Investor Advocates for Social Justice

February 3, 2020

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,

Investor Advocates for Social Justice (IASJ), a successor to the Tri-State Coalition for Responsible Investment, appreciates the opportunity to comment on Securities and Exchange Commission (SEC) Release No. 34-87458; File No. S7-23-19. We urge the SEC to withdraw the Proposed Rule because it is arbitrary and will severely limit the rights of religious shareholders associated with our organization to engage with corporations, including through the use of the shareholder proposal process, on issues with distinct benefits to society and long-term value.[1]

Background on Investor Advocates for Social Justice

IASJ is a successor organization to the Tri-State Coalition for Responsible Investment, which was founded in 1975. IASJ is a 501(c)(3) tax-exempt non-profit organization representing and supporting long-term institutional investors with faith-based values who seek to promote human rights, climate justice, racial equity, and the common good through their ministry work as well as their investments. IASJ is a small entity with less than $5 million in assets and supports a

[1] Tamas Barko et al., "Shareholder Engagement on Environmental, Social, and Governance Performance" (Sept. 2018) (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2977219); 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

community of institutional investors whose collective assets represent approximately $2.5 billion. IASJ facilitates investor collaboration and provides technical assistance and represents institutional investors in engagements with companies to address strategic environmental, social, and governance (ESG) issues and advocate for change that supports long-term value creation.

Our comment will address the following issues in response to the request for comment: (1) the benefits of the current shareholder proposal rule as it stands and (2) concerns about specific sections related to holding thresholds, refiling thresholds, and representation.

1. **The Current Rule and Processes for Engagement Between Investors and Companies Have Benefits for Many Stakeholders That Have Not Been Adequately Assessed and Considered in the Proposed Rule**

The shareholder proposal process plays an important role in fostering meaningful engagement between companies and investors to enable companies to gain a better understanding of shareholder priorities and concerns, including with respect to issues of economic inequality. The faith-based institutional investors in our community have benefited from the current rule as an effective, efficient and valuable tool to address concerns that have long-term impacts on shareholder value with corporate management and boards.

Faith-based Investor Engagement with Corporations and Shareholder Proposals Have Benefits for Society and the Economy

As faith-based investors, we engage with portfolio companies that are not only exposed to significant risks such as litigation, reputational harm, or stranded assets, but also whose business activities cause adverse impacts to individuals, employees, and communities. Proposals filed by IASJ Affiliate investors have initiated hundreds of constructive dialogues with corporate leadership over the years and led to meaningful commitments to address issues of concern, such as climate disclosure, water stewardship, and human rights. This year alone, IASJ filed ten proposals on behalf of its Affiliate investors, covering a wide range of ESG topics and sector-specific risks. We are concerned that the proposed changes are not only unnecessary, but will undermine a process that creates shared value for investors, companies, employees, suppliers, and communities.

As representatives of long-term investors in public companies, IASJ seeks to engage with companies through an investor letter or request for dialogue prior to filing a shareholder proposal. The proposed rules would not change IASJ Affiliates' preference to engage through dialogue. However, as we seek to engage in dialogues, we cannot control if or how a company responds. Our Affiliate investors file proposals with companies if the board or management has

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been unresponsive to our requests for engagement, or when the company has not made progress in areas of significant risk.

Shareholder Proposals Further Meaningful Disclosure and Improved Risk Management

Engagements support increased corporate disclosure on meaningful issues. The proposals that IASJ Affiliates file often request ESG disclosure to fill a gap in vital reporting. In the absence of clear, consistent, mandatory guidance on corporate disclosures of ESG issues, corporate reporting is optional and of varying quality. Investors need consistent and comparable information about companies in areas of material risk, and often request this through dialogue engagement, and may file proposals on it if needed.

IASJ believes our engagements have served as an efficient and effective mechanism for companies to identify emerging legal risks, prepare for increased regulatory expectations, and manage needs of stakeholders such as employees and communities. Three examples below highlight relevant engagements to demonstrate the benefits.

1. *Engagement to Encourage Water Stewardship at Chevron*

Investors have had ongoing dialogue with Chevron about the risks associated with hydraulic fracturing and had specific concerns related to its water management. As a global energy company with water-intensive business operations that present risks of contamination, Chevron discloses very little data on its water consumption and disposal practices. Investors therefore lack the information needed to meaningfully assess the effectiveness of Chevron's management of water-related risks, which could result in significant costs to the company if not properly addressed. On behalf of the American Baptist Home Mission Society and in collaboration with investors from the Interfaith Center on Corporate Responsibility (ICCR), IASJ held dialogues on water risk. Investors then filed a proposal in 2019 requesting disclosure on how Chevron is managing risks related to the Human Right to Water. The proposal garnered over 32% of investor support, which represents over $43 billion in Chevron shares.

