



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549-3010

March 21, 2008

Christopher A. Butner  
Assistant Secretary and Counsel  
Corporate Governance  
Legal  
Chevron Corporation  
6001 Bollinger Canyon Road  
T-3180  
San Ramon, CA 94583

Re: Chevron Corporation  
Incoming letter dated January 22, 2008

Dear Mr. Butner:

This is in response to your letter dated January 22, 2008 concerning the shareholder proposal submitted to Chevron by the International Brotherhood of Teamsters General Fund, the Airie R. Lindsay Revocable Trust, Adelaide Gorner, and the United Steelworkers. We also have received a letter from the International Brotherhood of Teamsters General Fund dated February 25, 2008. Our response is attached to the enclosed photocopy of your correspondence. By doing this, we avoid having to recite or summarize the facts set forth in the correspondence. Copies of all of the correspondence also will be provided to the proponents.

In connection with this matter, your attention is directed to the enclosure, which sets forth a brief discussion of the Division's informal procedures regarding shareholder proposals.

Sincerely,

Jonathan A. Ingram  
Deputy Chief Counsel

Enclosures

Chevron Corporation

March 21, 2008

Page 2 of 2

cc: C. Thomas Keegel  
General Secretary-Treasurer  
International Brotherhood of Teamsters  
25 Louisiana Avenue, NW  
Washington, DC 20001

Rian Fried  
President  
The Clean Yield Group  
P.O. Box 117  
Garvin Hill Road  
Greensboro, VT 05841

Adelaide Gorner

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

Keith Romig  
United Steelworkers  
5 Gateway Center  
Pittsburgh, PA 15202

March 21, 2008

**Response of the Office of Chief Counsel  
Division of Corporation Finance**

Re: Chevron Corporation  
Incoming letter dated January 22, 2008

The proposal requests that the board review and develop guidelines for country selection, including guidelines on investing in or withdrawing from countries with characteristics specified in the proposal, and report these guidelines to shareholders.

We are unable to concur in your view that Chevron may exclude the proposal under rule 14a-8(i)(7). Accordingly, we do not believe that Chevron may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(7).

Sincerely,

John R. Fieldsend  
Attorney-Adviser



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2008 JAN 23 AM 11:49

OFFICE OF CHIEF COUNSEL  
CORPORATION FINANCE

**Christopher A. Butner**  
Asst. Secretary,  
Corporate Governance  
Legal

**Corporate Governance**  
Chevron Corporation  
6001 Bollinger Canyon Road  
T-3180  
San Ramon, CA 94583  
Tel: 925-842-2796  
Fax: 925-842-2846  
Email: cbutner@chevron.com

January 22, 2008

U.S. Securities and Exchange Commission  
Division of Corporation Finance  
Office of Chief Counsel  
100 F Street, N.E.  
Washington, D.C. 20549

RE: Excluding a Stockholder Proposal Concerning Country Selection Guidelines from Chevron Corporation's 2008 Proxy Materials

Dear Sir or Madam:

We are submitting this letter pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended, and requesting that the Staff of the Division of Corporation Finance (the "Staff") confirm that it will not recommend any enforcement action if Chevron Corporation excludes a stockholder proposal (the "2008 Proposal") submitted to it by the International Brotherhood of Teamsters, as Trustee for the New Teamsters General Fund, and other co-filers (together, the "Proponent") from Chevron's 2008 definitive proxy materials. Chevron expects to file its definitive proxy materials on or about April 11, 2008. We are enclosing seven copies of this letter and its attachments and concurrently sending a complete copy to Jamie Carroll, the Proponents' representative.

### Summary

We respectfully submit that Chevron may exclude the 2008 Proposal from its definitive proxy materials under Rule 14a-8(i)(7) (evaluation of risk) because the resolution and supporting statement make clear that the principle purpose of the proposed country selection guidelines is for Chevron to conduct an internal assessment of the risks or liabilities that Chevron faces as a result of its presence in various countries. We respectfully request that the Staff confirm that it will not recommend any enforcement action if Chevron excludes the 2008 Proposal from its definitive proxy materials.

### The 2008 Proposal

The 2008 Proposal states that:

The shareholders request that the Board review and develop guidelines for country selection and report these guidelines to shareholders and employees by October 2008. In its review, the Board shall develop guidelines on investing in or withdrawing from countries where:

- the government has engaged in ongoing and systematic violation of human rights;

- the government is illegitimate;
- there is a call for economic sanctions by human rights and democracy advocates and/or legitimate leaders of that country; and
- Chevron's presence exposes the company to the risk of government sanctions, negative brand publicity, and consumer boycotts.

A copy of the 2008 Proposal, its supporting statement and the Proponent's related correspondence is attached to this letter as **Exhibit A**.

**Basis for Excluding the 2008 Proposal—Rule 14a-8(i)(7) (Evaluation of Risk)**

Chevron may exclude the 2008 Proposal from its definitive proxy materials under Rule 14a-8(i)(7) (evaluation of risk) because the resolution and supporting statement make clear that the principle purpose of the proposed guidelines is for Chevron to conduct an internal assessment of the risks or liabilities that Chevron faces as a result of its presence in various countries, namely Burma (Myanmar), Angola, China, Kazakhstan and Nigeria. Indeed, the proposed investment guidelines specifically contemplate an assessment of whether "Chevron's presence exposes the company to the risk of government sanctions, negative brand publicity, and consumer boycotts."

A company may exclude a proposal under Rule 14a-8(i)(7) if the proposal deals with matters relating to a company's "ordinary business operations." The underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual meeting." Exchange Act Release No. 40018 (May 21, 1998) (the "1998 Release"). The Securities and Exchange Commission (the "Commission") has also stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the substance of the report is within the ordinary business of the issuer. *See* Exchange Act Release No. 20091 (August 16, 1983).

In the 1998 Release, the Commission has also identified two central considerations that underlie Rule 14a-8(i)(7): first, that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis" that they are not proper subjects for shareholder proposals and, second, "the degree to which the proposal seeks to micro-manage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment."

As pertaining to proposals requesting an internal assessment of risk or liabilities the Staff has stated (in Staff Legal Bulletin 14C (at D.2) (June 28, 2005) ("SLB 14C")), that "to the extent that a proposal and supporting statement focus on the company engaging in an internal assessment of the risks or liabilities that the company faces as a result of its operations . . . we concur with the company's view that there is a basis for it to exclude the proposal under rule 14a-8(i)(7) as relating to an evaluation of risk."

