



December 27, 2017

Via Overnight Delivery
Via Email to shareholderproposals@sec.gov

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

Re: Securities Exchange Act of 1934, as amended (the "**Exchange Act**")
Omission of Shareholder Proposal Submitted by the AFL-CIO Reserve Fund

Ladies and Gentlemen:

Allergan plc ("**Allergan**" or the "**Company**") has received a shareholder proposal (the "**Shareholder Proposal**") from the AFL-CIO Reserve Fund (the "**Proponent**") for inclusion in the Company's proxy statement and form of proxy (the "**2018 Proxy Materials**") for its 2018 Annual General Meeting of Shareholders (the "**2018 Annual Meeting**"). Allergan intends to omit the Shareholder Proposal from its 2018 Proxy Materials pursuant to Rule 14a-8(i)(7) of the Exchange Act. Allergan respectfully requests the concurrence of the staff of the Division of Corporation Finance (the "**Staff**") that no enforcement action will be recommended if the Company omits the Shareholder Proposal from the 2018 Proxy Materials.

In accordance with Rule 14a-8(j) of the Exchange Act, the Company has:

- enclosed herewith six copies of this letter and its attachments; and
- concurrently sent a copy of this correspondence to the Proponent.

By copy of this letter, Allergan notifies the Proponent of the Company's intention to omit the Shareholder Proposal from the 2018 Proxy Materials. Allergan agrees to promptly forward to the Proponent any Staff response to Allergan's no-action request that the Staff transmits to Allergan. Rule 14a-8(k) of the Exchange Act and Question E of Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("**SLB 14D**") provide that proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Staff. Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Staff with respect to the Shareholder Proposal, a copy of that correspondence should concurrently be furnished to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) of the Exchange Act and Question E of SLB 14D.

This letter is being submitted electronically pursuant to Question C of SLB 14D. Allergan is e-mailing this letter, including the Shareholder Proposal and supporting statement, as well as related correspondence from the Proponent, attached as Exhibit A, to the Staff at shareholderproposals@sec.gov.

Allergan plc
Clonsaugh Business and Technology Park Coolock, Dublin
D17 E400, Ireland

T 862 261 7000
www.allergan.com

THE PROPOSAL

A copy of the Shareholder Proposal, dated November 17, 2017, and supporting statement is attached to this letter as Exhibit A. For the convenience of the Staff, the text of the resolution contained in the Shareholder Proposal is set forth immediately below:

“RESOLVED that shareholders of Allergan plc (“Allergan”) ask the Board of Directors to respond to rising public pressure to limit offshore tax avoidance strategies by adopting and disclosing to shareholders a set of principles to guide Allergan’s tax practices. For purposes of this Proposal, “offshore tax avoidance strategies” are transactions or arrangements that exploit differential tax treatment of financial instruments, asset transfers or entities by taxing jurisdictions to reduce a company’s effective tax rate.

The principles should state that Allergan’s board will:

- Consider the impact of Allergan’s global tax strategies on local economies and government services that benefit Allergan;
- Ensure that Allergan seeks to pay tax where value is created;
- Periodically assess the reputational consequences, including views of customers, shareholders and employees, of engaging in practices deemed to be “tax avoidance” by such stakeholders; and
- Annually review Allergan’s tax strategies and assess the alignment between the use of such strategies and Allergan’s stated values or goals regarding sustainability.”

BASIS FOR EXCLUSION

The Company believes that the Shareholder Proposal may properly be excluded from the 2018 Proxy Materials under Rule 14a-8(i)(7) because the Shareholder Proposal deals with a matter relating to the Company’s ordinary business operations.

ANALYSIS

The Shareholder Proposal may be excluded under Rule 14a-8(i)(7) because the Shareholder Proposal deals with a matter relating to the Company’s ordinary business operations.

A. The Shareholder Proposal infringes on management’s day-to-day business operations

In Exchange Act Release No. 40018 (May 21, 1998) (the “**1998 Release**”), the Securities and Exchange Commission (the “**Commission**”) explained that the ordinary business exclusion permits companies to exclude certain proposals because “[c]ertain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” *Id.* Further, the Commission explained that a proposal may be excluded if it attempts to “micro-manage” a company by “probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.” *Id.* (citing Exchange Act Release No. 12999 (Nov. 22, 1976)). On November 1, 2017, the Staff published Staff Legal Bulletin No. 141 (Nov. 1, 2017) (“**SLB 141**”) and reiterated that the “purpose of the exception is ‘to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide

how to solve such problems at an annual shareholders meeting.'" *Id.* (citing the 1998 Release).

