



DIVISION OF
CORPORATION FINANCE

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

February 8, 2016

Jason J. Kelroy
Kohl's Corporation
jason.kelroy@kohls.com

Re: Kohl's Corporation
Incoming letter dated December 11, 2015

Dear Mr. Kelroy:

This is in response to your letter dated December 11, 2015 concerning the shareholder proposal submitted to Kohl's by The Humane Society of the United States. We also have received a letter on the proponent's behalf dated January 6, 2016. Copies of all of the correspondence on which this response is based will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Matt S. McNair
Senior Special Counsel

Enclosure

cc: Sanford Lewis
sanfordlewis@strategiccounsel.net

February 8, 2016

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: Kohl's Corporation
Incoming letter dated December 11, 2015

The proposal requests that the company adopt a policy, and amend other governing documents as necessary, to require that the board's chair be an independent director.

We are unable to concur in your view that Kohl's may exclude the proposal under rule 14a-8(i)(3). We are unable to conclude that the proposal is so inherently vague or indefinite that neither the shareholders voting on the proposal, nor the company in implementing the proposal, would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires. Accordingly, we do not believe that Kohl's may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(3).

We are unable to concur in your view that Kohl's may exclude the proposal under rule 14a-8(i)(6). We are unable to conclude that Kohl's would lack the power or authority to implement the proposal. Accordingly, we do not believe that Kohl's may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(6).

We are unable to concur in your view that Kohl's may exclude the proposal under rule 14a-8(i)(10). Based on the information you have presented, it appears that Kohl's policies, practices and procedures do not compare favorably with the guidelines of the proposal and that Kohl's has not, therefore, substantially implemented the proposal. Accordingly, we do not believe that Kohl's may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(10).

Sincerely,

Coy Garrison
Attorney-Adviser

DIVISION OF CORPORATION FINANCE
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matter under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the Company in support of its intention to exclude the proposals from the Company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes administered by the Commission, including argument as to whether or not activities proposed to be taken would be violative of the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversary procedure.

It is important to note that the staff's and Commission's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholders proposals in its proxy materials. Accordingly a discretionary determination not to recommend or take Commission enforcement action, does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the management omit the proposal from the company's proxy material.



January 6, 2016

Via electronic mail

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

Re: Shareholder Proposal to Kohl's Corporation Regarding Board Chair Independence on Behalf of The Humane Society of the United States

Ladies and Gentlemen:

The Humane Society of the United States (the "Proponent") is beneficial owner of common stock of Kohl's Corporation (the "Company") and has submitted a shareholder proposal (the "Proposal") to the Company. I have been asked by the Proponent to respond to the letter dated December 11, 2015 sent to the Securities and Exchange Commission by Jason J. Kelroy of Kohl's Corporation. In that letter, the Company contends that the Proposal may be excluded from the Company's 2016 proxy statement by virtue of 14a-8(i)(3) and 14a-8(i)(10).

I have reviewed the Proposal, as well as the letter sent by the Company, and based upon the foregoing, as well as the relevant rules, it is my opinion that the Proposal must be included in the Company's 2016 proxy materials and that it is not excludable by virtue of those rules. A copy of this letter is being emailed concurrently to Jason J. Kelroy of Kohl's Corporation.

SUMMARY

The Shareholder Proposal states in its entirety:

RESOLVED, that shareholders ask that Kohl's adopt a policy, and amend other governing documents as necessary, to require that the Board's Chair be an independent director. This independence requirement shall apply prospectively, so as not to violate any contractual obligation at the time this resolution is adopted. Compliance with this policy is waived if no independent director is available and willing to serve as Chair. The policy should also specify how to select a new independent Chair if a current Chair ceases to be independent between annual shareholder meetings.

SUPPORTING STATEMENT:

Kohl's CEO serves as the company's Board Chair. In 2013, Kohl's shareholders voted on a similar proposal also asking for an independent Board Chair policy: of the votes cast "For" and "Against" that proposal, a majority—51.4 percent—were in favor of a policy requiring an independent chair.

Kohl's does now state that once its current CEO/Chairman retires or ceases being Chairman, it "intends" to appoint a Chair who hasn't previously served as an executive, "whenever possible" – a laudable step, though still not the independence requirement shareholders voted for.

This concept of a Board Chair independence requirement is based on the following logic:

1. The role of management, including the CEO, is to run the company; and
2. the Board's role is to provide independent oversight of management, including of the CEO; therefore
3. there is a potential conflict of interest and lack of checks and balances when a CEO is his or her own overseer while simultaneously managing the business.

As Intel's former chair Andrew Grove asks, "Is a company a sandbox for the CEO, or is the CEO an employee? If he's an employee, he needs a boss, and that boss is the Board. The Chairman runs the Board. How can the CEO be his own boss?"