*A. Chevron can exclude the 2008 Proposal under Rule 14a-8(i)(7) because the resolution and supporting statement focus on Chevron conducting an internal assessment of the risks or liabilities that Chevron faces as a result of its presence in various countries.*

The 2008 Proposal requests that the Board "review and develop . . . and report . . . to shareholders" on guidelines for investing or withdrawing from countries where, among other things, "Chevron's presence

exposes the company to the risk of government sanctions, negative brand publicity and consumer boycotts.” When the resolution and supporting statement of the 2008 Proposal are read together (as is the appropriate procedure for evaluating possible exclusion under Rule 14a-8(i)(7), as per SLB 14C), it is evident that the principle purpose of the proposed guidelines is for Chevron to conduct an internal assessment of the risks posed to Chevron’s business, financial well-being, brand, reputation and consumer base that may arise as a result of its presence in several countries. The supporting statement includes several statements intended to remind stockholders of the potential risks to Chevron’s business in these countries. To illustrate:

- “Following the September 2007 Burmese military crackdown on peaceful demonstrators and the arrest of students, monks and labor rights advocates, Chevron has become the target of federal sanctions, negative publicity, and a consumer boycott concerning its investment in Burma.” (supporting statement at para. 1)
- “The U.S. government has twice enacted economic sanctions on Burma, including a ban on new investment in 1997 and a ban on imports in 2003. Congress and the Administration are considering additional sanctions; . . . Chevron. . . holds equity in the largest investment project in Burma: the Yadana gas-field and pipeline that transports gas to Thailand and has reportedly paid millions of dollars to the Burmese regime.” (supporting statement at para. 2 and 4)
- “By purchasing Unocal, Chevron acquired Unocal’s investment in Burma including its legal, moral, and political liabilities.” (supporting statement at para. 7)
- “Chevron also does business in other countries with controversial human rights records: Angola, China, Kazakhstan, and Nigeria.” (supporting statement at para. 8)

We believe it is well established that proposals requesting that a company review, assess, implement procedures respecting or report on the potential risks or liabilities to its business as a result external factors (e.g., global warming, pandemic, civil or criminal proceedings, government sanctions, civil unrest etc.) are properly excludable under Rule 14a-8(i)(7) because they delve into the day-to-day and ordinary business operations of the company. See, for example, *Centex Corp.* (available May 15, 2007) (proposal requesting that the board assess how the company is responding to rising regulatory, competitive and public pressure to address climate change); *ACE Limited* (available Mar. 19, 2007) (same); *Kansas City Southern* (available Feb. 21, 2007) (proposal requesting board report on company's efforts to safeguard the security of operations and minimize material financial risk arising from a terrorist attack); *Pfizer, Inc.* (available Jan. 29, 2007) (proposal requesting a report on "the effects on the long-term economic stability of the company and on the risks of liability to legal claims" resulting from the company's policy of limiting the availability of the company's products to Canadian wholesalers or pharmacies that allow purchase of its products by U.S. residents); *Abbott Laboratories* (available Mar. 9, 2006) (proposal requesting report on the economic effects of the HIV/AIDS, tuberculosis and malaria pandemics on the company's business strategy and initiatives to date); *Wells Fargo & Co.* (available Feb. 16, 2006) (proposal requesting that board evaluate effects of global climate change on the company's business).

This same principle applies in the context of proposals requesting that the company review, assess, implement procedures respecting or report on the potential risks or liabilities to its business as a result decisions to operate in a particular country or area. For example, in *General Electric Co.* (available Jan. 13, 2006) the Staff concurred that GE could exclude a proposal requesting that the board “evaluate [the]

risk of damage to GE's brand name and reputation in the United States as a result of" outsourcing work to other countries, specifically China. The proposal noted, for example, that "GE China has 12,000 employees," and expressed concern that GE's reputation, brand and financial stability could be impaired by China's purportedly poor record on human rights. The proposal also noted that "the shift of production to low wage countries in general, and to China in particular, has generated negative press stories in the U.S." that could have negative consequences for GE and its brand. Citing, among other letters, *The Dow Chemical Co.* and *Newmont Mining Corp.* (see below), and SLB 14C, GE successfully argued that because the proposal sought an assessment of the risks arising from GE's decision to conduct operations in and outsource work to other countries and such matters were "fundamental tasks in management's obligation to run GE on a day-to-day basis," it could exclude the proposal under Rule 14a-8(i)(7) (evaluation of risk).

Similarly, in *The Dow Chemical Co.* (available Feb. 23, 2005) the Staff concurred that Dow could exclude a proposal concerning the "impacts that outstanding Bhopal issues, if left unresolved, may pose on Dow Chemical, its reputation, its finances and its expansion in Asia and elsewhere." The proposal indicated concern that, among other things, "Dow has become reputationally and legally entangled in the continued controversy over the Bhopal criminal case" and that "the Bhopal disaster may continue to damage Dow's reputation which, in the opinion of the proponents, may reasonably be expected to affect growth prospects in Asia and beyond." Dow argued that the proposal could be excluded because it sought "an economic assessment (specifically, a description on the impact on the Company's finances) of a particular aspect of the Company's operations." The Staff agreed with Dow that it could exclude the proposal because it related to Dow's ordinary business operations "(i.e., evaluation of risk)."

Likewise, in *Newmont Mining Corp.* (available Feb. 4, 2004), the Staff concurred that the company could exclude a proposal requesting that Newmont publish a report on the risks to the company's "operations, profitability and reputation from its social and environmental liabilities" stemming from Newmont's operations in several countries. The proposal expressed concern that Newmont's own "social and environmental liabilities" stemming from its operations in Peru, Indonesia, Ghana and the United States posed a "significant threat to the long-term profitability" of the company and that it "face[d] a risk to its reputation if it does not take concrete. . . steps to implement these commitments." The proponent's suggested that the proposed report "would help shareholders assess the risk to the company's operations, profitability and reputation." Newmont successfully argued that because the proposal focused on "the operations and profitability of the company," which issues are "exclusively under the aegis of the Board of Directors," the proposal therefore related to Newmont's ordinary business operations. See also *Newmont Mining Corp.* (available Feb. 5, 2005) (similar proposal and same outcome).

(We have attached copies of each of *General Electric*, *Dow Chemical*, and *Newmont Mining* letters as Exhibits B, C and D, for the Staff's convenience.)

Finally, we note that the Staff has confirmed its position on this type of proposal in SLB 14C (at D2). As referenced above, there, the Staff stated "to the extent that a proposal and supporting statement focus on the company engaging in an internal assessment of the risks or liabilities that the company faces as a result of its operations . . . we concur with the company's view that there is a basis for it to exclude the proposal under rule 14a-8(i)(7) as relating to an evaluation of risk."

As noted above, the principle purpose of the proposed guidelines is for Chevron to conduct an internal assessment of the risks posed to its business, financial well-being, brand, reputation and consumer base

that may arise as a result of its presence in several countries. The proposed investment guidelines specifically contemplate an assessment of whether "Chevron's presence exposes the company to the risk of government sanctions, negative brand publicity, and consumer boycotts." Each of the letters cited in the foregoing paragraphs involved a proposal that was excludable under Rule 14a-8(i)(7) because the proposals delved into the day-to-day operating decisions of the company, that is each proposal requested the company review, assess, implement procedures respecting or report on the potential risks or liabilities to its business as a result of being present in a particular country or area.

