

No Act



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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

P.E. 1/11/16

DIVISION OF
CORPORATION FINANCE

Received SEC
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Washington, DC 20549

February 22, 2016

Lee Whitley
Baker Hughes Incorporated
lee.whitley@bakerhughes.com

Act: 1934
Section: 14a-8 (ODS)
Rule: 14a-8 (ODS)
Public
Availability: 2-22-16

Re: Baker Hughes Incorporated
Incoming letter dated January 11, 2016

Dear Ms. Whitley:

This is in response to your letter dated January 11, 2016 concerning the shareholder proposal submitted to Baker Hughes by Newground Social Investment on behalf of the Equality Network Foundation. We also have received a letter on the proponent's behalf dated February 15, 2016. Copies of all of the correspondence on which this response is based will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Matt S. McNair
Senior Special Counsel

Enclosure

cc: Bruce T. Herbert
Newground Social Investment, SPC
team@newground.net

February 22, 2016

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: Baker Hughes Incorporated
Incoming letter dated January 11, 2016

The proposal relates to simple majority voting.

We are unable to concur in your view that Baker Hughes may exclude the proposal under rules 14a-8(b) and 14a-8(f). Accordingly, we do not believe that Baker Hughes may omit the proposal from its proxy materials in reliance on rules 14a-8(b) and 14a-8(f).

Sincerely,

Evan S. Jacobson
Special Counsel

**DIVISION OF CORPORATION FINANCE
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS**

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matter under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the Company in support of its intention to exclude the proposals from the Company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes administered by the Commission, including argument as to whether or not activities proposed to be taken would be violative of the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversary procedure.

It is important to note that the staff's and Commission's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholders proposals in its proxy materials. Accordingly a discretionary determination not to recommend or take Commission enforcement action, does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the management omit the proposal from the company's proxy material.

Newground

Social Investment

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www.newground.net
(206) 522-1944

VIA ELECTRONIC DELIVERY TO: <ShareholderProposals@sec.gov>
<Lee.Whitley@bakerhughes.com>

February 15, 2016

U.S. Securities & Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, NE
Washington, DC 20549

**Re: Response to No-Action Request, in Regard to Vote-Counting Shareholder Proposal
Equality Network Foundation, Proponent**

Dear Sir or Madam:

I write on behalf of the Equality Network Foundation (the "Proponent" or "Shareholder") and Newground Social Investment ("Newground"), to respond to a January 11, 2016 no-action request (the "No-Action") sent to the Securities & Exchange Commission by Baker Hughes Incorporated (the "Company" or "Baker Hughes"), which the Company submitted in regard to a Proposal filed December 4, 2015 by Newground on behalf of the Proponent. In accordance with SEC Rules, a copy of this correspondence is being sent contemporaneously to the Company.

(I)
OVERVIEW

In relevant part, Baker Hughes asserts either that Newground failed to prove it had authorization to file the Proposal on behalf of the Shareholder; or, alternatively, that the Shareholder failed to provide its own written Statement of Intent that it intends to continue to hold shares through the date of the Company's next annual meeting.

As Baker Hughes notes, in Newground's response to the Company's December 14, 2015 Deficiency Notice regarding proof of ownership, Newground, representing the Equality Network Foundation, included a written statement from the Shareholder Proponent's independent custodian, a DTC Participant, verifying that the Shareholder Proponent had continuously held the requisite value of shares of Common Stock for the one-year period preceding and including December 4, 2015 (the filing deadline) so as to meet the eligibility requirements of Exchange Act Rule 14a-8(b). The Company does not contest the validity of this verification of shareholding (the "Letter of Verification").

In addition, the December 4, 2015 transmittal letter (submitted with the Proposal on behalf of the Equality Network Foundation) asserted clearly that the Proponent acknowledged and understood its responsibility under the Rule, and that it intends to continually hold shares through the date of the Company's next annual meeting.

Baker Hughes accurately notes that Newground, in response to the Company's request regarding proof of authorization, stated that the Shareholder Proponent is a Newground client and that, as such, Newground is "authorized to undertake these actions on its [the Proponent's] behalf... since it is clear that as a Registered Investment Advisor registered with the SEC, [Newground represents] clients of all types and [has] both ethical and legal obligations to do so faithfully."

Baker Hughes asserted that additional evidence of authorization is required; however, Newground declined to provide alternate evidence because neither SEC Rule nor the State Law of Agency discusses, details, or requires the presentation of additional documentation in this circumstance.

Therefore, we present this response to the Company's No-Action request as a test case. We believe it is appropriate for Staff to clarify that it is not necessary under Rule 14a-8 for an investment firm to take actions beyond those provided under the Rule or Law of Agency: i.e., (1) to state that it represents a client, (2) to demonstrate a relationship with the client by providing rule-compliant, third-party documentation of proof of continuous ownership (the Letter of Verification), and (3) to convey the intent of that client to continue to hold the requisite value of shares through the time of the next shareholders meeting (the "Statement of Intent").

The appropriateness of a Registered Investment Advisor making such assertions is no different from the appropriateness of an attorney (acting as an agent) to assert, without providing other written proof, the authority to speak on behalf of his or her client. A lawyer and a Registered Investment Advisor acting on behalf of their respective clients represent parallel instances, in both of which it is unnecessary and inappropriate to challenge the authority of the agent (absent concrete evidence that may suggest a lack of proper agency).

(II)

**NEITHER STATE NOR FEDERAL LAW REQUIRES DOCUMENTATION
OF AUTHORIZATION FOR AN INVESTMENT FIRM TO ACT ON BEHALF OF A CLIENT**

The State Law of Agency gives broad discretion to an investment firm to act on behalf of its clients. In a wide array of activities, under State Law it is not necessary for an investment firm to provide instance-by-instance documentation of its authority in order to represent a client. Nor should it be the case in filing proposals under SEC Rules, because there are in place sufficient checks-and-balances that prevent Newground (or any other Registered Investment Advisor similarly situated) from making a fraudulent assertion of authority in order to gain access to a company proxy.

Specifically, there is a clear *lineage of authority* that involves a shareholder (Newground's client), the independent custodian (who generates and delivers the Letter of Verification of ownership), and Newground (the Registered Investment Advisor). Under this *lineage*, a third-party custodian would not produce a Letter of Verification and deliver it to Newground without authorization from the shareholder who, in turn, would not authorize the Letter of Verification's production and delivery without knowledge of and a desire for Newground to file the proposal on the shareholder's behalf.

The simple fact is that current SEC practice has established a seamless context, or *unity of documentation* – constituted by the Letter of Verification of ownership, Statement of Intent to hold shares, and the Shareholder Proposal. Neither of these elements stands by itself, nor could either one of these elements on its own allow a shareholder filing to go forward and to appear in a proxy. The Letter of Verification may be viewed as the linchpin of this *unity of documentation* – both because its very existence is proof of an intact *lineage of authority*, and because without it a filer (whether the shareholder or their agent) could not move past the Deficiency Notice stage of submitting a shareholder proposal.

In this manner, as scientists can with certainty infer the existence of a planet from the presence of a shadow during an eclipse, so the Staff and a company can conclusively infer the existence of appropriate authorization for Newground (in this instance) from the presence of a Letter of Verification.

As evidenced by the nearly universal tendency in recent years of companies to issue deficiency notices and no-action requests in response to each shareholder filing, it could be posited that companies would prefer for the shareholder engagement process to be slowed by as many hurdles as possible, whether real or imagined. Fortunately, companies are not the arbiters of what is and is not required, and the Commission should not fall prey to validating a no-action request – however much a company may wish for it – that is both unnecessary and redundant in light of existing safeguards to the system, and is neither detailed in nor envisioned by the existing configuration of the Rules. To do so would harm the free-flow of communication between a company's owners, their management, and Board.

The Company correctly notes that in this instance Newground is not asserting that it has, itself, beneficial ownership of the shares. Newground exclusively asserts that it is entitled under State Law – and not denied the right under Rule 14a-8 – to assert that it represents a client for all purposes related to the filing of a shareholder proposal. The only requirements detailed under the Rule are to provide independent documentation that a client has held the requisite value of shares for the necessary period of time leading up to a proposal's submission (the Letter of Verification), and also to state that the client intends to continue to do so through the date of the subsequent annual meeting of shareholders (the Statement of Intent).

Review of Staff no-action correspondence, including the cases cited by Baker Hughes in this instance, demonstrate that the alleged requirement to provide a statement from a client that documents authorization for a Registered Investment Advisor to file a proposal (while perhaps, in deference, provided by some firms in the past) is not mandated by either SEC Rule or State Law. Instead, all that is necessary is adequate, credible evidence that the

investment firm represents the shareholder. Newground has provided such evidence in the form of the Letter of Verification of share ownership.

(III)

**STAFF DECISIONS DO NOT REQUIRE A SPECIFIC DOCUMENT
TO PROVE AUTHORIZATION FOR A REGISTERED INVESTMENT ADVISOR**

Baker Hughes cites a number of precedents in its January 11, 2016 No-Action request that either do not apply to the current instance, or actually support Newground's view of the matter.

In the inapplicability category, the Company cites as relevant three instances (*The Western Union Company* (Mar. 10, 2010); *3M Company* (Feb. 7, 2014); and *Chesapeake Energy Corporation* (Apr. 13, 2010)) where Staff permitted exclusion under Exchange Act Rule 14a-8(b) of proposals submitted by investment advisors based on securities pooled in *client accounts*. However, these are not germane to this instance because they involved situations in which the investment firms representing shareholders asserted that relevant shares were held in "client accounts" (plural), but neglected or declined to name the specific clients. In the absence of naming the represented clients, it became impossible to trace ownership to a specific beneficial shareholder, and therefore the terms of Rule 14a-8 were not met.

In stark contrast, in the present instance Newground has clearly identified the specific Shareholder on whose behalf it filed the Proposal. Newground also provided, as the Company has acknowledged, appropriate third-party verification of proof of continuous ownership by that specific client. Because the Letter of Verification points to the existence of a clear *lineage of authority*, we believe this constitutes more than adequate evidence of Newground's authority to act on behalf of the Shareholder client.

