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February 3, 2020

VIA EMAIL

Ms. Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Subject: Release No. 34-87458
File No. S7-23-19
Procedural Requirements and Resubmission Thresholds under
Exchange Act Rule 14a-8

Dear Ms. Countryman:

I am Vice President – Investor Relations and Secretary of Exxon Mobil Corporation. We commend the Commission and Staff for the extensive work and the careful consideration and balancing of issues clearly reflected in the captioned release (the “Proposed Rules”). The corporate governance landscape for public companies and their investors has changed significantly in the years since the eligibility requirements and resubmission thresholds under Rule 14a-8 were last revised. We believe the Proposed Rules as a whole represent a reasonable and appropriate updating of Rule 14a-8 to align more closely with current governance realities.

ExxonMobil has extensive experience with shareholder proposals. Over the past 20 years we have received on average 16 proposal submissions each year, with an average of nine shareholder proposals included in our proxy statement. Proposals submitted but not included in the proxy statement reflect the withdrawal of proposals after engagement between the company and the proponent, an outcome we believe is optimal for all parties and which should be encouraged under Rule 14a-8. The figures also reflect exclusions of proposals where the Commission Staff has concurred in no-action letters. Our experience addressing literally hundreds of shareholder proposals over the years filed by a wide range of proponents and proponent representatives gives us a perspective from which to provide information and insight we believe the Commission will find useful as it develops a final version of the Proposed Rules.

We offer the enclosed comments based on this experience and perspective.¹ Our comments are organized in response to the specific Requests for Comment included in the proposing release. We have also included additional comments at the end of this letter in response to the General Request for Comment that we believe are worth further consideration by the Commission as it pursues laudable and much needed reform efforts with respect to the proxy process in general and shareholder proposals in particular.

A. Rule 14a-8(b) – Eligibility Requirements

Request for Comment 1-16

ExxonMobil supports the three-tiered approach for establishing eligible share ownership in the Proposed Rules. We believe this tiered approach represents an appropriate balance: maintaining the ability of smaller retail shareholders to present issues for consideration by other shareholders while also recognizing the costs incurred by companies and their shareholders as a whole in addressing these proposals.

As noted in a prior comment letter,² ExxonMobil estimates the direct cost of each shareholder proposal included in our proxy statement to be at least \$100,000. This is a conservative estimate based primarily on time spent by company staff, management, and the Board of Directors. We estimate this time spent to be over 150 person-hours in total, beginning with the receipt and initial review of a submission and carrying through to printing and mailing of the proxy statement. This estimate does not include outside counsel costs for reviewing proposals and preparing SEC no-action requests where we believe appropriate grounds exist to do so. This estimate also does not include the time spent by company staff and management engaging with the proponent to discuss issues raised by the proposal and seeking common ground on those issues.

Each co-filing submitted for a proposal also entails, in our estimation, at least 25 hours of incremental company staff time involved in reviewing the co-filing; verifying the co-filer meets eligibility requirements; following up with correspondence where eligibility deficiencies exist; and reviewing and assessing responses to those deficiency notices. In the 2019 proxy season, the company received over 70 co-filer submissions. For the 2020 proxy season, we received 14 proposal submissions involving over 50 co-filers.

While recognizing the significant direct costs as well as the expenditure of valuable corporate time and resources involved in the shareholder proposal process, ExxonMobil supports that process and the ability of smaller shareholders to participate. Thus we support leaving the lowest

¹ We understand many companies may be reluctant to submit their own comment letters on the Proposed Rules as well as the accompanying release regarding Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice due to concerns about negative repercussions from proxy advisors or others, especially with the 2020 proxy season in progress. We urge the Commission not to view a relative lack of comment letters from individual companies as indicating a lack of interest in these topics.

² Letter in response to the Proxy Process Roundtable from Exxon Mobil Corporation dated July 26, 2019 (the "Prior Letter")

ownership threshold for submitting a proposal unchanged at \$2,000. However we also support extending the minimum holding period for this investment level to three years. Given this low investment threshold, we believe a longer holding period is appropriate to help ensure smaller shareholders who submit proposals have a legitimate long-term investment in, and commitment to, the company and the interests of its other shareholders.

Lengthening the minimum holding period to three years will not eliminate the potential for abuse of the intended purpose of the shareholder proposal process (i.e., providing a mechanism for shareholders to bring issues of relevance to the attention of other shareholders in their capacity as investors). But we believe the three year holding period strikes a more reasonable balance in light of the low minimum investment requirement and will help limit the proposal process to investors with a legitimate long-term interest in the company.

ExxonMobil currently has over three million separate shareholder accounts. Having a shareholder proposal and supporting statement of up to 500 words included in ExxonMobil's proxy statement for an investment of \$2,000 represents perhaps the lowest cost targeted bulk mail option available for persons or groups seeking to draw attention to a particular social or political issue of interest to the proponent.³ A prominent NGO once openly admitted to us the group had purchased \$2,000 of ExxonMobil stock and held the stock for one year solely in order to gain access to our proxy statement, which in addition to wide distribution to our shareholders tends to achieve a relatively a high level of media attention.⁴ We note that among the many smaller shareholders who regularly submit shareholder proposals to ExxonMobil, including a number of religious orders, essentially all have held at least a \$2,000 investment for many years if not decades and will be unaffected by the extension of the holding period requirement.

We also support the tiered approach of balancing shorter minimum holding periods of two years or one year against larger investments of \$15,000 or \$25,000, respectively. We believe this tiered approach strikes an elegant equilibrium by providing a shorter minimum holding period for investors with relatively larger minimum investments indicating an investment perspective and interest in the company more likely to be shared by other shareholders *as shareholders*. It will also help reduce potential abuse of the shareholder proposal process by persons whose interests lie in obtaining a high-profile platform for publicity for themselves or their causes, rather than pursuing the long-term best interest of ExxonMobil as investors.

With respect to Request for Comment 11, we strongly support the provision in the Proposed Rules that shareholdings should not be aggregated for purposes of meeting the minimum investment levels. We believe these investment levels already strike a balance which ensures

³ In our experience, a number of proponents appear to be motivated more by a desire to achieve a visible platform for their views than in advancing the interests of ExxonMobil shareholders. This is particularly evident in cases where proponents have declined to withdraw proposals even though ExxonMobil agrees to take, or demonstrates that it has already taken, the actions requested by the proposal. And of course the cost per mailing decreases to a *de minimis* amount when the same investment is used to submit or resubmit the same proposal over multiple years.