Increasingly, board members seem to agree. According to a Sullivan & Cromwell survey of 400 Board members, approximately 70% of respondents believe the head of management should not concurrently Chair the Board.

Indeed, this is a growing issue: in 2012, 44% of all S&P 500 companies had Boards not chaired by their CEO.

An independent Board Chair has also been found to improve financial performance. A 2012 GMI Ratings report, titled *The Costs of a Combined Chair/CEO*, found that companies with a separate CEO and Chair provide investors with five-year shareholder returns nearly 28% higher than those of companies helmed by a party of one.

It makes sense, then, that numerous institutions support separation, including CalPERS (America's largest public pension fund) and Institutional Shareholder Services (ISS). Additionally, The Council of Institutional Investors, whose members invest over \$3 trillion, states that a "board should be chaired by an independent director."

Ensuring the Board Chair position is held by an independent director—rather than accepting Kohl's "intention" to appoint an independent director "whenever possible" at some undetermined future time—would benefit Kohl's and its shareholders, and we encourage shareholders to vote FOR this proposal.

Shareholders cast a majority of votes in favor of a proposal made in 2013 which was similarly worded but explicitly allowed the company to defer implementation: "To foster flexibility, this proposal gives the option of being phased-in and implemented when our next CEO is chosen." Kohl's updated its Corporate Governance Guidelines in November 2013 to state that once its current CEO/Chairman ceases being Chairman, it "intends" to appoint an independent Chair "whenever possible."

The Company makes two arguments in favor of exclusion, first that the proposal is vague and misleading under Rule 14a-8(i)(3) because it does not provide an explicit definition of "independent director." However, the proposal provides sufficient context that a reader, whether a shareholder or the management or board implementing the proposal, would fully understand the meaning of the term. It also provides equivalent context to that provided by similar proposals which were found by the Staff to be not excludable.

Secondly, the Company asserts that because it has substantially implemented the proposal from 2013, the present proposal is substantially implemented. However, the 2013 proposal provided flexibility on addressing the independence of the board chair *until the next CEO is appointed*. In contrast, the present proposal makes it

clear that the continued dual role of the current board chair is opposed by the proponent and any shareholders supporting the proposal. Because the proposal does not offer the same flexibility for the current CEO to continue to serve as board chair, the Company's current actions do not fulfill the guidelines or essential purpose of the current proposal, and therefore the proposal is not excludable as substantially implemented under Rule 14a-8(i)(10).

ANALYSIS

1. The Proposal is neither vague nor misleading and cannot be excluded pursuant to Rule 14a-8(i)(3).

The Company letter asserts that by failing to define "independent director," the Shareholder Proposal is so vague and indefinite so as to be excludable under Rule 14a-8(i)(3).

However, the examples cited by the Company involved instances where an externally referenced definition of "independent director" was utilized, without providing sufficient definitional or contextual information to the voting shareholder within the four corners of the proposal. See, for example, Clorox Company (Aug. 13, 2012), (allowing Rule 14a-8(i)(3) exclusion of a proposal to provide that the chairman of the board of directors must be an independent director in accordance with the meaning set forth in the New York Stock Exchange ("NYSE") listing standards); Cardinal Health, Inc. (July 6, 2012) and WellPoint, Inc. (Feb. 24, 2012, recon. denied Mar. 27, 2012) Similarly, in Boeing Co. (Feb. 10, 2004), the excluded shareholder proposal requested a bylaw requiring the chairman of the company's board of directors to be an independent director "according to the 2003 Council of Institutional Investors definition."

The Staff has consistently *disallowed* exclusion of proposals requesting that independent directors serve as Board Chair when the proposals gave sufficient context and did not reference an external definition of "independent director."

The company attempts to distinguish other shareholder proposals where the Staff did not concur the proposals were vague and indefinite, where no external definition was referenced. Yet in those instances, similar language to that in the current proposal provided sufficient context for the proposal—requesting that the chairman be an independent director who had not previously served as an executive officer of the company. See PepsiCo, Inc. (Feb. 2, 2012), Reliance Steel & Aluminum Co. (Feb. 2, 2012), Sempra Energy (Feb. 2, 2012), General Electric Co. (Jan. 10, 2012, recon. denied Feb. 1, 2012), Allegheny Energy, Inc. (Feb. 12, 2010).

