

To: Vanessa Countryman  
Securities and Exchange Commission  
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06 February 2020

Dear Ms. Countryman,

**Subject: File Numbers S7-22-19 and S7-23-19**

We write in connection with the SEC's proposed rules concerning procedural requirements, resubmission thresholds under exchange act rule 14a-8, and amendments to exemptions from the proxy rules for proxy voting advice (the "Proposed Rules").

We are a non-profit environmental law organisation based in London, Brussels, Warsaw, Berlin and Beijing. Our Climate Finance initiative analyses the legal implications of climate change-related risk for a wide spectrum of market participants, including listed companies and financial regulators.

We are concerned that the Proposed Rules may significantly prejudice investor interests. In particular, the Proposed Rules may hinder the integration of environmental, social and governance ("ESG") issues in US corporate practice. This arises through three main channels:

1. Shareholder proposals are a crucial tool for investors seeking to discharge their own fiduciary duties. They enable investors to engage with companies on critical issues that may affect the value of their assets. ESG issues can pose particularly striking financial risks, as in the case of climate change. The Proposed Rules would make it more difficult for shareholders to submit and maintain proposals. In doing so, their ability to manage the financial risks associated with their investments may be severely hampered.<sup>1</sup>
2. The Proposed Rules may stifle investors' ability to raise emerging issues. It often takes time to understand these issues and develop a voting strategy accordingly. As such, related proposals may not initially receive the requisite proportion of votes. Furthermore, shareholder resolutions can positively influence corporate behaviour even if supported by a relatively small proportion of shareholders.

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<sup>1</sup> For example, see the discussion on the importance of stewardship in the UK Financial Conduct Authority's recent discussion paper: "[Building a Regulatory Framework for Stewardship \(DP 19/1\)](#)."

For example, a resolution was filed in 2016 which called on Royal Dutch Shell to set and publish climate targets aligned with the Paris Agreement. On being proposed to shareholders, 6% voted in favour of the resolution. Similar resolutions were put forward in following years, leading Royal Dutch Shell to reach a broad agreement with investors on the issue in 2019. As a result of this agreement, the 2019 resolution was withdrawn.<sup>2</sup>

3. Proxy advisers provide investors with impartial analysis and recommendations on important corporate matters such as ESG issues. This advice is often heavily relied upon by investors when deciding how to vote. The Proposed Rules threaten this function by potentially eroding the impartiality and independence of proxy advisers. In turn, this poses greater obstacles to investors relying on such information to make voting decisions.

One of the fundamental aims of the SEC is to protect investors. Nevertheless, the Proposed Rules place this objective in jeopardy. Given the interconnected nature of the financial system, the impact may be felt globally. We therefore urge you to consider preserving the existing framework.

We thank you in advance for the consideration of our letter, and remain at your disposal to discuss the contents.

Yours sincerely,

**Joanne Etherton**  
Project Lead, Climate Finance  
ClientEarth

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<sup>2</sup> <https://follow-this.org/en/in-the-media/activist-group-withdraws-resolution-challenging-shell-climate-policy/>