⁴ See also discussion below of certain proponent representatives in response to Sections C and D of the Proposed Rules and Exhibit A to this letter as referenced in that discussion.

smaller shareholders can avail themselves of the shareholder proposal process. Allowing aggregation of holdings would render these already low levels of minimum investment effectively meaningless for this purpose and upset the balance the Commission has carefully struck between helping ensure the shareholder process is used for its intended purpose and reducing the potential for abuse.⁵

With respect to Request for Comment 5, while we support the Commission's proposal to retain the minimum level of required investment for submission of a shareholder proposal at the \$2,000 level – balanced with the addition of an extended holding period – we strongly urge the Commission to include provisions in the final rules for automatic future adjustment of each of the dollar thresholds for inflation. Such adjustments could be made every three years to avoid small annual changes.

Adjusting for inflation alone, the real value of the \$2,000 investment threshold established in 1989 has already declined approximately 35%.⁶ The history of Rule 14a-8, including the 30 years that have passed since the ownership thresholds were last revised, suggests such provisions are not likely to be revisited frequently in the future. Should another 30 or more years pass without change, inflation comparable to historical levels would render the real value of the minimum investment for submitting a proposal a mere fraction of the \$2,000 figure established in 1989 and upend the balance between making the process available to smaller investors and the real costs of each shareholder proposal for companies and other shareholders.

With respect to the issue of co-filers raised in Request for Comment 13, co-filers, especially when present in large numbers, consume substantial additional time and resources for companies and shareholders. Large numbers of co-filers also introduce complexity and uncertainty into the shareholder proposal process. This uncertainty can undermine the ability of companies and proponents to engage in a productive dialogue leading to mutual agreement, which should be the optimal outcome for all well-intentioned participants in the process. We appreciate the guidance in Staff Legal Bulletin 14C, which provides some relief to companies by allowing proposals to be withdrawn by the lead filer where the co-filers have clearly authorized the lead filer to do so. However an unfair burden remains on companies in dealing with co-filers and the Commission should go further to help ensure the presence of co-filers does not undermine effective engagement between companies and their shareholders.

As previously indicated, ExxonMobil typically receives many co-filers on some proposals. In the 2019 proxy season, we received one proposal with over 40 co-filers and another with over 20. In most cases, co-filers appreciate the need to identify a designated lead filer with authority to conduct negotiations and agree to a withdrawal. However with large co-filer groups, such

⁵ Aggregation of holdings would be more appropriate in jurisdictions such as the UK in which we understand eligibility to submit a shareholder proposal is limited to holders of 5% of a company's outstanding shares or to shareholder groups containing a minimum of 100 eligible members. We understand a similar 5% threshold applies in France. We note a French-listed banking company has submitted a shareholder proposal to ExxonMobil this season while itself being effectively insulated from similar proposals from all but its top few shareholders.

⁶ In other words, the real cost of the \$2,000 minimum investment today is only approximately \$1,300 in 1989 dollars.

evidence of authority is not always provided initially by all co-filers and can require extended follow-up efforts by the company to verify the lead filer's authority to act for all co-filers. In our experience, it is not uncommon for some co-filers to make an initial submission which may or may not include sufficient proof of ownership and not be heard from again. Some do not respond to follow-up letters or emails, and in some cases do not provide contact information beyond a post office box.

We believe basic fairness requires either that (i) co-filers clearly designate a lead filer with authority to negotiate, including to withdraw a proposal, at the time of their submission, or be subject to exclusion; or (ii) the simple act of co-filing be deemed an authorization for the lead filer to act in all respects on behalf of the filing group, even if a co-filer has not included specific language to that effect in its submission. The burden for coordinating the activities of a filing group should rest *on that group*, not the company.

The designation of a lead filer does not necessarily mean co-filers surrender authority to participate in the shareholder proposal process. A filing group is free to determine whatever mode of internal governance the group prefers, which could include, for example, discussion with co-filers before the lead filer agrees to a withdrawal. But the governance mechanics of a filing group should be a matter for that group to negotiate among its members, not a source of additional work and obligation for companies. Regardless of the number of co-filers, the company should be entitled to treat one lead filer as the point of contact for dealings with respect to a proposal.

We have received proposals from groups or individuals indicating they wish to co-file a proposal but without a clear identification of the lead filer, or with conflicting information on the point. In these cases, as a matter of basic fairness and efficiency, companies should be entitled to treat the first filing received as the lead filer.

We have also encountered a development in recent years in which two or more proponents purport to act as "co-lead-filers." While it is not entirely clear what is intended by this designation, we urge the Commission to clarify that a proposal with multiple co-filers is only entitled to be represented by a single lead filer. In our view, co-lead-filers, who presumably retain separate and independent rights to agree or not agree to withdraw a proposal, do not constitute a co-filing group but are legally and practically indistinguishable from separate proponents of identical proposals, at least one of which should be excludable under Rule 14a-8(i)(11).

Lastly, as a procedural measure, we ask that companies be allowed to exclude co-filers of proposals who fail properly to verify ownership without the need to submit a full no-action letter request to the staff outlining the technical basis for exclusion. The integrity of the shareholder proposal process requires all participants to respect the requirements of Rule 14a-8. Accordingly we believe it is important to require each co-filer to demonstrate eligible share ownership and we apply the same standards for sending deficiency notices in appropriate cases to co-filers as for single proponents or lead filers. To do otherwise would effectively waive the requirement for share ownership on the part of co-filers. However, this sometimes results in an outcome

whereby a particular proposal is included in our proxy statement, even though some number of purported co-filers fail to demonstrate eligible share ownership. In these cases it is rarely a justifiable use of company or SEC resources to submit no-action letters solely for the purpose of excluding certain co-filers on the basis of eligibility deficiencies. Where a lead-filer has met the eligibility requirements to submit a proposal, companies should be able to exclude co-filers who fail properly to demonstrate minimum required ownership, either at the companies' own risk or with a short-form notice to the Staff and the co-filer with which active Staff concurrence would not be needed.

Request for Comment 16 dealing with the staff's current role in the shareholder proposal process is discussed later in this letter under General Request for Comment.

B. Proposals Submitted on Behalf of Shareholders

C. The Role of the Shareholder-Proposal Process in Shareholder Engagement

Request for Comment 17-21; Request for Comment 22-28

We are providing our comments on Sections B and C of the Proposed Rules in a combined discussion as both sections address current abuses of the shareholder proposal system by professional proponent representatives (also known as "proposals by proxy") whose interests are not aligned with the interests of actual shareholders.

As outlined in our Prior Letter, ExxonMobil has extensive experience dealing with proposals submitted by proponent representatives who themselves hold no ExxonMobil shares and have no economic interest in the company or in long-term value creation for our shareholders. In these cases, the proponent representative submits the proposal; acts as sole point of contact for discussions regarding the proposal, including responding to any deficiency notice; participates in engagements with the company concerning the proposal; handles negotiations; enters into agreements regarding potential withdrawal of the proposal; submits arguments to the SEC staff, if applicable, in response to no-action requests filed by the company with respect to the proposal; engages in solicitation activities in support of proposals included in the proxy statement; and otherwise acts in all respects as the proponent of the proposal. In these cases, visible involvement of the actual ExxonMobil shareholder on whose behalf the representative purports to act is almost always limited to a signature on an initial "proxy" that effectively lends the shareholder's ExxonMobil stock to the proponent representative. We are not aware of a case involving a proposal by proxy in which the actual beneficial owner of shares has participated in dialogue with the company concerning the proposal or has held any contact with the company about the proposal other than execution of an authorization paper, which often does not include contact information for the shareholder.