While the company acknowledges that in those instances the proposals contextually defined the standard of independence (i.e., not previously serving as an executive officer of the company), reading the present proposal in its entirety it stands in a similar situation to those previously non-excludable proposals: the definition is apparent within the four corners of the Proposal. The Supporting Statement provides that a similar proposal had been voted for by a majority of shareholders in 2013 that required Kohl's "to appoint a Chair who hasn't previously served as an executive." Plainly, the proposal seeks to disqualify anyone WHO has served as executive from the Board Chair position. This is further supported by the Supporting Statement's stated logic for the proposal that "the Board's role is to provide independent oversight of management, including of the CEO;" and that "there is a potential conflict of interest and lack of checks and balances when a CEO is her or her own overseer." Therefore, the Proposal makes plain exactly what it means by "independent director."

The present proposal is very similar to prior proposals providing sufficient context, without definitions, to make "independent director" clear enough to the shareholders and management that it is not vague or misleading within the meaning of Rule 14a-8(i)(3). For example, in *The Boeing Co.* (Jan. 21, 2014), the company argued

that the proposal provided no definition or standard for “independent director,” and that numerous different and sometimes conflicting definitions exist for “independent director” in places outside of the proposal. The proponent noted that the core definition defined by the context of the proposal still held up since none of the external definitions “would consider a person independent who had previously served as an executive officer of the company.” The proposal at issue described the dangers inherent when “[o]ur CEO is our Board Chairman,” and thus made clear what “independent director” meant in context.

Similarly, in *EMC Corp.* (Mar. 10, 2002), the company argued that “independent director” is vague and subjective term, stated without definition or guidelines. The proponent noted that the term “is very clear from the context of the resolution and from widespread corporate governance usage” and that “the resolution clearly describes factors that compromise independence[,] as employment status with the company and close business relationships.” In *Xcel Energy Inc.* (Mar. 11, 2014), the proposal provided that there were “many problems which originated under administrations when only one person served as Chairman, Chief Executive Officer, and President[.]”. In *Rayonier Inc.* (Mar. 11, 2014) the proposal stated “A CEO who also serves as chair operates under a type of conflict-of-interest that can result in excessive management influence on the board and weaken the board’s oversight of management.”). Also see, *General Dynamics Corp.* (Jan. 22, 2014)(The proposal stated, “When our CEO is our board chairman, this arrangement can hinder our board’s ability to monitor our CEO’s performance.”), *The Coca-Cola Co.* (Jan. 15, 2014)(The proposal stated, “When our CEO is our board chairman, this arrangement can hinder our board’s ability to monitor our CEO’s performance.”), *Dean Foods* (Mar. 7, 2013)(The proposal states, “We believe that having a board chairman who is independent of the Company and its management is a governance practice that will promote greater management accountability to shareholders and lead to a more objective evaluation of management.”).

Accordingly, the proposal is not excludable under Rule 14a-8(i)(3).

2. The Proposal has not been substantially implemented and therefore cannot be excluded pursuant to Rule 14a-8(i)(10).

The Company also asserts that it can exclude the proposal because it is substantially implemented. In that regard, the Company notes that it has substantially implemented the previous proposal requiring that the “board of directors adopt a policy that, whenever possible, the chairman of our board of directors shall be an independent director.” However, the 2013 proposal included a provision “To foster flexibility, this proposal gives the option of being phased in and implemented when our next CEO is chosen.”

The company notes that as a result of shareholder sentiment in support of the previous proposal, the Company posted a statement on its website in November 2013 to provide:

... the Board intends to appoint a Chairman that has not previously served as an executive officer of our Company whenever possible. The foregoing shall apply with respect to the appointment of any new Chairman or if any then-current Chairman shall become an executive officer of the Company, but shall not apply: (i) until such time as Mr. Mansell retires or otherwise ceases to serve as Chairman of the Board;...

However, the present proposal does not leave the company the flexibility to defer the appointment of an independent director as board chair. As reflected in the proposal, the request for action is not contingent on the CEO’s intentions or fate:

Ensuring the Board Chair position is held by an independent director—rather than accepting Kohl's "intention" to appoint an independent director "whenever possible" at some undetermined future time—would benefit Kohl's and its shareholders, and we encourage shareholders to vote FOR this proposal.

Since the current proposal no longer gives the Company the flexibility to defer appointment of an independent board chair until the CEO steps down, and since it makes clear that the current policy of deferring action until after the CEO retires or ceases being chairman is unacceptable, the proposal cannot be said to be substantially implemented. There is a material difference between the two proposals and between the company's actions to date and those sought by the current proposal.

In essence, the current policy represents a promise to address the current proposal at some undetermined future time, i.e. when the current board chair steps down. *Promises* to take action at a future date, whether it is delineated or not, does not constitute substantial implementation pursuant to Rule 14a-8(i)(10). See, for instance, *The J.M. Smucker Company* (May 9, 2011) (Staff disagreed with the company's assertion that its commitment to publish a sustainability report in the coming year acted as "substantial implementation" of a proposal requesting sustainability reporting).