Assessing the risks to Chevron's business as a result of its presence in any country is an intricate part of Chevron's day-to-day and ordinary business operations, particularly the responsibilities of Chevron's Board and management. These assessments themselves are intricate and this suggests that Chevron's Board and management, rather than its stockholders, are in the best position to understand and handle such matters. While we certainly respect stockholders' views on the issues raised in the 2008 Proposal, we respectfully submit that permitting stockholders to interject themselves into matters relating to Chevron's assessments of risk associated with its presence in one country or another would permit stockholders to "micro-manage the company by probing too deeply into matters of a complex nature upon which [they], as a group, would not be in a position to make an informed judgment." The Staff's position, evidenced by the numerous no-action letters cited above, support this position.

Accordingly, Chevron may exclude the 2008 Proposal from its definitive proxy materials under Rule 14a-8(i)(7) (evaluation of risk) because the resolution and supporting statement make clear that the principle purpose of the proposed guidelines is for Chevron to conduct an internal assessment of the risks or liabilities that Chevron faces as a result of its presence in various countries.

*B. Regardless of whether part of the 2008 Proposal touches upon significant social policy issues, the entire 2008 Proposal is excludable because it distinctly addresses ordinary business matters.*

We believe that the well-established precedent set forth above and the Staff's guidance in SLB 14C support our conclusion that the 2008 Proposal addresses ordinary business matters and is therefore excludable under Rule 14a-8(i)(7). We recognize, however, that the Staff has concluded that certain proposals may focus on sufficiently significant social policy issues so as to preclude exclusion in certain circumstances. Nevertheless, the Staff has also consistently concurred that a proposal may be excluded in its entirety when it addresses both ordinary and non-ordinary business matters. For example, in *General Electric Company* (avail. Feb. 10, 2000), the Staff concurred that GE could exclude a proposal requesting that it (i) discontinue an accounting technique, (ii) not use funds from the GE Pension Trust to determine executive compensation, and (iii) use funds from the trust as intended. The Staff concurred that the entire proposal was excludable under Rule 14a-8(i)(7) because a portion of the proposal related to ordinary business matters -- *i.e.*, the choice of accounting methods. Similarly, in *Medallion Financial Corp.* (avail. May 11, 2004), in reviewing a proposal requesting that the company engage an investment bank to evaluate alternatives to enhance shareowner value, the Staff stated, "we note that the proposal appears to relate to both extraordinary transactions and non-extraordinary transactions. Accordingly, we will not recommend enforcement action to the Commission if Medallion omits the proposal from its proxy materials in reliance on 14a-8(i)(7)." *See also Wal-Mart Stores, Inc.* (avail. Mar. 15, 1999) (proposal requesting a report to ensure that the company did not purchase goods from suppliers using, among other things, forced labor, convict labor and child labor was excludable in its entirety because the proposal also requested that the report address ordinary business matters).

Therefore, while we are aware that the Staff has, in some instances, determined that proposals broadly addressing, for example, human rights issues may not be excludable under Rule 14a-8(i)(7), we do not believe that it is necessary to consider whether the 2008 Proposal may also touch upon significant policy issues, since the 2008 Proposal also addresses ordinary business issues: an internal assessment of the risks or liabilities that Chevron faces as a result of its operations. The proposed investment guidelines specifically contemplate an assessment of whether "Chevron's presence exposes the company to the risk of government sanctions, negative brand publicity, and consumer boycotts." Thus, regardless of whether aspects of the 2008 Proposal are considered to implicate a significant policy issue, under well-established precedent, the entire Proposal may be excluded because it also addresses ordinary business matters within the scope of Rule 14a-8(i)(7).

Accordingly, based on the precedent described above and the 2008 Proposal's emphasis on ordinary business matters regarding assessments of risks, the Proposal may be excluded in its entirety under Rule 14a-8(i)(7).

#### **Conclusion**

For the reasons cited above, we respectfully request that the Staff confirm that it will not recommend any enforcement action if the Company excludes the 2008 Proposal from its 2008 definitive proxy materials. If the Staff has any questions with respect to the foregoing, please contact me at 925-842-2796 or Rick E. Hansen at 925-842-2778. We may also be reached by facsimile at 925-842-2846 and would appreciate it if you would send your response to us by facsimile to that number. The Proponent's representative, Jamie Carroll, can be reached at 202-624-8990.

Please acknowledge receipt of this letter and the enclosures by date-stamping one of the enclosed copies of this letter and returning it to me in the enclosed envelope.

Sincerely yours,



Christopher A. Butner  
Assistant Secretary and Counsel

Enclosures

cc Lydia I. Beebe  
Charles A. James

# EXHIBIT A

# INTERNATIONAL BROTHERHOOD OF TEAMSTERS

JAMES P. HOFFA  
General President

25 Louisiana Avenue, NW  
Washington, DC 20001



C. THOMAS KEEGEL  
General Secretary-Treasurer

202.624.6800  
www.teamster.org

November 16, 2007

**BY FACSIMILE: (925) 842-2846**  
**BY UPS NEXT DAY**

Ms. Lydia I. Beebe  
Corporate Secretary and Chief Governance Officer  
Chevron Corporation  
6001 Bollinger Canyon Road  
San Ramon, CA 94583-2324

Dear Ms. Beebe:

I hereby submit the following resolution on behalf of the Teamsters General Fund, in accordance with SEC Rule 14a-8, to be presented at the Company's 2008 Annual Meeting.

The General Fund has owned 60 shares of Chevron Corporation continuously for at least one year and intends to continue to own at least this amount through the date of the annual meeting. Enclosed is relevant proof of ownership.

Any written communication should be sent to the above address via U.S. Postal Service, UPS, or DHL, as the Teamsters have a policy of accepting only Union delivery. If you have any questions about this proposal, please direct them to Jamie Carroll of the Capital Strategies Department, at (202) 624-8990.

Sincerely,

A handwritten signature in black ink that reads "C. Thomas Keegel".

C. Thomas Keegel  
General Secretary-Treasurer

CTK/jc  
Enclosures



## **WHEREAS:**

Following the September 2007 Burmese military crackdown on peaceful demonstrators and the arrest of students, monks and labor rights advocates, Chevron has become the target of federal sanctions, negative publicity, and a consumer boycott concerning its investment in Burma;

The U.S. government has twice enacted economic sanctions on Burma, including a ban on new investment in 1997 and a ban on imports in 2003. Congress and the Administration are considering additional sanctions;

Nobel Peace Prize Laureate Aung San Suu Kyi, leader of the National League for Democracy that won over 80% of the seats in the 1990 Burmese elections, has repeatedly called for economic sanctions on Burma. She stated that corporations in Burma "create jobs for some people but what they're mainly going to do is make an already wealthy elite wealthier, and increase its greed and strong desire to hang on to power ... these companies harm the democratic process a great deal."