Since our Prior Letter, we have gained further information regarding the manner in which certain proponent representatives prepare and handle proposals, demonstrating that the "representative" in fact acts as the proponent of the proposal they submit despite having no eligible share ownership. Attached as Exhibit A to this letter are excerpts from sworn trial and deposition testimony in connection with recent litigation brought by the New York Attorney General

against ExxonMobil, in which the court found in favor of ExxonMobil on all counts. Representatives of two frequent ExxonMobil proponent representatives, Arjuna Capital, an investment adviser, and As You Sow, an activist organization, were named as potential witnesses against ExxonMobil by the plaintiff. Natasha Lamb, a Managing Director of Arjuna Capital, appeared and testified at trial as the plaintiff's initial witness. In the course of her testimony, Ms. Lamb made clear Arjuna does not invest accounts under its management in ExxonMobil stock and does not advise its clients to invest in ExxonMobil. Nevertheless, the firm has taken an active role in submitting shareholder proposals to ExxonMobil by proxy for every annual shareholders' meeting since the firm became an independent organization in 2013. The trial and deposition testimony of Ms. Lamb and the deposition testimony of Danielle Fugere, General Counsel of As You Sow, explains that these representatives, often working together, first identify an issue and a target company; then develop the wording of a particular proposal; and then seek a holder of ExxonMobil stock willing to provide a proxy for submission of the proposal.⁷ The proxy filers generally have no contact with the shareholder on whose behalf they purport to act, and the shareholder has little or no involvement in negotiations concerning potential withdrawal of the proposal.

Given that Arjuna Capital neither invests in nor recommends ExxonMobil stock, but instead markets "Fossil Free" funds whose relative performance compared to the S&P 500 benefits from any underperformance by ExxonMobil, the motivation for the firm's active campaign of submitting shareholder proposals to the company has little to do with furthering the general interests of ExxonMobil shareholders. Rather, the testimony makes clear that Arjuna Capital submits proposals to further its broad public policy objectives; to benefit portfolio investments other than ExxonMobil; to attract new clients with compatible public policy views; and to enhance the professional standing of the proponent representatives.⁸ These are not proper uses of the shareholder proposal process, regardless of how sincere some proponents by proxy may be in their motivations or objectives. Rule 14a-8 is intended to regularize the process by which *shareholders* of a company are able to bring forward appropriate issues involving the company for consideration by other shareholders. It is not intended as a vehicle for advocacy on issues of public policy.

We commend the Commission for taking positive steps to counter the abuse of the shareholder proposal process that proposals by proxy have become, including requiring shareholders to provide more specific documentation in support of a proposal purportedly submitted on their behalf, as well as proposed requirements for the actual shareholder to be available to participate in engagements with the company. Although we view these proposed measures as positive steps, we believe the current proposals do not go far enough. Our experience and the evidence cited above make clear the professional proponents by proxy are highly sophisticated, experienced, and motivated to continue their actions. We anticipate these groups will modify the documentation they obtain from an amenable shareholder and perhaps begin including a shareholder on conference calls with the company (a call in which the shareholder need not

⁷ We note the President of Arjuna Capital has now himself purchased sufficient ExxonMobil shares for the purpose, according to the testimony, of being able to provide the firm with his proxy to submit shareholder proposals.

⁸ Arjuna Capital's business model in fact benefits if a shareholder proposal they file has a *negative* impact on ExxonMobil's business or reputation.

actively participate), thereby meeting the letter of the new requirements while continuing for all intents and purposes to operate in the same manner as before: formulating and drafting proposals, handling engagement and negotiation of proposals, and effectively serving as the proponent of proposals in service to their own agendas while treating the actual shareholder as a technicality to be managed. By comparison, we are not aware of companies' delegating their responsibilities for engaging with proponents to third-party advisors or representatives.

We therefore urge the Commission to return the shareholder proposal process to its intended purpose of facilitating engagement between companies and shareholders, not between companies and professional intermediaries who may have no economic interest in the company and are pursuing agendas of their own. Under this approach, proposals must be submitted directly by a natural person shareholder meeting the minimum eligibility requirements; companies would communicate with that shareholder in connection with any deficiencies in the shareholder's submission; engagement and dialogue regarding the proposal would take place between the company and the shareholder; and the shareholder would determine whether and on what terms to withdraw a proposal. Proposals by proxy would not be permitted.

Prohibiting proposals by proxy and limiting the availability of the shareholder proposal process to natural-person shareholders is a necessary response to the demonstrated abuse proposals by proxy have become. This would in no way prevent shareholders who wish to submit a proposal from obtaining assistance, including from experienced proponents or activist groups, in complying with Rule 14a-8.⁹ A potential need by some shareholders for assistance, however, does not justify a framework in which the driving force behind a proposal is a person or group holding no economic interest in the company, and in which shareholders serve as mere afterthoughts in a process originally intended for their benefit.

With respect to Request for Comment 28, ExxonMobil regularly engages with investors large and small through a variety of forums outside the shareholder proposal process, including correspondence, conference calls, and meetings. We encourage these engagements and take shareholder questions and concerns seriously regardless of how the shareholder chooses to engage. In fact we find engagements outside the shareholder proposal process to be more productive and effective. Engagements through shareholder proposals are constrained by the tight timeframes of the proxy process. The regulatory overlay of Rule 14a-8 can also sometimes

⁹ We note, however, that despite the complexities of Rule 14a-8 often cited by advocates of proposals by proxy as a rationale for their role, ExxonMobil has received a number of proposals directly from smaller shareholders making their first submissions who have been able to satisfy the requirements of Rule 14a-8 without apparent difficulty, including cases in which the company unsuccessfully sought SEC concurrence to exclude a proposal. See, for example, the proposal requesting a report on compensation of women in a particular format submitted by individual shareholder and first-time proponent Eve Sprunt included in the proxy statement for ExxonMobil's 2015 annual meeting, and successfully resubmitted in varying forms and included in the proxy statements for ExxonMobil's 2016 and 2017 annual meetings. It would not appear to be an overwhelming burden for individual first-time proponents to comply with Rule 14a-8, and some of the most prolific proposal filers are individuals acting alone. Rule 14a-8 is written in a "plain English" question-and-answer format that is usable and understandable without the need for specialized expertise. Staff Legal Bulletins and other staff guidance also make clear that companies must provide clear and specific notice to proponents of the actions they must take to correct any technical deficiencies in a proposal submission.

create an adversarial tone not present in engagements outside the formal proposal framework. We regularly advise filers of shareholder proposals they do not need to submit a proposal in order to receive the same level of attention from the company.

