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

DIVISION OF
CORPORATION FINANCE

February 18, 2016

Suzanne K. Hanselman
Baker & Hostetler LLP
shanselman@bakerlaw.com

Re: The Progressive Corporation
Incoming letter dated January 5, 2016

Dear Ms. Hanselman:

This is in response to your letters dated January 5, 2016 and February 4, 2016 concerning the shareholder proposal submitted to Progressive by William Steiner. We also have received a letter on the proponent's behalf dated February 7, 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: John Chevedden

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

February 18, 2016

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: The Progressive Corporation
Incoming letter dated January 5, 2016

The proposal requests that the board take the steps necessary so that each voting requirement in Progressive's charter and bylaws that calls for a greater than simple majority vote be eliminated and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary, this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws.

There appears to be some basis for your view that Progressive may exclude the proposal under rule 14a-8(i)(10). In this regard, we note your representation that Progressive will provide shareholders at Progressive's 2016 annual meeting with an opportunity to approve amendments to Progressive's articles of incorporation. Accordingly, we will not recommend enforcement action to the Commission if Progressive omits the proposal from its proxy materials in reliance on rule 14a-8(i)(10).

Sincerely,

Adam F. Turk
Special Counsel

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.

JOHN CHEVEDDEN

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

February 7, 2016

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

 # 1 Rule 14a-8 Proposal
Progressive Corp. (PGR)
Simple Majority Vote
William Steiner

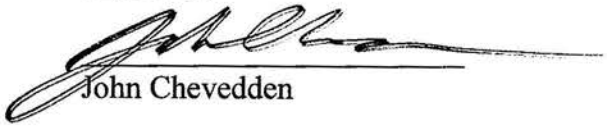
Ladies and Gentlemen:

This is in regard to the January 5, 2016 no-action request which has not been supplemented by this late date.

This company no-action request is also incomplete at this late date. The January 5, 2016 letter claims that there are 3 super-majority voting provisions. The company thus leaves the Staff to guess about whether there are a total of 4 (or more) super-majority voting provisions.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2016 proxy.

Sincerely,



John Chevedden

cc: Charles E. Jarrett <charles_e_jarrett@progressive.com>

BakerHostetler

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February 4, 2016

VIA EMAIL

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

Re: The Progressive Corporation
Supplemental Letter Regarding Shareholder Proposal of William Steiner
Securities Exchange Act of 1934 – Rule 14a-8

Ladies and Gentlemen:

On January 5, 2016, we submitted a letter (the "No-Action Request") on behalf of The Progressive Corporation (the "Company") notifying the staff of the Division of Corporation Finance (the "Staff") that the Company intends to omit from its proxy statement and form of proxy (collectively, the "2016 Proxy Materials") for its 2016 Annual Meeting of Shareholders (the "2016 Annual Meeting") a shareholder proposal and statements in support thereof (the "Proposal") received from William Steiner (the "Proponent").

The Proposal requests that the Company's Board of Directors (the "Board") "take the steps necessary so that each voting requirement in our charter and bylaws that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws."

Since we submitted the No-Action Request, the Company has had additional correspondence with Mr. Chevedden, on behalf of the Proponent. This additional correspondence is attached as Exhibit A.

BASIS FOR SUPPLEMENTAL LETTER

The No-Action Request stated our belief that the Proposal may be excluded from the 2016 Proxy Materials under Rule 14a-8(i)(10) because the Board, in January 2016, intended to consider whether to approve amendments to the Company's Amended and Restated Articles of Incorporation (the "Current Articles") and Amended and Restated Code of Regulations (the "Code of Regulations") that would substantially implement the Proposal. We write supplementally to confirm that the Board has adopted resolutions authorizing the following actions:

- Amending the Company's Code of Regulations, effective as of January 29, 2016, to change the voting threshold for removal of directors to a majority of the Company's voting power with respect to the election of directors (the "Code Amendment"); and
- Submitting for shareholder approval at the 2016 Annual Meeting of Shareholders, as required by the laws of the Company's state of incorporation and the Current Articles, and recommending that shareholders approve, amendments to the Current Articles (the "Articles Amendments") to:
    - Change the voting requirement in Article Ninth of the Current Articles, which requires certain business transactions with a "related person" to be approved by the Company's shareholders, to a majority of the Company's voting securities (and remove the separate voting requirement for a majority of disinterested shares);
    - Remove the supermajority vote related to amendments to Article Ninth and amendments to Article Sixth that relate to Article Ninth, with the result that all amendments to the Current Articles will require the approval of a majority of the outstanding common shares; and
    - Change the voting requirement for a Corporate Event (as defined in the No-Action Request) to a majority, from two-thirds, of the Company's outstanding voting preference shares.

The Code Amendment and Articles Amendments adopted by the Board are in the forms previously submitted as Exhibit C to the No-Action Request.

ANALYSIS

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. Under Rule 14a-8(i)(10), substantial implementation requires that a company's actions satisfactorily address the essential objective of the proposal. *See, e.g.*, *Exelon Corp.* (avail. Feb. 26, 2010); *Anheuser-Busch Companies, Inc.* (avail. Jan. 17, 2007); *ConAgra Foods, Inc.* (avail. July 3, 2006); *Johnson &*

Johnson (avail. Feb. 17, 2006); *Talbots Inc.* (avail. Apr. 5, 2002); *Masco Corp.* (avail. Mar. 29, 1999).