Chevron, in partnership with Total of France, the Petroleum Authority of Thailand, and Myanma Oil and Gas Enterprise (MOGE), holds equity in the largest investment project in Burma: the Yadana gas-field and pipeline that transports gas to Thailand and has reportedly paid millions of dollars to the Burmese regime;

Human rights organizations have documented egregious human rights abuses by Burmese troops employed to secure the pipeline area, including forcible relocation of villagers and use of forced labor on infrastructure related to the pipeline project;

In March 2005, Unocal settled a case for a reported multi-million dollar amount in which it was claimed that the company was complicit in human rights abuses by Burmese troops hired by the Yadana project to provide pipeline security;

By purchasing Unocal, Chevron acquired Unocal's investment in Burma including its legal, moral, and political liabilities;

Chevron also does business in other countries with controversial human rights records: Angola, China, Kazakhstan, and Nigeria;

**BE IT RESOLVED:** The shareholders request the Board to review and develop guidelines for country selection and report these guidelines to shareholders and employees by October 2008. In its review, the Board shall develop guidelines on investing in or withdrawing from countries where:

November 16, 2007

Page 2

- the government has engaged in ongoing and systematic violation of human rights
- a government is illegitimate
- there is a call for economic sanctions by human rights and democracy advocates and/or legitimate leaders of that country
- Chevron's presence exposes the company to the risk of government sanctions, negative brand publicity, and consumer boycotts

**SUPPORTING STATEMENT:** Levi Strauss has successfully implemented a similar policy for several years. The company decides whether to do business in countries using criteria that include:

“Human rights environment would allow us to conduct business activities in a manner that is consistent with the Global Sourcing and Operating Guidelines and other company policies.”

“Political, economic and social environment would protect the company's commercial interests and brand/corporate image.”

# INTERNATIONAL BROTHERHOOD OF TEAMSTERS

JAMES P. HOFFA  
General President

25 Louisiana Avenue, NW  
Washington, DC 20001



C. THOMAS KEEGEL  
General Secretary-Treasurer

202.624.6800  
www.teamster.org

February 25, 2008

U.S. Securities and Exchange Commission  
Office of the Chief Counsel  
Division of Corporation Finance  
100 F Street, N.E.  
Washington, D.C. 20549-1090

RECEIVED  
2008 FEB 26 PM 12:15  
OFFICE OF CHIEF COUNSEL  
CORPORATION FINANCE

**Re: Chevron Corporation's No-action Request Regarding Shareholder Proposal Submitted by the Teamsters General Fund and Other Co-Filers**

Dear Sir or Madam:

By letter dated January 22, 2008 (the "No-Action Request"), Chevron Corporation ("Chevron" or "Company") asked that the Office of Chief Counsel of the Division of Corporation Finance (the "Staff") confirm that it will not recommend enforcement action if the Company omits a shareholder proposal (the "Proposal") submitted pursuant to the Commission's Rule 14a-8 by the Teamsters General Fund (the "Fund") and other co-filers (together, the "Proponent") from Chevron's proxy materials to be sent to shareholders in connection with the 2008 annual meeting of shareholders (the "2008 Annual Meeting").

The Proposal requests that Chevron review and develop guidelines for country selection and report these guidelines to shareholders and employees by October 2008. The Proposal further requests that in its review the Board develop guidelines on investing in or withdrawing from countries where: the government has engaged in ongoing and systematic violation of human rights; the government is illegitimate; there is a call for economic sanctions by human rights and democracy advocates and/or legitimate leaders of that country; and, Chevron's presence exposes the company to the risk of government sanctions, negative brand publicity, and consumer boycotts.

Chevron contends that it is entitled to exclude the Proposal in reliance on Rule 14a-8(i)(7) (evaluation of risk), arguing that the Proposal pertains to the Company's ordinary business operations.

We believe the entirety of Chevron's argument is predicated on the false understanding that "the principle purpose of the proposed country selection guidelines is for Chevron to conduct an internal assessment of the risks or liabilities that Chevron faces as a result of its presence in various countries." In fact, the principle purpose of the Proposal is for Chevron to create transparent country selection guidelines that will minimize or eliminate Chevron operations that have adverse and dramatic effects on the health and safety of the people and environments of those countries.

We believe that Chevron should not be permitted to exclude the Proposal from its 2008 proxy materials pursuant to Rule 14a-8 for the reasons set forth below:

### **BASES FOR INCLUSION**

#### **I. The Proposal Focuses on the Development of Guidelines Related to Chevron's Global Operations in International Pariah States Such as Burma—Operations that Represent a Significant Social Policy Issue, Thereby Precluding Application of the Ordinary Business Exclusion**

Chevron states that a company may exclude a proposal under Rule 14a-8(i)(7) if the proposal deals with matters relating to a company's ordinary business operations, noting that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the Board of Directors, since it is impracticable for shareholders to decide how to solve such problems at an annual meeting."<sup>1</sup>

However, in the same 1998 Release quoted by the company, the Commission clarified its approach to applying the ordinary business exclusion, limiting the scope of what is considered ordinary business. In the adopting release (the "1998 Release"), the Commission stated:

Certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. Examples include the management of the workforce, such as the hiring, promotion, and termination of employees, decisions on production quality and quantity,

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<sup>1</sup> Exchange Act Release No. 40018 (May 21, 1998)

and the retention of suppliers. However, proposals relating to such matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.<sup>2</sup>

By stating that a proposal relating to “[ordinary business] matters but focusing on sufficiently significant social policy issues” is not excludable (emphasis added), the 1998 Release made clear that a subject’s status as a significant social policy issue trumps its characterization as an ordinary business matter. A 1976 release introducing the “significant social policy issue” analytic framework (the “1976 Release”) described the analytic process similarly:

Specifically, the term “ordinary business operations” has been deemed on occasion to include certain matters, which have significant policy, economic or other implications inherent in them. For instance, a proposal that a utility company not construct a proposed nuclear power plant has in the past been considered excludable under former sub-paragraph (c)(5). In retrospect, however, it seems apparent that the economic and safety considerations attendant to nuclear power plants are of such magnitude that a determination whether to construct one is not an “ordinary” business matter. Accordingly, proposals of that nature, as well as others that have major implications, will in the future be considered beyond the realm of an issuer's ordinary business operations, and future interpretative letters of the Commission's staff will reflect that view.<sup>3</sup>

The substantial legislative and regulatory activities around foreign investment in countries with ongoing and systematic human rights violations, as well as the robust public campaign to press Chevron and other companies to withdraw from countries such as Burma (also known as Myanmar) and Sudan, support the assertion that corporate operations and investment in international pariah states is a significant social policy issue, thus precluding application of the ordinary business exclusion (Rule 14a-8(i)(7)) to the Proposal.