D. One-Proposal Limit

Request for Comment 29-36

As discussed in more detail above in connection with Sections B and C of the Proposed Rules, we believe our experience, as well as the testimony of active proponents by proxy, makes clear that allowing proposals to be submitted by “representatives” of the actual shareholder has enabled significant abuse and a distortion of the fundamental purpose of the shareholder proposal process. As a result, per Request for Comment 31, we strongly recommend the Commission modify Rule 14a-8 to require that proposals must be submitted only by natural-person shareholders. This change would not limit the ability of natural-person shareholder proponents to obtain advice or assistance in the preparation and filing of their proposals.

With respect to Request for Comment 32, while we commend the Commission for recognizing the growing abuse of proposals submitted by representatives, as previously noted we are skeptical that the additional disclosure and other requirements contained in the Proposed Rules will truly be effective in ensuring that actual shareholders, not non-shareholders pursuing agendas of their own, regain their proper role as the actual proponents of shareholder proposals. Nor do we believe disclosure alone as contemplated by Request for Comment 32 will be effective or sufficient for correcting this problem.¹⁰

Should the Commission not limit the shareholder proposal process to natural-person shareholders as we recommend, we strongly support, at a minimum, adoption of the one proposal per person (rather than per shareholder) limit in the Proposed Rules. We fully agree with the Commission’s reasoning for adopting the one-proposal limit in the first place, including that multiple proposals by the same shareholder would represent an “unreasonable exercise of the right to submit proposals at the expense of other shareholders” and may “tend to obscure other material matters in the proxy statement of issuers, thereby reducing the effectiveness of such documents.”¹¹ This reasoning applies equally if not more so to representatives who submit proposals. As noted in our Prior Letter, in the 2019 proxy season an NGO which itself owns no shares of ExxonMobil stock acted as lead filer or co-filer on five different proposals submitted to ExxonMobil. It is paradoxical if not absurd for non-shareholders to be treated more favorably than actual shareholders by being able to submit an unlimited number of proposals while true shareholders remain properly limited to one proposal per meeting.

¹⁰ With respect to Request for Comment 21, we do not believe the ability of a proponent representative to obtain proof of ownership should in itself constitute evidence of the actual shareholder’s active interest in the proposal. For example, in many cases proposals are submitted by persons or entities acting as trustees or investment advisers for the actual shareholder, and those entities would be expected to have access to ownership documentation in the normal course of their business regardless of the shareholder’s interest in, or true support for, the submitted proposal.

¹¹ Proposed Rules, p. 37

Request for Comment 34 asks whether the Commission should consider a limit on the total number of shareholder proposals per meeting. Although ExxonMobil receives large numbers of shareholder proposals (including 29 proposal submissions in 2008, 17 of which were ultimately included in our proxy statement), we do not support an arbitrary limit on the number of proposals. Such an approach could prevent an issue that merits consideration by shareholders from being brought forth in a timely manner. Such a limitation would also require procedures for selecting included proposals when the number of submissions exceeds the limit. Such procedures would likely be complex and difficult to implement without creating unintended or unfair results.

We believe the amendments contained in the Proposed Rules, together with the additional changes we recommend in this letter, will result in a shareholder proposal process in which (i) true shareholders large or small are able to submit proposals; (ii) appropriate proposals will have a fair and reasonable opportunity to be considered by all shareholders; and (iii) proposals that shareholders have fully considered and repeatedly rejected would not become perpetual features of company proxy statements.¹² This reformed process will be more reasonable and appropriate than an arbitrary numeric limit on proposals.

E. Rule 14a-8(i)(12) – Resubmissions

Request for Comment 37-44

We strongly support the Commission's proposal to increase the resubmission thresholds for repeat proposals. As noted in the Proposed Rules, the corporate governance landscape has changed dramatically since the existing 3%, 6%, and 10% thresholds were established in 1954. At that time, a 10% level of support represented a significant level of shareholder interest. Circumstances are far different today. Institutional investors have become much more active in proxy voting. The largest funds, including both index fund managers¹³ and the larger actively managed funds, typically have staff groups dedicated to assessing the governance of portfolio companies, including engaging with company management and proponents, and casting informed, considered votes on shareholder proposals. The high degree of influence wielded by proxy advisory firms also represents a sea-change in the voting landscape. The voting recommendations of the two principal proxy advisory firms carry significant influence with institutional investors. In the case of Institutional Shareholder Services ("ISS"), our own data¹⁴ shows that shares held by certain institutional investors representing up to 20% of votes cast at our annual meeting are automatically voted in accordance with ISS recommendations immediately upon issuance of ISS's benchmark voting report. Today, ISS in and of itself carries two or three times the voting power of our largest actual shareholder and is able to guarantee endless resubmission of a proposal, even when the proposal has been repeatedly rejected by a

¹² See discussion of resubmission thresholds below.

¹³ The three largest US index fund groups alone together currently hold well over 15% of ExxonMobil's shares.

¹⁴ See Prior Letter; also comments submitted by Exxon Mobil Corporation on Release No. 34-87457, Amendments to Exemptions from the Proxy Rules for Proxy Voting Advice.

substantial majority of shares voted and has failed to demonstrate a sustained trend of increasing support.

As noted in our Prior Letter, a proposal calling for an independent chair has been voted on and rejected by our shareholders 19 times so far, a period during which three different individuals have served as CEO, and has already been submitted for inclusion in the proxy statement for our 2020 annual meeting. In discussions with the proponent's representative last year,¹⁵ the representative indicated the proposal would continue to be resubmitted in perpetuity unless and until the proposal achieves majority support.¹⁶ A proposal calling for additional detail regarding political activities of trade associations to which the company belongs has been voted on and rejected seven times so far and has been resubmitted for our 2020 annual meeting in three different forms.

In ExxonMobil's experience dealing with hundreds of shareholder proposals over the past few decades, (i) we have seen no proposal that initially received less than 10% support grow to achieve majority support; and (ii) we have seen no proposal achieve majority support that did not do so within two years of initial submission. Specifically, we have seen three shareholder proposals not supported by the Board achieve majority support since the original adoption of Rule 14a-8.¹⁷ In one case, the proposal received majority support in the first year of submission. In the other two cases, one proposal received support in excess of 38% and another proposal received support in excess of 49% in the first year of submission, and both proposals received majority support in the second year.

