

SHAREHOLDER RIGHTS GROUP

November 22, 2019

The Honorable Jay Clayton, Chairman
Vanessa A. Countryman, Secretary
US Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Initial Comments and Requesting Extension of Comment Period on Shareholder Proposal Rule File Number S7-23-19

Dear Chairman Clayton and Ms. Countryman,

We are writing to request that the Commission extend the comment for Rule 14a-8 rulemaking to at least 120 days, and preferably until the end of April 2020.

Due to recent actions by the Staff that limit the ability of shareholders to raise certain risk-related issues, a rigorous economic analysis of the rulemaking proposal would be impossible without viewing the outcomes of the 2020 proxy season, including receiving shareholder perspectives on how these recent changes affect the economic analysis.

Any economic analysis of the rulemaking proposal cannot be considered in isolation, but rather must consider how other changes in Commission and Staff practices are constraining the ability of investors to advance risk management, including the impact associated with SEC-imposed limitations on high-stakes and high-value issues such as climate change, activities that implicate corporate reputations such as disclosure of political spending, and other ESG issues.

These new limitations represent a confounding variable in the analysis of the impact of the proposed rule changes. We have come to the conclusion that action by the Commission on the rulemaking proposal without effective analysis of a baseline that reflects the outcomes of the Staff's recently-imposed limitations on the shareholder proposal process would be arbitrary.

In particular, recent Staff initiatives and interpretations, including the issuance of Staff Legal Bulletin 14K (October 16, 2019)¹, have expanded the definition of "micromanagement" so as to exclude many climate change proposals and narrow the window of opportunity to file such proposals to such a degree that many large fossil fuel companies in particular may be on

¹ <https://www.sec.gov/corpfin/staff-legal-bulletin-14k-shareholder-proposals>

Shareholder Rights Group

Arjuna Capital

As You Sow

Boston Common Asset
Management, LLC

Boston Trust Walden

Clean Yield Asset
Management

First Affirmative Financial
Network, LLC

Harrington Investments, Inc.

Jantz Management, LLC

John Chevedden

Natural Investments, LLC

Newground Social
Investment, SPC

NorthStar Asset
Management, Inc.

Pax World Funds

Sustainability Group of
Loring, Wolcott &
Coolidge, LLC

Trillium Asset
Management, LLC

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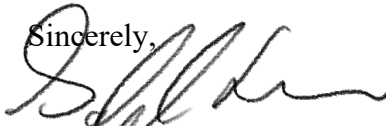
the cusp of immunity from accountability on climate change risk. Because the effects of these changes may have severe ramifications on shareholders' abilities to engage companies on climate change – an issue becoming materially important for investors and issuers alike – economic analysis of the proposed rule changes would be incomplete and arbitrary if not considered, with stakeholder input, at the end of the upcoming no-action season.

In addition, the September 6, 2019 announcement of the Staff² that it will change routine practice and sometimes decline to respond favorably or unfavorably to no-action requests may have a significant impact on the number of proposals appearing on proxy statements. The implication of the “no-decision” no-action decisions could have a strong bearing on economic analysis.

The rulemaking proposal's economic analysis substantially understates the benefits to companies and investors of shareholder proposals. However, the Commission would likely further understate the damage done by the rulemaking if the cumulative effects of the latest changes, as playing out in the upcoming proxy season, are not integrated to the public comment process.

At a minimum, we believe this means that the comment period should be extended through the current no-action season, so that investors will have an opportunity to present informed economic analysis that includes consideration of how the aforementioned changes being implemented this season may have lowered the baseline capacity for proposals to advance investor protection, and the degree to which the Commission's new proposed rules would therefore further erode investor protection and economic outcomes against that baseline.

Sincerely,



Sanford Lewis

Director

Shareholder Rights Group

² <https://www.sec.gov/corpfin/announcement/announcement-rule-14a-8-no-action-requests>

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cc:

Hon. Michael D. Crapo, Chair, Committee on Banking, Housing, and Urban Affairs, United States Senate

Hon. Sherrod Brown, Ranking Member, Committee on Banking, Housing, and Urban Affairs, United States Senate

Hon. Maxine Waters, Chair, Committee on Financial Services, United States House of Representatives

Hon. Carolyn B. Maloney, Chair, Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets Committee on Financial Services, United States House of Representatives

Hon. Patrick T. McHenry, Ranking Member, Committee on Financial Services, United States House of Representatives

Hon. Robert J. Jackson Jr., Commissioner, U.S. Securities and Exchange Commission

Hon. Hester M. Peirce, Commissioner, U.S. Securities and Exchange Commission

Hon. Elad L. Roisman, Commissioner, U.S. Securities and Exchange Commission

Hon. Allison Herren Lee, Commissioner, U.S. Securities and Exchange Commission

Mr. William Hinman, Director, Division of Corporation Finance, U.S. Securities and Exchange Commission

Mr. Rick Fleming, Investor Advocate, Office of the Investor Advocate, U.S. Securities and Exchange Commission

Ken Bertsch, Executive Director, and Jeff Mahoney, General Counsel, Council of Institutional Investors

Josh Zinner, CEO, Interfaith Center on Corporate Responsibility

Lisa Woll, CEO, US SIF: The Forum for Sustainable and Responsible Investment

Heather Slavkin-Corzo, Head of US Policy, UN Principles of Responsible Investment