The Board's actions with respect to the Code Amendment and the Articles Amendments substantially implement the Proposal because the Board has acted to replace each of the provisions in the Current Articles and the Code of Regulations that call for a supermajority vote involving the Company's common shares with a majority vote requirement. As discussed in the No-Action Request, the Staff consistently has concurred that similar shareholder proposals calling for the elimination of provisions requiring "a greater than simple majority vote" (like the Proposal) are excludable under Rule 14a-8(i)(10) where the supermajority voting standards in a company's governing documents are replaced with majority voting standards. *See, e.g., Medtronic, Inc.* (avail. June 13, 2013); *Visa Inc.* (avail. Nov. 14, 2014); *Hewlett-Packard Co.* (avail. Dec. 19, 2013); *McKesson Corp.* (avail. Apr. 8, 2011); *Express Scripts, Inc.* (avail. Jan. 28, 2010).

Also as discussed in the No-Action Request, in connection with similar proposals calling for the elimination of charter provisions that require "a greater than simple majority vote," the Staff has consistently agreed that Rule 14a-8(i)(10) could be relied on to exclude the proposals when the charter documents would set voting thresholds at a majority of the relevant shares outstanding. *See, e.g., Medivation, Inc.* (avail. March 13, 2015); *Hewlett-Packard Company* (avail. Dec. 19, 2013); *McKesson Corp.* (avail. April 8, 2011); *Express Scripts, Inc.* (avail. Jan. 28, 2010).

Further, the Staff has consistently granted no-action relief in situations where the board lacks unilateral authority to adopt amendments to a certificate of incorporation or bylaws but has taken all of the steps within its power to eliminate the supermajority voting requirements in those documents, submitted the issue for shareholder approval and recommended that shareholders approve the proposal. *See McKesson Corp.* (avail. April 8, 2011); *MetLife, Inc.* (avail. Feb. 4, 2015); *Applied Materials, Inc.* (avail. Dec. 19, 2008); *Nicor Inc.* (avail. Feb. 12, 2008); *Sun Microsystems, Inc.* (avail. Aug. 28, 2008); *H J. Heinz Co.* (avail. May 20, 2008) (each granting no-action relief for a proposal similar to the Proposal based on board action and, as necessary, anticipated shareholder action). By adopting the Code Amendment and Articles Amendments, and resolving to submit and recommend the Articles Amendments for shareholder approval at the 2016 Annual Meeting, the Board has now taken the steps within its power.

Finally, as discussed in the No-Action Request, if the Company's shareholders approve the Articles Amendments, additional supermajority provisions in the terms of the Company's serial preferred and voting preference shares will remain in the Company's Articles of Incorporation, but should not affect the conclusion that the Company has substantially implemented the Proposal. Staff precedent makes clear that the retention of supermajority votes on matters that directly affect the rights of preferred holders does not preclude the Staff from determining that the Proposal is excludable under Rule 14a-8(i)(10). *See MetLife, Inc.*(avail. Feb. 4, 2015); *CVS Caremark Corporation* (avail. Feb. 27, 2014); *Exxon Mobil Corporation* (avail. March 21, 2011); *Nicor Inc. (*avail. Jan. 28, 2008, *recon. denied* Feb. 12, 2008) (each

granting no-action relief under Rule 14a-8(i)(10) for a shareholder proposal similar to the Proposal despite the continuation of supermajority voting provisions in the terms of preferred stock). *See also Mattel, Inc.* (avail. Feb. 3, 2010).

CONCLUSION

Based on the foregoing analysis and the facts and analysis described further in the No-Action Request, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2016 Proxy Materials. In accordance with Rule 14a-8(j), a copy of this supplemental letter is being sent on this date to the Proponent.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shanselman@bakerlaw.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (216) 861-7090 or Dane Shrallow, the Company's Deputy General Counsel – Securities, at (440) 395-3765.

Very truly yours,

Suzanne K. Hanselman

Enclosure
cc: Charles E. Jarrett
Dane A. Shrallow
John Chevedden
William Steiner

EXHIBIT A

Laurie F Humphrey

From: Dane A Shrallow
Sent: Wednesday, January 06, 2016 4:13 PM
To: *** FISMA & OMB Memorandum M-07-16 ***
Cc: Charles E Jarrett; David M Coffey; Laurie F Humphrey; Hanselman, Suzanne (SHanselman@bakerlaw.com); Harrington, John J. (jharrington@bakerlaw.com)
Subject: RE: Simple Majority Vote (PGR)

Dear Mr. Chevedden,

We filed our request for "no action" relief with the SEC yesterday evening prior to receipt of your correspondence below. A contingent withdrawal is acceptable to Progressive. We therefore would appreciate it if you will confirm to us that Mr. Steiner will withdraw his proposal if our Board of Directors approves the amendments to our Amended Articles of Incorporation and Code of Regulations described in my email to you of early yesterday afternoon (the "Proposed Amendments"). The Proposed Amendments are set forth in an attachment to our no-action request, a copy of which has been provided to you and Mr. Steiner. Upon receipt of such confirmation, we'll notify the SEC of the contingent withdrawal.

We will notify you promptly after our Board meets on January 28 and 29, 2016 to advise you of whether our Board has approved the Proposed Amendments. Assuming our Board approves the Proposed Amendments and Mr. Steiner promptly withdraws his Proposal, we will notify the SEC accordingly.

Again, please call me at 440-395-3765, or Dave Coffey at 440-395-3675, if you wish to discuss this matter further.