The Company also cites *Smithfields Foods* to argue that an investment advisor must submit additional paperwork in order to demonstrate that it has authority to submit a proposal on behalf of a client. However, the Company misinterprets the facts and decision in *Smithfield Foods, Inc.* (June 24, 2010).

The circumstances were these: Calvert, the investment firm in the *Smithfields* instance, asserted that it had authority to submit the proposal under contractual arrangements with its subsidiaries. While Calvert provided written documentation of those contractual relationships, it also noted that those relationships involved "traditional advisory services" which were alleged to include acting on the shareholder's behalf in voting proxies and in submitting proposals.

The company challenging the proposal in *Smithfields* noted that the contract in question did not include express language stating that the subsidiary funds authorized Calvert to file proposals on their behalf, or even to vote the proxies. In point of fact, all that the Calvert contract demonstrated was that an advisory relationship existed between Calvert and the filers. Nevertheless, the Staff determined in *Smithfields* that the proposal could not be

excluded, thus affirming Calvert's assertion that a company cannot demand production of a specific type of authorization document in regard to filing a proposal, and that the existence of a "traditional advisory services" relationship is sufficient to convey authority to file a shareholder proposal on a client's behalf.

Thus, in the present instance, the *Smithfields Foods* precedent does not support the Company's contention; but, rather, entirely supports Newground's perspective on the matter. By providing a third-party custodian's independent verification of proof of continuous ownership, and by making a clear assertion that the Shareholder is Newground's client, we have provided sufficient and incontrovertible evidence of relationship and, therefore, need not – either under the State Law of Agency or under SEC Rules – provide a separate document to demonstrate such authorization.

While citing, and in our view misinterpreting, one *Energen Corporation* no-action letter (Calvert proponent, addressed below), the Company chose to ignore a second, highly pertinent, *Energen* no-action decision that was issued on the very same day, in which Staff denied no-action relief to *Energen*.

In *Energen Corporation* (Feb. 22, 2011) (Miller/Howard proponent) the Staff held that a trustee of a Trust was not required to provide proof of her authority to act on behalf of the trust. In the Miller/Howard submission, the registrant claimed that no proof of authorization had been supplied to demonstrate that the trustee was authorized to act on behalf of the trust (which had two trustees). However, Staff rejected that argument. The authority of Newground to act on behalf of its client is even stronger, since it is subject to administrative regulation of its ethics and authority.

No attempt has been made to assert that Newground is itself a beneficial owner or a shareholder under the terms of Rule 14a-8(i)(8). Instead, we assert that Staff should conclude that a Registered Investment Advisor which, on behalf of a client, produces compliant third-party verification of proof of continuous ownership and makes appropriately clear assertions regarding the client's intent to hold those shares through the time of the subsequent shareholders meeting, operates within an SEC-defined context that enjoys abundant safeguards which ensure it could not falsely claim shareholder representation and gain access to a company proxy thereby.

As an SEC-registered Registered Investment Advisor, Newground is differently situated from an individual who might attempt to file a proposal on behalf of another, because an individual has in place no economic stake or the natural checks-and-balances that arise through a legal investment advisory relationship. As such, Newground is in a position quite similar to that of a lawyer: both would face legal and ethical jeopardy where he or she to falsely claim to represent a client. In addition, if an investment advisory firm were to falsely claim that it represented a shareholder in submitting a shareholder proposal, there are effective safeguards in place to prevent that filing from proceeding. The SEC need not and should not be involved. In support of this, the fact is that Commission Rules make no reference to any type of proof of authorization as asserted by Baker Hughes. We believe this was not an oversight but, rather, a conscious choice made by the framers of the Rule in recognition of the fact that assertions of concern, such as those made by Baker Hughes, are already thoroughly addressed under the Rule, and are a matter of State Law.

In the presence of a clear *lineage of authority* and the existence of a *unity of documentation*—without which no item can appear in a company’s proxy—there is no valid reason why, in filing shareholder proposals on behalf of a client, Newground should be burdened with unsubstantiated demands for additional proofs of authorization that are duplicative, do not provide additional safeguards, and are neither envisioned under the Rule nor expected under State Law.

(IV)

THE PROPONENT DID NOT FAIL TO ASSERT ITS INTENT TO HOLD
SHARES THROUGH THE TIME OF THE NEXT ANNUAL MEETING OF SHAREHOLDERS

As a separate argument, Baker Hughes asserts that the Shareholder Proponent failed to provide a written Statement of Intent to hold securities through the date of the next annual meeting of shareholders. As noted above, Newground’s December 4, 2015 transmittal letter clearly states, on the Shareholder’s behalf, the intent of the Proponent to hold shares through the time of the next annual meeting.

The Company, in arguing the exact manner of expression a shareholder’s Statement of Intent to hold shares must take, cites *Energen Corporation* (Feb. 22, 2011) (Calvert proponent). However, the *Energen* (Calvert) precedent is not only inapplicable to the present matter, it further demonstrates the Company’s misguided approach to this issue.

In the *Energen* (Calvert) decision, the firm that filed on behalf of the relevant shareholders stated that “it” (not the proponents) intended to hold the relevant shares. In stark contrast to the present instance, the firm did not directly represent or assert that the relevant shareholders intended to hold the shares. Thus, although the firm there may have been a *spokesperson* for the related funds that actually held the shares, it spoke only to its own intent to continue holding shares and not the intent of its subsidiaries, which appeared to have independent decision-making authority. The Staff reasoned that “although [the investment advisor] may have been authorized to act and speak on behalf of shareholders, it has provided a statement of its own intentions and not of the shareholders’ intentions” (emphasis added).

In the present instance, Newground has made it abundantly clear that it is authorized to speak on behalf of this client, the Proponent; and further, that on behalf of this client Newground states that it is the Proponent’s intent to hold shares through the time of the next shareholders meeting. Thus, all requirements set out under the Rule for documenting both proof of ownership and intent to continue ownership have been appropriately met.

In addition, Staff has explicitly rejected multiple attempts of registrants to argue that shareholders must *themselves* provide a Statement of Intent, and that investment advisors cannot (on behalf of a shareholder) provide or make such a Statement. See: *Chevron Corporation* (Mar. 11, 2014); and *Hanesbrands Inc.* (Jan. 13, 2012).

(V)
IN CLOSING

In our view, for quite some time companies have made specious demands for documentation that are neither justified under nor envisioned by SEC Rules; and have successfully prevailed in no-action challenges by presenting unsupported claims as if they were defined requirements. Our sense is that in so doing companies have harmed shareholder interest by employing unsubstantiated technicalities to hinder an appropriately open and to-be-desired flow of communication between shareholders, management, and the Board.

Current practice under the Rules has established an effective and indivisible set of shareholder proposal submission elements, the *unity of documentation*, which can only result in a proposal appearing in a proxy statement when all three are together – such that no one element by itself could allow a shareholder filing to appear in a proxy. The Letter of Verification serves as a linchpin – because its very existence is proof of there being an intact *lineage of authority* from shareholder, to independent custodian, to Newground; in the absence of which Newground, as a filer on behalf of a Shareholder Proponent, could never move past the Deficiency Notice stage of filing a proposal.

We believe these reasons alone are sufficient for Staff to deny the Company's No-Action request. However, though Baker Hughes bears the burden of proof in this matter it has failed to present a credible argument or to cite any specific authority in support of its contentions. Further, the Company's attempts to cite precedent (in each and every instance) are either inapplicable to the current instance or actually support Newground's view of the matter. Newground has cited three additional precedents, each of which were decided in support of our position and establish the grounds for our case even more conclusively (one of these citations was ignored by the Company when it cited another Staff decision at the same company delivered on the same day).

Therefore, we respectfully ask that Staff deny the Company's No-Action request.

We are available to further clarify anything presented herein, and request the opportunity to expand on these views or offer additional reflections should the Company present a response to this rebuttal of its No-Action request. As always, we thank the Staff for its time, diligence, and careful handling of these important aspects of the shareholder engagement process.

Sincerely,



Bruce T. Herbert | AIF
Chief Executive | ACCREDITED INVESTMENT FIDUCIARY

cc: Lee Whitley, Vice President and Corporate Secretary, Baker Hughes Incorporated
Equality Network Foundation



Baker Hughes Incorporated

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Lee Whitley
Vice President & Corporate Secretary

January 11, 2016

BY ELECTRONIC MAIL

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549
shareholderproposals@sec.gov

Re: Stockholder Proposal to Baker Hughes Incorporated by Newground Social Investment, SPC on behalf of The Equality Network Foundation

Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) of the rules and regulations promulgated under the Securities Exchange Act of 1934, as amended (the "*Exchange Act*"), attached hereto as Exhibit A are copies of (i) the stockholder proposal and supporting statement (collectively, the "*Proposal*") submitted by Newground Social Investment, SPC ("*Newground*") on behalf of The Equality Network Foundation (the "*Shareholder Proponent*") for inclusion in the proxy statement and form of proxy (collectively, the "*2016 Proxy Materials*") to be furnished by Baker Hughes Incorporated (the "*Company*") to its stockholders in connection with its 2016 Annual Meeting of Stockholders, and (ii) related correspondence between the Company and Newground. In accordance with Staff Legal Bulletin No. 14D (Nov. 7, 2008), this letter and the attached documents are being delivered by email to shareholderproposals@sec.gov. Newground's address, as stated in Newground's transmittal letter accompanying the Proposal, is 10033 12th Avenue NW, Seattle, Washington 98177, and its e-mail address is team@newground.net. The Shareholder Proponent's contact information was not included in Newground's transmittal letter accompanying the Proposal.

The Company is submitting this letter pursuant to Exchange Act Rule 14a-8(j) to notify the Securities and Exchange Commission (the "*Commission*") of the Company's intention to exclude the Proposal from its 2016 Proxy Materials. In addition, pursuant to Exchange Act Rule 14a-8(j), a copy of this letter and its exhibits are also being sent to Newground. Exchange Act Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) provide that a shareholder proponent is required to send the company a copy of any correspondence that the proponent elects to submit to the Commission or the staff of the Division of Corporation Finance of the Commission (the "*Staff*"). Accordingly, we hereby inform Newground that the Company and the

undersigned should receive a concurrent copy of any additional correspondence submitted to the Commission or the Staff relating to the Proposal.