ExxonMobil's long-term repeat proposals, all of which enjoy a 15-20% minimum "floor" vote due to votes cast automatically in accordance with proxy advisor recommendations in favor of those proposals, tend to remain relatively stagnant in the 30-40% range. The votes in favor may vary year to year up or down, but do not show a sustained long-term trend of either gaining or losing support. For example, the 20-year independent chair proposal previously discussed received almost identical levels of support of 38.7%, 38.3%, and 38.7% at our 2018, 2017, and 2016 annual meetings respectively.¹⁸ The proposal received a modest increase in votes in 2019 to 40.7% but we believe this small increase had less to do with a change in investor views on the merits of an independent chair and more to do with an exempt solicitation campaign conducted last year by a disgruntled proponent whose own proposal had been excluded from the proxy statement with no-action concurrence by the staff. The proponent urged shareholders to express displeasure at the company for the exclusion of his proposal by voting for the independent chair

¹⁵ The proposal is typically submitted by a trustee for various trusts that hold ExxonMobil shares for their beneficiary shareholders.

¹⁶ Perpetual submission of this proposal appears to have been engineered into the estate plan of the proposal's original proponent. The filer referenced in note 15 above appears to represent a family office for trusts of persons related to the original proponent.

¹⁷ These include a proposal for majority voting for directors; a proposal to adopt proxy access; and a proposal requesting a report on the company's business prospects and strategy under a hypothetical "2 degree Celsius scenario" for limiting future global greenhouse gas emissions.

¹⁸ This support level reflects endorsement by proxy advisors as well as generally uniform support from institutional investors in the EU, where this governance structure is the norm.

resolution and against the Board's recommendation on various other matters.¹⁹ Nevertheless, last season's 40.7% vote was essentially the same as the proposal's previous high vote of 40% achieved 13 years ago in 2007.

We recognize a 30-40% vote in favor of a proposal indicates a significant level of support by some shareholders, even taking into account the automatic ISS vote. But such votes also represent a rejection of the proposal by 60-70% of voting shareholders, and under the current resubmission thresholds, even as proposed to be amended by the Proposed Rules, the clearly expressed will of a majority of shareholders is being ignored.

In addition to costs and Board, management, and company staff time incurred in addressing resubmitted proposals, which we do not estimate to be materially different from the cost and time required for first-time submissions, repeat submissions also exact a cost of time and attention on all shareholders that should not be overlooked: both for larger institutional investors who assess and make voting decisions on a case by case basis each year, and on smaller individual shareholders asked to vote on the same issues year after year.

Long-term resubmitted proposals are a significant driver of the large number of proposals included in ExxonMobil's proxy statement each year. Considering the efforts needed to engage effectively with the proponent of each proposal, including aligning schedules of multiple parties and gathering necessary information in order to conduct meaningful engagement within a compressed period of time, large numbers of proposals place a significant strain on the typically small staff of even a large company's Corporate Secretary and reduce the ability of the company to engage meaningfully with proponents to discuss their concerns.

More importantly, large numbers of shareholder proposals "tend to obscure other material matters in the proxy statement of issuers, thereby reducing the effectiveness of such documents,"²⁰ and place an unreasonable burden on other shareholders. This is especially true for smaller individual shareholders who may be incentivized not to vote at all rather than face the daunting task of wading through the arguments pro and con on a dozen or more shareholder proposals.

Participation by retail investors in proxy voting stands at relatively low levels. Typically only about 20% of our retail shareholders vote their proxies at our annual meeting. We believe the inclusion of large numbers of shareholder proposals in the proxy statement, many of which have been voted on and rejected many years in a row, contributes to this unfortunate situation. Retail shareholders faced with the same proposals again and again may come to feel, with some justification, their votes do not matter.

Large numbers of shareholder proposals also tend to turn the annual meeting of shareholders into an "annual shareholder proposal meeting," with significant time consumed by presentation and discussion of relatively narrow issues of interest to a particular proponent. This "airing of

¹⁹ <https://www.sec.gov/Archives/edgar/data/34088/000121465919003308/j59190px14a6g.htm>

²⁰ See note 11, *supra*

grievances” can overwhelm the key purpose of the meeting: to provide an opportunity for shareholders to hear about the business of the company directly from management and for shareholders in attendance to raise questions to management about the company’s business and results.

In short, we reiterate our call for higher resubmission thresholds of 10%, 25%, and 50%. Based on our extensive experience as described above (and generally consistent with the findings of the Council of Institutional Investors report cited in the Proposed Rules), proposals that receive single-digit support on first submission rarely if ever grow to a significant level of support. Proposals endorsed by ISS (especially if also endorsed by Glass Lewis) are virtually guaranteed to achieve a 25% level of support, and will either achieve majority support in three submissions or less or will stagnate at a level of support somewhere above 25% and remain within a limited range of support indefinitely. We believe our proposed thresholds fairly and reasonably reflect the current realities of proxy voting for US public companies.

It is important to recognize that, as the Proposed Rules explain, failing to achieve the minimum resubmission threshold does not signal the end of a proposal or the initiative behind it. Failing to meet the resubmission threshold for a particular company only triggers a “cooling off” period for resubmission of substantially the same proposal to the same company, after which proponents are free to try again. If during that period the proposal has gained additional support, this will be reflected when the proposal is again submitted. During the cooling off period for a particular company proponents are also free to submit the proposal to other companies, so the issue represented by the proposal need not be taken off the table of investor attention and may continue to gain momentum if general investor support in fact grows. Accordingly we do not believe higher resubmission thresholds would impede the ability of a proposal to gain support gradually (even though we have not witnessed that phenomenon in practice) and eventually become a proposal that routinely achieves majority support such as proposals on classified boards, poison pills, majority voting, and proxy access.

Needless to say, if the Commission is not convinced that higher resubmission thresholds are appropriate, we support, at a minimum, the 5%, 15% and 25% thresholds in the Proposed Rules.

We also strongly support the innovative “momentum” concept introduced in the Proposed Rules, under which a proposal achieving greater than 25% support but less than 50% support would be subject to a cooling off period if the level of support decreases by 10% year-over-year. Three or more submissions in a five-year period provides proponents with sufficient opportunity to advocate in favor of the proposal and provides shareholders ample opportunity to consider the proposal and determine their positions for or against. Therefore we agree a decline in support year-over-year for such a proposal demonstrates the absence of momentum likely to lead to passage. Such proposals deserve a cooling off period.

We further recommend expanding the momentum rule to include proposals that have been submitted to shareholders at least three times in a five-year period and have not received at least a 10% increase in support year-over-year in the most recent year of submission. For ExxonMobil, multi-year repeat proposals, such as the 20-year independent chair proposal

previously discussed, tend to stagnate within a relatively narrow range of support representing endorsement by proxy advisors plus the existence of a certain number of additional investors with established voting guidelines in favor of the proposal. Proxy advisor and institutional investor voting guidelines are not often revised to reverse positions on particular issues. Thus in our experience, a 10% decline in support year to year would be unusual and would not capture many so-called “zombie” proposals that also lack momentum.