*A. Corporate Investments in Countries with Ongoing and Systematic Human Rights Violations is a Significant Social Policy Issue*

Little interpretive guidance has been provided regarding when a subject rises to the level of a significant social policy issue. The 1976 Release gives no detail beyond the nuclear power plant example, though it does assert that the “economic

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<sup>2</sup> Exchange Act Release No. 40018 (May 21, 1998)

<sup>3</sup> Exchange Act Release No. 12999 (Nov. 22, 1976)

and safety” implications of the nuclear plant caused it to transcend day-to-day business matters. The 1998 Release offers only “significant discrimination matters” as an example of a significant social policy issue.

Staff Legal Bulletin 14A states that “the presence of widespread public debate regarding an issue is among the factors to be considered in determining whether proposals concerning that issue ‘transcend the day-to-day business matters.’”<sup>4</sup> In July 2000, the Division of Corporation Finance stated in “Current Issues and Rulemaking Projects” that it had declined to allow exclusion of a shareholder proposal on “cash balance” pension plans submitted to IBM, despite the Staff’s consistent characterization of employee benefits-related issues as ordinary business, because “the staff was persuaded that the widespread public debate on the significant social and corporate policy issues raised by conversion from defined-benefit to cash-balance retirement plans caused the subject-matter of this particular proposal to fall outside the realm of ‘ordinary business’ matters subject to exclusion under Rule 14a-8(i)(7).”<sup>5</sup>

There is currently a widespread public debate about corporate investments in rogue countries with egregious and systematic human rights abuses. Given the extraordinary breadth of the debate, we will focus here on the specific case of multinational corporate operations in Burma, as the Proposal itself focuses on Chevron’s Burmese ties:

- Federal lawmakers have focused significant attention on financial ties to Burma’s ruling military junta, including specific attention to Chevron’s operations. In September and October 2007, President Bush expanded U.S. sanctions against the regime and tightened sanctions against the country’s top leaders. “Basic freedoms of speech, assembly and worship are severely restricted,” President Bush said. “Ethnic minorities are persecuted. Forced child labor, human trafficking and rape are common.”<sup>6</sup>

Chevron was a subject of the Senate Committee on Foreign Relations’ “Hearing on Burma Saffron Revolution” on October 3, 2007. In her remarks at the hearing, Senator Barbara Boxer (D-CA) called for an end to the loophole which allows American companies to do business in Burma: “Now,

<sup>4</sup> Staff Legal Bulletin 14A (July 12, 2002)

<sup>5</sup> Division of Corporation Finance, “Current Issues and Rulemaking Projects,” at 89-90 (July 25, 2000) (available at <http://www.sec.gov/pdf/cfcr072k.pdf>)

<sup>6</sup> Steven Lee Myers, “Bush, at U.N., Announces Stricter Burmese Sanctions,” *The New York Times*, September 26, 2007. “Mrs. Bush’s Remarks at a Video Teleconference on Burma in Recognition of International Human Rights Day,” The White House Press Release, December 10, 2007

it's all well and good for everyone to say the sanctions have to be multilateral. We agree. But if we still have a big loophole, I think that gives us a little bit of a lower moral ground. So, for example, the Chevron Corporation is one such company that continues to do business in Burma as part of the Yadana Offshore Gas Project, the natural gas field that provides \$400 million to \$600 million in revenues to the Burmese junta. . . ."<sup>7</sup>

The House of Representatives unanimously passed legislation on December 12, 2007, that will block the importation of blood rubies from Burma into the United States and prevent American taxpayer money from subsidizing U.S. company business activities in Burma. Authored by Congressman Tom Lantos (D-CA), Chairman of the House Committee on Foreign Affairs, the Block Burmese JADE (Junta's Anti-Democratic Efforts) Act (H.R. 3890) cuts off tax deductions for certain payments to the Burmese government pursuant to Chevron's gas investment in Burma.<sup>8</sup>

The Senate unanimously passed the Burma Democracy Promotion Act on December 19, 2007. Authored by Joseph R. Biden, Jr. (D-DE), Chairman of the Senate Foreign Relations Committee, the legislation passed as an amendment to H.R. 3890, imposes new financial sanctions on the leaders of the junta and outlaws the importation of Burmese gems and timber to the U.S.<sup>9</sup>

- The International Labor Organization (ILO) has referenced foreign direct investments in Burma in its recommendations regarding the use of forced labor in Burma. In June 2000, the ILO adopted a resolution that includes a recommendation to the ILO's constituents to review their relations with Burma and to "take appropriate measures to ensure that such relations do not perpetuate or extend the system of forced or compulsory labour in that country and to report back to the ILO Governing Body."<sup>10</sup> When a review in 2005 found that the extent of forced labour had not changed, the ILO Committee on the Application of Standards called upon ILO constituents "to

<sup>7</sup> "Hearing on Burma's Saffron Revolution," Senate Committee on Foreign Relations, Senate Oversight Highlights of the Week of October 1, 2007, Democratic Policy Committee (available at: [http://democrats.senate.gov/dpc/dpc-new.cfm?doc\\_name=or-110-1-167#A4](http://democrats.senate.gov/dpc/dpc-new.cfm?doc_name=or-110-1-167#A4))

<sup>8</sup> "House Approves Lantos Bill Cracking Down on Burmese Junta," Press Release, Committee on Foreign Affairs—U.S. House of Representatives, December 12, 2007.

<sup>9</sup> "Biden Bill to Promote Democracy in Burma Passes Senate," Press Release, Senator Joseph R. Biden, Jr., December 19, 2007

<sup>10</sup> "International Labour Conference adopts Resolution targeting forced labour in Myanmar (Burma)," Press Release, ILO (available at [http://www.ilo.org/global/about\\_the\\_ILO/Media\\_and\\_public\\_information/Press\\_releases/lang--en/WCMS\\_007899/index.htm](http://www.ilo.org/global/about_the_ILO/Media_and_public_information/Press_releases/lang--en/WCMS_007899/index.htm))

activate and intensify the review of their relations with Burma and to urgently take the appropriate actions, including as regards foreign direct investment in all its various forms, relations with State- or military-owned enterprises in Burma.”<sup>11</sup>

- In 2000, the Global Unions began a campaign calling upon multinational companies to cease their operations in or with Burma.<sup>12</sup> As part of this campaign, the International Trade Union Confederation (ITUC) and the Global Unions maintain a public database of companies which have or are believed to have business ties to Burma.<sup>13</sup> In its January 2005 report “Doing Business in or with Burma,” the then ICFTU (currently the ITUC) stated: “The main reason why foreign enterprises should not engage in investment in or trade with Burma is because of the financial benefits that the junta reaps from their activities, which contribute to allowing the military to remain in power and perpetuate their criminal rule over the country.” It further stated that “many more people suffer – and are forced to take drastic measures, such as escape and exile – from policies applied by the junta than from any form of international sanctions.”<sup>14</sup>
- The President of the United Nations (UN) Security Council released a presidential statement on October 11, 2007, “strongly deploring the use of violence against peaceful demonstrators in Myanmar” and welcoming the recent mission by Ibrahim Gambari, the UN Secretary-General’s Special Adviser, to Myanmar. (UN envoy Gambari has visited the country twice since the violent crackdowns on protestors began in mid-August 2007.) The statement also calls on the junta to enter into dialogue with Aung San Suu Kyi (leader of the National League for Democracy that won over 80% of the seats in the 1990 Burmese elections) and all other parties and ethnic groups in