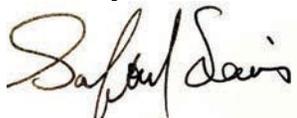
For these reasons, the present Proposal is not excludable under Rule 14a-8(i)(10).

CONCLUSION

The Company has not met its burden of demonstrating that the proposal is excludable. We urge the Staff to notify the Company that it is denying the no action request and that accordingly, the proposal must appear on the 2016 proxy statement. Please contact me if I may provide any further information in relation to this matter, sanfordlewis@strategiccounsel.net, 413 549-7333.

Thank you, as always, for your careful attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Sanford Lewis", written in a cursive style.

Sanford Lewis

Cc: Jason J. Kelroy



Jason J. Kelroy
(262) 703-1727
Fax: (262) 703-7274
jason.kelroy@kohls.com

December 11, 2015

VIA E-MAIL (shareholderproposals@sec.gov)

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

***Re: Kohl's Corporation - Omission of Shareholder Proposal Submitted by
The Humane Society of the United States***

Ladies and Gentlemen:

The purpose of this letter is to inform you, pursuant to Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the "Act"), that Kohl's Corporation ("Kohl's") intends to omit from its proxy statement and form of proxy for the 2016 annual meeting of its shareholders (the "2016 Proxy Materials") the shareholder proposal and supporting statement attached hereto as Exhibit A (the "Shareholder Proposal"), which was submitted by The Humane Society of the United States (the "Proponent").

Pursuant to Staff Legal Bulletin No. 14D ("SLB 14D"), we are submitting this request for no-action relief under Rule 14a-8 by use of the Securities and Exchange Commission (the "Commission") email address, shareholderproposals@sec.gov (in lieu of providing six additional copies of this letter pursuant to Rule 14a-8(j)), and the undersigned has included his name and telephone number both in this letter and the cover email accompanying this letter.

Kohl's believes that the Shareholder Proposal may be excluded from Kohl's 2016 Proxy Materials pursuant to Rule 14a-8(i)(3) because, as drafted, it is so vague and indefinite so as to be misleading within the meaning of Rule 14a-9, or, in the alternative, pursuant to Rule 14a-8(i)(10) of the Act because it deals with matters that Kohl's has already substantially implemented. We hereby request that the staff of the Division of Corporation Finance (the "Staff") confirm that it will not recommend enforcement action to the Commission if, in reliance on Rules 14a-8(i)(3) and/or 14a-8(i)(10), Kohl's excludes the Shareholder Proposal from its 2016 Proxy Materials.

In accordance with Rule 14a-8(j), we are:

- submitting this letter not later than 80 days prior to the date on which we intend to file definitive 2016 Proxy Materials; and
- simultaneously providing a copy of this letter and its exhibits to the Proponent, thereby notifying them of our intention to exclude the Shareholder Proposal from our 2016 Proxy Materials.

Rule 14a-8(k) and SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to this Shareholder Proposal, a copy of that correspondence should concurrently be furnished to the undersigned on behalf of Kohl's pursuant to Rule 14a-8(k) and SLB 14D.

THE SHAREHOLDER PROPOSAL

The Shareholder Proposal states:

"RESOLVED, that shareholders ask that Kohl's adopt a policy, and amend other governing documents as necessary, to require that the Board's Chair be an independent director. This independence requirement shall apply prospectively, so as not to violate any contractual obligation at the time this resolution is adopted. Compliance with this policy is waived if no independent director is available and willing to serve as Chair. The policy should also specify how to select a new independent Chair if a current Chair ceases to be independent between annual shareholder meetings."

A copy of the Shareholder Proposal and Supporting Statement, the Proponent's cover letter submitting the Shareholder Proposal, and other correspondence relating to the Shareholder Proposal are attached hereto as Exhibit A.

BASIS FOR EXCLUSION

- I. **KOHL'S MAY EXCLUDE THE SHAREHOLDER PROPOSAL FROM KOHL'S 2016 PROXY MATERIALS PURSUANT TO RULE 14a-8(i)(3) BECAUSE IT IS SO VAGUE AND INDEFINITE SO AS TO BE MISLEADING WITHIN THE MEANING OF RULE 14a-9.**

Rule 14a-8(i)(3) provides that if the Shareholder Proposal or supporting statement is contrary to any of the Commission's proxy rules, including Rule 14a-9, it may be omitted. Rule 14a-9 prohibits materially false or misleading statements in proxy materials. As illustrated by similar proposals recently reviewed by the Commission Staff, by failing to

define what is meant by “independent director,” the Shareholder Proposal is so vague and indefinite so as to be misleading within the meaning of Rule 14a-9. See, for example, Clorox Company (avail. Aug. 13, 2012).