Sincerely,

(Mr.) Dane A. Shrallow

From: *** FISMA & OMB Memorandum M-07-16 ***
Sent: Tuesday, January 05, 2016 7:18 PM
To: Dane A Shrallow
Subject: Simple Majority Vote (PGR)

Dear Ms. Shrallow,
Since the board has not acted yet the best that could be hoped for would apparently be a contingent withdrawal.
Sincerely,
John Chevedden
cc: William Steiner

From: *** FISMA & OMB Memorandum M-07-16 ***
Sent: Thursday, January 07, 2016 12:24 AM
To: Dane A Shrallow
Subject: Simple Majority Vote (PGR)

Dear Ms. Shrallow,
There does not appear to be any advantage for a contingent withdrawal after a no action request is submitted.
It also seems that the Securities and Exchange Commission has had issues with companies that have filed no action requests in advance of taking the steps promised.
John Chevedden
cc: William Steiner

Laurie F Humphrey

From: David M Coffey
Sent: Tuesday, February 02, 2016 6:05 PM
To: *** FISMA & OMB Memorandum M-07-16 ***
Cc: Charles E Jarrett; Laurie F Humphrey
Subject: Steiner Shareholder Proposal (PGR)

Dear Mr. Chevedden,

I wanted to follow up on correspondence that you have had with my colleague, Dane Shrallow, regarding the shareholder proposal that William Steiner submitted to The Progressive Corporation related to a simple majority vote in the company's charter documents. I wanted to let you know that, consistent with our "no action" request submitted to the SEC in early January, the Board of Directors approved the following amendments to the company's charter documents at its meetings held at the end of January:

1. Amend the company's code of regulations (i.e., bylaws) to lower the shareholder vote required for removal of directors from 75% to a majority. This amendment was effective immediately upon approval.
2. Amend the company's articles of incorporation to lower the shareholder vote required for certain transactions with related persons from 75% to a majority, and to eliminate the requirement for a separate vote by disinterested shareholders;
3. Amend the company's articles of incorporation to lower the shareholder vote required for amendments to provisions related to approvals of certain transactions with related persons from 75% to a majority; and
4. Amend the terms of the company's authorized voting preference shares (none of which are outstanding) to lower the shareholder vote required for mergers, asset sales and liquidation from 66 2/3% to a majority.

The amendments to the company's articles of incorporation described in items 2 through 4 above require shareholder approval and, accordingly, will be submitted for shareholder approval at the 2016 annual shareholders' meeting. The Board will recommend that shareholders vote for the amendments.

I hope that Mr. Steiner will consider again withdrawing his shareholder proposal. His withdrawal of the proposal will save the company the time, effort and expense necessary to submit a supplemental letter to the SEC related to its no-action request to exclude the shareholder proposal from our proxy statement for our 2016 annual shareholders' meeting. We plan on e-mailing the supplemental letter to the SEC at the **end of the day tomorrow, February 3, 2016**. Please let me know as soon as possible if Mr. Steiner agrees to withdraw his proposal.

I would be happy to discuss this with you if you would like. Please contact me at (440) 395-3675 or contact me by e-mail at David_Coffey@Progressive.com.

David M. Coffey
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Mayfield Village, OH 44143
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SHanselman@bakerlaw.com

January 5, 2016

VIA E-MAIL

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: The Progressive Corporation
Shareholder Proposal of William Steiner
Securities Exchange Act of 1934 - Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, The Progressive Corporation (the "Company"), intends to omit from its proxy statement and form of proxy for its 2016 Annual Meeting of Shareholders (collectively, the "2016 Proxy Materials") a shareholder proposal (the "Proposal") and statement in support thereof (the "Supporting Statement") received from William Steiner (the "Proponent").

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the "Commission") no later than eighty (80) calendar days before the Company intends to file its definitive 2016 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D") provide that a shareholder proponent is required to send the company a copy of any correspondence that the proponent elects to submit to the Commission or the staff of the Division of Corporation Finance (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 Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

The Proposal states:

> RESOLVED, Shareholders request that our board take the steps necessary so that each voting requirement in our charter and bylaws that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws.

A copy of the Proposal and the Supporting Statement is attached to this letter as Exhibit A. Correspondence between the Company and Mr. John Chevedden, acting on behalf of the Proponent in accordance with his request, regarding a potential withdrawal of the Proposal is attached hereto as Exhibit B. As of the time of submission of this request, the Proponent has not withdrawn the Proposal.

BASIS FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2016 Proxy Materials pursuant to Rule 14a-8(i)(10) because the Company's Board of Directors (the "Board"), by action proposed to be taken at a Board meeting scheduled for January 28 and 29, 2016 (the "January Board Action"), will consider adopting an amendment to the Company's Amended and Restated Code of Regulations (the equivalent of bylaws for an Ohio corporation) (the "Current Regulations") and a resolution approving and submitting for shareholder approval amendments to the Company's Amended and Restated Articles of Incorporation (the "Current Articles") that will substantially implement the Proposal, as discussed below. As explained below, we will supplementally notify the Staff following the January Board Action.

ANALYSIS

The Proposal May Be Excluded Under Rule 14a-8(i)(l0) As Substantially Implemented.

A. Rule 14a-8(i)(10) Background

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal from its proxy materials if the company has substantially implemented the proposal. The Commission stated in 1976 that the predecessor to Rule 14a-8(i)(10) was "designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management." Exchange Act Release No. 12598 (July 7, 1976).

Originally, the Staff narrowly interpreted this predecessor rule and granted no-action relief only when proposals were "'fully' effected" by the company. *See* Exchange Act Release No. 19135 (Oct. 14, 1982). By 1983, the Commission recognized that the "previous formalistic application of [the rule] defeated its purpose" because proponents were successfully convincing the Staff to deny no-action relief by submitting proposals that differed from existing company policy by only a few words, and the Commission adopted a revised interpretation of the rule to permit the omission of proposals that had been "substantially implemented." Exchange Act Release No. 20091, at § II.E.6. (Aug. 16, 1983) (the "1983 Release"). In 1998, the Commission amended Rule 14a-8(i)(10) to codify this revised interpretation. Exchange Act Release No. 40018 at n.30 (May 21, 1998). Thus, when a company can demonstrate that it already has taken actions to address the underlying concerns and essential objectives of a shareholder proposal, the Staff has concurred that the proposal has been "substantially implemented" and may be excluded as moot. *See, e.g., Exelon Corp.* (avail. Feb. 26, 2010); *Exxon Mobil Corp. (Burt)* (avail. Mar. 23, 2009); *Exxon Mobil Corp.* (avail. Jan. 24, 2001); *Masco Corp.* (avail. Mar. 29, 1999); *The Gap, Inc.* (avail. Mar. 8, 1996). The Staff has noted that "a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal." *Texaco, Inc.* (avail. Mar. 28, 1991).