We believe these stagnant proposals, like proposals that have experienced a decline in support, similarly represent matters for which proponents have had ample opportunity to advocate and which the broad shareholder base has had ample opportunity to consider. In such cases, the absence of ongoing growth in support provides compelling evidence the proposal is not on a path to eventual passage. Such proposals similarly deserve a cooling off period. Such a modified momentum rule would provide an appropriate cooling off period for stagnant proposals, while allowing proposals with real momentum to remain on company ballots.

In short, even if there has not been a 10% decline in support year to year, we believe basic fairness and respect for the expressed will of a majority of company shareholders warrants an “enough is enough” threshold after which any proposal that has been fully considered by shareholders and rejected should be subject to a cooling off period. Perhaps the number of submissions without passage required to trigger this “enough is enough” threshold is more than three, but the threshold should certainly be less than 20.

General Request for Comment

The Proposed Rules focus primarily on the shareholder eligibility and proposal resubmission thresholds of Rule 14a-8. However, recognizing the infrequency of amendments to Rule 14a-8, we believe it would be appropriate for the Commission to explore potentially broader reform of the shareholder proposal process as reflected in Request for Comment 16, as well in the statement of Commissioner Peirce at the open meeting at which the Proposal Rules were approved.²¹ In her statement, Commissioner Peirce said:

The proposal largely preserves the existing system, in which the SEC and our staff play an active role in deciding whether shareholder proposals are on or off the ballot. There might be alternative, better approaches. Should these decisions be left to the states to regulate? If the SEC is to be involved in deciding what is and is not on the proxy, should it be the Commission, rather than the staff in the Division of Corporation Finance, that weighs in?

We believe several trends and factors support a broader consideration of potential alternative approaches to the current shareholder proposal process.

²¹ Statement at Open Meeting on Proposed Amendments to Modernize Shareholder Proposal Rule of Commissioner Hester M. Peirce dated November 5, 2019.

First, we recognize the tremendous work load undertaken by the Commission staff each year dealing with no-action requests under Rule 14a-8. Due to the large number of shareholder proposals submitted each year to ExxonMobil, we typically submit a relatively large number of no-action requests to the staff each year. Given the size of our shareholder base (over three million accounts) we also typically have an early print deadline to ensure our proxy statement is printed, packaged, and ready for distribution to shareholders in time for our annual meeting. Despite these challenges, we have never had a case where the staff failed to respond to a no-action request before our print deadline, even during the 2019 proxy season when many critical Commission work days were lost due to the government shutdown. We deeply appreciate and applaud the staff's impressive commitment to responding to no-action requests on a timely basis, and know this commitment requires many long hours of work.

We also recognize the Commission's resources are not infinite. Issues beyond shareholder proposals are of importance and interest for the Commission to address. These include the trend of newer growth companies delaying their initial public offerings or not going public at all – trends which, as the Commission noted in its recent proposal to amend the definition of “accredited investor,” have the effect of freezing many retail investors out of attractive investment opportunities. Of course addressing these kinds of issues is in addition to the Commission's many ongoing responsibilities, including reviewing and declaring effective initial and merger registration statements, reviewing and commenting on public company disclosures, and enforcing the securities laws.

We understand steps the staff has taken this year to help address the perhaps inordinate “call” on Commission resources made by Rule 14a-8, such as by responding to some no-action requests informally as well as potentially declining to respond on certain issues.

Also of relevance are recent trends we believe demonstrate the beginnings of a breakdown of the long-standing practice whereby both issuers and proponents have generally accepted SEC staff no-action determinations to resolve disagreements about inclusion of a proposal in a company's proxy statement. As noted previously in this letter, in the 2019 proxy season a proponent whose proposal was omitted from our proxy statement after the staff issued a no-action letter supporting the company's position initiated an exempt solicitation against the company on other proposals, accusing the company of a “governance failure” not only in excluding the proponent's proposal but in seeking the staff's opinion on exclusion in the first place. Similarly at least one proxy advisor has threatened to recommend votes against directors of companies who exclude certain shareholder proposals, even when the SEC staff has concurred with the company's no-action request.²²

²² “Glass Lewis will also be making note of instances where the SEC has allowed companies to exclude shareholder proposals, which may result in recommendations against members of the governance committee. In recent years, we have seen the dynamic nature of the considerations given by the SEC when determining whether companies may exclude certain shareholder proposals. We understand that not all shareholder proposals serve the long-term interests of shareholders and value and respect the limitations placed on shareholder proponents when submitting proposals to a vote of shareholders, as certain shareholder proposals can unduly burden companies. However, in the event that we believe that the exclusion of a shareholder proposal was detrimental to shareholders, we may,

The factors noted above suggest the Commission's current role as arbiter of both shareholder eligibility to submit a proposal, as well as the substantive appropriateness of a particular proposal for inclusion in a company's proxy statement, may be ripe for reconsideration. We do not believe Section 14(a) requires the Commission or its Staff to play the deeply involved role it currently carries out under Rule 14a-8.²³ In 1983, the Commission considered the possibility of three significantly different approaches to shareholder proposals: effectively continuing the current process under Rule 14a-8, whereby Commission Staff makes case-by-case rulings on both technical and substantive questions with respect to proposals; an alternative approach, similar to that raised by Request for Comment 34, in which the Staff would not make decisions on the appropriateness of particular submissions, but under which any proposal submitted by an eligible shareholder would be included in a company proxy statement subject to a maximum limit (an approach that, as previously discussed, we do not support); and a third alternative under which the shareholder proposal process would be privately ordered under state law such as through company by-law provisions.

This third approach received favorable law review comment in connection with the Commission's 1983 consideration,²⁴ and the idea was resurrected in a recent piece published by a major law firm.²⁵ The concept of private ordering of the shareholder proposal process via company by-laws seems consistent with the status of the annual meeting of shareholders as a creature of state-law. The shareholder proposal process deals with the ability of shareholders to raise items of business at the meeting, which at heart also constitutes a question of state law.

Allowing the shareholder proposal process to be governed under state law via company by-laws could offer a number of advantages, in addition to alleviating the burden on the SEC of its current role under Rule 14a-8. By-laws can be tailored to meet the particular facts and circumstances of the individual company, including the desires of its particular shareholders. Such provisions could prove a win-win for both companies and investors by bringing greater certainty and simplicity to the shareholder proposal process and allow compromises to be struck that benefit all participants. Moreover, to the extent shareholder proposal issues in a state-law system are disputed, the issues would be addressed in state courts where a consistent body of law could be expected to develop as opposed to conflicting decisions in different federal courts that are already a reality in litigation brought under Rule 14a-8.²⁶ By-law provisions would also be more flexible and easily modified to adjust to changing conditions or shareholder perspectives.

in very limited circumstances, recommend against the members of the governance committee."