The Shareholder Proposal seeks an “independent director,” but fails to provide any definition for what is meant by “independent director.” In comparison, the shareholder proposal Kohl’s received in 2013 and subsequently took affirmative actions to address specifically said: “An independent director is a director who has not previously served as an executive officer of our Company.” Here, no such definition is provided. There are numerous examples where no action relief has been granted by the Staff based on proponents’ failure to provide an appropriate definition of “independent director” – even where a definition is provided but references outside sources without further explanation. See, for example, Clorox Company (avail. Aug. 13, 2012) (rejecting a proposal to provide that the chairman of the board of directors must be an independent director in accordance with the meaning set forth in the New York Stock Exchange (“NYSE”) listing standards); Cardinal Health, Inc. (avail. July 6, 2012) and WellPoint, Inc. (avail. Feb. 24, 2012, recon. denied Mar. 27, 2012) (both rejecting a proposal to require the chairman of the board be an independent director as set forth in the NYSE listing standards, unless the company’s common stock ceases to be listed on the NYSE and is listed on another exchange, in which case such exchange’s definition of independence shall apply.)

Similarly, in Boeing Co. (avail. Feb. 10, 2004), the shareholder proposal requested a bylaw requiring the chairman of the company’s board of directors to be an independent director “according to the 2003 Council of Institutional Investors definition.” Boeing argued that the proposal referenced a standard for independence but failed to adequately describe or define that standard such that shareholders would be unable to make an informed decision on the merits of the proposal. The Staff concurred with the exclusion of the proposal under Rule 14a-8(i)(3) as vague and indefinite because it “fail[ed] to disclose to shareholders the definition of ‘independent director’ that it [sought] to have included in the bylaws.” See also PG&E Corporation (avail. Mar. 7, 2008); Schering-Plough Corporation (avail. Mar. 7, 2008); JPMorgan Chase & Co. (avail. Mar. 5, 2008) (all concurring in the exclusion of proposals that requested that the company require the board of directors to appoint an independent lead director as defined by the standard of independence “set by the Council of Institutional Investors,” without providing an explanation of what that particular standard entailed).

Just as the proposals that sought to use the NYSE or Council of Institutional Investors’ definitions without an explanation of the relevant definitions were too vague for a shareholder vote, shareholders would likewise be unable to determine the standard of independence that would be applied under the current Shareholder Proposal as there is no definition whatsoever. Here, “independent director” could mean a director that meets the independence requirements within the NYSE listing standards, the listing standards used by the NASDAQ Stock Market, the independence standards set by the Commission under the requirements of Sarbanes-Oxley for all members of audit committees, even though the Commission does not impose independence standards on directors generally, the definition

of independence set by groups like the Council of Institutional Investors, the standard used by proxy advisor firms like Institutional Shareholder Services, the definition previously provided in a similar shareholder proposal received and acted upon by Kohl's in 2013 (i.e., "a director who has not previously served as an executive officer") or any other available definition or standard for director independence.

This Shareholder Proposal is easily distinguishable from other shareholder proposals that the Staff did not concur were vague and indefinite, where the proposal requested that the chairman be an independent director who had not previously served as an executive officer of the company. See PepsiCo. Inc. (avail. Feb. 2, 2012), Reliance Steel & Aluminum Co. (avail. Feb. 2, 2012), Sempra Energy (avail. Feb. 2, 2012), General Electric Co. (avail. Jan. 10, 2012, recon. denied Feb. 1, 2012), Allegheny Energy, Inc. (avail. Feb. 12, 2010) (all denying exclusion of proposals that had resolutions similar to those of General Electric and Allegheny Energy). In those instances, like the shareholder proposal received and acted upon by Kohl's in 2013, the proposals contained a defined standard of independence (i.e., not previously serving as an executive officer of the company) whereas this Shareholder Proposal's reference to independence is neither explained in, nor understandable from, the text of the Shareholder Proposal or the supporting statement.

As Staff has concluded numerous times previously, exclusion of this Shareholder Proposal is proper under Rule 14-a(8)(i)(3) as vague and indefinite "because it fails to disclose to shareholders the definition of 'independent director' that it seeks to have included." Boeing Co. (avail. Feb. 10, 2004).

II. KOHL'S MAY EXCLUDE THE SHAREHOLDER PROPOSAL FROM KOHL'S 2016 PROXY MATERIALS PURSUANT TO RULE 14a-8(i)(10) BECAUSE KOHL'S HAS SUBSTANTIALLY IMPLEMENTED THE SHAREHOLDER PROPOSAL.