The proposal delivered benefits to multiple stakeholders, it: (1) helped raise awareness among investors of risks such as constrained access or higher pricing of freshwater as a result of severe droughts that may lead to increasing costs and logistical challenges associated with wastewater disposal; (2) communicated to the company that increased disclosure was warranted; (3) raised important community concerns around water pollution and lack of consultation and if provided, the requested disclosure would provide information to communities on how Chevron is respecting the right to water in communities; and (4) signaled to suppliers that investors are concerned about risks such as water stress which can result in interruptions or limitations on production capacity impacting business relationships.

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2. Engagement to Encourage Respect for Human Rights at Northrop Grumman

The IASJ Affiliate engagement on human rights with Northrop Grumman created shared value and garnered significant investor support. The company is one of the world's largest weapons manufacturers and military technology providers, as well as the third largest government contractor in the United States. Investors expressed concerns that this business model may link Northrop Grumman to human rights violations that expose the company to legal, financial, and reputational risks. In 2019, IASJ Affiliates filed a proposal requesting disclosure on how the company is implementing this Human Rights Policy, adopted in 2013 after investor engagement. This proposal received over 30% of shareholder support, which represents over $15 billion in Northrop Grumman shares.

The proposal delivered benefits to multiple stakeholders, it: (1) helped raise awareness among investors of the wide range of human rights risks in the defense sector; (2) communicated to the company that there are opportunities to strengthen its human rights practices; (3) contributed to coordination between civil society groups and the investor community around important issues of privacy rights and militarism; and (4) communicated to suppliers that investors' human rights expectations extend to business relationships.

3. Investor Engagements as Early Warning Indicators on Climate Risk

IASJ's Affiliates have been leaders in engaging with companies in the energy sector to address climate risk. Engagements called for improve measurement of relevant climate related data, encouraged climate disclosure, and called for long-term planning to mitigate risks through establishing greenhouse gas (GHG) emission reduction targets. Shareholder expectations communicated through proposals have provided a forum for corporate management to better understand investor expectations and informed their processes to measure and disclose this information.

The costs of failing to address climate change are significant and estimated to have an average value at risk of $224 billion per year in the US alone.[2] Starting in the early 2000's, IASJ and its Affiliates engaged with ExxonMobil on climate change. This included robust dialogue and the filing of proposals for 9 years asking for Exxon to set GHG emission reduction targets and to manage risks associated with climate change, garnering between 21-31% of support from investors. This was a new issue of investor concern at the time these proposals were filed. Many years later, GHG targets and climate risk disclosure are now common expectations of all investors of their portfolio companies.

IASJ supported a proposal filed by the Dominican Sisters of Caldwell, NJ and Sisters of Charity of St. Elizabeth with the utility Southern Company, requesting the company issue a report on its

[2] https://www.yaleclimateconnections.org/2019/04/climate-change-could-cost-u-s-economy-billions/

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planning for a 2˚C warming scenario which received over 45% of investor support in 2017. The widespread investor support of this proposal helped the company to better understand emerging expectations within the investor community for climate related disclosures, and the company then responded to this vote by committing to publish the requested disclosure. The proponents of the proposal maintained constructive engagement with the company throughout this process. This proposal enabled proponents to communicate their concerns about inadequate climate disclosure to the wider investor community and demonstrate effectively to the company that additional resources for this kind of disclosure were warranted. The proposal helped encourage the provision of vital disclosure on long-term risk management, and helped the company identify costs and opportunities that were not previously disclosed as considered by management.

Companies that received proposals were better prepared to meet expectations for reporting by the Task Force on Climate-related Financial Data (TCFD). TCFD develops guidelines and recommendations for voluntary climate-related disclosures that are consistent, comparable, reliable, clear, and efficient, and provide useful information to lenders, insurers, and investors. TCFD recommendations include disclosure of climate-related metrics and targets, risk management, strategy, and governance- all of which help investors make more informed financial decisions. Companies that have received proposals from their shareholders on climate related risks are likely in a better position to communicate on their scenarios and plans to adapt and thrive in the transition to a low-carbon economy.

Lack of Analysis of Benefits of Proposals

IASJ is concerned about the lack of analysis in the Proposed Rule regarding the benefits of the shareholder proposal rule to investors, companies, employees, communities, and other stakeholders. Both the filing of proposals and actions prompted at companies as a result of proposals contribute benefits. The rulemaking does not consider a wider scope of benefits to all stakeholders, including investors.