The Shareholder Proposal, which requests the Company's board of directors (the "**Board**") to adopt and disclose tax strategies and principles, would impact and impede management's ability to operate and manage the Company on a day-to-day basis. As a result, the Shareholder Proposal implicates the considerations described in the 1998 Release and should be excluded because it relates to the Company's ordinary business operations.

As a global corporation with subsidiaries in a substantial number of domestic and foreign jurisdictions, the Company is subject to various tax regimes that involve a multitude of complex rules, regulations and tax authorities, and the Company's tax planning and practices are accordingly affected by various forms of tax incentives from multiple jurisdictions worldwide. As a result, the determination and implementation of the Company's tax plans and practices is a highly technical and complex matter requiring the expertise of management and subject matter experts, and on which shareholders, as a group, are not in a position to make informed judgments.

Moreover, the Company's tax plans and practices cannot be understood solely on a stand-alone basis, because those plans and practices are affected by numerous business decisions that are ordinary matters core to the Company's day-to-day operations, including financial planning, funding decisions, business operations, financial reporting and legal compliance.

Because of the inherently complex nature of tax regimes and rules, taken in combination with the Company's many domestic and foreign subsidiaries, and because of the interplay between the Company's tax practices and its other financial and business functions, the Board has determined that it is critical for management to retain the flexibility to implement tax plans and practices that are tailored to the Company's current circumstances and not tied to a one-size-fits-all set of principles (such as those described in the Shareholder Proposal). The Board also believes tax planning and practices must be overseen and managed by people with the requisite knowledge of both the applicable tax rules and regulations and the Company's operations to ensure the Company makes properly informed decisions. Accordingly, the Board delegates the complex and technical tasks of creating, implementing and overseeing the Company's tax planning and practices to management, which includes highly skilled tax professionals. While the Board and the audit committee of the Board (the "**Audit Committee**") oversee the Company's general and financial risks, respectively, pursuant to their respective charters, those charters do not expressly charge the Board or the Audit Committee with responsibilities related to tax planning and practices. Rather, tax management is the day-to-day responsibility of senior executives, and the Board and the Audit Committee are updated by management on the Company's business operations, including tax planning and practices, every quarter in order to carry out their risk oversight roles.

Accordingly, by requesting that the Board adopt and disclose "a set of principles to guide Allergan's tax practices," the Proponent is seeking shareholder oversight of an aspect of the Company's business that is most appropriately handled by the Company's management, which would result in the micro-management and oversimplification of the Company's tax planning and practices, thereby interfering with the Company's ordinary business operations of tax planning and practices to the detriment of the Company's shareholders. It is precisely the type of matter that the exclusion set forth in Rule 14a-8(i)(7) was designed to address.

B. The Shareholder Proposal does not transcend the Company's ordinary business.

As explained in the 1998 Release, a proposal may be excluded because it relates to a company's day-to-day business operations unless the proposal raises significant policy issues that would "transcend the day-to-day business matters." SLB 141 provided further guidance as to what constitutes a significant policy consideration and explained that the applicability of the significant policy exception "depends, in part, on the connection between the significant policy issue and the company's business operations." The Staff further noted that a company's board of directors "is well situated to analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote." *Id.*

The Staff also noted that a company's no-action request relating to a company's intention to exclude a proposal under Rule 14a-8(i)(7) should describe the board's analysis of "the particular policy issue raised and its significance" and the "processes employed by the board to ensure that its conclusions are well-informed and well-reasoned." *Id.* Consistent with the Staff's guidance, the below discussion reflects the Board's analysis of the Shareholder Proposal and its process in conducting such analysis.

In analyzing the Shareholder Proposal, the Board reviewed the Company's current tax plans and practices, the significance of tax practices to the Company and its shareholders, the role of management in determining, revising and implementing tax plans and practices, the Company's governance guidelines, including a review of applicable Board and committee charters, and the role of the Board in overseeing tax planning and practices. The Board considered the fact that management is regularly and actively involved in the consideration, assessment and re-assessment of the Company's tax planning and practices while the Board is updated quarterly on such tax planning and practices in order to fulfill its risk and business oversight roles. Following this analysis and consideration, the Board concluded that the determination and implementation of the Company's tax plans and practices is appropriately delegated to and managed by senior executives.