B. Anticipated Action By the Board To Approve Proposed Amendment to the Company's Charter Documents Substantially Implements the Proposal

The Current Articles and Current Regulations contain three super-majority voting provisions with respect to voting by holders of the Company's common shares. Specifically:

- Section 4 of Article II of the Current Regulations permits directors to be removed by the affirmative vote of the holders of record of shares representing 75% of the Company's voting power with respect to the election of directors;
- Article Ninth of the Current Articles requires certain business transactions with a "related person" to be approved by the holders of record of 75% of the Company's voting securities and a majority of securities held by disinterested shareholders; and
- Article Sixth of the Current Articles requires that amendments to Article Ninth and to the provisions of Article Sixth relating to amendments to Article Ninth must be approved by the holders of record of 75% of the Company's securities entitled to vote on the matter.

The Current Articles also contain super-majority provisions with respect to voting by holders of the Company's Voting Preference Shares[1]. The terms of the Voting Preference Shares require the approval of two-thirds of the outstanding Voting Preference Shares for the following types of transactions ("Corporate Events"): (i) the sale, lease or exchange of all or substantially all assets

[1] As discussed below, additional super-majority provisions in the terms of the Company's preferred and voting preference shares will remain in the Company's Articles of Incorporation but should not affect the conclusion that the Company has substantially implemented the Proposal.

of the Company, (ii) a merger or consolidation involving the Company, and (iii) the liquidation or dissolution of the Company.

In connection with the January Board Action, the Board will consider the following matters recommended by the Company's management:

- an amendment to the Current Regulations (the "Proposed Regulation Amendment"), which would become effective upon Board approval, changing the voting threshold for removal of directors to a majority of the Company's voting power with respect to the election of directors; and
- submitting for shareholder approval at the 2016 Annual Meeting of Shareholders, as required by the laws of the Company's state of incorporation and the Current Articles, and resolving to recommend that shareholders approve, amendments to the Current Articles (the "Proposed Articles Amendment" and, together with the Proposed Regulation Amendment, the "Proposed Charter Amendments") to:
    - Change the voting requirement in Article Ninth to a majority of the Company's voting securities (and remove the separate voting requirement for a majority of disinterested shares);
    - Remove the super-majority vote related to amendments to Article Ninth and amendments to Article Sixth that relate to Article Ninth, with the result that all amendments to the Current Articles will require the approval of a majority of the outstanding common shares; and
    - Change the voting requirement for a Corporate Event to a majority, from two-thirds, of the outstanding Voting Preference Shares.

The Proposed Charter Amendments, marked to show changes from the current versions, are attached as Exhibit C.

If the Proposed Regulation Amendment is approved by the Board, it will be effective immediately and all supermajority voting thresholds in the Current Regulations would be removed. If the Proposed Articles Amendment is approved by the Board and receives the requisite shareholder approval at the 2016 Annual Meeting of Shareholders, all supermajority voting thresholds in the Current Articles relating to voting by the holders of the Company's common shares would be removed and all supermajority voting thresholds in the Current Articles relating to voting by the holders of the Company's other securities would be removed except for provisions specifically protecting the rights of the holders of those other securities.[2] Thus, the Proposed Charter Amendments would substantially implement the Proposal.

[2] See Section C below.

The Staff consistently has concurred that similar shareholder proposals calling for the elimination of provisions requiring "a greater than simple majority vote" (like the Proposal) are excludable under Rule 14a-8(i)(10) where the supermajority voting standards in a company's governing documents are replaced with majority voting standards. For example, in *Medtronic, Inc.* (avail. June 13, 2013), the company argued that certificate amendments it would propose at the shareholders' meeting resulted in a similar proposal being excluded under both Rule 14a-8(i)(10) and Rule 14a-8(i)(9). The Staff concurred with exclusion under Rule 14a-8(i)(10) because, as with the Company's Proposed Charter Amendments, the company's proposal "compare[d] favorably" with the shareholder proposal. *See also Visa Inc.* (avail. Nov. 14, 2014) (concurring with the exclusion of a shareholder proposal similar to the Proposal as substantially implemented where the company's board of directors approved amendments to the company's charter documents that would replace each provision that called for a supermajority provision with a majority vote requirement); *Hewlett-Packard Co.* (avail. Dec. 19, 2013) (concurring with the exclusion of a similar shareholder proposal as substantially implemented where the company's board of directors approved amendments to its bylaws that would eliminate the supermajority voting standards required for amendments to the bylaws); *McKesson Corp.* (avail. Apr. 8, 2011) (concurring that the company had substantially implemented a similar shareholder proposal where the company's board of directors approved amendments to its certificate of incorporation and bylaws that would eliminate the supermajority voting standards required for amendments to the certificate of incorporation and bylaws); *Express Scripts, Inc.* (avail. Jan. 28, 2010) (same).

We also note that, in connection with similar proposals calling for the elimination of charter provisions that require "a greater than simple majority vote," the Staff has consistently agreed that Rule 14a-8(i)(10) could be relied on to exclude the proposals where the charter documents would set voting thresholds at a majority of the relevant shares outstanding. *See, e.g., Medivation, Inc.* (avail. March 13, 2015); *Hewlett-Packard Company* (avail. Dec. 19, 2013); *McKesson Corp.* (avail. April 8, 2011); *Express Scripts, Inc.* (avail. Jan. 28, 2010).