Rule 14a-8(i)(10) allows the omission of a shareholder proposal if "the company has already substantially implemented the proposal." The "substantially implemented" standard replaced the predecessor rule, which allowed the omission of a proposal that was "moot." See Securities Exchange Act Release No. 34-40018 (May 21, 1998) ("1998 Release"). The Commission has made explicitly clear that a shareholder proposal need not be "fully effected" by the company to meet the substantially implemented standard under Rule 14a-8(i)(10). See 1998 Release (confirming the Commission's position in Securities Exchange Act Release No. 34-20091 (Aug. 16, 1983) ("1983 Release")). In the 1983 Release, the Commission noted that the "previous formalistic application [(i.e., a "fully-implemented" interpretation that required line-by-line compliance by companies)] of [Rule 14a-8(i)(10)] defeated its purpose." The purpose of Rule 14a-8(i)(10) is to "avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by management." Securities Exchange Act Release No. 34-12598 (July 7, 1976) (addressing Rule 14a-(c)(10), the predecessor rule to Rule 14a-8(i)(10)).

In 2013, Kohl's received the following, similar shareholder proposal:

RESOLVED: Shareholders request that our board of directors adopt a policy that, whenever possible, the chairman of our board of directors shall be an independent director. An independent director is a director who has not previously served as an executive officer of our Company. This policy should be implemented so as not to violate any contractual obligations in effect when this resolution is adopted. The policy should also specify how to select a new independent chairman if a current chairman ceases to be independent between annual shareholder meetings. To foster flexibility, this proposal gives the option of being phased in and implemented when our next CEO is chosen.

Recognizing shareholder sentiment as expressed in a vote on this proposal brought before the Company's 2013 Annual Meeting of Shareholders, Kohl's Corporate Governance Guidelines, which are available on the Kohl's Investor Relations Website, were updated in November 2013 to provide:

... the Board intends to appoint a Chairman that has not previously served as an executive officer of our Company whenever possible. The foregoing shall apply with respect to the appointment of any new Chairman or if any then-current Chairman shall become an executive officer of the Company, but shall not apply: (i) until such time as Mr. Mansell retires or otherwise ceases to serve as Chairman of the Board; (ii) if such an appointment would violate any pre-existing contractual obligation of the Company; or (iii) to the extent the then-current members of the Board determine that such an appointment would not be consistent with the Board's fiduciary obligations to the Company's shareholders. In accordance with its fiduciary duties, the Board will periodically make a determination as to the appropriateness of its policies in connection with the recruitment and succession of the Chairman and Chief Executive Officer.

See Kohl's Corporate Governance Guidelines.

To support its Shareholder Proposal here, the Proponent appears to second-guess the adequacy of Kohl's current independent chair provision:

"Kohl's does now state that once its current CEO/Chairman retires or ceases being Chairman, it 'intends' to appoint a Chair who hasn't previously served as an executive, 'whenever possible' – a laudable step, though still not the independence requirement shareholders voted for."

Contrary to the Proponent's statements, Kohl's existing provisions do reflect the independence that shareholders voted for in 2013. There is no merit to the Proponent's challenge or mischaracterization of Kohl's "'intention' to appoint an independent director 'whenever possible' at some undetermined future time."

While the Proponent suggests Kohl's use of the phrase "whenever possible" may somehow be improper, even the original shareholder proposal received and voted on at Kohl's 2013 Annual Meeting of Shareholders qualified the requirement with "whenever possible":

RESOLVED: Shareholders request that our board of directors adopt a policy that, ***whenever possible***, the chairman of our board of directors shall be an independent director...

In fact, this text is necessary to ensure Kohl's would not lack the power or authority to implement the proposal. See Time Warner Inc. (avail. Jan. 26, 2010) (concurring in the omission of a shareholder proposal requesting that the board of directors require the chair to be an independent member of the board pursuant to Rule 14a-8(i)(6) because the board does not have the power to ensure that its chairman retains his or her independence at all times and the proposal does not provide the board with an opportunity or mechanism to cure such a violation of the standard requested in the proposal). See also Staff Legal Bulletin No. 14C (June 28, 2005) ("SLB 14C"), which provided guidance on the application of Rule 14a-8(i)(6) to proposals seeking to impose independence standards for directors. The Staff noted, in part:

Our analysis of whether a proposal that seeks to impose independence qualifications on directors is beyond the power or authority of the company to implement focuses primarily on whether the proposal requires continued independence at all times. In this regard, although we would not agree with a company's argument that it is unable to ensure the election of independent directors, we would agree with the argument that a board of directors lacks the power to ensure that its chairman or any other director will retain his or her independence at all times. As such, when a proposal is drafted in a manner that would require a director to maintain his or her independence at all times, we permit the company to exclude the proposal under rule 14a-8(i)(6) on the basis that the proposal does not provide the board with an opportunity or mechanism to cure a violation of the standard requested in the proposal.