The Company respectfully requests that the Staff confirm that it will not recommend any enforcement action to the Commission if the Company omits the Proposal from its 2016 Proxy Materials for the reasons discussed below. The Company currently intends to file its definitive 2016 Proxy Materials with the Commission no earlier than 80 days after the date of this letter.

The Shareholder Proposal

The Proposal requests that the Company's stockholders approve the following resolution:

“RESOLVED: Shareholders of Baker Hughes Incorporated hereby request the Board to take or initiate the steps necessary to amend the Company's governing documents to provide that all non-binding matters presented by shareholders shall be decided by a simple majority of the votes cast FOR and AGAINST an item. This policy shall apply to all such matters unless shareholders have approved higher thresholds, or applicable laws or stock exchange regulations dictate otherwise.”

Bases for Exclusion

We request that the Staff concur that the Company may exclude the Proposal pursuant to:

- Exchange Act Rules 14a-8(b) and 14a-8(f) because Newground failed to demonstrate that it is either eligible under Exchange Act Rule 14a-8(b)(2) to submit the Proposal itself or authorized to submit the Proposal on behalf of a shareholder proponent that is eligible under Exchange Act Rule 14a-8(b)(2) to submit the Proposal; and
- Exchange Act Rules 14a-8(b) and 14a-8(f) because the Shareholder Proponent failed to provide its own written statement that it intends to continue to hold sufficient shares of the Company's common stock through the date of the Company's 2016 Annual Meeting of Stockholders.

Background

Newground submitted the Proposal on behalf of the Shareholder Proponent on December 4, 2015 and the Company received the Proposal on the same date. The Proposal did not include (i) evidence that either the Shareholder Proponent or Newground met the eligibility requirements of Exchange Act Rule 14a-8(b), (ii) a written statement from the Shareholder Proponent that it intends to continue to hold sufficient shares of the Company's common stock through the date of the Company's 2016 Annual Meeting of Stockholders as required by Exchange Act Rule 14a-8(b) or (iii) evidence that Newground is authorized to submit the Proposal on behalf of the Shareholder Proponent.

On December 14, 2015, after confirming that the Shareholder Proponent was not a shareholder of record of the Company's common stock, par value \$1.00 per share (the “*Common Stock*”), the Company sent a notice of defect (the “*Deficiency Letter*”) to Newground by email and overnight mail notifying Newground of the need to provide the Company (i) “a written statement from the ‘record’ holder of the [Shareholder] Proponent's shares (usually a

broker or a bank) verifying that the [Shareholder] Proponent continuously held the requisite number of shares of Common Stock for the one-year period preceding and including December 4, 2015” (the date of submission of the Proposal); (ii) “a written statement that the [Shareholder] Proponent intends to continually own such shares [of Common Stock] through the date of the Company’s annual meeting” and (iii) “evidence from the [Shareholder] Proponent that [Newground is] authorized to submit the Proposal and otherwise act on behalf of the [Shareholder] Proponent.” The Deficiency Letter informed Newground that its response to the Deficiency Letter was required within 14 days from its receipt of the Deficiency Letter and included copies of Exchange Act Rule 14a-8 and Staff Legal Bulletins No. 14F and 14G.

On December 24, 2015, the Company received an email from Newground attaching a response to the Deficiency Letter (the “*Newground Response*” and, together with the Proposal, the “*Newground Documents*”). The Newground Response included a written statement from the Shareholder Proponent’s broker, a DTC Participant, verifying that the Shareholder Proponent continuously held the requisite shares of Common Stock for the one year period preceding and including December 4, 2015 to meet the eligibility requirements of Exchange Act Rule 14a-8(b). However, the Newground Response failed to respond to the Company’s request, based on Exchange Act Rule 14a-8(b)(2)(i), for “a written statement that the [Shareholder] Proponent intends to continually own such shares [of Common Stock] through the date of the Company’s annual meeting.” In addition, the Newground Response refused to provide “evidence from the [Shareholder] Proponent that [Newground is] authorized to submit the Proposal and otherwise act on behalf of the [Shareholder] Proponent.” Newground instead stated that the Shareholder Proponent is a Newground client and that, as such, Newground is “authorized to undertake these actions on its behalf . . . since it is clear that as a Registered Investment Advisor registered with the SEC, [Newground represents] clients of all types and [has] both ethical and legal obligations to do so faithfully.”¹ However, the Newground Documents provided the Company with no evidence of the existence or details of any client relationship between Newground and the Shareholder Proponent showing that Newground was authorized to use the Common Stock owned by the Shareholder Proponent to gain access to the Company’s 2016 Proxy Materials.

Copies of the Proposal, Deficiency Notice and Newground Response are included in the materials attached hereto as Exhibit A.

Analysis

Exchange Act Rule 14a-8(b)(1) provides that, to be eligible to submit a proposal, a shareholder must have continuously held at least \$2,000 in market value, or 1%, of the company’s securities entitled to be voted on the proposal at the meeting for at least one year as of the date the proposal is submitted and must continue to hold those securities through the date of meeting. In addition, Exchange Act Rule 14a-8(b)(2) also provides that, to be eligible to submit a proposal, a shareholder must also include in its submission its own written statement that the shareholder intends to continue to hold the securities through the date of the annual meeting.

Further, Exchange Act Rule 14a-8(f)(1) provides that, if a shareholder proponent fails to satisfy one of the eligibility or procedural requirements set forth in Exchange Act Rule 14a-8(a)-

¹ In contrast to Newground’s statement in the Newground Response, the Company notes that in connection with a no action request letter submitted by Goldman Sachs (Jan. 14, 2014), Investor Voice (a predecessor to Newground for whom Mr. Bruce T. Herbert also served as chief executive), on behalf of the Shareholder Proponent, responded to a request made by Goldman Sachs that was substantially similar to the latter two requests included in the Deficiency Letter, although such response was not confirmed to be satisfactory.

(d) (including those set forth in the paragraph above), the company may exclude the proposal if the company notifies the shareholder proponent of the deficiency within 14 calendar days of the company's receipt of the proposal and the proponent then fails to correct the deficiency within 14 calendar days of its receipt of the company's deficiency letter.

A. *Newground Does Not Have an Economic Interest in the Common Stock Owned by the Shareholder Proponent, Nor Does it Have the Authority to Submit the Proposal on Behalf of the Shareholder Proponent*

First, the Staff has made clear that, to be a "shareholder" who has continuously "held" the requisite amount of securities to be eligible to submit a proposal, a person must have an economic interest in the securities that provide the basis for eligibility. The Staff has explained that the purpose of this requirement is to ensure that the proponent has an "economic stake or investment interest in the corporation."² Accordingly, the Staff has permitted exclusion of proposals submitted by investment advisors who based their eligibility on securities held in client accounts in which the advisor had no economic stake.³ In doing so, the Staff has rejected the argument that an investment advisor meets the eligibility requirement of Exchange Act Rule 14a-8(b) by beneficially owning securities consistent with Section 13(d) of the Exchange Act (i.e., by having voting or investment power over the securities), and has concurred that proposals submitted by investment advisors on behalf of clients are excludable under Exchange Act Rule 14a-8(f) where the advisor has "no economic stake or investment interest in the company by virtue of the shares held in its clients' accounts."⁴

As in the No Action Letters cited above, Newground has offered no proof that it has any economic interest in the shares of Common Stock held by the Shareholder Proponent. In the Proposal, Newground stated that it "manages money for clients," and in the Newground Response, stated that it is a "Registered Investment Advisor with the SEC" and "represents clients of all types and has both ethical and legal obligations to do so faithfully." However, the fact that Newground manages securities owned by and held in the names of its clients does not indicate that Newground has an economic interest in such securities sufficient to establish that Newground is a "shareholder" under the meaning of Exchange Act Rule 14a-8(b) and thus eligible to submit proposals for inclusion in the proxy materials of the issuers of such securities.

Second, the Staff has permitted exclusion under Exchange Act Rule 14a-8(b) of proposals submitted by investment advisors based on securities held in client accounts in the absence of proof that the investment advisor was authorized to submit proposals on behalf of its

² Exchange Act Release No. 34-20091 [*14] (Aug. 16, 1983); *see also* Exchange Act Release No. 34-39093 (Sep. 18, 1997) (stating that "[o]ne purpose of the one-year requirement is to curtail abuse of the rule by requiring that those who put the company and the other shareholders to the expense of including a proposal in its proxy materials have had a continuous investment interest in the company.").

³ *See 3M Company* (Feb. 7, 2014); *Chesapeake Energy Corporation* (Apr. 13, 2010) (permitting exclusion of a proposal made by an investment advisor under Exchange Act Rule 14a-8(b) and (f) where the investment advisor offered no proof that any of its clients, on whose securities the investment advisor relied for eligibility under Exchange Act Rule 14a-8(b), had given it authority to submit the proposal on their behalf); and *The Western Union Company* (Mar. 10, 2010) (finding that an investment advisor had "no economic stake or investment in the company by virtue of shares of common stock held in its clients' accounts" where the advisor's contract with its clients gave the advisor rights of beneficial ownership consistent with the securities laws, namely, the power to vote or direct the voting of such securities and the power to dispose or direct the disposition of such securities, but there was no evidence of a clear authorization by the clients to submit stockholder proposals on their behalf).

⁴ *Chesapeake Energy Corporation* (Apr. 13, 2010); *The Western Union Company* (Mar. 10, 2010).

clients.⁵ For an investment advisor to be permitted to submit proposals on behalf of clients (where the advisor has no economic interest in its clients' shares of company common stock), the advisor must demonstrate that its clients delegated to it authority to submit proposals on their behalf.⁶ In the *Smithfields Foods, Inc.* No Action Letter cited above, an investment advisor submitted a proposal on behalf of an investment fund for which it served as investment advisor. The Staff stated that the proposal was not excludable because the investment advisory agreement between the investment advisor and the fund, which had been supplied to Smithfield Foods, Inc. in response to its deficiency letter, as well as the investment advisor's proxy voting guidelines, clearly established that the fund had delegated to the advisor the authority to submit the proposal on the fund's behalf.