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<sup>11</sup> International Labour Conference, Provisional Record, Ninety-third Session, Geneva, 2005, Third Part “Special sitting to examine developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (no. 29) (available at: <http://www.ilo.org/public/english/standards/relm/ilc/ilc93/pdf/pr-22-3.pdf>)

<sup>12</sup> At this point, the Global Unions consisted of ICFTU (International Confederation of Free Trade Union), TUAC (Trade Union Advisory Committee to the OECD), BWI (Building and Wood Workers International), EI (Education International), ICEM (International Federation of Chemical, Energy, Mine), IFJ (International Federation of Journalists), IMF (International Metal Workers’ Federation), ITGLWF (International Textile, Garment and Leather Workers’ Federation), ITF (International Transport Workers’ Federation), IUF (International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco), PSI (Public Services International), UNI (Union Network International)

<sup>13</sup> Global Unions “Companies Linked with Burma” database (available at: <http://www.global-unions.org/burma/default3.asp>)

<sup>14</sup> *Doing Business in or with Burma*, International Confederation of Free Trade Unions report, January 2005 (available at: <http://www.icftu.org/www/PDF/Burma-ICFTUReport-January.pdf>)

order to achieve an inclusive national reconciliation.<sup>15</sup> Aung San Suu Kyi has repeatedly called for economic sanctions on Burma.

- Consumer boycotts are currently underway to protest corporate investments in Burma, with Chevron and Total among the targets. Avaaz.org, an organization co-founded by Res Publica and MoveOn.org, is spearheading a “No fuel for Burmese Junta” global boycott of Chevron, Total, and all of their subsidiaries.<sup>16</sup>
- Many firms have divested from Burma in the past decade. These firms include British American Tobacco, Texaco, Levi Strauss, Triumph International, Premier Oil, Anheuser-Busch, Heineken, Adidas, and IKEA. The Burma Campaign U.K. maintains a “clean” list of companies that have either pulled out of Burma or have made a principled decision not to become involved in Burma.<sup>17</sup>
- Jewelers of America (JA), which represents 11,000 member stores in the U.S., announced on October 9, 2007, that it had asked its members to contact their suppliers to ascertain whether any of the gems they supply are from Burma, and to seek written assurance from suppliers that they will not knowingly supply any gems mined in Burma.<sup>18</sup>
- The issue of Chevron’s investment in Burma alone has generated an extraordinary amount of press coverage from major media outlets, reflecting the general public’s exposure to and interest in the Company’s ties to the military regime. A Nexis search on “Chevron in Burma” conducted on January 28, 2008, looking at all news sources over the previous year, produced 253 articles/reports on the subject.

While this is by no means an exhaustive list of the extensive public debate around companies doing business in Burma, these examples demonstrate that Chevron’s Burmese operations—and, more generally, the investments of foreign companies in international pariah states—is a significant social policy issue that

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<sup>15</sup> “Security Council Deplores Violence Used Against Myanmar Demonstrators,” United Nations Security Council Presidential Statement, October 11, 2007. (available at: <http://www.un.org/News/Press/docs/2007/sc9139.doc.htm>)

<sup>16</sup> Avaaz.org, No Fuel for Burmese Junta, [http://www.avaaz.org/en/burma\\_corporate/](http://www.avaaz.org/en/burma_corporate/)

<sup>17</sup> The Burma Campaign UK, The Clean List, [http://www.burmacampaign.org.uk/dirty\\_list/clean\\_list.html](http://www.burmacampaign.org.uk/dirty_list/clean_list.html)

<sup>18</sup> “Jewelers of America Takes Action on Burmese Gemstones,” Press Release, Jewelers of America, October 9, 2007

companies in international pariah states—is a significant social policy issue that engages the attention of the media and the public at large and calls into question how public companies are addressing this issue vis-à-vis their global operations and investments.

**II. In Focusing on the Development of Guidelines Related to Chevron's Global Operations in Countries with Systematic Human Rights Abuses, the Proposal Focuses on Chevron Minimizing or Eliminating Operations That Have Adverse and Dramatic Effects on the Health and Safety of the People and Environments of Those Countries**

The 1998 Release and Staff Legal Bulletin 14C make clear that a proposal's focus is critical in determining whether that proposal is excludable under the ordinary business exemption. More specifically, these authorities clarify that the key determination to be made is whether the proposal *focuses* on day-to-day business matters and internal risk assessments or whether it *focuses* on the applicable social policy issue and the company's efforts related thereto that may affect the environment or the public's health.

According to the 1998 Release states, there are two considerations used in determining whether a proposal is excludable under the ordinary business exemption:

The first-relates to the subject matter of the proposal. Certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. Examples include the management of the workforce, such as the hiring, promotion, and termination of employees, decisions on production quality and quantity, and the retention of suppliers. However, proposals relating to such matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote. The second consideration relates to the degree to which the proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.<sup>19</sup>

By stating that the second consideration "relates to the degree to which the proposal seeks to 'micro-manage' the company by probing *too deeply* into matters of a complex nature" (emphasis added), the 1998 Release makes clear that in

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<sup>19</sup> Exchange Act Release No. 40018 (May 21, 1998)

evaluating proposals under Rule 14a-8(i)(7), a central consideration must be whether the proposal delves too deeply into the day-to-day management of the company—not whether it involves or touches on the day-to-day management of the company at all.

In specifically addressing proposals related to an evaluation of risk, Staff Legal Bulletin 14C further distinguishes that the focus of the proposal is crucial in determining the applicability of Rule 14a-8(i)(7). The Bulletin states:

Each year, we are asked to analyze numerous proposals that make reference to environmental or public health issues. In determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole. To the extent that a proposal and supporting statement focus on the company engaging in an internal assessment of the risks or liabilities that the company faces as a result of its operations that may adversely affect the environment or the public's health, we concur with the company's view that there is a basis for it to exclude the proposal under rule 14a-8(i)(7) as relating to an evaluation of risk. To the extent that a proposal and supporting statement focus on the company minimizing or eliminating operations that may adversely affect the environment or the public's health, we do not concur with the company's view that there is a basis for it to exclude the proposal under rule 14a-8(i)(7).

Together, we believe these authorities underscore that proposals focusing on significant social policy issues may touch on issues of risk so long as the focus remains on the policy issue and not on the company engaging in an internal assessment of risk.

*A. The Proposal Focuses on Chevron Creating Guidelines That Minimize or Eliminate Operations That Have Adverse Effects on the Public*

While the Proposal may touch on the risks that Chevron faces as a result of certain of its global operations, it is explicitly focused on the development of and need for transparent country selection guidelines that will minimize or eliminate Chevron operations that have adverse and dramatic effects on the health and safety of the people and environments of those countries.

