the Company’s stockholders support the Stockholder Proposal, the Compensation Committee will be in the position of trying to craft a responsive clawback policy, or, as described above, modify an existing policy, to incorporate these vague concepts without understanding the stockholder’s true concern. Accordingly, the Company believes that the Stockholder Proposal may be omitted in reliance on Rule 14a-8(i)(3).

IV. The Stockholder Proposal May Be Excluded Under Rule 14a-8(i)(10) Because The Stockholder Proposal Will Have Been Substantially Implemented By The Company's Clawback

A. Background

The Company also believes that the Stockholder Proposal may properly be excluded from the 2015 Proxy Statement in accordance with Rule 14a-8(i)(10), which provides for the exclusion of a proposal if the company has already substantially implemented the proposal. To be excluded under this rule, the Stockholder Proposal need not be implemented in full or precisely as presented by the Proponent. Instead, the standard is one of substantial implementation. See Rel. No. 40018 (May 21, 1998); Rel. No. 34-20091 (August 16, 1983).

As the Staff has previously recognized, in considering requests pursuant to this section, the Staff has not required that a company take the action requested by a proposal in all details but has been willing to grant no-action relief in situations where the essential objective of the proposal has been satisfied. See, e.g., Sun Microsystems, Inc. (August 28, 2008); ConAgra Foods, Inc. (July 3, 2006); Johnson & Johnson (February 17, 2006); MacNeal-Schwendler Corporation (April 2, 1999). According to the Commission, the exclusion provided in Rule 14a-8(i)(10) "is designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management..." See Rel. No. 34-12598 (July 7, 1976).

B. The Proposed Amendments Substantially Implement the Stockholder Proposal

As previously described, the Board has already determined to amend the Plan and the SLP to include the Clawback. The Plan and the SLP are the only incentive compensation plans applicable to the Company's executive officers. Although the Compensation Committee is still considering the specific terms of the Clawback, based on the provision proposed by the Company's management and under consideration by the Compensation Committee, we believe that the Stockholder Proposal will be substantially implemented prior to the filing of the 2015 Proxy Statement. In particular, the Compensation Committee is considering a Clawback that would apply to a greater scope of employees than "senior executives" (under any of the reasonable definition of the term "senior executives") and Compensation Committee review of incentive compensation paid to these employees will be triggered by a restatement of the Company's financial results as well as fraud or intentional misconduct, whether or not such fraud or intentional misconduct resulted in a restatement. Further, as stated above, by amending the Plan and the SLP to include the Clawback, all incentive compensation currently available to the relevant employees will be subject to the Clawback. The Company will supplement this letter at the time the Clawback is approved by the Compensation Committee to provide a point-by-point analysis of Clawback as compared to the Stockholder Proposal.

Upon approval by the Compensation Committee of the amendment of the Plan and the SLP to include the Clawback, the Clawback will be immediately effective. Therefore, at such time as the Compensation Committee approves the amendments to the Plan and the Clawback, the Company will have taken all necessary action to substantially implement the Clawback.

For the reasons set forth above, we believe that the Stockholder Proposal is excludable under Rule 14a-8(i)(10) because the Company will have substantially implemented the Stockholder



Proposal, and, accordingly, we request that the Staff concur that the Stockholder Proposal may be excluded from the 2015 Proxy Statement on this basis.

IV. Conclusion

For the foregoing reasons, the Company respectfully requests that the Staff confirm that it would not recommend enforcement action if the Company omits the Stockholder Proposal from its proxy statement for the 2015 Proxy Statement.

If you have any questions or require any additional information, please do not hesitate to call Nell O'Donnell at (408) 333-3367, Katharine Martin at (650) 565-3522 or me at (408) 333-4025. If the Staff is unable to agree with our conclusions without additional information or discussions, we respectfully request the opportunity to confer with members of the Staff prior to issuance of any written response to this letter.

Please acknowledge receipt of this letter and its attachment by date-stamping the enclosed copy of the first page of this letter and returning it in the enclosed self-addressed stamped envelope.

Sincerely,

Matthew Ng

Senior Director, Legal and Assistant Secretary

Enclosures

cc: John Chevedden as proxy for Kenneth Steiner
Nell O'Donnell, General Counsel, Brocade Communications Systems, Inc.
Katharine A. Martin, Wilson Sonsini Goodrich & Rosati

Exhibit A

Stockholder Proposal

Kenneth Steiner

*** FISMA & OMB Memorandum M-07-16 ***

Mr. Tyler Wall
Corporate Secretary
Brocade Communications Systems, Inc. (BRCD)
130 Holger Way
San Jose CA 95134
PH: 408 333-8000
FX: 408 333-8101