In addition, the Staff has consistently granted no-action relief in situations where the board lacks unilateral authority to adopt amendments to a certificate of incorporation or bylaws but has taken all of the steps within its power to eliminate the supermajority voting requirements in those documents, submitted the issue for shareholder approval and recommended that shareholders approve the proposal. For instance, in *McKesson Corp.*, discussed above, the company's board approved charter amendments to eliminate supermajority voting provisions, but the amendments would only become effective upon shareholder approval. The company argued, and the Staff concurred, that no-action relief was appropriate based on the actions taken by the board and the anticipated actions of the company's shareholders. *See also MetLife, Inc.* (avail. Feb. 4, 2015); *Applied Materials, Inc.* (avail. Dec. 19, 2008); *Nicor Inc.* (avail. Feb. 12, 2008); *Sun Microsystems, Inc.* (avail. Aug. 28, 2008); *H J. Heinz Co.* (avail. May 20, 2008) (each granting no-action relief for a proposal similar to the Proposal based on board action and, as necessary, anticipated shareholder action).

C. *The Proposal May Be Excluded Under Rule 14a-8(i)(10) Despite Terms of Serial Preferred Shares and Voting Preference Shares*

The only supermajority voting provisions not addressed by the Proposed Charter Amendments are provisions in the Current Articles requiring the approval of two-thirds of the Company's Serial Preferred Shares and its Voting Preference Shares to the authorization or issuance of senior stock; amendments to the charter documents that adversely affects the rights of the holders of the specific class or series of shares; or purchases or redemptions of less than all of the shares of the series then outstanding if dividends on the series are in arrears. There are no Serial Preferred Shares or Voting Preference Shares currently outstanding, and there have not been any shares of either series outstanding since 1996. These limited voting provisions protect the investment interests of holders of Preferred Shares and Voting Preference Shares that may be issued in the future and do not diminish the voting rights of holders of common shares generally.[3] Staff precedent makes clear that the retention of supermajority votes on similar matters that directly affect the rights of preferred holders does not preclude the Staff from determining that the Proposal is excludable under Rule 14a-8(i) (10). *See MetLife, Inc.* (avail. Feb. 4, 2015); *CVS Caremark Corporation* (avail. Feb. 27, 2014); *Exxon Mobil Corporation* (avail. March 21, 2011); *Nicor Inc.* (avail. Jan. 28, 2008, *recon. denied* Feb. 12, 2008) (each granting no-action relief under Rule 14a-8(i)(10) for a shareholder proposal similar to the Proposal despite the continuation of super-majority voting provisions in the terms of preferred stock). *See also Mattel, Inc.* (avail. Feb. 3, 2010) (granting no-action relief under Rule 14a-8(i)(10) for a shareholder proposal requesting the ability of shareholders to act by written consent of a majority of outstanding shares where the company's certificate of incorporation required a super-majority vote of any series of preferred stock on certain amendments that would adversely affect the preferences, special rights or powers of such series). Based on the foregoing, and particularly in light of other items to be included in the Proposed Charter Amendments that address the underlying concerns and essential objectives of the Proposal, we do not believe that retention of these limited preferred shareholder voting provisions preclude a determination that the Proposal is excludable as "substantially implemented" under Rule 14a-8(i)(10).

D. *Supplemental Notification Following Board Action*

We submit this no-action request before the January Board Action to address the timing requirements of Rule 14a-8(j). We will supplementally notify the Staff after the Board considers the Proposed Charter Amendments. The Staff consistently has granted no-action

[3] We note that, unlike the charter documents of many companies, the Current Articles do not authorize "blank check" preferred shares. Rather, if the Board desires to issue preferred shares at some point in the future, the terms of the preferred shares would have to comply with the relevant provisions of the Company's articles of incorporation as then amended. Management is not recommending that the Board consider changing the voting standard with respect to the limited, protective voting provisions in either the serial preferred shares or the voting preference shares in order to ensure that the Company has adequate flexibility in the future to, if the Board so determines, issue securities of these types on terms that would be acceptable to potential investors.

relief under Rule 14a-8(i)(10) where a company has notified the Staff that it intends to recommend that its board of directors take certain action that will substantially implement the proposal and then supplements its request for no-action relief by notifying the Staff after that action has been taken by the board of directors. *See, e.g., Medivation, Inc.* (avail. March 13, 2015); *NETGEAR, Inc.* (avail. March 31, 2015); *Visa Inc.* (avail. Nov. 14, 2014); *Hewlett-Packard Co.* (avail. Dec. 19, 2013); *Starbucks Corp.* (avail. Nov. 27, 2012); *NiSource Inc.* (avail. Mar. 10, 2008); *Johnson & Johnson* (avail. Feb. 19, 2008); *Hewlett-Packard Co. (Steiner)* (avail. Dec. 11, 2007); *General Motors Corp.* (avail. Mar. 3, 2004); *Intel Corp.* (avail. Mar. 11, 2003) (each granting no-action relief where the company notified the Staff of its intention to omit a shareholder proposal under Rule 14a-8(i)(l0) because the board of directors was expected to take action that would substantially implement the proposal, and the company supplementally notified the Staff of the board action).

CONCLUSION

Based upon the foregoing analysis, we believe that once the Board adopts resolutions approving the Proposed Charter Amendments, the Proposal will have been substantially implemented and, therefore, will be excludable under Rule 14a-8(i)(10). Thus, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2016 Proxy Materials in reliance on Rule 14a-8(i)(10).

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shanselman@bakerlaw.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (216) 861-7090 or Dane Shrallow, the Company's Deputy General Counsel – Securities, at (440) 395-3765.