The Board also specifically considered the matters contained in the Shareholder Proposal and their implications for the Company's business and policies. The Board determined that the Company's tax practices are implemented in order to comply with applicable law to pay taxes properly due as a function of the operation of its global business; used as part of the Company's broader financial planning, taking into account available deductions, incentives and other provisions of tax laws adopted in the various national, state, local and foreign jurisdictions to which the Company is subject; and are most appropriately characterized as a cost/expense of operating the Company globally. Accordingly, after such consideration, the Board determined that the matters detailed in the Shareholder Proposal, including the Company's offshore tax strategies, exclusively relate to the Company's operations and do not further transcend the Company's ordinary business by implicating a broader significant policy issue, and as a result neither call for further Board review nor are appropriate for a shareholder vote.

C. Prior no action relief

The Staff has consistently concurred that proposals relating to tax planning and compliance may be excluded under Rule 14a-8(i)(7). For example, the Staff agreed with a similar no action request to exclude a shareholder proposal asking Pfizer's board of directors to annually assess "the risks created by the actions Pfizer takes to avoid or minimize US federal, state and local corporate income taxes" based on the business operation exclusion. Pfizer (avail. Feb. 16, 2011). *See also*, The Home Depot (avail. Mar. 2, 2011) (same); Lazard (avail. Feb. 16, 2011) (same); Amazon, Inc. (avail. March 21, 2011) (same).

In addition, the Staff concurred that proposals attempting to govern internal operating policies and legal compliance may be excluded. See *e.g.*, Verizon Communications Inc. (avail. Feb. 22, 2007) (proposal requesting report on the technological, legal and ethical policy issues surrounding disclosure of customer information to government agencies without a warrant was excludable); Johnson & Johnson (avail. Feb. 22, 2010) (proposal requesting that the company take specific actions to comply with employment eligibility verification requirements); FedEx Corp. (avail. July 14, 2009) (proposal requesting the preparation of a report discussing the company's compliance with state and federal laws governing the proper classification of employees and independent contractors).

CONCLUSION

Based upon the foregoing analysis, the Company respectfully requests that the Staff concur that it will take no action if the Company excludes the Shareholder Proposal from its 2018 Proxy Materials in reliance on 14a-8(i)(7).

If the Staff has any questions with respect to the foregoing, please do not hesitate to contact me at (862) 261-8830 or by email at Robert.Bailey@allergan.com.

Please send any email correspondence to Kira M. Schwartz, Assistant Secretary, at kira.schwartz@allergan.com.

Very truly yours,



A. Robert D. Bailey, Esq.
Chief Legal Officer and
Corporate Secretary

cc: AFL-CIO Reserve Fund
Jeffrey D. Karpf, Esq.
Cleary Gottlieb Steen & Hamilton LLP
Helena K. Grannis, Esq.
Cleary Gottlieb Steen & Hamilton LLP

EXHIBIT A

See Attached.



AFL-CIO

AMERICA'S UNIONS

**American Federation
of Labor and
Congress of Industrial
Organizations**

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Washington, DC 20006
202-637-5000
www.aflcio.org

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Richard Lanigan
Robert Martinez
Gabrielle Carteris

November 17, 2017

Allergan plc
Attn: Company Secretary
Clonshaugh Business and Technology Park
Coolock, Dublin, D17 E400
Ireland

Dear Company Secretary:

On behalf of the AFL-CIO Reserve Fund (the "Fund"), I write to give notice that pursuant to the 2017 proxy statement of Allergan plc (the "Company"), the Fund intends to present the attached proposal (the "Proposal") at the 2018 annual meeting of shareholders (the "Annual Meeting"). The Fund requests that the Company include the Proposal in the Company's proxy statement for the Annual Meeting.

The Fund is the beneficial owner of 201 shares of voting Common Stock (the "Shares") of the Company. The Fund has held at least \$2,000 in market value of the Shares for over one year, and the Fund intends to hold at least \$2,000 in market value of the Shares through the date of the Annual Meeting. A letter from the Fund's custodian bank documenting the Fund's ownership of the Shares is enclosed.

The Proposal is attached. I represent that the Fund or its agent intends to appear in person or by proxy at the Annual Meeting to present the Proposal. I declare that the Fund has no "material interest" other than that believed to be shared by stockholders of the Company generally. Please direct all questions or correspondence regarding the Proposal to Brandon Rees at 202-637-5152 or brees@aflcio.org.