The analysis of data in the rulemaking appears to be biased to show significant cost burdens to companies, and may be based on outdated or unfounded information. The costs incurred by companies associated with applying for no action relief on a proposal are elective, as that process is completely optional and companies may seek less expensive alternatives to address the issues raised in a proposal.

IASJ believes that the SEC did not clearly demonstrate the value or necessity of regulatory response to the shareholder proposal rule.

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2. **Specific Changes in the Proposed Rule on Resubmission Thresholds, Holding Requirements and Representation Should be Rejected Because they Will Eliminate Valuable Shareholder Engagement**

The changes in the Proposed Rule to resubmission thresholds, holding requirements, and representation would limit the ability of faith-based investors to address important issues through the shareholder proposal process that have had a demonstrated value throughout history.

The vote thresholds to refile proposals should not be changed

IASJ is concerned that changes to the resubmission threshold to refile proposals threaten to unnecessarily exclude important proposals on new and emerging issues. This may ultimately stifle key reforms and benefits that come from the shareholder proposal process. Current re-filing thresholds allow proposals to be filed on important issues and concerns and to gain traction with investors and peer companies. Many of the proposals our Affiliate investors file and support raise issues, such as water stewardship, human rights, and environmental justice, which may not yet be on the radar of companies or other investors.

The current, gradual increase of vote requirements allows investors to become familiar with new issues, while still ensuring there is sufficient support to be considered again. Research by the Sustainable Investments Institutes indicates the resubmission thresholds in the Proposed Rule would have eliminated 30% of the proposals voted on between 2010-2019, shutting down an important channel of communication between and among investors and their portfolio companies. Additionally, shareholder proposals at companies with dual class stock, such as those we have filed at Tyson Foods on water stewardship or human rights, which received low overall votes despite high levels of public shareholder support, would be adversely impacted. Investors interested in re-filing proposals at companies with dual class share structures would be substantially impacted by this change.

Strict re-filing thresholds that limit the number of shareholder proposals on the proxy would further insulate corporate executives and boards from investors with concerns about ESG issues and reduce corporate accountability to all stakeholders. The Business Roundtable recently released a new Statement on the Purpose of a Corporation, which defines a fundamental commitment not only to shareholders, but to customers, employees, suppliers, and communities.[3] IASJ appreciates this statement and believes accountability to all these stakeholder groups is necessary. Our engagements and shareholder proposals seek increased

[3] https://opportunity.businessroundtable.org/wp-content/uploads/2019/12/BRT-Statement-on-the-Purpose-of-a-Corporation-with-Signatures.pdf

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information about how corporations meet this commitment to delivering value to all stakeholders.

IASJ recommends that the SEC leave the refiling thresholds at 3%, 6%, 10% and reject any changes to the resubmission threshold.

Ownership Thresholds Should Not Be Changed

IASJ is concerned that changes to the amount of stock needed to file a proposal threaten to unnecessarily exclude the voice of faith-based investors who file proposals to raise important concerns and address risks with the companies they own. The proposed increase in stock ownership or holding period for ownership will make filing proposals difficult for investors that have a smaller portfolio or that have smaller exposure to a larger number of companies and may further reinforce inequality in our economy and facilitate corporate decision making that threatens long-term economic prosperity.

Steeply increased requirements for the number of shares that must be held in order to file or prolonged holding period requirements may not only inhibit investors' ability to file shareholder proposals when warranted based on companies' impacts, but may also interfere with investors' ability to work with their financial advisors to make investment decisions that are aligned with their financial strategy and goals. IASJ engages as shareholders on ESG risks because we are concerned about the long-term health of the companies in which we are invested.

It would also be a problem if investors were not able to aggregate their holdings in order to file. The proposed rule change to remove shareholders' ability to aggregate shares will take away an important tool that investors that have a financial stake in a company, but have smaller exposure use to bring diverse concerns to company management. IASJ works within a coalition of investors with similar priorities of addressing strategic ESG issues, which allows us to coordinate, attract co-filers and meet filing threshold requirements. Though our Affiliates may not be affected by the rule change on share aggregation, the shareholder proposal process should be as accessible as possible to investors, as it enables a wider range of investors to participate.

The current ownership threshold of $2,000, with the ability to aggregate holdings, allows a wide range of investors to express varied concerns, not just the largest ones. This is important because our economic system already operates in a way that heavily favors individuals or institutions with the largest economic clout or financial resources. These large financial institutions are likely to be less familiar with issues of economic justice and inequality, which smaller institutional investors, and especially those associated with religious institutions, may be more closely connected. Large investors may also lack the mandate to address issues of economic injustice through their investment portfolios and may therefore be less likely to file proposals.