The countries that the proposed guidelines would address—those whose governments are illegitimate, engaged in ongoing and systematic violations of human rights, and for which human rights and democracy advocates call for economic sanctions—are countries with notorious and egregious human rights abuses whose actions flagrantly violate international standards of law. These are

rogue countries whose brutal abuses and oppressive behavior have made them pariahs in the international community. Their actions often cause and condone forced labor, forced relocations, rape, murder, maiming, and an overall scorn for the health of safety of their people and their environment.

For the citizens of these countries, one of the greatest threats to their safety and the safety of their environment is the financial support of their oppressors, support that facilitates the systematic human rights violations and the oppressors' control. For example, again using the case of Burma, foreign investments are believed to play a crucial role in propping up the military regime and facilitating its staggering abuses. As the Proposal's supporting statement notes, Nobel Peace Prize Laureate Aung San Suu Kyi, leader of the National League for Democracy that won over 80% of the seats in the 1990 Burmese elections, has repeatedly called for economic sanctions on Burma. She stated that corporations in Burma "create jobs for some people but what they're mainly going to do is make an already wealthy elite wealthier, and increase its greed and strong desire to hang on to power. . . these companies harm the democratic process a great deal." As already documented earlier in this letter, a mass of human rights advocates, political leaders, companies, and the general public support divestment from Burma, and similar divestment campaigns exist for other pariah states such as Sudan.

However, the point here is not whether Chevron should divest from Burma or not—the point is that much of the public believes that Chevron, along with other corporations, plays a pivotal role in maintaining a flow of capital to countries with notorious human rights abuses, and therefore plays a pivotal role in upholding the brutal repression in those countries. In other words, much of the public believes that Chevron investing in or withdrawing from those countries directly affects the health and safety of the people of those countries. The Proposal focuses on the need for and creation of guidelines related to Chevron investing in or withdrawing from the countries, inherently focusing on "the company minimizing or eliminating operations that may adversely affect the environment or the public's health." (Staff Legal Bulletin 14C)

Chevron asserts that the resolution and supporting statement of the Proposal as a whole makes clear that "the principle purpose of the proposed guidelines is for Chevron to conduct an internal assessment of the risks posed to Chevron's business, financial well-being, brand, reputation and consumer base that may arise as a result of its presence in several countries." In fact, Chevron states, "we do not believe that it is necessary to consider whether the 2008 Proposal may also touch upon significant policy issues, since the 2008 Proposal also addresses ordinary business

issues: an internal assessment of the risks or liabilities that Chevron faces as a result of its operations.”

First, Chevron’s financial ties to Burma do indeed create extraordinary risks for the company and its investors. This is not an argument—it is a fact, and the list of reputational, financial, legal and political risks is a long one: newly adopted sanctions and reinvigorated public campaigns could force Chevron to sell off its Burmese investment at a heavily discounted price; consumer boycotts and public condemnation could dramatically affect Chevron’s bottom-line in the long-term; endemic corruption and the Burmese regime’s chronic shortage of foreign currency breed further financial risks; and, Chevron faces a heightened risk of exposure to lawsuits in foreign courts for human rights abuses, to list a few.

However, the Proposal does not ask the company to evaluate these risks, and it is certainly not focused on the company engaging in an internal assessment of these risks. The Proposal is explicitly focused on the need for and development of transparent country selection guidelines that will minimize or eliminate Chevron operations that have adverse and dramatic effects on the health and safety of the people and environments of those countries.

Chevron argues that certain statements in the Proposal’s supporting statement illustrate that the Proposal’s purpose is for Chevron to conduct an internal assessment of the risks posed by certain of its global operations. Namely, Chevron points to Paragraphs 1, 2, 4, 7 and 8 of the Proposal, which address Chevron’s equity stake in Burma’s largest investment project, the negative publicity and consumer boycott of Chevron due to its Burmese investment, Chevron’s acquisition of Unocal’s liabilities related to its Burma operations, and Chevron’s business in other countries with controversial human rights records. While some of these statements reference federal sanctions and Chevron’s acquisition of Unocal’s liabilities, these references are not meant to demonstrate the risks to Chevron—rather, they are meant to demonstrate the depth of Chevron’s investment in Burma and, therefore, the depth of its accountability. Notably, in referencing Chevron’s inheritance of Unocal’s “legal, moral, and political liabilities,” the Proposal specifically focuses on the affects of Unocal’s operations in Burma, pointing out that Unocal was found to be “complicit in human rights abuses by Burmese troops hired by the Yadana project to provide pipeline security.”

Chevron repeatedly argues that the use of the phrase “Chevron’s presence exposes the company to the risk of government sanctions, negative brand publicity, and consumer boycotts” in the Proposal’s resolved clause proves that the Proposal’s

principle purpose is for Chevron to conduct an internal assessment of the risks posed to Chevron as a result of its presence in several countries.

In asking Chevron to take into consideration whether its presence in a particular country exposes it to the risks noted above, we are not asking the company to evaluate the level of risk to Chevron or to report to shareholders regarding the company's management of those risks, but merely to recognize those risks as red flags indicating the need for a guideline regarding investing or withdrawing. In other words, if Chevron faces government sanctions, negative brand publicity and consumer boycotts as a result of its presence in a particular country, we believe that investment in that country is a significant social policy issue and warrants the application of special guidelines developed for such extraordinary circumstances.

We do not see this consideration as an evaluation of risk for Chevron but rather as an extension of the Proposal's focus on the effects of company operations on the health of the public and the environment. Government sanctions, negative brand publicity and consumer boycotts may indicate that the company's investment in a particular country is adversely affecting the people or the environment of that country. For example, we believe the "No fuel for Burmese Junta" global boycott of Chevron has been waged because Chevron's investment in Burma is inextricably linked to the military regime's ability to sustain its campaign of brutality.

Granted, in considering whether it may face government sanctions, negative brand publicity, and consumer boycotts as a result of its presence in a particular country, Chevron may engage in some kind of internal risk assessment, and if the Staff deems it necessary, the Fund is open to removing the phrase "Chevron's presence exposes the company to the risk of government sanctions, negative brand publicity, and consumer boycotts" from the Proposal.

Regardless, we still contend that any such indirect internal risk assessment would not change the focus of the Proposal, which is the need for and development of guidelines that will minimize or eliminate Chevron operations that have adverse and dramatic effects on the health and safety of the people and environments of those countries. As Staff Legal Bulletin 14C makes clear in referring to "proposals as relating to an evaluation of risk," the focus is critical: "Each year, we are asked to analyze numerous proposals that make reference to environmental or public health issues. In determining *whether the focus of these proposals is a significant social policy issue. . .*" (emphasis added). Furthermore, the Bulletin explicitly states: "The fact that a proposal relates to ordinary business matters"—in this case an

evaluation of risk—“does not conclusively establish that a company may exclude the proposal from its proxy materials.”

