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Wilton, CT 06897

Vanessa A. Countryman, Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

Re:  
S7-23-19 Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8  
Via e-mail rule-comments@sec.gov

Dear Ms. Countryman,

I write on behalf of *School Sisters of Notre Dame Cooperative Investment Fund* to oppose the amendments to Rule 14a-8 proposed by the Securities and Exchange Commission (SEC) on November 5, 2019. Our institution is an Affiliate of *Investor Advocates for Social Justice (IASJ)*, and a member of the *Interfaith Center on Corporate Responsibility (ICCR)*. We believe the proposed rule changes will negatively impact our ability as an institutional investor to fulfill our commitment to be active and engaged investors, which includes our use of the proxy process from time to time, to engage with corporations on issues with distinct benefits to society, investors, and corporations.<sup>1</sup>

The *School Sisters of Notre Dame Cooperative Investment Fund* is an investment portfolio for our endowment to finance the needs and priorities of our community, and we believe as long-term investors in public companies, we have a responsibility to actively engage with companies in our portfolio about the impacts of their business on environmental, social, and governance issues that are aligned with our institution's values. Our constitution challenges us to recognize that, "The gift of our internationality sharpens our consciousness of universal needs and calls us to foster within ourselves and others a responsible concern for the people of the world." Being committed to social responsible investing and having membership in *Investor Advocates for Social Justice*, formerly Tri-Cri, for over 25 years has given us the opportunity to file proposals and participate in company dialogues.

Our engagement with companies through the shareholder proposal process is consistent with our commitment to equity and justice, which promotes care for the environment, respect for human life and dignity, the common good, and protecting rights of the most vulnerable communities. Over the years, our engagements with companies in collaboration with other religious institutional investors, have led

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<sup>1</sup>Clark, L., Gordon, and Tessa Hebb, (2004) *Pension Fund Corporate Engagement The Fifth Stage of Capitalism: A* study focusing on corporate engagement by pension funds found that shareholder activism through company dialogues and shareholder proposals promotes a long-term view of value that endorses higher corporate, social and environmental standards and adds shared value [https://www.riir.ulaval.ca/sites/riir.ulaval.ca/files/2004\\_59-1\\_7.pdf](https://www.riir.ulaval.ca/sites/riir.ulaval.ca/files/2004_59-1_7.pdf)

to meaningful progress, often in the form of additional disclosure or new policy commitments that benefit all stakeholders, including investors, communities, and employees.

Based on our experience in this process, it is our view that the current shareholder proposal process is an effective, efficient, and valuable tool to foster meaningful engagement between shareholders and companies in which they invest, to communicate our priorities and concerns as shareholders and bring to light issues that, in our view, had not been adequately managed. We engage in dialogue with companies to build relationships and shared understanding, and our goal is to be constructive, as we have an interest in the company's long-term performance as well as meaningful contribution to a just society. In this context, our ability to file shareholder proposals with companies when we have identified risks that are not being properly managed, or when companies are not open to engagement with shareholders, is an active part of our ability to meeting our stewardship responsibilities and our fiduciary duty. Over the past 10 years, we filed/co-filed thirty proposals with companies in our portfolio on important environmental, social, or governance concerns. Doing this allows us to support values and disclosure that are increasingly considered commonplace expectations from investors.

### **Our Concerns with the Proposed Rules**

We believe that the proposed SEC rule changes will limit our rights as shareholders to bring critical and diverse concerns to company management and will instead favor the interests of trade associations and CEOs. Our primary concerns with the proposed rule are:

- We strongly opposed the proposed changes to the amount of shares held and length of time held, required to file a proposal (at pg. 20<sup>2</sup>). This would limit availability of the shareholder proposal process to many investors. The current requirement of \$2,000 of shares is appropriate. Adding tiered timelines and holding amounts is not only unnecessary, but also would be burdensome to implement as it would require monitoring our exposure across portfolio companies for various time periods and may even constrain our ability to sell stocks. This may be costly and difficult to implement from a practical standpoint and may create additional barriers to filing proposals. The proposal to eliminate shareholders' ability to aggregate holdings (at 23), would also be a constraint to shareholders with a smaller exposure to a company, is not necessary to demonstrate an economic stake, and should be removed.
- Alongside many other faith-based institutions, our institution works in partnership with other investors through organizations like Investor Advocates for Social Justice (IASJ). IASJ provides expertise and enables collaboration to facilitate and strengthen our ability to file shareholder proposals. We rely on IASJ to help us represent our concerns before corporations that we identify. While some of the proposed changes for informational requirements (at 31) appear appropriate and insignificant, even if unnecessary, given that the existing filing requirements are clear enough to demonstrate principal agent relationships and confirm holdings, others present

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<sup>2</sup> Release No. 34-87458; File No. S7-23-19, Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8 <https://www.sec.gov/rules/proposed/2019/34-87458.pdf>

problems. The proposed changes to limit the “one proposal rule” so that “each person” (at 38) may file only one proposal would be burdensome and negatively impact our existing working relationships with representatives and partners to file proposals and participate in shareholder engagements. We recommend you remove this amendment.