SLB 14C.

Here, the Proponent would likely point to its statement that "the policy should also specify how to select a new independent Chair if a current Chair ceases to be independent between annual shareholder meetings" as the required opportunity to cure. To the extent Staff disagrees that this is sufficient, however, this Shareholder Proposal may also be excluded under Rule 14a-8(i)(6). Regardless, Kohl's has substantially implemented provisions to accomplish the Proponent's same goal by including "whenever possible," as originally requested in Kohl's 2013 shareholder proposal. Tellingly, in response to Time

Warner's No Action request, that proponent unsuccessfully asked to amend its proposal to add "whenever possible" and noted:

The addition of the words "wherever possible" is intended to explicitly convey the expectation that the board policy and the bylaws would address extraordinary situations, such as where the chairman ceases to be independent, where strict compliance with the policy is not possible. The Staff has in the past declined no-action relief in respect of proposals with this formulation. See e.g. Bristol-Myers Squibb Co. (avail Feb. 7, 2005); Merck & Co. (avail Dec. 29, 2004).

Time Warner Inc. (avail. Jan. 26, 2010); see also Exxon Mobil Corporation (avail. Jan. 21, 2010).

In addition, contrary to the Proponent's supporting statement, the timing included in Kohl's current provisions is not "at some undetermined future time." Rather, it is the timing expressly asked for in the 2013 shareholder proposal, and which was adopted after Kohl's many subsequent discussions with its largest shareholders representing a significant percentage of outstanding shares.

To the extent the Proponent is attempting to use the fact that Kohl's currently has a combined Chairman/CEO ("Kohl's CEO serves as the company's Board Chair") to support its suggestion that Kohl's has not met the independence requirement shareholders voted for, it is worth noting that the 2013 proposal specifically allowed for this combination ("To foster flexibility, this proposal gives the option of being phased in and implemented when our next CEO is chosen.") In addition, even this Shareholder Proposal notes: "This independence requirement shall apply prospectively, so as not to violate any contractual obligation at the time this resolution is adopted." This is an important fact because Kohl's Chairman, President and Chief Executive Officer's current contract employs him in the combined position. See Amended & Restated Employment Agreement between Kohl's Corporation and Kohl's Department Stores, Inc. and Kevin Mansell dated as of April 1, 2012 (filed as Exhibit 10.17 of the Company's Annual Report on Form 10-K for the fiscal year ended February 2, 2013).

When a company has already acted favorably on an issue addressed in a shareholder proposal, Rule 14a-8(i)(10) provides that the company is not required to ask its shareholders to vote on that same issue. Accordingly, the Shareholder Proposal may be excluded from the Kohl's 2016 Proxy Materials under Rule 14a-8(i)(10) as substantially implemented.

CONCLUSION

Based upon the foregoing analysis, Kohl's respectfully requests that the Staff agree that Kohl's may omit the Shareholder Proposal from Kohl's 2016 Proxy Materials.

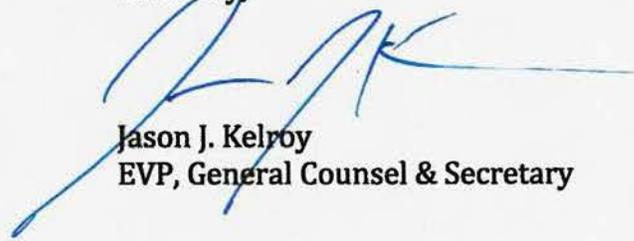
December 11, 2015

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If you have any questions or would like any additional information, please feel free to call me.

Thank you for your prompt attention to this request.

Sincerely,



Jason J. Kelroy
EVP, General Counsel & Secretary

Encls.

cc (via e-mail):

Mr. PJ Smith
Corporate Outreach Manager
The Humane Society of the United States
pjsmith@humanesociety.org

EXHIBIT A

(Shareholder Proposal and Correspondence from Proponent)



THE HUMANE SOCIETY
OF THE UNITED STATES

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Chair of the Board

Jennifer Leaning, M.D., S.M.H.
Vice Chair

Eric L. Bernthal, Esq.
Second Vice Chair

Kathleen M. Linehan, Esq.
Board Treasurer

Wayne Pacelle
President & CEO

Michael Markarian
Chief Program & Policy Officer

Laura Maloney
Chief Operating Officer

G. Thomas Waite III
Treasurer & CFO

Andrew N. Rowan, Ph.D.
*Chief International Officer
& Chief Scientific Officer*

Roger A. Kindler
*General Counsel
Vice President & CLO*

Janet D. Frake
Secretary

DIRECTORS

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Eric L. Bernthal, Esq.
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David O. Wiebers, M.D.
Lona Williams