It is inevitable that any proposal whose subject matter has clear financial or operational implications for the company can be argued to involve a risk assessment. Indeed, there is no logical stopping point for the “risk assessment” reasoning. Most proposals raise issues that affect the long-term value of shareholders’ investments in a company, directly or indirectly, and this calculus often boils down to risk. Does a company’s failure to ensure that the workplace is free from systemic employment discrimination risk alienating employees, customers and the communities in which a company operates? Does a company’s refusal to grapple with the implications of climate change for its business model threaten its prospects? Does a backlash against public service privatization impair the viability of a business model based on privatization? Employment discrimination, global climate change and privatization of public services have all been found in Staff determinations to be significant social policy issues.

*Exxon Mobil Corp.* (March 18, 2005), which is cited in Staff Legal Bulletin 14C as an example of an acceptable proposal, discusses risk, company reputation and value. The proposal, which requested a report “on the potential environmental damage that would result from the company drilling for oil and gas in protected areas,” says in the supporting statement: “we strongly believe, in addition to recognizing the issue, there is a need to study and disclose the impact on our company’s value from decisions to do business in protected and sensitive areas. This would allow shareholders to assess the risks created by the company’s activity in these areas as well as the company’s strategy for managing these risks.” (emphasis added) The proposal also states: “preserving sensitive ecosystems will enhance our Company’s image and reputation with consumers, elected officials, current and potential employees, and investors;” “some of our major competitors have already enacted such a policy;” and “Vote YES for this proposal, which will improve our company’s reputation. . .” (emphasis added)

More recently, in *Fidelity Funds* (Jan. 22, 2008), the Staff ruled that the mutual fund company can not exclude a proposal requesting that the Board “institute oversight procedures to screen out investments in companies that, in the judgment of the Board, substantially contribute to genocide, patterns of extraordinary and egregious violations of human rights, or crimes against humanity.” While that proposal focuses on developing procedures to prevent complicity in genocide, it also mentions certain risks to the company and to investors. It states: “Fidelity’s damaged reputation can impact employee morale, increase Fidelity’s cost to acquire

customers, reduce the shareholder bases for distributing expenses, and diminish the value of shareholder investments.” (emphasis added)

The text of the Exxon Mobil proposal and the Fidelity proposal make it abundantly clear that it is permissible to discuss risk, company reputation and value in a proposal focused on minimizing or eliminating operations that may adversely affect the environment or the public’s health.

*B. SEC Decision Precedents Cited by Chevron Do Not Apply to Proposal*

Chevron cites a number of cases where the Staff found that proposals could be excluded under the ordinary business exclusion. In each of these cases, we believe they are not applicable to our Proposal because they are unlike our Proposal in focus. More specifically, we believe that the proposals at these companies focused on the companies engaging in internal assessments of risk and liabilities that the companies face as a result of their operations that could affect the environment or the public’s health. For example:

- *Centex Corp.* (available May 15, 2007) and *ACE Limited* (available Mar. 19, 2007)—proposals requested that the Board assess how the company is responding to rising regulatory, competitive and public pressure to address climate change.
- *Kansas City Southern* (available Feb. 21, 2007)—proposal requested Board report on company’s efforts to safeguard the security of operations and minimize material financial risk arising from a terrorist attack.<sup>20</sup>
- *Pfizer, Inc.* (available Jan. 29, 2007)—proposal requesting a report on the effect on the long-term economic stability of the company and on the risks of liability to legal claims resulting from the company’s policy of limiting the availability of the company’s products to Canadian wholesalers or pharmacies that allow purchase of its products by U.S. residents.
- *Abbott Laboratories* (available Mar. 9, 2006)—proposal requesting report on the economic effects of HIV/AIDS, tuberculosis and malaria

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<sup>20</sup> Notably, regarding *Kansas City Southern* (available Feb. 21, 2007), a similar proposal was filed for the company’s 2008 proxy materials, asking for a report on the company’s efforts to safeguard the security of its operations arising from a terrorist attack, this time without asking for the report to include information on the company’s efforts to minimize material financial risk. Despite the shift in the proposal’s focus, *Kansas City Southern* argued that the proposal still involved an evaluation of risk. The SEC ruled that it was unable to concur with the company. (*Kansas City Southern* (available Jan. 9, 2008))

- pandemics on the company's business strategy.
- *Wells Fargo & Co.* (available Feb. 16, 2006)—proposal requesting that Board evaluate effects of global climate change on the company's business.
- *General Electric Co.* (available Jan. 13, 2006)—proposal requesting that the Board evaluate the risk of damage to GE's brand name and reputation in the U.S. as a result of outsourcing work to other countries, specifically China.
- *The Dow Chemical Co.* (available Feb. 23, 2005)—proposal concerning the impacts that outstanding Bhopal issues, if left unresolved, may pose on Dow Chemical, its reputation, its finances and its expansion in Asia and elsewhere.
- *Newmont Mining Corp.* (available Feb. 4, 2004)—proposal requesting a report on the risks to the company's operations, profitability and reputation from its social and environmental liabilities stemming from Newmont's operations in several countries.
- *General Electric Co.* (available Feb. 10, 2000)—proposal requesting that it discontinue an accounting technique, not use funds from the GE Pension Trust to determine executive compensation, and use funds from the trust as intended.
- *Medallion Financial Corp.* (available May 11, 2004)—proposal requesting that the company engage an investment bank to evaluate alternatives to enhance shareowner value.
- *Wal-Mart Stores, Inc.* (available Mar. 15, 1999)—proposal requesting a report that would have included a description of policies to implement wage adjustments to ensure adequate purchasing power and a sustainable living wage.

These proposals focus on the companies engaging in internal assessments of risk and liabilities facing the companies and providing such assessments, or explanation of the companies' strategy and risk management, to shareholders. On the contrary, our Proposal focuses on Chevron developing country selection guidelines that would affect the health and safety of the people and environments of those countries. The requested guidelines and the need for such guidelines are the focus, and these guidelines would not focus on the risks to Chevron—they would focus on efforts Chevron can take to minimize or eliminate operations that could dramatically and adversely affect people in countries with ongoing and systematic human rights violations.

## II. Conclusion

For the foregoing reasons, the Proponent respectfully requests that the Division not issue the determination requested by Chevron Corporation.

The Fund is pleased to be of assistance to the Staff on this matter. If you have any questions or need additional information, please do not hesitate to contact Jamie Carroll, IBT Program Manager, at (202) 624-8990.

Sincerely,



C. Thomas Keegel  
General Secretary-Treasurer

CTK/jc  
Enclosure

cc: Lydia I. Beebe, Corporate Secretary and Chief Governance Officer, Chevron Corporation  
Christopher A. Butner, Assistant Secretary, Corporate Governance, Legal, Chevron Corporation  
Rick Hansen, Esq., Counsel, Chevron Corporation