<https://corpgov.law.harvard.edu/2018/11/09/glass-lewis-shareholder-initiative-guidelines/>

²³ Compare the length and detail of Rule 14a-8 with Rule 14a-4(c), governing disclosure and discretionary voting requirements for certain matters to be raised by a shareholder outside the Rule 14a-8 process.

²⁴ Susan W. Liebeler, *A Proposal to Rescind the Shareholder Proposal Rule*, 18 GA. L. REV. 425 (1984).

²⁵ "Our Perspective: SEC Should Truly Take 'No-Action' on Rule 14a-8 Shareholder Proposal Requests," <https://www.jonesday.com/en/insights/2019/08/our-perspective-sec-should-truly-take>

²⁶ It would be expected that a state body of law regarding shareholder proposals would primarily develop in Delaware, where many public companies are incorporated and which has the advantage of an expedited system for corporate litigation.

We recognize some proponents may argue that changing the shareholder proposal process from a federal process administered by the SEC to a state-law process governed by company by-laws could result in companies' excluding all proposals or otherwise acting unreasonably. We do not believe such a concern would be realistic in the modern corporate governance era. Investors as well as proxy advisors will insist that companies maintain reasonable procedures for the submission and consideration of shareholder proposals, and such provisions would be developed by companies in close consultation with shareholders much as the more detailed provisions of special meeting and proxy access by-laws have been developed through engagement among companies and investors. Investors today are not hesitant to use director votes and other mechanisms at their disposal to achieve governance outcomes they desire, and we believe, in the absence of Rule 14a-8, companies would be required by their investors to develop reasonable by-law provisions dealing with shareholder proposals. Rule 14a-8 could be retained as a "safeguard" provision applicable to companies that have not adopted their own provisions governing shareholder proposals.

We fully appreciate the concepts raised above would represent a significant change in the current shareholder proposal process. However these concepts are not novel. The above discussion is only meant to suggest that, 35 years since such issues were last formally debated, we believe a fuller consideration and discussion (including an opportunity for consideration and comment by all interested stakeholders) of this and other alternative approaches for the governance of shareholder proposals may again be timely.

Conclusion

We reiterate our praise for the Commission's initiative and effort in developing the Proposed Rules. We believe the Proposed Rules, together with the further modifications we recommend in this letter, will be effective in helping return the shareholder proposal process to its proper and intended purpose: allowing true shareholders, whether large or small, to bring forward issues for full and fair consideration by the company and its shareholders as a whole, while reducing misuse of the process. Shareholders are the owners of the company and should be enabled and empowered to engage with the company on that basis and have their views respected, whether for or against a particular proposal.

ExxonMobil would be pleased to discuss further any of the comments in this letter or to provide additional information that would be helpful in the rulemaking process. Please feel free to contact me at the phone number or email address included on my letterhead if we can provide additional assistance.

Sincerely,

A handwritten signature in cursive script that reads "Neil A. Hansen". The signature is written in black ink and is positioned centrally below the word "Sincerely,".

Neil A. Hansen,
Vice President – Investor Relations and
Secretary

EXHIBIT A

Excerpts of trial and deposition testimony in connection with *People of the State of New York v. Exxon Mobil Corporation*, Case No. 452044, Sup. Ct. N. Y. Cnty. 2019

Excerpts from trial testimony of Natasha Lamb, Managing Partner and Director of Research and Shareholder Engagement, Arjuna Capital; cross examination by Mr. Anderson for Exxon Mobil Corporation

Q Ms. Lamb, Arjuna offers investment strategies to its clients?

A Yes, we do.

Q And investment strategies are essentially model portfolios?

A That's correct.

Q None of Arjuna's model portfolios currently hold ExxonMobil stock; do they?

A That's correct.

Q None of them have ever held ExxonMobil stock, have they?

A Arjuna does have clients that have ExxonMobil stock.

Q I understand that point. My question is do any of the model portfolios that you manage hold ExxonMobil stock currently or at any point in time?

A No.

Q Now back at 2013, you testified that Arjuna was associated with Baldwin Brothers?

A We were part of Baldwin Brothers.

Q And you managed portfolios when you were at Baldwin Brothers, too; right?

A Yes.

Q When you were at Baldwin Brothers in 2013, none of the portfolios you managed included ExxonMobil stock; did they?

A No.

Q At no point from 2013 to the present have you ever managed a strategy that includes ExxonMobil stock?

A No. We had strategies and then we have clients that have custom portfolios for a variety of financial reasons.

Q My question is simply about the strategies that you managed. None of them include ExxonMobil stock today; correct?

A Not our model portfolios.

Q And none had included ExxonMobil stocks since 2013; right?

A That's right, our model portfolios don't include ExxonMobil stock.

Q And you mention these clients that you have that hold ExxonMobil stock. You have two clients that hold ExxonMobil stock; right?

A Are you referring to currently?

Q At present?

A Yes. Arjuna is now an independent firm and has two clients with ExxonMobil stock.

Q And one of them is the co-owner of the company; right?

A Yes, both a co-owner and a client.

Q And the only reason he holds ExxonMobil stock is so he can submit shareholder proposals to ExxonMobil?

A He had submitted one shareholder proposal to ExxonMobil this past year, and we're continuing to engage with the company because we're concerned about the systemic risks from climate change and our clients will be diversified in portfolios of stock and so there's a big universal investors area that's all of our companies are at risk for climate change.

Q You keep referring clients plural. You have two clients who hold ExxonMobil stock and one of them is the co-owner of the company; and the only reason he holds it is so Arjuna can submit shareholder proposals; isn't that correct?

A That is correct at the present moment, yes.

Q And the other shareholder who owns ExxonMobil stock, you don't know why she owns ExxonMobil stock; do you?

A I believe she owns it because of tax issues, and she's holding the stock at low costs.

Q I understand that's your belief. Do you know it?

A I can't confirm that because I'm not her portfolio manager.

Q Have you ever spoken with her about her Exxon holdings?

A I have not spoken with her. It's customary that the portfolio manager communicates directly with the client.

Q But you never have?

A I have not.

Q Going back to the strategies that you manage, the model portfolios. They're measured against benchmarks; right?

A That's correct.

Q And for the equity strategies that you manage, they're measured against the S&P 500?

A Both the S&P 500 and the MSCI World Index.

Q Exxon is a component of the S&P 500; isn't it?

A That's correct.

Q So holding everything else equal, if Exxon does poorly, it will tend to drag down the S&P 500; right?

A Yes.

Q And for portfolios that don't hold ExxonMobil stock, they will tend to do better against the S&P 500 – holding everything else equal – when ExxonMobil stock falls; correct?

A It depends on what energy stocks you hold. Often there's correlation between energy stocks in a given sector. So, for instance, if you held a different energy company but it was moving in a similar way to Exxon's, and it could in that instance have the same impact on your portfolio.