- Changes to the resubmission threshold to refile proposals (at 50) threatens to unnecessarily exclude important proposals on new and emerging issues that may need to gain traction over time and will ultimately stifle key reforms. Many of the proposals our community files and supports through voting raise issues, such as water stewardship or human rights, which are not yet on the radar of companies or other investors. The gradual increase of vote requirements allows investors to become familiar with new issues, while still ensuring there is sufficient support to be considered again. Additionally, shareholder proposals at companies with dual class stock receive low votes despite high levels of public shareholder support and these would be substantially impacted by this change. We recommend that you do not make changes to the resubmission threshold and leave them at 3%, 6%, 10%. Research by the Sustainable Investments Institute indicates the proposed resubmission thresholds would have eliminated 30% of the proposals voted on between 2010-2019,<sup>3</sup> shutting down an important channel of communication between and among investors and their portfolio companies.

### **The Benefits of the Shareholder Proposal Process**

Our institution’s engagements with corporations using the shareholder proposal process and voting on shareholder proposals have brought attention to important corporate social responsibility issues and prompted companies to take action and contribute to positive outcomes for society.

As a community committed to shared goals of economic justice, with Investor Advocates for Social Justice, formerly known as the Tri-State Coalition for Responsible Investment, we have engaged for decades on issues that were pivotal in corporate reform efforts. For example, between 1947 and 1977, General Electric dumped an estimated 1.3 million pounds of polychlorinated biphenyls (PCB), a cancer-causing chemical, into the Hudson River.<sup>4</sup> After years of company delays and lobbying expenditures, our coalition of investors started a constructive dialogue with GE to encourage it to take responsibility for these impacts and remediate the river. As investors in the company, we expressed concerns about the mounting costs of cleanup delays, as well as harmful impacts to human health, local wildlife, and commercial fisheries. After years of dialogue and shareholder proposals filed on disclosure of costs surrounding the delay, GE agreed to the requested disclosure. It also entered into a consent decree with the EPA for cleanup of the Hudson River. This was an efficient, meaningful, and constructive engagement. **The proposed changes to the shareholder proposal rule may have prevented our coalition from seeking and obtaining this important disclosure for fellow investors and impacted communities through the shareholder proposal process.**

Another example is our coalition’s leadership engaging with our portfolio companies through the shareholder proposal process on environmental proposals, specifically on climate disclosure and

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<sup>3</sup> <https://www.spglobal.com/marketintelligence/en/news-insights/trending/dgOXuoNIWkBNX2hmo3bHlg2>

<sup>4</sup> <https://www3.epa.gov/hudson/cleanup.html>

greenhouse gas emissions reduction. Investors have engaged for years with oil and gas companies like ExxonMobil encouraging them to reduce greenhouse gas emissions and manage business risks associated with climate change. Our coalition's first proposal filed with Exxon Mobil on climate change in 1999 received only 5% of shareholder support, which is indicative of a pattern we see, where issues now seen as commonplace often start with a modest vote in the first year. We joined and have supported efforts led by our colleague, the Sisters of St. Dominic of Caldwell, NJ, beginning in 2007 with a proposal requesting greenhouse gas emissions reductions goals. As investors became more familiar with the issue and the urgency of addressing climate change, for eight years our proposals consistently received over 20% of shareholder support, receiving as high as 31.2%. This issue has now become a standard expectation in corporate disclosure, with thousands of companies reporting on GHG emissions or emission reduction targets.

In his recent letter to CEOs, Black Rock CEO Larry Fink wrote: "We believe that all investors, along with regulators, insurers, and the public, need a clearer picture of how companies are managing sustainability-related questions. This data should extend beyond climate to questions around how each company serves its full set of stakeholders, such as the diversity of its workforce, the sustainability of its supply chain, or how well it protects its customers' data."<sup>5</sup> The current proxy process is an important tool that shareholders have to engage with their companies to gather that 'clearer picture' and serves us all well – these proposed changes should be rejected.

The School Sisters of Notre Dame engage in shareholder advocacy aligned with our faith-based values of promoting human rights, climate justice, racial equity, and the common good. We believe that engaging with companies on these issues through dialogue and shareholder proposals not only preserves the long-term value of our portfolio, but also promotes corporate action that benefits all stakeholders. Because the rule changes will limit these benefits, the SEC should withdraw rulemaking proposal proposed S7-23-19.

Sincerely,

Ethel Howley, SSND  
Social Responsibility Resource Person  
School Sisters of Notre Dame Cooperative Investment Fund

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<sup>5</sup> <https://www.blackrock.com/corporate/investor-relations/larry-fink-ceo-letter>