Very truly yours,

Suzanne K. Hanselman

Enclosure

cc: Charles E. Jarrett
Dane A. Shrallow
John Chevedden
William Steiner

608146848.1

EXHIBIT A

William Steiner

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

Mr. Charles E. Jarrett
Corporate Secretary
Progressive Corp. (PGR)
6300 Wilson Mills Road
Mayfield Village, OH 44143
PH: 440-461-5000

Dear Mr. Jarrett,

I purchased stock and hold stock in our company because I believed our company has greater potential. I submit my attached Rule 14a-8 proposal in support of the long-term performance of our company. I believe our company has unrealized potential that can be unlocked through low cost measures by making our corporate governance more competitive.

My proposal is for the next annual shareholder meeting. I will meet Rule 14a-8 requirements including the continuous ownership of the required stock value until after the date of the respective shareholder meeting. My submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication. This is my proxy for John Chevedden and/or his designee to forward this Rule 14a-8 proposal to the company and to act on my behalf regarding this Rule 14a-8 proposal, and/or modification of it, for the forthcoming shareholder meeting before, during and after the forthcoming shareholder meeting.

Please direct all future communications regarding my rule 14a-8 proposal to John Chevedden (PH: *** FISMA & OMB Memorandum M-07-16 ***) at:
*** FISMA & OMB Memorandum M-07-16 ***
to facilitate prompt and verifiable communications. Please identify this proposal as my proposal exclusively.

This letter does not cover proposals that are not rule 14a-8 proposals. This letter does not grant the power to vote. Your consideration and the consideration of the Board of Directors is appreciated in support of the long-term performance of our company. Please acknowledge receipt of my proposal promptly by email to *** FISMA & OMB Memorandum M-07-16 ***

Sincerely,

William Steiner

10/11/15

Date

[PGR: Rule 14a-8 Proposal, November 9, 2015]

Proposal [4] – Simple Majority Vote

RESOLVED, Shareholders request that our board take the steps necessary so that each voting requirement in our charter and bylaws that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws.

Shareowners are willing to pay a premium for shares of companies that have excellent corporate governance. Supermajority voting requirements, the target of this proposal, have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to "What Matters in Corporate Governance" by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School. Supermajority requirements are used to block initiatives supported by most shareowners but opposed by a status quo management.

This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy, McGraw-Hill and Macy's. Currently a 1%-minority can frustrate the will of our 74%-shareholder majority. In other words a 1%-minority could have the power to prevent shareholders from improving our corporate governance.

Please vote to enhance shareholder value:

Simple Majority Vote – Proposal [4]

Notes:
William Steiner,] *** FISMA & OMB Memorandum M-07-16 *** sponsors this proposal.

Please note that the title of the proposal is part of the proposal. The title is intended for publication.

If the company thinks that any part of the above proposal, other than the first line in brackets, can be omitted from proxy publication based on its own discretion, please obtain a written agreement from the proponent.

This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email

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

Ameritrade

November 12, 2015

William Steiner

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

Re: Your TD Ameritrade account ending in *** FISMA & OMB Memorandum M-07-16 *** n TD Ameritrade Clearing Inc. DTC #0188

Dear William Steiner,

Thank you for allowing me to assist you today. As you requested, this letter confirms that as of the date of this letter, you have continuously held no less than 100 shares of each of the following stocks in the above reference account since July 1, 2014.

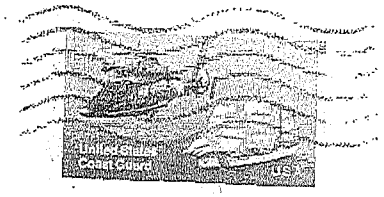
1. Flir Systems Inc. (FLIR)
2. Prudential Financial Inc. (PRU)
3. Progressive Corp Ohio (PGR)
4. Knight Transportation Inc. (KNX)

If we can be of any further assistance, please let us know. Just log in to your account and go to the Message Center to write us. You can also call Client Services at 800-669-3900. We're available 24 hours a day, seven days a week.

Sincerely,

Chris Blue
Resource Specialist
TD Ameritrade

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

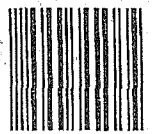


Mr. Charles E. Jarrett
Corporate Headquarters
Progressive Corp.
6300 Wilson Mills Road
Mayfield Village, OH 44143

44143218298

*** FISMA & OMB Memorandum M-07-16 ***
Redondo Beach, CA 90278

1000



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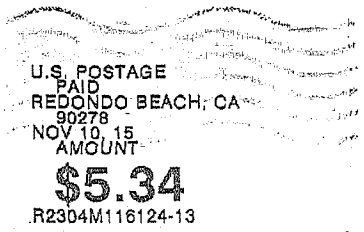
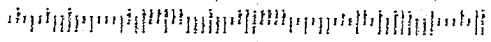


*** FISMA & OMB Memorandum M-07-16 ***

Mr. Charles E. Jarrett
Corporate Headquarters
Progressive Corp.
6300 Wilson Mills Road
Mayfield Village, OH 44143

44143218293



John Chevedden

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

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

EXHIBIT B

Dane A Shrallow

From: Dane A Shrallow
Sent: Friday, December 11, 2015 02:31 PM
To: *** FISMA & OMB Memorandum M-07-16 ***
Cc: Charles E Jarrett; David M Coffey
Subject: Shareholder Proposal

Dear Mr. Chevedden,

The Progressive Corporation has received the shareholder proposal and stock ownership information from Mr. William Steiner related to a simple majority vote in the charter documents for The Progressive Corporation. I wanted to let you and Mr. Steiner know that the Board of Directors has approved in principle, and directed management to draft, proposed amendments to our charter documents to change the three instances in those documents that require a 75% vote of outstanding shares to a majority of outstanding shares. The Board of Directors will consider the proposed amendments at its meeting in late January 2016, and I expect the Board to approve those amendments at that time. After approval by the Board, amendments to the company's Articles of Incorporation will be submitted for shareholder approval at the 2016 annual shareholders' meeting. Amendments to the company's Code of Regulations (i.e., bylaws) will be effective immediately upon approval by the Board.