December 1, 2015

Mr. Richard Schepp, EVP, General Counsel, and Secretary
Kohl's Corp.
N56 W17000 Ridgewood Drive
Menomonee Falls, WI 53051

Via UPS and email (*via richard.schepp@kohls.com*)

Dear Mr. Schepp:

Enclosed with this letter is a shareholder proposal submitted for inclusion in the proxy statement for the 2016 annual meeting and a letter from The Humane Society of the United States' (HSUS) brokerage firm, BNY Mellon, confirming ownership of Kohl's Corp. common stock. The HSUS has held at least \$2,000 worth of common stock continuously for more than one year and intends to hold at least this amount through and including the date of the 2016 shareholder meeting.

Please contact me if you need any further information or have any questions. If Kohl's will attempt to exclude any portion of this proposal under Rule 14a-8, please advise me within 14 days of your receipt of this proposal. I can be reached at 301-366-6074 or pjsmith@humanesociety.org. Thank you for your assistance.

Very truly yours,

PJ Smith
Corporate Outreach Manager

Enclosures: 2016 Shareholder Resolution
Copy of BNY Mellon letter



BNY MELLON

Frank J. Mangone
Vice President
St. Relationship Manager

BNY Mellon Wealth Management
Family Office
200 Park Avenue, Floor 10
New York, NY 10016

T 212 922 7526 F 877 340 3476
frank.mangone@bnymellon.com

December 1, 2015

**Mr. Richard Schepp, EVP, General Counsel, and Secretary
Kohl's Corp.
N56 W17000 Ridgewood Drive
Menomonee Falls, WI 53051**

Dear Mr. Schepp,

BNY Mellon National Association, custodian for The Humane Society of the United States, confirms that as of December 1, 2015 HSUS holds shares of at least \$2000.00 in market value of Kohl's Corp. common stock and held those shares for at least one year prior to and including the date of this letter.

Best Regards,

**Frank J. Mangone
Vice President
BNY Mellon Wealth Management
212-922-7526**

RESOLVED, that shareholders ask that Kohl's adopt a policy, and amend other governing documents as necessary, to require that the Board's Chair be an independent director. This independence requirement shall apply prospectively, so as not to violate any contractual obligation at the time this resolution is adopted. Compliance with this policy is waived if no independent director is available and willing to serve as Chair. The policy should also specify how to select a new independent Chair if a current Chair ceases to be independent between annual shareholder meetings.

SUPPORTING STATEMENT:

Kohl's CEO serves as the company's Board Chair. In 2013, Kohl's shareholders voted on a similar proposal also asking for an independent Board Chair policy: of the votes cast "For" and "Against" that proposal, a majority—51.4 percent—were in favor of a policy requiring an independent chair.

Kohl's does now state that once its current CEO/Chairman retires or ceases being Chairman, it "intends" to appoint a Chair who hasn't previously served as an executive, "whenever possible" – a laudable step, though still not the independence requirement shareholders voted for.

This concept of a Board Chair independence requirement is based on the following logic:

1. The role of management, including the CEO, is to run the company; and
2. the Board's role is to provide independent oversight of management, including of the CEO; therefore
3. there is a potential conflict of interest and lack of checks and balances when a CEO is his or her own overseer while simultaneously managing the business.

As Intel's former chair Andrew Grove asks, "Is a company a sandbox for the CEO, or is the CEO an employee? If he's an employee, he needs a boss, and that boss is the Board. The Chairman runs the Board. How can the CEO be his own boss?"

Increasingly, board members seem to agree. According to a Sullivan & Cromwell survey of 400 Board members, approximately 70% of respondents believe the head of management should not concurrently Chair the Board.

Indeed, this is a growing issue: in 2012, 44% of all S&P 500 companies had Boards not chaired by their CEO.

An independent Board Chair has also been found to improve financial performance. A 2012 GMI Ratings report, titled *The Costs of a Combined Chair/CEO*, found that companies with a separate CEO and Chair provide investors with five-year shareholder returns nearly 28% higher than those of companies helmed by a party of one.

It makes sense, then, that numerous institutions support separation, including CalPERS (America's largest public pension fund) and Institutional Shareholder Services (ISS). Additionally, The Council of Institutional Investors, whose members invest over \$3 trillion, states that a "board should be chaired by an independent director."

Ensuring the Board Chair position is held by an independent director—rather than accepting Kohl's "intention" to appoint an independent director "whenever possible" at some undetermined future time—would benefit Kohl's and its shareholders, and we encourage shareholders to vote FOR this proposal.