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Historic Religious Investor Engagement with GE on PCB Contamination Would Have Been Obstructed if these Requirements had Been in Place

The ability of institutional investors with a small exposure to a company, which may include IASJ Affiliate investors in some instances, to participate in the proxy process has had an impact on holding companies accountable for harmful practices such as forced or child labor, environmental pollution, and violating privacy rights. Corporate disclosures also help individual and community stakeholders understand how businesses are operating and meeting their responsibilities to society. Disclosure tools and frameworks requested by investors encourage companies to release information to the public, which helps communities understand company priorities, risks, and impacts to society.

One specific example where IASJ Affiliates used the shareholder proposal process, which would not have been possible if the proposed rules were in place at the time, is a decade-long effort by our Affiliates with General Electric (GE). Investors sought transparency and disclosure of the costs of GE's delay in addressing its discharge of polychlorinated biphenyls (PCB), a cancer-causing chemical, into the Hudson River and the Housatonic River. The PCB contamination of the Hudson River forced the closing of the upper Hudson River to fishing in 1976. To this day, health advisories continue to warn people not to eat nearly all fish taken out of the river.

In 1996, IASJ Affiliates, who were relatively small institutional investors in GE, engaged in constructive dialogue with the company regarding its PCB discharges. Investors encouraged GE to complete the cleanup urgently and provide remedy to affected communities. Religious investors filed proposals starting in 1998 requesting GE adopt a public education effort regarding the dangers of eating fish from the PCB- contaminated Hudson River, which slowly gained momentum over three years. In subsequent years, investors filed repeated shareholder proposals asking GE's expenditures on legal fees and lobbying when urgent cleanup of PCB contamination was needed. These proposals, which grew in shareholder support from 10% in 2001 to 27% in 2005, prompted GE to finally disclosing that it had spent $799 million in lobbying and legal costs around this issue from 1990-2005. Around the same time, GE entered into a consent decree with the EPA for cleanup of the Hudson River. The proposed thresholds would have omitted our 2004 proposal, preventing this vital disclosure and cleanup.

IASJ is concerned that engagements such as this one with GE would be negatively impacted if the ownership and resubmission thresholds are changed. This engagement provided other GE shareholders, as well as impacted community members, with critical information about the company's spending practices, and made clear that investors supported robust action to address the environmental and economic impact of the PCB contamination.

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Year Proposal Filed	Proposal Name	Shareholder Support	Result under proposed rule changes
1998	Public Education of the Dangers of Eating Fish from the Hudson River	7.6%	
1999	Public Education of the Dangers of Eating Fish from the Hudson River	6.7%	Omitted
2000	Public Education of the Dangers of Eating Fish from the Hudson River	8.87%	Omitted
2001	Disclosure of Costs of Delay of Cleanup of Toxic Sites	10.6%	
2002	Disclosure of Costs of Delay of Cleanup of Toxic Sites	21.71%	
2003	Disclosure of Costs of Delay of Cleanup of Toxic Sites	25.6%	
2004	Disclosure of Costs of Delay of Cleanup of Toxic Sites	12.7%	Omitted
2005	Disclosure of Costs of Delay of Cleanup of Toxic Sites	27.47%	Omitted
2006	Disclosure of Costs of Delay of Cleanup of Toxic Sites	Withdrawn for agreement	N/A

The Proposed Rule Would Negatively Impact Existing Working Relationships Between Investors and their Representatives

IASJ's working relationships with faith-based institutional investors may be negatively impacted by the Proposed Rule. IASJ represents some faith-based institutional investors with their portfolio companies in engagements and provides expertise and technical support. This

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facilitates our Affiliate investors' ability to engage in active ownership activities in furtherance of their fiduciary duties in instances where they may not have the expertise, resources, or capacity to do so themselves. The change in the Proposed Rule that "each person" may submit only one proposal may negatively impact our working relationship with institutional investors and should be removed. IASJ supports the comment on limitations on representation submitted by Susan Makos, Timothy Smith, et.al. on January 27, 2020.

In closing, Investor Advocates for Social Justice engages on behalf of our faith-based Affiliate investors aligned with their commitments to promote human rights, climate justice, racial equity, and the common good. Our engagements through the shareholder proposal process support the ability of companies to mitigate reputational, legal, and financial risks, as well as fulfill their commitment to all stakeholders including communities, employees, and the environment. Throughout our history of engagement, long-term faith-based institutional investors have played an important role in communicating concerns to companies, identifying emerging risks, and promoting meaningful changes to corporate policies and practices that further the social purpose of a corporation. Because the proposed rule changes will limit these tools and benefits, the SEC should withdraw rulemaking proposal S7-23-19.

Sincerely,

Mary Beth Gallagher

Mary Beth Gallagher

Executive Director

Investor Advocates for Social Justice

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