In light of this, I hope that Mr. Steiner will consider withdrawing his shareholder proposal. If he agrees to withdraw the shareholder proposal, The Progressive Corporation will save the time, effort and expense necessary to submit a no-action request to the SEC to exclude the shareholder proposal from our proxy statement for our 2016 annual shareholders' meeting on the grounds that it has been substantially implemented by us.

I would be happy to discuss this with you if you would like. Please contact me at (440) 395-3675. You should also feel free to contact Dave Coffey at (440) 395-3675, or David_Coffey@Progressive.com if for some reason you are unable to reach me.

Dane A. Shrallow
Deputy General Counsel – Securities

Dane A Shrallow

From: Dane A Shrallow
Sent: Tuesday, December 15, 2015 09:50 AM
To: *** FISMA & OMB Memorandum M-07-16 ***
Cc: Charles E Jarrett; David M Coffey; Laurie F Humphrey
Subject: RE: Shareholder Proposal (PGR)

Mr. Chevedden,

The affirmative vote of the holders of record of 75% of Progressive's outstanding shares is required to amend the supermajority provisions of its Articles of Incorporation. However, if the proposal that we will recommend to our Board and shareholders is approved, the supermajority requirement will be reduced to a majority of our outstanding shares for all future amendments to our Articles.

Sincerely,

Dane Shrallow

From: *** FISMA & OMB Memorandum M-07-16 ***
Sent: Friday, December 11, 2015 11:22 PM
To: Dane A Shrallow
Subject: Shareholder Proposal (PGR)

Dear Ms. Shrallow,
Thank you for your message.
Can you advise the percentage of shares outstanding that are needed for approval.
Sincerely,
John Chevedden

Dane A Shrallow

From: Dane A Shrallow
Sent: Thursday, December 17, 2015 10:58 AM
To: *** FISMA & OMB Memorandum M-07-16 ***
Cc: Charles E Jarrett; David M Coffey; Laurie F Humphrey
Subject: RE: Shareholder Proposal (PGR)

Mr. Chevedden,

We do plan to hire a proxy solicitor, as we've done in the past, but can't predict the results of the shareholder vote on the issue.

Sincerely,

Dane Shrallow

From: *** FISMA & OMB Memorandum M-07-16 ***
Sent: Wednesday, December 16, 2015 9:35 AM
To: Dane A Shrallow
Subject: Shareholder Proposal (PGR)

Dear Mr. Shrallow,
Would it be necessary to hire a proxy solicitor to obtain the 75% vote.
Sincerely,
John Chevedden
cc: William Steiner

Dane A Shrallow

From: Dane A Shrallow
Sent: Friday, December 18, 2015 01:37 PM
To: *** FISMA & OMB Memorandum M-07-16 ***
Cc: Charles E Jarrett; David M Coffey; Laurie F Humphrey
Subject: RE: Shareholder Proposal (PGR)

Mr. Chevedden,

In the past, our proxy solicitor has generated substantial shareholder participation without any special measures.

Sincerely,

Dane A. Shrallow

From: *** FISMA & OMB Memorandum M-07-16 ***
Sent: Thursday, December 17, 2015 12:51 PM
To: Dane A Shrallow
Subject: Shareholder Proposal (PGR)

Dear Mr. Shrallow,
Would it be necessary to conduct a special solicitation to obtain the 75% vote.
Sincerely,
John Chevedden
cc: William Steiner

Dane A Shrallow

From:	Dane A Shrallow
Sent:	Monday, January 04, 2016 01:07 PM
To:	*** FISMA & OMB Memorandum M-07-16 ***
Cc:	Charles E Jarrett; David M Coffey
Subject:	Shareholder Proposal

Dear Mr. Chevedden,

I wanted to touch base once again regarding the shareholder proposal that Mr. William Steiner submitted to The Progressive Corporation related to a simple majority vote in the company's charter documents. We anticipate that the Board of Directors will be approving the following amendments to the company's charter documents at its meetings to be held at the end of January:

1. Amend the company's code of regulations (i.e., bylaws) to lower the shareholder vote required for removal of directors from 75% to a majority.
2. Amend the company's articles of incorporation to lower the shareholder vote required for certain transactions with related persons from 75% to a majority.
3. Amend the company's articles of incorporation to lower the shareholder vote required for amendments to provisions related to approvals with related persons from 75% to a majority; and
4. Amend the terms of the company's authorized voting preference shares (none of which are outstanding) to lower the shareholder vote required for mergers, asset sales and liquidation from 66 2/3% to a majority.

After approval by the Board, amendments to the company's articles of incorporation will be submitted for shareholder approval at the 2016 annual shareholders' meeting. Amendments to the company's code of regulations (i.e., bylaws) will be effective immediately.

I hope that Mr. Steiner will again consider withdrawing his shareholder proposal. His withdrawal of the proposal will save the company the time, effort and expense necessary to submit a no-action request to the SEC to exclude the shareholder proposal from our proxy statement for our 2016 annual shareholders' meeting. In order to mail our proxy statement in our typical time frame before the 2016 annual meeting, we must file the no-action request with the SEC by the **end of day tomorrow, January 5, 2016**. Please let me know as soon as possible if Mr. Steiner agrees to withdraw his proposal.

I would be happy to discuss this with you if you would like. You can call me at (440) 395-3765. You should also feel free to contact Dave Coffey at (440) 395-3675, or David_Coffey@Progressive.com if for some reason you are unable to reach me.

Dane A. Shrallow
Deputy General Counsel – Securities

From: Dane A Shrallow
Sent: Monday, January 04, 2016 2:49 PM
To ***Copyrighted Material Omitted***
Subject: RE: Simple Majority Vote (PGR)

ear Mr. Chevedden,

The changes to our Code of Regulations would become effective immediately upon approval of our Board of Directors.