Here, nothing in the Newground Documents establishes that Newground has the authority to submit the Proposal on behalf of the Shareholder Proponent. The Newground Documents include only a self-serving blanket statement from Newground that the Shareholder Proponent is a client of Newground and, as such, Newground is authorized to take actions on its behalf. However, such statements do not establish that the Shareholder Proponent has in fact granted such authority to Newground. Despite the Company's request included in the Deficiency Letter that Newground provide the Company with "evidence from the [Shareholder] Proponent that [Newground is] authorized to submit the Proposal and otherwise act on behalf of the [Shareholder] Proponent," Newground has not provided any evidence of such authorization or a statement from the Shareholder Proponent.

Because the Company has no evidence that Newground is a shareholder eligible to submit the Proposal in its own right, that Newground has an economic interest in the Shareholder Proponent's Common Stock sufficient to establish that Newground is a "shareholder" under the meaning of Exchange Act Rule 14a-8(b) or that Newground has the authority to submit the Proposal on behalf of the Shareholder Proponent, the Proposal was not submitted by or on behalf of a shareholder meeting the eligibility requirements of Exchange Act Rule 14a-8(b). Further, because the Company properly notified the Proponent of this defect pursuant to Exchange Act Rule 14a-8(f), and the Proponent failed to timely cure the defect, the Company may exclude the Proposal from its 2016 Proxy Materials pursuant to Exchange Act Rule 14a-8(f)(1).

The Company respectfully submits that finding otherwise would permit any person or entity, particularly those with an advisory relationship to shareholders, to simply declare to companies subject to Section 14A of the Exchange Act that they have the authority to submit a shareholder proposal for inclusion in such company's proxy materials without evidence that such person or entity does in fact meet the requirements of Rule 14a-8(b) or have the authority of a shareholder that does. Such an eventuality would undermine a key premise of Exchange Act Rule 14a-8—that only shareholders are entitled to submit proposals—and could allow non-shareholders, without evidence of any grant of authority from a shareholder, to submit proposals to a company on a subject matter of their own choosing and potentially to the detriment of the company and its shareholders.

B. *The Shareholder Proponent Failed to Provide a Written Statement of Intent to Hold the Requisite Securities through the Date of the Company's 2016 Annual Meeting*

⁵ See, e.g. *3M Company* (Feb. 7, 2014); *Chesapeake Energy Corporation* (Apr. 13, 2010); *The Western Union Company* (Mar. 10, 2010).

⁶ *Id.*; see also *Smithfields Foods, Inc.* (Jun. 24, 2010).

In addition to Newground's failure to provide proof that it is either (i) a shareholder eligible to submit the Proposal in its own right or (ii) authorized to submit the Proposal on behalf of the Shareholder Proponent, the Shareholder Proponent failed to provide a written statement of intent to hold the requisite shares of Common Stock through the date of the Company's 2016 Annual Meeting of Stockholders as required by Exchange Act Rule 14a-8(b)(2).

In Staff Legal Bulletin No. 14 (July 13, 2001), the Staff confirmed that a shareholder "must provide this written statement [of intent] regardless of the method the shareholder uses to prove that he or she continuously owned the securities for a period of one year as of the time the shareholder submits the proposal." Accordingly, the Staff has consistently concurred in the exclusion of proposals when the company was not provided an adequate statement of intent to continue holding the requisite amount of shares through the date of the meeting at which the proposal was to be voted on by stockholders.⁷ Specifically, the Staff has permitted exclusion of a proposal submitted by an investment advisor on behalf of a client where the investment advisor rather than the client provided a written statement of intention to hold company securities through the date of the annual meeting.⁸ In the Energen No Action Letter cited above, where an investment advisor provided a statement of intention to hold the requisite securities through the date of the upcoming meeting of stockholders based upon investment authority granted under an investment advisory agreement that was terminable by the shareholders upon 60 days' notice, the Staff reasoned that "although [the investment advisor] may have been authorized to act and speak on behalf of shareholders, it has provided a statement of its own intentions and not of the shareholders' intentions."

Similar to the facts in the Energen No Action Letter cited above, the Common Stock on which Newground attempts to establish its eligibility to submit the Proposal is owned by the Shareholder Proponent, who Newground claims is a client of Newground. While no evidence of this client/advisor relationship has been presented to the Company, even if we assume such a relationship exists, the securities are owned by Newground's client and that client could direct Newground to sell the shares of Common Stock held in its account at any time, or could terminate its advisory relationship with Newground. As a result, while Newground stated in its transmittal letter accompanying the Proposal that the Shareholder Proponent "intends to continue to hold a requisite quantity of shares in Company stock through the date of the next annual meeting of stockholders," Newground has provided no evidence of its ability or authority to provide the Company with this commitment. Instead, pursuant to Exchange Act Rule 14a-8(b)(2), the Shareholder Proponent, as the owner of the Common Stock, is required to provide the Company a written statement of its intent to hold the requisite shares of Common Stock through the date of the Company's 2016 Annual Meeting of Stockholders. Without confirmation directly from the Shareholder Proponent of its intention to allow Newground to continue as its investment advisor through the date of the 2016 Annual Meeting of Stockholders or its statement of authorization or direction to Newground to hold such shares through the 2016 Annual Meeting, such assertion in a document executed by Newground is insufficient to provide assurance of the intention of the Shareholder Proponent to hold such shares through the 2016 Annual Meeting as

⁷ See, e.g., General Mills, Inc. (June 25, 2013); General Electric Co. (Jan. 30, 2012); SBC Communications Inc. (Jan. 2, 2004); Exxon Mobil Corp. (Jan. 16, 2001) (In each case the Staff concurred in the exclusion of a shareholder proposal where the shareholder proponent did not provide a written statement of its intent to hold the requisite number of shares through the date of the meeting at which the proposal would be voted on by stockholders.).

⁸ Energen Corporation (Feb. 22, 2011) (finding that although a representative of a shareholder may be authorized to act and speak on behalf of the shareholder, such authority does not allow the representative to give a statement of the shareholder's intentions regarding the ownership of securities, and any such statement is a statement of the representative and not of the shareholder).

required by Exchange Act Rule 14a-8(b). Further, because we have no knowledge of Newground's authority to provide such confirmation, or whether the Shareholder Proponent is aware that such a statement has been made on its behalf, if the Proposal is not excluded from the 2016 Proxy Materials and the Shareholder Proponent, unaware of the consequences, fails to hold its shares of Common Stock through the date of the 2016 Annual Meeting, the Shareholder Proponent will forfeit its ability to make shareholder proposals for the next two years pursuant to Exchange Act Rule 14a-8(f)(2) as a result of Newground's statement.

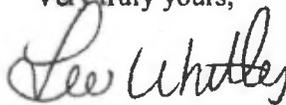
As a result, because the Company properly notified the Shareholder Proponent of this defect pursuant to Exchange Act Rule 14a-8(f), and the Shareholder Proponent failed to timely cure the defect, the Company may exclude the Proposal from its 2016 Proxy Materials pursuant to Exchange Act Rule 14a-8(f)(1).

Conclusion

For the reasons stated above, it is our view that the Company may exclude the Proposal from its 2016 Proxy Materials under Exchange Act Rules 14a-8(b) and 14a-8(f). We request the Staff's concurrence in our view or, alternatively, confirmation that the Staff will not recommend any enforcement action to the Commission if the Company excludes the Proposal.

Please acknowledge receipt of this letter and the enclosed material by returning a stamped copy of this letter to me by email at lee.whitley@bakerhughes.com. If you have any comments or questions concerning this matter or need additional information, please contact me at (713) 439-8122 or at lee.whitley@bakerhughes.com. When a written response to this letter is available, please forward it to me by email at lee.whitley@bakerhughes.com and by fax at (281) 582.5905.

Very truly yours,



Lee Whitley
Vice President and Corporate Secretary

cc: Mr. Bruce T. Herbert, Newground Social Investment, SPC
Ms. Christine B. LaFollette, Akin Gump Strauss Hauer & Feld LLP

EXHIBIT A

Proposal and Related Correspondence



NEWGROUND SOCIAL INVESTMENT, SP
10033 - 12TH AVE NW
SEATTLE, WA 98177
(206) 522-1944

VIA FACSIMILE TO: (713) 439-8699
VIA ELECTRONIC DELIVERY TO: Lee Whitley <Lee.Whitley@bakerhughes.com>

December 4, 2015

Melissa Lee Whitley
Vice President and Corporate Secretary
Baker Hughes Incorporated
2929 Allen Parkway, Suite 2100
Houston, TX 77019

**Re: Shareholder Proposal in Regard to Vote-Counting
Equality Network Foundation**

Dear Ms. Whitley:

Greetings, and congratulations -- it appears that since we last communicated in 2013 you have risen to the post of Corporate Secretary, following Sandy Alford.

As you may recall, Newground Social Investment ("Newground") manages money for clients who are concerned about the environmental, social, and governance implications of the policies and practices of companies they own -- feeling that appropriate attention to these matters enhances profitability and long-term shareholder value.

I write to renew a conversation about vote counting, because there are two vote-counting formulas in use on the Baker Hughes proxy, which we feel is confusing and disadvantages shareholders.

We would like to see all non-binding items presented by shareholders be counted using a simple majority formula. Note that this request is different from our earlier conversation, when the request was for all items to be handled with a simple majority vote.

We have presented this request to a number of companies in the S&P 500 with the result that roughly a third thus far have implemented the requested change. We hope that modifications to the Proposal -- to affect only non-binding proposals submitted by shareholders -- will make it more straightforward to consider and to take action on.

In continuation of the exchange, we are authorized on behalf of our client, the Proponent, the Equality Network Foundation, to present the enclosed Proposal that the

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Proponent submits for consideration and action by stockholders at the next annual meeting, and for inclusion in the proxy statement in accordance with Rule 14a-8 of the general rules and regulations of the Securities Exchange Act of 1934.

We request that the proxy statement indicate that Newground Social Investment is the representative of the Proponent for this Proposal.

The Equality Network Foundation, the Proponent, is the beneficial owner of 65 shares of common stock entitled to be voted at the next stockholders meeting, which have been continuously held since 6/5/2007. Supporting documentation will be delivered under separate cover.

