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April 14, 2015

Mr. Brent Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

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Dear Mr. Fields:

Re: File No. 4-675, Request for Rulemaking to Amend Exchange Act Rule 14a-8 under the Securities Exchange Act of 1934 Regarding Resubmission of Shareholder Proposals

This letter is submitted on behalf of Business Roundtable, an association of chief executive officers of leading U.S. companies working to promote sound public policy and a thriving U.S. economy. Business Roundtable's CEO members lead U.S. companies with \$7.2 trillion in annual revenues and nearly 16 million employees. Business Roundtable member companies comprise more than a quarter of the total value of the U.S. stock market and invest \$190 billion annually in research and development—equal to 70 percent of U.S. private R&D spending. Our companies pay more than \$230 billion in dividends to shareholders and generate more than \$470 billion in sales for small and medium-sized businesses annually. Business Roundtable companies give more than \$3 billion a year in combined charitable contributions.

The U.S. Chamber of Commerce and other national organizations submitted a petition to the Securities and Exchange Commission (the Commission or SEC) on April 9, 2014 for rulemaking to amend the provisions under Rule 14a-8 of the Securities Exchange Act of 1934 (the Exchange Act) regarding the excludability of previously submitted shareholder proposals from company proxy materials (the Petition), and we are writing in support of the Petition. As an initial matter, the Roundtable has long been a strong advocate for good corporate governance and supports efforts by the SEC to protect investors and preserve effective mechanisms for shareholder communication. Moreover, the Roundtable is cognizant of the many legislative mandates that the SEC is in the process of responding to and the significant demands these mandates have placed on the Commission's resources. Nevertheless, we have been urging the Commission for over a decade to address the issues inherent in the

current proxy voting system,¹ and we encourage the Commission to seek comment on amendments to the existing rules.

As set forth in our 2012 Principles of Corporate Governance,² we believe “it is the responsibility of the corporation to engage with long-term shareholders in a meaningful way on issues and concerns that are of widespread interest to long-term shareholders, with appropriate involvement from the board of directors and management.” Our member companies take shareholder communications seriously, and we believe that the responsibility to communicate effectively with shareholders is critical to the functioning of the modern public company and the public markets. The Commission’s proxy rules play a role in this process by providing and regulating a channel of communication among shareholders and companies.³ However, the current resubmission thresholds in Rule 14a-8(i)(12)⁴ (the “Resubmission Rule”), are largely ineffective at cultivating this channel of communication and do little to protect shareholders and companies from needless expense and effort. Moreover, changes over the past decade in the proxy voting process have exacerbated the ineffectiveness of the Resubmission Rule, increasing the likelihood that companies will be required to repeatedly provide, and shareholders repeatedly review and vote on, proposals that are of no interest to a significant majority of shareholders.

Today, companies and their shareholders and the Commission and its staff spend substantial time, effort and other resources on proposals that previously have only been supported by a very small minority of shareholders. A shareholder proposal currently may be excluded under the Resubmission Rule if a proposal dealing with “substantially the same subject matter” was included recently in the company’s proxy statement and failed to achieve more than a specified minimum percentage of the shareholder vote. Specifically, the Resubmission Rule permits exclusion only if a similar proposal was last included in the proxy materials within the preceding three years and if, the last time it was included: (1) it received less than three percent support, if proposed once within the last five years; (2) less than six percent support, if proposed twice within the last five years; or (3) less than ten percent support, if proposed three or more times within the last five years. Effectively, this means that once a proposal is required to be included in a company’s proxy statement, it can be resubmitted repeatedly even if the vast majority of shareholders consistently vote against it.

¹ See our “Request for Rulemaking Concerning Shareholder Communications,” submitted to the Commission on April 12, 2004, in which we urged the Commission to conduct a thorough review of the current shareholder communications system. Available at <https://www.sec.gov/rules/petitions/petn4-493.htm>.

² Available at <http://businessroundtable.org/resources/business-roundtable-principles-of-corporate-governance-2012>.

³ Release No. 34-40018 (1998), Amendments to Rules on Shareholder Proposals, Final Rule; available at <http://www.sec.gov/rules/final/34-40018.htm>.