Dear Mr. Wall,

I purchased stock in our company because I believed our company had greater potential. My attached Rule 14a-8 proposal is submitted in support of the long-term performance of our company. This Rule 14a-8 proposal is submitted as a low-cost method to improve company performance. My proposal is for the next annual shareholder meeting. I will meet Rule 14a-8 requirements including the continuous ownership of the required stock value until after the date of the respective shareholder meeting. My submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication. This is my proxy for John Chevedden and/or his designee to forward this Rule 14a-8 proposal to the company and to act on my behalf regarding this Rule 14a-8 proposal, and/or modification of it, for the forthcoming shareholder meeting before, during and after the forthcoming shareholder meeting. Please direct all future communications regarding my rule 14a-8 proposal to John Chevedden

*** FISMA & OMB Memorandum M-07-16 ***

to facilitate prompt and verifiable communications. Please identify this proposal as my proposal exclusively.

This letter does not cover proposals that are not rule 14a-8 proposals. This letter does not grant the power to vote. Your consideration and the consideration of the Board of Directors is appreciated in support of the long-term performance of our company. Please acknowledge receipt of my proposal promptly by email. *** FISMA & OMB Memorandum M-07-16 ***

Sincerely,



Kenneth Steiner

8/26/14

Date

cc: Robert Eggers <reggers@brocade.com>
Investor Relations
Tel: 408.333.8797
Eddie Shen <eshen@brocade.com>
Corporate Counsel

[BRCD: Rule 14a-8 Proposal, October 10, 2014]

4 – Recovery of Unearned Management Bonuses

RESOLVED, that shareholders request the Compensation Committee of the Board of Directors to adopt an incentive compensation recoupment policy to provide that the Committee will (a) review, and determine whether to seek recoupment of incentive compensation paid, granted or awarded to a senior executive if, in the Committee's judgment, (i) there has been misconduct resulting in a violation of law or company policy, that causes significant financial or reputational harm to the company and (ii) the senior executive either committed the misconduct or failed in his or her responsibility to manage or monitor conduct or risks; and (b) disclosure to shareholders the circumstances of any recoupment, and of any Committee decision not to pursue recoupment in instances that meet criteria (i) and (ii). The Policy should mandate that the above recoupment provisions be included in all future incentive plans and award agreements and that the policy be posted on the company website.

Recoupment includes (a) recovery of compensation already paid and (b) forfeiture, recapture, reduction or cancellation of amounts awarded or granted to an executive over which the company retains control. The Policy should operate prospectively, so as not to affect any compensation paid, awarded or granted before it takes effect.

Compensation policies should promote sustainable value creation. Former GE general counsel Ben Heineman Jr. said that recoupment policies with business-related misconduct triggers are “a powerful mechanism for holding senior leadership accountable to the fundamental mission of the corporation: proper risk taking balanced with proper risk management and the robust fusion of high performance with high integrity.”

(<http://blogs.law.harvard.edu/corpgov/2010/08/13/making-sense-out-of-clawbacks/>)

Such policies allow boards to recoup incentive payouts that may have been the undeserved result of erroneous or fraudulent financial reporting.

Please vote to protect shareholder value:

Recovery of Unearned Management Bonuses – Proposal 4

Notes:

Kenneth Steiner, *** FISMA & OMB Memorandum M-07-16 *** sponsored this proposal.

“Proposal 4” is a placeholder for the proposal number assigned by the company in the final proxy.

Please note that the title of the proposal is part of the proposal.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(I)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

Stock will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email. *** FISMA & OMB Memorandum M-07-16 ***



Post-it® Fax Note	7671	Date	10-21-14	# of pages	▶
To	Tyler Wall	From	John Chevelton		
Co./Dept.		Co.			
Phone #		Phone #	***		
Fax #	408-333-8101	Fax #	FISMA & OMB Memorandum M-07-16 ***		

BRCD

October 21, 2014

Kenneth Steiner

*** FISMA & OMB Memorandum M-07-16 ***

Re: Your TD Ameritrade account ending in TD Ameritrade Clearing, Inc DTC #0188

Dear Kenneth Steiner,

Thank you for allowing me to assist you today. As you requested, this letter serves as confirmation that, since October 1, 2012, you have continuously held no less than 500 shares of Brocade Communication Systems Inc (BRCD) in the above referenced account.

If we can be of any further assistance, please let us know. Just log in to your account and go to the Message Center to write us. You can also call Client Services at 800-669-3900. We're available 24 hours a day, seven days a week.

Sincerely,

Andrew P Haag
Resource Specialist
TD Ameritrade

This information is furnished as part of a general information service and TD Ameritrade shall not be liable for any damages arising out of any inaccuracy in the information. Because this information may differ from your TD Ameritrade monthly statement, you should rely only on the TD Ameritrade monthly statement as the official record of your TD Ameritrade account.

Market volatility, volume, and system availability may delay account access and trade executions.

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TDA 5380 L 09/13

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Omaha, NE 68154

www.fidameritrade.com