In accordance with SEC Rules, the Proponent acknowledges its responsibility under Rule 14a-8(b)(1), and Newground is authorized to state on its behalf that it intends to continue to hold a requisite quantity of shares in Company stock through the date of the next annual meeting of stockholders. If required, a representative of the Proponent will attend the meeting to move the resolution.

There is ample time between now and the proxy printing deadline to discuss the issue, and we hope – especially considering the changes that have been made to the Proposal – that a dialogue and meeting of the minds will result in Baker Hughes taking steps that can lead to its withdrawal.

Toward that end, you may contact Newground via the address or phone listed above, as well as by the following e-mail address:

team@newground.net

For purposes of clarity and consistency of communication, we ask that you commence all e-mail subject lines with your ticker symbol "BHI." (including the period), and we will do the same.

Thank you. We look forward to renewing the discussion of this important governance topic; and all the best for an uplifting holiday season.

Sincerely,



Bruce T. Herbert | AIF
Chief Executive | ACCREDITED INVESTMENT FIDUCIARY

cc: Equality Network Foundation
enc: Shareholder Proposal on Vote-Counting

RESOLVED: Shareholders of Baker Hughes Incorporated hereby request the Board to take or initiate the steps necessary to amend the Company's governing documents to provide that all non-binding matters presented by shareholders shall be decided by a simple majority of the votes cast FOR and AGAINST an item. This policy shall apply to all such matters unless shareholders have approved higher thresholds, or applicable laws or stock exchange regulations dictate otherwise.

SUPPORTING STATEMENT:

A simple-majority voting formula includes FOR and AGAINST votes, but not abstentions.

Baker Hughes' current policies disadvantage shareholders in three ways:

1. Abstentions are treated as votes AGAINST every shareholder-sponsored item.

Regardless of an abstaining voter's intent, Baker Hughes treats every abstention as if against shareholder items, while not counting them against management-sponsored Director elections – this is unduly burdensome and inconsistent.

Why provide ballots on shareholder proposals that contain three choices – FOR, AGAINST, and ABSTAIN – when management counts all abstentions as if against? In reality, stockholders only have two choices: FOR or AGAINST.

2. Counting abstentions suppresses outcomes.

By simple math, including abstentions in a formula depresses the vote result and raises the threshold required to pass a resolution.

In effect, this constitutes an unacknowledged supermajority – as the percentage of abstentions rise, this supermajority threshold increases at an exponential rate.

3. Counting abstentions distorts communication.

This clouds communication at the stockholder meeting – which is the only opportunity most shareholders have each year to interact with each other, management, and the Board.

Of greater concern, Baker Hughes' voting policies create misimpressions that endure. Once figures from non-simple-majority formulas are reported in the press, they become indelibly imprinted on the minds of shareholders and lodged in the public record.

Three facts:

- A CALPERS study found that 48% of the nation's largest corporations employ a simple-majority standard – this is a mainstream practice.
- Under this proposal, shareholders retain the right to 'send a message' by abstaining – in fact, message-sending may be more effective because Baker Hughes will not use abstentions to depress reported outcomes on shareholder proposals.
- Any suggestion that management- and shareholder-sponsored items are treated "identically" or "equally" is false, because management-sponsored item No. 1 – Director elections – does not count abstentions in its formula.

Notable supporters of a simple-majority standard:

- **US Securities and Exchange Commission** (Staff Legal Bulletin No. 14, Question F.4.):
"Only votes FOR and AGAINST a proposal are included in the calculation of the shareholder vote of that proposal. Abstentions ... are not included in this calculation."
- **Institutional Shareholder Services** ("ISS" – the nation's leading proxy reporting service):
"...a simple majority of voting shares should be all that is necessary to effect change regarding a company and its governance provisions."
- **The Council of Institutional Investors** (Governance Policy 3.7):
"Uninstructed broker votes and abstentions should be counted only for purposes of a quorum."

Vote to enhance shareholder value and good governance at Baker Hughes – **vote FOR Item X***

[*Proxy item number to be determined by the Company.]



Baker Hughes Incorporated

2929 Allen Parkway, Suite 2100
Houston, Texas 77019-2118
P O. Box 4740
Houston, Texas 77210-4740
Tel 713-439-8600
Fax 713-439-8699

December 14, 2015

VIA OVERNIGHT MAIL AND ELECTRONIC DELIVERY

Newground Social Investment, SPC
Attn: Mr. Bruce T. Herbert
10033 12th Avenue NW
Seattle, Washington 98177
Tel: 206.522.1944
Email: team@newground.net

Re: Submission of shareholder proposal dated December 4, 2015 (the "*Proposal*")

Dear Mr. Herbert:

Baker Hughes Incorporated, a Delaware corporation (the "*Company*"), is in receipt of your letter dated December 4, 2015, written on behalf of The Equality Network Foundation (the "*Proponent*"). The purpose of this letter is to notify you (pursuant to the requirements of Rule 14a-8(f) under Regulation 14A under the Securities Exchange Act of 1934, as amended (the "*Exchange Act*") that the above referenced submission of the Proposal fails to satisfy certain eligibility and procedural requirements specified under Rule 14a-8(b). Pursuant to Rule 14a-8(f), your response to this letter must be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter (the "*Deadline*"). If you fail to adequately correct the eligibility and procedural deficiencies specified below and respond to this letter before the Deadline, the Company may exclude the Proposal from its proxy statement.

Exchange Act Rule 14a-8(b)(1) requires that for a shareholder to be eligible to submit a proposal for inclusion in a company's proxy statement, the shareholder must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date the shareholder submits the proposal. As of the date hereof, we have not received proof that the Proponent has satisfied the Exchange Act Rule 14a-8(b) ownership requirements as of the date that the Proposal was submitted to the Company.

To remedy this defect, you must submit sufficient proof of the Proponent's continuous ownership of the requisite number of shares of Common Stock for the one-year period preceding and including December 4, 2015, the date the Proposal was submitted to the Company. As explained in Exchange Act Rule 14a-8(b) and in guidance issued by the staff of the Securities and Exchange Commission (the "SEC"), sufficient proof must be in the form of:

- (1) a written statement from the "record" holder of the Proponent's shares (usually a broker or a bank) verifying that the Proponent continuously held the requisite number of shares of Common Stock for the one-year period preceding and including December 4, 2015, along with a written statement that the Proponent intends to continually own such shares through the date of the Company's annual meeting; or
- (2) if the Proponent has filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting the Proponent's ownership of the requisite number of shares of Common Stock as of or before the date on which the one-year eligibility period begins, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that the Proponent continuously held the requisite number of shares of Common Stock for the one-year period preceding and including December 4, 2015 and intends to continually own such shares through the date of the Company's annual meeting.

If you intend to demonstrate ownership by submitting a written statement from the "record" holder of the Proponent's shares of Common Stock as set forth in clause (1) above, please note that most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Under SEC Staff Legal Bulletin No. 14F, only DTC participants are viewed as record holders of securities that are deposited at DTC. You can confirm whether the Proponent's broker or bank is a DTC participant by asking the broker or bank or by checking DTC's participant list, which is available at <http://www.dtcc.com/downloads/membership/directories/dtc/alpha.pdf>. In these situations, stockholders need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

- (1) If the Proponent's broker or bank is a DTC participant, then you need to submit a written statement from the Proponent's broker or bank verifying that the Proponent continuously held the requisite number of shares of Common Stock for the one-year period preceding and including December 4, 2015.
- (2) If the Proponent's broker or bank is not a DTC participant, then you need to submit proof of ownership from the DTC participant through which the Proponent's shares are held verifying that the Proponent continuously held the requisite number of shares of Common Stock for the one-year period preceding and including December 4, 2015. You should be able to find out the identity of the DTC participant by asking the Proponent's broker or bank. If the DTC participant that holds the Proponent's shares of Common Stock is not able to confirm the

Proponent's individual holdings but is able to confirm the holdings of the Proponent's broker or bank, then you may satisfy the proof of ownership requirements by obtaining and submitting two proof of ownership statements verifying that, for the one-year period preceding and including December 4, 2015, the requisite number of shares of Common Stock were continuously held by the Proponent: (i) one from the Proponent's broker or bank confirming the Proponent's ownership, and (ii) the other from the DTC participant confirming the broker or bank's ownership.

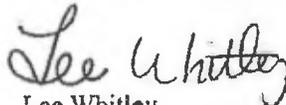
In addition to the foregoing, in your response to this letter please provide us with evidence from the Proponent that you are authorized to submit the Proposal and otherwise act on behalf of the Proponent.

This letter will constitute the Company's notice to you under Exchange Act Rule 14a-8(f) of this deficiency. The SEC's rules require that your response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to Ms. Lee Whitley, the Company's Corporate Secretary, c/o Baker Hughes Incorporated, 2929 Allen Parkway, Suite 2100, Houston, Texas 77019. Alternatively, you may transmit any response by email or facsimile to Ms. Whitley at lee.whitley@bakerhughes.com or 281.582,5905, respectively. For your reference, we have enclosed copies of Rule 14a-8 and Staff Legal Bulletins No. 14F and No. 14G. We urge you to review these materials carefully before submitting the proof of the Proponent's ownership to ensure it is compliant.

Please note that the requests in this letter are without prejudice to any other rights that the Company may have to exclude the Proposal from its proxy materials on any other grounds permitted by Rule 14a-8.

If you have any questions on this matter, please feel free to contact me at 713.439.8122.

Very truly yours,



Lee Whitley
Vice President and Corporate Secretary

cc. The Equality Network Foundation
Chris LaFollette, Akin Gump Strauss Hauer & Feld, LLP

Enclosures:
Rule 14a-8 under the Securities Exchange Act of 1934, as amended
Division of Corporation Finance Staff Legal Bulletins No. 14F and 14G

EXHIBIT A

Exchange Act Rule 14a-8

(See attached.)