Q But I said holding everything else equal. So assuming that there's a company-specific event at Exxon like, for instance, this trial, and the stock goes down – holding everything else equal – that tends to drag the index down; right?

A That would be a hit to the S&P 500, that's correct.

Q And for a fund that doesn't hold ExxonMobil stock, it would do better against the index in that circumstance, holding everything else equal?

A Potentially, but if there's another stock that was moving in a similar fashion, which is common for stocks in a given industry or sector, there would be no impact.

Q So those would be other energy stocks like Chevron, BP, Shell?

A Yes, Equinor, one of those, yes.

Q And you don't hold any of those at present either; do you?

A We don't currently hold any fossil fuels in our model strategies.

...

Q So we talked about the holdings at Arjuna. Let me ask you about your recommendations because you testified that you make buy-and-sell recommendations for Arjuna.

A Yes.

Q And before you did it when you were at Baldwin Brothers back at 2013?

A Yes.

Q In 2013 to the present, have you ever recommended that anyone buy ExxonMobil stock?

A I have not.

Q And you personally don't own any ExxonMobil stock; do you?

A I do not.

...

Q Let's take a look at that shareholder proposal that you submitted.¹ The one that is offered as – let's blow up 382. So this is a copy of the letter that you sent to Mr. Rosenthal² saying that you have been authorized by two clients, DeWitt Sage and James Gillespie Blaine to submit the shareholder proposal in 2013 that ultimately results in managing the risks. Is that right?

A Yes.

Q All right, let's first focus on DeWitt Sage. Before drafting the proposal, did you speak with Mr. Sage?

A I did not speak with Mr. Sage directly.

Q Did you – after you – well, was that ever? Have you ever spoken with Mr. Sage?

A I have spoken with Mr. Sage.

Q And that was after you had received Managing the Risks in response to the shareholder proposal; right?

A That's correct.

Q So you didn't speak with him before you drafted the shareholder proposal; you didn't speak with him when you were negotiating withdrawing the shareholder proposal with Mr. Rosenthal? Right?

A No, the portfolio manager communicated directly with clients.

Q But you didn't, you personally did not communicate with Mr. Sage?

A No.

Q Same thing with Mr. Gillespie. You didn't speak with Mr. Gillespie before you drafted the shareholder proposal; right?

A I didn't speak directly with Mr. Gillespie.

Q And you didn't speak with him after you submitted the shareholder proposal and started negotiating with Mr. Rosenthal about it? Didn't solicit his views?

A No, we were acting on behalf of the clients.

¹ [Note to transcript: discussion relates to a shareholder proposal submitted by Arjuna Capital to ExxonMobil in 2013 for its 2014 annual meeting; after negotiations, the proposal was withdrawn. As part of that negotiation ExxonMobil published a report entitled "Managing the Risks".]

² [Note to transcript: Mr. Rosenthal served as Vice President – Investor Relations and Corporate Secretary of ExxonMobil in 2013.]

Q I know. I understand. I'm asking if you spoke with him about it while you were negotiating the resolution?

A No. It is customary that the portfolio manager communicate directly with clients.

...

Q So you didn't speak with Mr. Gillespie or Mr. Sage when you were negotiating with Mr. Rosenthal about withdrawing the shareholder proposal; right?

A I did not. I was acting on their behalf as they authorized me to do.

Excerpts from deposition of Natasha Lamb, Managing Director of Arjuna Capital, by Mr. Conlon for defendant Exxon Mobil Corporation

Q Do you view your involvement and participation in getting the Managing the Risks report done to be one of your greatest professional accomplishments?

A I'm sorry, would you repeat the question?

Mr. Conlon: Can you read it back please? (Record read as requested)

A When the report was written, the way that we described the negotiation and the agreement was that it was a landmark agreement and was important in its own right and there would be additional transparency on climate change.

Q And so do you view your role in getting Managing the Risks published to be one of your greatest professional accomplishments?

A It is a professional accomplishment.

Q Do you think it's one of your greatest?

A I have many professional accomplishments.

Q Okay. Your LinkedIn page, you recognize, right? You're familiar with your LinkedIn page?

A I haven't reviewed my LinkedIn page for a while, but I am familiar with it.

Q And you would not dispute that on page 1 of your LinkedIn page, that "Her 2014 landmark negotiation with ExxonMobil led to the company's first public report on global warming and climate asset risk"?

A Yes.

Q On your first page?

A Mm-hmm.

Q Okay. And in the Arjuna online presence, Arjuna Capital, do you list your role in getting Managing the Risks again to be one of your greatest lifetime achievements?

A I don't list it as one of my greatest lifetime achievements. I believe it's referenced on the website.

Q So we are now five-years-plus removed from the Managing the Risks report. Why do you continue to publicize your role in that?

A Because it's part of my personal bio.

Q And one of your most significant achievements?

A It is a significant achievement.

...

Q Do you believe that by filing shareholder resolutions against ExxonMobil both in 2014 and 2019 that you have attracted new clients who are drawn to Arjuna's climate change position?

A Yes, we have attracted clients that appreciate the way that we address climate change.

Q And those new clients are drawn in part by your view of climate change and how it should be addressed going into the future?

A Yes.

Excerpts from deposition of Danielle Fugere, General Counsel of As You Sow, by
Mr. Anderson for defendant Exxon Mobil Corporation

Q What is As You Sow?

A As You Sow is an organization, we represent shareholders, and we work with companies on cutting edge environmental, social, and governance issues.

...

Q So, this was the proposal that, that you and Arjuna submitted. Let's focus on the resolved section.

A Okay.

Q It says, shareholders request Exxon to prepare a report by September 30, 2014, omitting proprietary information, and prepared at reasonable cost, on the company's goals and plans to address global concerns regarding fossil fuels and their contribution to climate change, including analysis of long and short-term financial and operational risks to the company. Do you see that text?

A I do.

Q What did, what did your insertion of word – well, did you help draft this text?

A Yes

Q Who else drafted it?

A Natasha and I drafted this.

...

Q Whose idea was it to raise the issue with Exxon?

A I imagine, I mean, we certainly had the concept of doing that. I know that Arjuna did. I assume others were also interested in doing so, as well.

...

Q So, it was a shared idea of you and Ms. Lamb to make this proposal?

A Yes. I think we had similar thoughts.

Q And then how did you go about finding a shareholder who was willing to propose it, since As You Sow can't propose it itself?

A Just, probably, the way we always do, letting, and I don't recall which, which shareholder this was. I think, in the end, I don't know if Natasha may have actually filed this, but we probably brought on co-filers.

Q So, after deciding the resolution should be made, then you found a shareholder who would support it?

A I believe that that's the case.

...

Q Do you ever measure the success of the proposal against the performance of the stock price?

A It would be very difficult to do that.

Q Have you ever tried?

A No.