Sincerely,

Heather Slavkin Corzo, Director
Office of Investment

Attachments

HSC/sdw
opeiu #2, afl-cio

RESPONSIBLE TAX PRINCIPLES

RESOLVED that shareholders of Allergan plc (“Allergan”) ask the Board of Directors to respond to rising public pressure to limit offshore tax avoidance strategies by adopting and disclosing to shareholders a set of principles to guide Allergan’s tax practices. For purposes of this Proposal, “offshore tax avoidance strategies” are transactions or arrangements that exploit differential tax treatment of financial instruments, asset transfers or entities by taxing jurisdictions to reduce a company’s effective tax rate.

The principles should state that Allergan’s board will:

- Consider the impact of Allergan’s global tax strategies on local economies and government services that benefit Allergan;
- Ensure that Allergan seeks to pay tax where value is created;
- Periodically assess the reputational consequences, including views of customers, shareholders and employees, of engaging in practices deemed to be “tax avoidance” by such stakeholders; and
- Annually review Allergan’s tax strategies and assess the alignment between the use of such strategies and Allergan’s stated values or goals regarding sustainability.

SUPPORTING STATEMENT

Corporations have paid a dwindling share of U.S. federal taxes over the last 65 years, from 32% in 1952 to only 10.6% in 2015. (<https://www.theatlantic.com/business/archive/2016/04/corporate-tax-avoidance/478293/>) Some multinational corporations minimize tax liability by shifting profits to subsidiaries domiciled in lower-tax jurisdictions through asset sales, loans and similar arrangements. Economist Gabriel Zucman estimates the U.S. government loses almost \$70 billion annually in tax revenue when corporations shift profits to tax havens. (https://www.nytimes.com/interactive/2017/11/10/opinion/gabriel-zucman-paradise-papers-tax-evasion.html?_r=0)

Governments are responding. The Stop Tax Haven Abuse Act, introduced in the House in 2017, would eliminate certain strategies and impose additional reporting requirements. (<https://www.congress.gov/bill/115th-congress/house-bill/1932>) Members of the Organization for Economic Cooperation and Development and the G20 nations have agreed on a comprehensive package of measures to combat multinational tax avoidance. (See <https://www.oecd.org/ctp/beps-explanatory-statement-2015.pdf>)

Tax avoidance poses substantial financial and reputational risks for Allergan. Allergan is domiciled in Ireland, a low-tax jurisdiction, following a 2015 acquisition by Actavis plc. In 2016, Allergan and Pfizer abandoned a planned merger after U.S. regulators adopted rules that would have kept the deal from qualifying as an inversion, markedly reducing the tax benefits that were a significant driver of the deal. (<https://www.ft.com/content/69f01f50-fbbc-11e5-8f41-df5bda8beb40>) Despite Ireland’s low corporate tax rate, a recent report based on documents from the “Paradise Papers” described Allergan shifting profits to tax haven Bermuda for over a

decade, a tax shelter known as the “Double Irish.” (<https://www.icij.org/investigations/paradise-papers/apples-secret-offshore-island-hop-revealed-by-paradise-papers-leak-icij/>)

More generally, tax avoidance by corporations significantly affects public finances, which in turn can jeopardize key government services. Public opinion on offshore tax avoidance is decidedly negative. A June 2017 Hart poll found that “end[ing] tax breaks for corporations that stash their profits offshore” was the most important of 16 tax reform goals. (<https://americansfortaxfairness.org/wp-content/uploads/ATF-Poll-TOPLINES.pdf>)

The proposed Principles will help ensure that Allergan’s board is fully informed regarding the impacts of offshore tax avoidance strategies and considers them when exercising its oversight responsibilities. We urge shareholders to vote for this Proposal.

30 N. LaSalle Street
Chicago, IL 60602
Phone: 312-822-3220
Fax: 312-267-8775



312/822-3220

Lawrence M. Kaplan
Vice President
lkaplan@aboc.com

November 17, 2017

Allergan plc
Attn: Company Secretary
Clonshaugh Business and Technology Park
Coolock, Dublin, D17 E400
Ireland

Dear Company Secretary:

AmalgaTrust, a division of Amalgamated Bank of Chicago, is the record holder of 201 shares of Common Stock (the "Shares") of Allergan plc beneficially owned by the AFL-CIO Reserve Fund as of November 17, 2017. The AFL-CIO Reserve Fund has continuously held at least \$2,000 in market value of the Shares for over one year as of November 17, 2017. The Shares are held by AmalgaTrust at the Depository Trust Company in our participant account No. 2567.

If you have any questions concerning this matter, please do not hesitate to contact me at (312) 822-3220.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence M. Kaplan".

Lawrence M. Kaplan
Vice President

cc: Heather Slavkin Corzo
Director, AFL-CIO Office of Investment