ELECTRONIC CODE OF FEDERAL REGULATIONS

e-CFR data is current as of December 9, 2015

Title 17 → Chapter II → Part 240 → §240.14a-8

Title 17: Commodity and Securities Exchanges
PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934**§240.14a-8 Shareholder proposals.**

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) *Question 1. What is a proposal?* A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2. Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible?* (1) In order to be eligible to submit a proposal, you must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders, or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§240.13d-101), Schedule 13G (§240.13d-102), Form 3 (§249.103 of this chapter), Form 4 (§249.104 of this chapter) and/or Form 5 (§249.105 of this chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement, and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) *Question 3:* How many proposals may I submit? Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) *Question 4:* How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5:* What is the deadline for submitting a proposal? (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§249.308a of this chapter), or in shareholder reports of investment companies under §270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section? (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under §240.14a-8 and provide you with a copy under Question 10 below, §240.14a-8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7:* Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8:* Must I appear personally at the shareholders' meeting to present the proposal? (1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9:* If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal? (1) Improper under state law. If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

NOTE TO PARAGRAPH (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or foreign

law to which it is subject;

NOTE TO PARAGRAPH (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including §240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority:* If the company would lack the power or authority to implement the proposal;

(7) *Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Director elections:* If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) *Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

NOTE TO PARAGRAPH (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented:* If the company has already substantially implemented the proposal;

NOTE TO PARAGRAPH (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S-K (§229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by §240.14a-21(b) of this chapter a single year (i.e., one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by §240.14a-21(b) of this chapter.

(11) *Duplication:* If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions:* If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10:* What procedures must the company follow if it intends to exclude my proposal? (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80

calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11:* May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12:* If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13:* What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, §240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before it files definitive copies of its proxy statement and form of proxy under §240.14a-6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan. 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan. 4, 2008; 76 FR 6045, Feb. 2, 2011; 75 FR 58782, Sept. 16, 2010]

Need assistance?

EXHIBIT B

Staff Legal Bulletins No. 14F and 14G

(See attached.)



U.S. Securities and Exchange Commission

Division of Corporation Finance Securities and Exchange Commission

Shareholder Proposals

Staff Legal Bulletin No. 14F (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 18, 2011

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://tts.sec.gov/cgi-bin/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- Common errors shareholders can avoid when submitting proof of ownership to companies;
- The submission of revised proposals;
- Procedures for withdrawing no-action requests regarding proposals submitted by multiple proponents; and
- The Division's new process for transmitting Rule 14a-8 no-action responses by email.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: [SLB No. 14](#), [SLB No. 14A](#), [SLB No. 14B](#), [SLB No. 14C](#), [SLB No. 14D](#) and [SLB No. 14E](#).

B. The types of brokers and banks that constitute "record" holders

under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Eligibility to submit a proposal under Rule 14a-8

To be eligible to submit a shareholder proposal, a shareholder must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. The shareholder must also continue to hold the required amount of securities through the date of the meeting and must provide the company with a written statement of intent to do so.¹

The steps that a shareholder must take to verify his or her eligibility to submit a proposal depend on how the shareholder owns the securities. There are two types of security holders in the U.S.: registered owners and beneficial owners.² Registered owners have a direct relationship with the issuer because their ownership of shares is listed on the records maintained by the issuer or its transfer agent. If a shareholder is a registered owner, the company can independently confirm that the shareholder's holdings satisfy Rule 14a-8(b)'s eligibility requirement.

The vast majority of investors in shares issued by U.S. companies, however, are beneficial owners, which means that they hold their securities in book-entry form through a securities intermediary, such as a broker or a bank. Beneficial owners are sometimes referred to as "street name" holders. Rule 14a-8(b)(2)(i) provides that a beneficial owner can provide proof of ownership to support his or her eligibility to submit a proposal by submitting a written statement "from the 'record' holder of [the] securities (usually a broker or bank)," verifying that, at the time the proposal was submitted, the shareholder held the required amount of securities continuously for at least one year.³

2. The role of the Depository Trust Company

Most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency acting as a securities depository. Such brokers and banks are often referred to as "participants" in DTC.⁴ The names of these DTC participants, however, do not appear as the registered owners of the securities deposited with DTC on the list of shareholders maintained by the company or, more typically, by its transfer agent. Rather, DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants. A company can request from DTC a "securities position listing" as of a specified date, which identifies the DTC participants having a position in the company's securities and the number of securities held by each DTC participant on that date.⁵

3. Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

In *The Hain Celestial Group, Inc.* (Oct. 1, 2008), we took the position that an introducing broker could be considered a "record" holder for purposes of Rule 14a-8(b)(2)(i). An introducing broker is a broker that engages in sales and other activities involving customer contact, such as opening customer

accounts and accepting customer orders, but is not permitted to maintain custody of customer funds and securities.⁶ Instead, an introducing broker engages another broker, known as a "clearing broker," to hold custody of client funds and securities, to clear and execute customer trades, and to handle other functions such as issuing confirmations of customer trades and customer account statements. Clearing brokers generally are DTC participants; introducing brokers generally are not. As introducing brokers generally are not DTC participants, and therefore typically do not appear on DTC's securities position listing, *Hain Celestial* has required companies to accept proof of ownership letters from brokers in cases where, unlike the positions of registered owners and brokers and banks that are DTC participants, the company is unable to verify the positions against its own or its transfer agent's records or against DTC's securities position listing.

In light of questions we have received following two recent court cases relating to proof of ownership under Rule 14a-8⁷ and in light of the Commission's discussion of registered and beneficial owners in the Proxy Mechanics Concept Release, we have reconsidered our views as to what types of brokers and banks should be considered "record" holders under Rule 14a-8(b)(2)(i). Because of the transparency of DTC participants' positions in a company's securities, we will take the view going forward that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as "record" holders of securities that are deposited at DTC. As a result, we will no longer follow *Hain Celestial*.

We believe that taking this approach as to who constitutes a "record" holder for purposes of Rule 14a-8(b)(2)(i) will provide greater certainty to beneficial owners and companies. We also note that this approach is consistent with Exchange Act Rule 12g5-1 and a 1988 staff no-action letter addressing that rule,⁸ under which brokers and banks that are DTC participants are considered to be the record holders of securities on deposit with DTC when calculating the number of record holders for purposes of Sections 12(g) and 15(d) of the Exchange Act.

Companies have occasionally expressed the view that, because DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants, only DTC or Cede & Co. should be viewed as the "record" holder of the securities held on deposit at DTC for purposes of Rule 14a-8(b)(2)(i). We have never interpreted the rule to require a shareholder to obtain a proof of ownership letter from DTC or Cede & Co., and nothing in this guidance should be construed as changing that view.

How can a shareholder determine whether his or her broker or bank is a DTC participant?

Shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC's participant list, which is currently available on the Internet at <http://www.dtcc.com/~media/Files/Downloads/client-center/DTC/alpha.ashx>.

What if a shareholder's broker or bank is not on DTC's participant list?

The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held. The shareholder should be able to find out who this DTC participant is by asking the

shareholder's broker or bank.⁹

If the DTC participant knows the shareholder's broker or bank's holdings, but does not know the shareholder's holdings, a shareholder could satisfy Rule 14a-8(b)(2)(i) by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of securities were continuously held for at least one year – one from the shareholder's broker or bank confirming the shareholder's ownership, and the other from the DTC participant confirming the broker or bank's ownership.

How will the staff process no-action requests that argue for exclusion on the basis that the shareholder's proof of ownership is not from a DTC participant?

The staff will grant no-action relief to a company on the basis that the shareholder's proof of ownership is not from a DTC participant only if the company's notice of defect describes the required proof of ownership in a manner that is consistent with the guidance contained in this bulletin. Under Rule 14a-8(f)(1), the shareholder will have an opportunity to obtain the requisite proof of ownership after receiving the notice of defect.

C. Common errors shareholders can avoid when submitting proof of ownership to companies

In this section, we describe two common errors shareholders make when submitting proof of ownership for purposes of Rule 14a-8(b)(2), and we provide guidance on how to avoid these errors.

First, Rule 14a-8(b) requires a shareholder to provide proof of ownership that he or she has "continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal" (emphasis added).¹⁰ We note that many proof of ownership letters do not satisfy this requirement because they do not verify the shareholder's beneficial ownership for the entire one-year period preceding and including the date the proposal is submitted. In some cases, the letter speaks as of a date *before* the date the proposal is submitted, thereby leaving a gap between the date of the verification and the date the proposal is submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the shareholder's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Second, many letters fail to confirm continuous ownership of the securities. This can occur when a broker or bank submits a letter that confirms the shareholder's beneficial ownership only as of a specified date but omits any reference to continuous ownership for a one-year period.

We recognize that the requirements of Rule 14a-8(b) are highly prescriptive and can cause inconvenience for shareholders when submitting proposals. Although our administration of Rule 14a-8(b) is constrained by the terms of the rule, we believe that shareholders can avoid the two errors highlighted above by arranging to have their broker or bank provide the required verification of ownership as of the date they plan to submit the proposal using the following format:

"As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least one year, [number of securities] shares of [company name] [class of securities]." ¹¹

As discussed above, a shareholder may also need to provide a separate written statement from the DTC participant through which the shareholder's securities are held if the shareholder's broker or bank is not a DTC participant.

D. The submission of revised proposals

On occasion, a shareholder will revise a proposal after submitting it to a company. This section addresses questions we have received regarding revisions to a proposal or supporting statement.

1. A shareholder submits a timely proposal. The shareholder then submits a revised proposal before the company's deadline for receiving proposals. Must the company accept the revisions?

Yes. In this situation, we believe the revised proposal serves as a replacement of the initial proposal. By submitting a revised proposal, the shareholder has effectively withdrawn the initial proposal. Therefore, the shareholder is not in violation of the one-proposal limitation in Rule 14a-8(c). ¹² If the company intends to submit a no-action request, it must do so with respect to the revised proposal.

We recognize that in Question and Answer E.2 of SLB No. 14, we indicated that if a shareholder makes revisions to a proposal before the company submits its no-action request, the company can choose whether to accept the revisions. However, this guidance has led some companies to believe that, in cases where shareholders attempt to make changes to an initial proposal, the company is free to ignore such revisions even if the revised proposal is submitted before the company's deadline for receiving shareholder proposals. We are revising our guidance on this issue to make clear that a company may not ignore a revised proposal in this situation. ¹³

2. A shareholder submits a timely proposal. After the deadline for receiving proposals, the shareholder submits a revised proposal. Must the company accept the revisions?