⁴ 17 C.F.R. §240.14a-8(i)(12).

The Resubmission Rule should strike a balance between allowing holders of relative minor amounts of company stock to participate in shareholder discussions, while limiting the degree to which they can divert corporate resources—and those of other shareholders—to matters that failed to garner the interest of even a meaningful minority of shareholders.⁵ However, due in large part to changes in the proxy voting system over the past ten years discussed below, the Resubmission Rule has become ineffective at achieving this goal. Instead, under current Rule 14a-8, a shareholder need only own \$2,000 of company stock for at least one year in order to submit a proposal that will necessarily require the company, and its shareholders, to dedicate significant time, effort and resources to a matter that has previously been opposed by a large majority of shareholders. The Commission adopted the current Resubmission Rule thresholds in 1954. The proxy voting process has changed substantially in the last 60 years. For example, today there is increased concentration of stock ownership by institutional shareholders and those institutional shareholders are more likely to support shareholder proposals. In addition, as indicated in the Petition, the number of shareholder proposals submitted to public companies has increased.⁶ Finally, companies are providing shareholders with more options for communicating and are engaging with shareholders more often.⁷ As a result, many shareholder concerns can be addressed in a manner that is less costly and time-consuming for companies and shareholders than the Rule 14a-8 process.

The petition does not recommend a specific change to the Resubmission Rule. Instead, it correctly advocates for determining new parameters only after the Commission conducts a rigorous cost-benefit analysis. We strongly support this approach and, given the time necessary to undertake such an analysis, encourage the Commission to consider the petition promptly. In conclusion, we believe that the Resubmission Rule is increasingly becoming ineffective at cultivating an effective channel of communication between shareholders and companies. Moreover, the changing landscape has exacerbated the ineffectiveness of the Resubmission Rule, increasing the likelihood that companies will be required to repeatedly provide, and shareholders repeatedly review and vote on, proposals that are of no interest to the majority of shareholders. Therefore, we urge the Commission to address this pressing issue by commencing

⁵ See, for example, Release No. 34-39093 (1997), Amendments to Rules on Shareholder Proposals, Proposed Rule; available at <http://www.sec.gov/rules/proposed/34-39093.htm>, in which the Commission stated that a proposed increase in the resubmission thresholds to 6%, 15%, and 30%, would “continue to permit [a company’s] shareholders an opportunity to see otherwise proper proposals at least once,” but would also limit the number of “proposals of little or no relevance” to the company’s business.

⁶ Although, as discussed in the Petition, public sources reported the total increase in proposals from 1997 to the peak in 2008 as approximately 350 proposals, we believe these numbers do not fully represent the number of proposals companies have received in recent years because of companies’ increased shareholder engagement efforts and the number of early withdrawals.

⁷ One result of this engagement is that an increasing number of shareholder proposals are withdrawn by proponents early in the process in response to discussions with the company. The increasing number of withdrawals may suggest that proposals that are actually included in the proxy statement are less likely to garner significant support. Obtaining a withdrawal may also be quite costly for the company, as it engages in negotiations that require both internal and external expertise.

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rulemaking proceedings to raise the resubmission thresholds and consider whether other amendments to the rule are appropriate. Thank you for considering our comments. We would be happy to discuss our concerns or any other matters that you believe would be helpful. Please contact Michael J. Ryan, Jr. of the Business Roundtable at [REDACTED].

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Hayes". The signature is written in a cursive style with a large initial "J".

John A. Hayes
Chairman, President and Chief Executive Officer
Ball Corporation
Chair, Corporate Governance Committee
Business Roundtable

JH/mr

C: The Honorable Mary Jo White, Chair
The Honorable Luis A. Aguilar, Commissioner
The Honorable Daniel M. Gallagher, Commissioner
The Honorable Kara M. Stein, Commissioner
The Honorable Michael S. Piwowar, Commissioner
Mr. Keith F. Higgins, Director, Division of Corporation Finance
Ms. Anne K. Small, General Counsel and Senior Policy Director