The changes to the terms of the voting preference shares would require approval of a majority of our outstanding shares. The other changes to our Amended Articles of Incorporation would become effective upon the affirmative vote of the holders of record of 75% of the Company's securities entitled to vote on the matter.

Sincerely,

Dane A. Shrallow

From: *** FISMA & OMB Memorandum M-07-16 ***
Sent: Monday, January 04, 2016 2:02 PM
To: Dane A Shrallow
Subject: Simple Majority Vote (PGR)

Dear Ms. Shrallow,
Thank you for the information today. Please advise the % of shares outstanding that will be needed for approval.
Sincerely,
ohn Chevedden
cc: William Steiner

EXHIBIT C

THE PROGRESSIVE CORPORATION

PROPOSED CHARTER AMENDMENTS

CODE OF REGULATIONS: Proposed amendment to Article II, Section 4 of the Current Regulations:

"Section 4. Removal. All directors, or any individual director, may be removed from office, without assigning any cause, by the affirmative vote of the holders of record of shares representing a majority~~75%~~ of the voting power of the corporation with respect to the election of directors, provided that unless all the directors are removed, no individual director shall be removed if the votes of a sufficient number of shares are cast against his or her removal which, if cumulatively voted at an election of all the directors would be sufficient to elect at least one director. In case of any such removal, a new director may be elected at the same meeting for the unexpired term of each director removed."

ARTICLES OF INCORPORATION

1. Proposed amendment to Article Sixth of the Current Articles:

"SIXTH: Except as otherwise provided in these Articles of Incorporation or the Code of Regulations of the corporation, notwithstanding any provisions in Sections 1701.01 to 1701.98, inclusive, of the Ohio Revised Code, now or hereafter in effect, requiring for any purpose the vote, consent, waiver or release of the holders of a designated proportion (but less than all) of the shares of the corporation or of any particular class or classes of shares, as the case may be, the vote, consent, waiver or release of the holders of shares entitling them to exercise a majority of the voting power of the shares of the corporation or of any class or classes of shares, as the case may be, shall be required and sufficient for any such purpose~~, except that the affirmative vote of the holders of record of 75 percent of the shares having voting power with respect to any such proposal shall be required to amend, alter, change or repeal Article NINTH of these Articles or the provisions of this Article SIXTH dealing with the amendment, alteration, change or repeal of Article NINTH~~."

2. Proposed amendment to the first paragraph of Article Ninth of the Current Articles:

"NINTH: The affirmative vote of the holders of record of a majority~~75 percent~~ of the shares having voting power with respect to any such proposal and ~~the affirmative vote of a majority of such holders of record other than shares held or beneficially owned by a "Related Person" (as hereinafter defined)~~ shall be required for the approval or authorization of any "Business Combination" (as hereinafter defined) of the corporation with any Related Person; provided, however, that the ~~75 percent voting requirement and the~~ majority voting requirement ~~of holders of record of shares other than a Related Person~~ shall not be applicable if:"

3. Proposed amendment to Section 5(c) of Division B of Article Fourth (Terms of the Voting Preference Shares):

"(c) The affirmative vote or consent of the holders of at least two-thirds of the Voting Preference Shares at the time outstanding, voting or consenting separately as a class, given in person or by proxy either in writing or at a meeting called for the purpose, shall be necessary to effect any one or more of the following (but so far as the holders of Voting Preference Shares are concerned, such action may be effected with such vote or consent):

~~(1) The sale, lease or conveyance by the corporation of all or substantially all of its assets;~~

~~(2) The merger or consolidation of the corporation into or with any other corporation or the merger of any other corporation into it;~~

~~(3) The voluntary liquidation, dissolution or winding up of the affairs of the corporation;~~

~~(4)~~
(14) Any amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Amended Articles of Incorporation or of the Code of Regulations of the corporation which affects adversely the preferences or voting or other rights of the holders of Voting Preference Shares; provided, however, that for the purpose of this paragraph only, neither the amendment of the Amended Articles of Incorporation so as to authorize, create or change the authorized or outstanding number of Voting Preference Shares or of any shares ranking on a parity with or junior to the Voting Preference Shares nor the amendment of the provisions of the Code of Regulations so as to change the number of directors of the corporation shall be deemed to affect adversely the preferences or voting or other rights of the holders of Voting Preference Shares; and provided further, that if such amendment, alteration or repeal affects adversely the preferences or voting or other rights of one or more but not all series of Voting Preference Shares at the time outstanding, only the affirmative vote or consent of the holders of at least two-thirds of the number of the shares at the time outstanding of the series so affected shall be required;

(2~~5~~) The authorization, creation or the increase in the authorized amount of any shares, or any security convertible into shares, in either case ranking prior to the Voting Preference Shares; or

(3~~6~~) The purchase or redemption (for sinking fund purposes or otherwise) of less than all of the Voting Preference Shares then outstanding except in accordance with a stock purchase offer made to all holders of record of Voting Preference Shares, unless all dividends on all Voting Preference Shares then outstanding for all previous dividend periods shall have been declared and paid or funds therefore set apart and all accrued sinking fund obligations applicable thereto shall have been complied with.

(d) The affirmative vote or consent of the holders of at least a majority of the Voting Preference Shares at the time outstanding, voting or consenting separately as a class, given in person or by proxy either in writing or at a meeting called for the purpose, shall be necessary to effect any one or more of the following (but so far as the holders of Voting Preference Shares are concerned, such action may be effected with such vote or consent):

(1) The sale, lease or conveyance by the corporation of all or substantially all of its assets;

(2) The merger or consolidation of the corporation into or with any other corporation or the merger of any other corporation into it; or

(3) The voluntary liquidation, dissolution or winding up of the affairs of the corporation;