No. If a shareholder submits revisions to a proposal after the deadline for receiving proposals under Rule 14a-8(e), the company is not required to accept the revisions. However, if the company does not accept the revisions, it must treat the revised proposal as a second proposal and submit a notice stating its intention to exclude the revised proposal, as required by Rule 14a-8(j). The company's notice may cite Rule 14a-8(e) as the reason for excluding the revised proposal. If the company does not accept the revisions and intends to exclude the initial proposal, it would also need to submit its reasons for excluding the initial proposal.

3. If a shareholder submits a revised proposal, as of which date must the shareholder prove his or her share ownership?

A shareholder must prove ownership as of the date the original proposal is submitted. When the Commission has discussed revisions to proposals, ¹⁴ it has not suggested that a revision triggers a requirement to provide proof of ownership a second time. As outlined in Rule 14a-8(b), proving ownership

includes providing a written statement that the shareholder intends to continue to hold the securities through the date of the shareholder meeting. Rule 14a-8(f)(2) provides that if the shareholder "fails in [his or her] promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of [the same shareholder's] proposals from its proxy materials for any meeting held in the following two calendar years." With these provisions in mind, we do not interpret Rule 14a-8 as requiring additional proof of ownership when a shareholder submits a revised proposal.¹⁵

E. Procedures for withdrawing no-action requests for proposals submitted by multiple proponents

We have previously addressed the requirements for withdrawing a Rule 14a-8 no-action request in SLB Nos. 14 and 14C. SLB No. 14 notes that a company should include with a withdrawal letter documentation demonstrating that a shareholder has withdrawn the proposal. In cases where a proposal submitted by multiple shareholders is withdrawn, SLB No. 14C states that, if each shareholder has designated a lead individual to act on its behalf and the company is able to demonstrate that the individual is authorized to act on behalf of all of the proponents, the company need only provide a letter from that lead individual indicating that the lead individual is withdrawing the proposal on behalf of all of the proponents.

Because there is no relief granted by the staff in cases where a no-action request is withdrawn following the withdrawal of the related proposal, we recognize that the threshold for withdrawing a no-action request need not be overly burdensome. Going forward, we will process a withdrawal request if the company provides a letter from the lead filer that includes a representation that the lead filer is authorized to withdraw the proposal on behalf of each proponent identified in the company's no-action request.¹⁶

F. Use of email to transmit our Rule 14a-8 no-action responses to companies and proponents

To date, the Division has transmitted copies of our Rule 14a-8 no-action responses, including copies of the correspondence we have received in connection with such requests, by U.S. mail to companies and proponents. We also post our response and the related correspondence to the Commission's website shortly after issuance of our response.

In order to accelerate delivery of staff responses to companies and proponents, and to reduce our copying and postage costs, going forward, we intend to transmit our Rule 14a-8 no-action responses by email to companies and proponents. We therefore encourage both companies and proponents to include email contact information in any correspondence to each other and to us. We will use U.S. mail to transmit our no-action response to any company or proponent for which we do not have email contact information.

Given the availability of our responses and the related correspondence on the Commission's website and the requirement under Rule 14a-8 for companies and proponents to copy each other on correspondence submitted to the Commission, we believe it is unnecessary to transmit copies of the related correspondence along with our no-action response. Therefore, we intend to transmit only our staff response and not the correspondence we receive from the parties. We will continue to post to the Commission's website copies of this correspondence at the same time that we post our

staff no-action response.

¹ See Rule 14a-8(b).

² For an explanation of the types of share ownership in the U.S., see Concept Release on U.S. Proxy System, Release No. 34-62495 (July 14, 2010) [75 FR 42982] ("Proxy Mechanics Concept Release"), at Section II.A. The term "beneficial owner" does not have a uniform meaning under the federal securities laws. It has a different meaning in this bulletin as compared to "beneficial owner" and "beneficial ownership" in Sections 13 and 16 of the Exchange Act. Our use of the term in this bulletin is not intended to suggest that registered owners are not beneficial owners for purposes of those Exchange Act provisions. See Proposed Amendments to Rule 14a-8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982], at n.2 ("The term 'beneficial owner' when used in the context of the proxy rules, and in light of the purposes of those rules, may be interpreted to have a broader meaning than it would for certain other purpose[s] under the federal securities laws, such as reporting pursuant to the Williams Act.").

³ If a shareholder has filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5 reflecting ownership of the required amount of shares, the shareholder may instead prove ownership by submitting a copy of such filings and providing the additional information that is described in Rule 14a-8(b)(2)(ii).

⁴ DTC holds the deposited securities in "fungible bulk," meaning that there are no specifically identifiable shares directly owned by the DTC participants. Rather, each DTC participant holds a pro rata interest or position in the aggregate number of shares of a particular issuer held at DTC. Correspondingly, each customer of a DTC participant – such as an individual investor – owns a pro rata interest in the shares in which the DTC participant has a pro rata interest. See Proxy Mechanics Concept Release, at Section II.B.2.a.

⁵ See Exchange Act Rule 17Ad-8.

⁶ See Net Capital Rule, Release No. 34-31511 (Nov. 24, 1992) [57 FR 56973] ("Net Capital Rule Release"), at Section II.C.

⁷ See *KBR Inc. v. Chevedden*, Civil Action No. H-11-0196, 2011 U.S. Dist. LEXIS 36431, 2011 WL 1463611 (S.D. Tex. Apr. 4, 2011); *Apache Corp. v. Chevedden*, 696 F. Supp. 2d 723 (S.D. Tex. 2010). In both cases, the court concluded that a securities intermediary was not a record holder for purposes of Rule 14a-8(b) because it did not appear on a list of the company's non-objecting beneficial owners or on any DTC securities position listing, nor was the intermediary a DTC participant.

⁸ *Techne Corp.* (Sept. 20, 1988).

⁹ In addition, if the shareholder's broker is an introducing broker, the shareholder's account statements should include the clearing broker's identity and telephone number. See Net Capital Rule Release, at Section II.C.(iii). The clearing broker will generally be a DTC participant.

10 For purposes of Rule 14a-8(b), the submission date of a proposal will generally precede the company's receipt date of the proposal, absent the use of electronic or other means of same-day delivery.

11 This format is acceptable for purposes of Rule 14a-8(b), but it is not mandatory or exclusive.

12 As such, it is not appropriate for a company to send a notice of defect for multiple proposals under Rule 14a-8(c) upon receiving a revised proposal.

13 This position will apply to all proposals submitted after an initial proposal but before the company's deadline for receiving proposals, regardless of whether they are explicitly labeled as "revisions" to an initial proposal, unless the shareholder affirmatively indicates an intent to submit a second, *additional* proposal for inclusion in the company's proxy materials. In that case, the company must send the shareholder a notice of defect pursuant to Rule 14a-8(f)(1) if it intends to exclude either proposal from its proxy materials in reliance on Rule 14a-8(c). In light of this guidance, with respect to proposals or revisions received before a company's deadline for submission, we will no longer follow *Layne Christensen Co.* (Mar. 21, 2011) and other prior staff no-action letters in which we took the view that a proposal would violate the Rule 14a-8(c) one-proposal limitation if such a proposal is submitted to a company after the company has either submitted a Rule 14a-8 no-action request to exclude an earlier proposal submitted by the same proponent or notified the proponent that the earlier proposal was excludable under the rule.

14 See, e.g., *Adoption of Amendments Relating to Proposals by Security Holders*, Release No. 34-12999 (Nov. 22, 1976) [41 FR 52994].

15 Because the relevant date for proving ownership under Rule 14a-8(b) is the date the proposal is submitted, a proponent who does not adequately prove ownership in connection with a proposal is not permitted to submit another proposal for the same meeting on a later date.

16 Nothing in this staff position has any effect on the status of any shareholder proposal that is not withdrawn by the proponent or its authorized representative.

<http://www.sec.gov/interps/legal/cfs1b14f.htm>



U.S. Securities and Exchange Commission

Division of Corporation Finance Securities and Exchange Commission

Shareholder Proposals

Staff Legal Bulletin No. 14G (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 16, 2012

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://tts.sec.gov/cgi-bin/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- the parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- the manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1); and
- the use of website references in proposals and supporting statements.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: [SLB No. 14](#), [SLB No. 14A](#), [SLB No. 14B](#), [SLB No. 14C](#), [SLB No. 14D](#), [SLB No. 14E](#) and [SLB No. 14F](#).

B. Parties that can provide proof of ownership under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Sufficiency of proof of ownership letters provided by affiliates of DTC participants for purposes of Rule 14a-8(b)(2)

(i)

To be eligible to submit a proposal under Rule 14a-8, a shareholder must, among other things, provide documentation evidencing that the shareholder has continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. If the shareholder is a beneficial owner of the securities, which means that the securities are held in book-entry form through a securities intermediary, Rule 14a-8(b)(2)(i) provides that this documentation can be in the form of a "written statement from the 'record' holder of your securities (usually a broker or bank)...."

In SLB No. 14F, the Division described its view that only securities intermediaries that are participants in the Depository Trust Company ("DTC") should be viewed as "record" holders of securities that are deposited at DTC for purposes of Rule 14a-8(b)(2)(i). Therefore, a beneficial owner must obtain a proof of ownership letter from the DTC participant through which its securities are held at DTC in order to satisfy the proof of ownership requirements in Rule 14a-8.

During the most recent proxy season, some companies questioned the sufficiency of proof of ownership letters from entities that were not themselves DTC participants, but were affiliates of DTC participants.¹ By virtue of the affiliate relationship, we believe that a securities intermediary holding shares through its affiliated DTC participant should be in a position to verify its customers' ownership of securities. Accordingly, we are of the view that, for purposes of Rule 14a-8(b)(2)(i), a proof of ownership letter from an affiliate of a DTC participant satisfies the requirement to provide a proof of ownership letter from a DTC participant.

2. Adequacy of proof of ownership letters from securities intermediaries that are not brokers or banks

We understand that there are circumstances in which securities intermediaries that are not brokers or banks maintain securities accounts in the ordinary course of their business. A shareholder who holds securities through a securities intermediary that is not a broker or bank can satisfy Rule 14a-8's documentation requirement by submitting a proof of ownership letter from that securities intermediary.² If the securities intermediary is not a DTC participant or an affiliate of a DTC participant, then the shareholder will also need to obtain a proof of ownership letter from the DTC participant or an affiliate of a DTC participant that can verify the holdings of the securities intermediary.

C. Manner in which companies should notify proponents of a failure to provide proof of ownership for the one-year period required under Rule 14a-8(b)(1)

As discussed in Section C of SLB No. 14F, a common error in proof of ownership letters is that they do not verify a proponent's beneficial ownership for the entire one-year period preceding and including the date the proposal was submitted, as required by Rule 14a-8(b)(1). In some cases, the letter speaks as of a date *before* the date the proposal was submitted, thereby leaving a gap between the date of verification and the date the proposal was submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the proponent's beneficial ownership over

the required full one-year period preceding the date of the proposal's submission.

Under Rule 14a-8(f), if a proponent fails to follow one of the eligibility or procedural requirements of the rule, a company may exclude the proposal only if it notifies the proponent of the defect and the proponent fails to correct it. In SLB No. 14 and SLB No. 14B, we explained that companies should provide adequate detail about what a proponent must do to remedy all eligibility or procedural defects.

We are concerned that companies' notices of defect are not adequately describing the defects or explaining what a proponent must do to remedy defects in proof of ownership letters. For example, some companies' notices of defect make no mention of the gap in the period of ownership covered by the proponent's proof of ownership letter or other specific deficiencies that the company has identified. We do not believe that such notices of defect serve the purpose of Rule 14a-8(f).

Accordingly, going forward, we will not concur in the exclusion of a proposal under Rules 14a-8(b) and 14a-8(f) on the basis that a proponent's proof of ownership does not cover the one-year period preceding and including the date the proposal is submitted unless the company provides a notice of defect that identifies the specific date on which the proposal was submitted and explains that the proponent must obtain a new proof of ownership letter verifying continuous ownership of the requisite amount of securities for the one-year period preceding and including such date to cure the defect. We view the proposal's date of submission as the date the proposal is postmarked or transmitted electronically. Identifying in the notice of defect the specific date on which the proposal was submitted will help a proponent better understand how to remedy the defects described above and will be particularly helpful in those instances in which it may be difficult for a proponent to determine the date of submission, such as when the proposal is not postmarked on the same day it is placed in the mail. In addition, companies should include copies of the postmark or evidence of electronic transmission with their no-action requests.

D. Use of website addresses in proposals and supporting statements

Recently, a number of proponents have included in their proposals or in their supporting statements the addresses to websites that provide more information about their proposals. In some cases, companies have sought to exclude either the website address or the entire proposal due to the reference to the website address.

In SLB No. 14, we explained that a reference to a website address in a proposal does not raise the concerns addressed by the 500-word limitation in Rule 14a-8(d). We continue to be of this view and, accordingly, we will continue to count a website address as one word for purposes of Rule 14a-8(d). To the extent that the company seeks the exclusion of a website reference in a proposal, but not the proposal itself, we will continue to follow the guidance stated in SLB No. 14, which provides that references to website addresses in proposals or supporting statements could be subject to exclusion under Rule 14a-8(i)(3) if the information contained on the website is materially false or misleading, irrelevant to the subject matter of the proposal or otherwise in contravention of the proxy rules, including Rule 14a-9.²

In light of the growing interest in including references to website addresses in proposals and supporting statements, we are providing additional guidance on the appropriate use of website addresses in proposals and supporting statements.⁴

1. References to website addresses in a proposal or supporting statement and Rule 14a-8(i)(3)

References to websites in a proposal or supporting statement may raise concerns under Rule 14a-8(i)(3). In SLB No. 14B, we stated that the exclusion of a proposal under Rule 14a-8(i)(3) as vague and indefinite may be appropriate if neither the shareholders 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. In evaluating whether a proposal may be excluded on this basis, we consider only the information contained in the proposal and supporting statement and determine whether, based on that information, shareholders and the company can determine what actions the proposal seeks.

If a proposal or supporting statement refers to a website that provides information necessary for shareholders and the company to understand with reasonable certainty exactly what actions or measures the proposal requires, and such information is not also contained in the proposal or in the supporting statement, then we believe the proposal would raise concerns under Rule 14a-9 and would be subject to exclusion under Rule 14a-8(i)(3) as vague and indefinite. By contrast, if shareholders and the company can understand with reasonable certainty exactly what actions or measures the proposal requires without reviewing the information provided on the website, then we believe that the proposal would not be subject to exclusion under Rule 14a-8(i)(3) on the basis of the reference to the website address. In this case, the information on the website only supplements the information contained in the proposal and in the supporting statement.

2. Providing the company with the materials that will be published on the referenced website

We recognize that if a proposal references a website that is not operational at the time the proposal is submitted, it will be impossible for a company or the staff to evaluate whether the website reference may be excluded. In our view, a reference to a non-operational website in a proposal or supporting statement could be excluded under Rule 14a-8(i)(3) as irrelevant to the subject matter of a proposal. We understand, however, that a proponent may wish to include a reference to a website containing information related to the proposal but wait to activate the website until it becomes clear that the proposal will be included in the company's proxy materials. Therefore, we will not concur that a reference to a website may be excluded as irrelevant under Rule 14a-8(i)(3) on the basis that it is not yet operational if the proponent, at the time the proposal is submitted, provides the company with the materials that are intended for publication on the website and a representation that the website will become operational at, or prior to, the time the company files its definitive proxy materials.

3. Potential issues that may arise if the content of a referenced website changes after the proposal is submitted

To the extent the information on a website changes after submission of a proposal and the company believes the revised information renders the website reference excludable under Rule 14a-8, a company seeking our concurrence that the website reference may be excluded must submit a letter presenting its reasons for doing so. While Rule 14a-8(j) requires a company to submit its reasons for exclusion with the Commission no later than 80 calendar days before it files its definitive proxy materials, we may concur that the changes to the referenced website constitute "good cause" for the company to file its reasons for excluding the website reference after the 80-day deadline and grant the company's request that the 80-day requirement be waived.

¹ An entity is an "affiliate" of a DTC participant if such entity directly, or indirectly through one or more Intermediaries, controls or is controlled by, or is under common control with, the DTC participant.

² Rule 14a-8(b)(2)(i) itself acknowledges that the record holder is "usually," but not always, a broker or bank.

³ Rule 14a-9 prohibits statements in proxy materials which, at the time and in the light of the circumstances under which they are made, are false or misleading with respect to any material fact, or which omit to state any material fact necessary in order to make the statements not false or misleading.

⁴ A website that provides more information about a shareholder proposal may constitute a proxy solicitation under the proxy rules. Accordingly, we remind shareholders who elect to include website addresses in their proposals to comply with all applicable rules regarding proxy solicitations.

<http://www.sec.gov/interps/legal/cfsib14g.htm>

VIA FACSIMILE TO: (281) 582-5905
VIA ELECTRONIC DELIVERY TO: Lee Whitley <Lee.Whitley@bakerhughes.com>

December 24, 2015

Melissa Lee Whitley
Vice President and Corporate Secretary
Baker Hughes Incorporated
2929 Allen Parkway, Suite 2100
Houston, TX 77019-2118

**Re: DEFICIENCY RESPONSE. Shareholder Proposal in Regard to Vote-Counting
Equality Network Foundation**

Dear Ms. Whitley:

I write in response to a deficiency notice dated December 14, 2015 and received via overnight delivery on December 15, 2015. The notice requested: (a) verification of share ownership for the Equality Network Foundation (the "Foundation"), as well as: (b) evidence of authorization for Newground Social Investment ("Newground") to represent the Foundation in filing the shareholder proposal that was submitted December 4, 2015.

In regard to (a), in accordance with SEC Rule 14a-8, attached you will find a Letter of Verification for the Foundation.

In response to (b), the request for proof of authorization to represent the Foundation:

**The Company's request for evidence
of authorization is unwarranted.**

There is no language within Rule 14a-8 (the "Rule") which suggests that proof of representation is required in the manner you suggest; in fact, your letter's lack of specificity or citation in regard to the Rule gives basis to this position.

Because the Rule neither specifies criteria nor allows a company to dictate requirements concerning a Proponent's appointment of an agent, we have been advised by counsel that an assertion of agency authority is sufficient evidence of representation, just as it is when outside counsel asserts that it represents a company in matters related to Rule 14a-8.

The question of appointment and authorization is a matter of state law – not SEC Rule – and the state law of agency fully permits an investor to delegate matters such as the filing of a shareholder proposal, and to designate Newground as an agent in this regard.

In the December 4, 2015 letter we affirmed that the Foundation is a Newground client and that we are authorized to undertake these actions on its behalf. We do not believe the law of agency requires a signed statement from the person designating us to act as agent,

Melissa Lee Whitley
Baker Hughes Incorporated
Dec. 24, 2015
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since it is clear that as a Registered Investment Advisor registered with the SEC, we represent clients of all types and have both ethical and legal obligations to do so faithfully.

Therefore, we ask that the Company either offer citation of authority for making its request, or withdraw the request.

In closing, we hope to participate in a productive dialogue with the Company on the important topic of lobbying. Thank you, and Merry Christmas!

Sincerely,



Bruce T. Herbert | AIF
Chief Executive | ACCREDITED INVESTMENT FIDUCIARY

cc: Sanford Lewis, Esq.
Equality Network Foundation

enc: Letter of Verification for the Equality Network Foundation

December 7, 2015

**Re: Verification of Baker Hughes Incorporated shares
for Equality Network Foundation**

To Whom It May Concern:

This letter is to verify that as-of the above date Equality Network Foundation has continuously owned 65 shares of common stock since 6/5/2007.

Charles Schwab Advisor Services serves as the custodian and/or record holder of these shares.

Sincerely,

A handwritten signature in cursive script that reads "John Moskowitz".

John Moskowitz
Relationship Manager