



BY EMAIL (shareholderproposals@sec.gov)

December 13, 2017

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

RE: Gilead Sciences, Inc. – 2018 Annual Meeting
Omission of Shareholder Proposal of
Boston Common Asset Management

Ladies and Gentlemen:

We are writing pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended, to request that the Staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) concur with our view that, for the reasons stated below, Gilead Sciences, Inc., a Delaware corporation (“Gilead”), may exclude the shareholder proposal and supporting statement (the “Proposal”) submitted by Boston Common Asset Management (the “Proponent”) from the proxy materials to be distributed by Gilead in connection with its 2018 annual meeting of shareholders (the “2018 proxy materials”).

In accordance with Section C of Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”), we are emailing this letter and its attachments to the Staff at shareholderproposals@sec.gov. In accordance with Rule 14a-8(j), we are simultaneously sending a copy of this letter and its attachments to the Proponent as notice of Gilead’s intent to omit the Proposal from the 2018 proxy materials.

Rule 14a-8(k) and Section E of SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the shareholder proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if the Proponent submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the undersigned.

I. The Proposal

The text of the resolution contained in the Proposal is set forth below:

Resolved: To increase the benefits to society and to our company associated with usage of clean energy resources, shareholders request that Gilead Sciences senior management, with oversight from the Board of Directors, issue a report assessing the feasibility of adopting time-bound, quantitative, company-wide goals for increasing energy efficiency and use of renewable energy. The report should be issued within one year of this filing at reasonable cost, and omitting proprietary information.

II. Basis for Exclusion

We hereby respectfully request that the Staff concur in Gilead's view that it may exclude the Proposal from the 2018 proxy materials pursuant to Rule 14a-8(i)(7) because the Proposal deals with matters relating to Gilead's ordinary business operations.

III. Background

Gilead received the Proposal, accompanied by a cover letter from the Proponent dated November 21, 2017, and a letter from U.S. Bancorp Fund Services, LLC dated November 22, 2017, verifying the Proponent's stock ownership as of November 21, 2017 (the "Broker Letter"). Copies of the Proposal, cover letter and Broker Letter are attached hereto as Exhibit A.

IV. The Proposal May Be Excluded Pursuant to Rule 14a-8(i)(7) Because the Proposal Deals with Matters Relating to Gilead's Ordinary Business Operations.

Under Rule 14a-8(i)(7), a shareholder proposal may be excluded from a company's proxy materials if the proposal "deals with matters relating to the company's ordinary business operations." In Exchange Act Release No. 34-40018 (May 21, 1998), the Commission stated that the policy underlying the ordinary business exclusion rests on two central considerations. The first recognizes that certain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight. The second consideration relates to the degree to which the proposal seeks to "micro-manage" the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment.

The Commission also has stated that a proposal requesting the dissemination of a report is excludable under Rule 14a-8(i)(7) if the substance of the proposal is within the ordinary business of the company. *See* Exchange Act Release No. 34-20091 (Aug. 16, 1983); *see also Netflix, Inc.* (Mar. 14, 2016) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested a report “describing how company management identifies, analyzes and oversees reputational risks related to offensive and inaccurate portrayals of Native Americans, American Indians and other indigenous peoples, how it mitigates these risks and how the company incorporates these risk assessment results into company policies and decision-making,” noting that the proposal related to the ordinary business matter of the “nature, presentation and content of programming and film production”).

In accordance with the policy considerations underlying the ordinary business exclusion, the Staff has consistently permitted exclusion of proposals under Rule 14a-8(i)(7) requesting that a company increase its energy efficiency or its use of renewable energy where the proposal and the supporting statement, when read together, focus primarily on a company’s management of its energy expenses. In *FLIR Systems, Inc.* (Feb. 6, 2013), for example, the proposal sought a report “describing the company’s short- and long-term strategies on energy use management.” In granting relief to exclude the proposal under Rule 14a-8(i)(7), the Staff concluded that “the proposal and supporting statement, when read together, focus primarily on FLIR’s strategies for managing its energy expenses.” *See, e.g., The TJX Companies, Inc.* (Mar. 8, 2016) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested that the company set “quantitative targets . . . to increase renewable energy sourcing and/or production”); *CVS Health Corp.* (Mar. 8, 2016) (“*CVS P*”) (same); *Apple Inc.* (Dec. 5, 2014) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested an estimate of “the total investment in . . . renewable sources of electricity . . . and the projected costs over the life of the renewable sources,” noting that “the proposal relates to the manner in which the company manages its expenses”); *TXU Corp.* (Apr. 2, 2007) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that requested, among other things, an analysis of potential energy savings that could be generated by energy efficiency actions and an analysis of costs to the company of implementing energy efficiency actions).

The Staff also has permitted the exclusion of proposals under Rule 14a-8(i)(7) asking a company to increase its energy efficiency or its use of renewable energy where the proposal and the supporting statement, when read together, relate to the company’s choice of technologies for use in its operations. In *First Energy Corp.* (Mar. 8, 2013), for example, the proposal sought a report on actions the company could take to reduce risk “by diversifying [its] energy resources to include increased energy efficiency and renewable energy resources.” In granting relief to exclude the proposal, the Staff noted that “[p]roposals that concern a company’s choice of technologies for use in its operations are generally excludable under [R]ule 14a-8(i)(7).” *See, e.g., Dominion Resources, Inc.* (Feb. 14, 2014) (permitting

exclusion under Rule 14a-8(i)(7) of a proposal that sought, among other things, “a report on . . . benefits of increased solar generation,” noting that “the proposal concern[ed] the company’s choice of technologies for use in its operations”); *AT&T Inc.* (Feb. 13, 2012) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that sought, among other things, a report on the company’s “efforts to accelerate the development and deployment of new energy efficient set-top boxes” noting that “the proposal relates to the technology used in AT&T’s set-top boxes[,]” and “[p]roposals that concern a company’s choice of technologies for use in its operations are generally excludable under [R]ule 14a-8(i)(7)”); *CSX Corp.* (Jan. 24, 2011) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that asked the company to develop a kit to allow it to convert the majority of its locomotive fleet to “a far more efficient power conversion system,” noting that “the proposal relates to the power conversion system used by CSX’s locomotive fleet” and “[p]roposals that concern a company’s choice of technologies for use in its operations are generally excludable under [R]ule 14a-8(i)(7)”).

In this instance, the Proposal’s request that Gilead assess the feasibility of adopting goals for increasing energy efficiency and use of renewable energy, when read together with the supporting statement, focuses primarily on Gilead’s management of its energy expenses and also concerns Gilead’s choice of technologies for use in its operations, both of which are ordinary business matters. The supporting statement emphasizes the Proposal’s primary focus on Gilead’s management of its energy expenses by stating that Gilead, by implementing the Proposal’s request, “could lay the ground to reduce energy costs [and] hedge against risks of volatile energy prices.” The supporting statement further states that “energy efficiency and renewables often make business sense” and details the perceived financial benefits of adopting goals for increasing energy efficiency and use of renewable energy by indicating that “efficiency investments of hundreds of global companies paid for themselves from reduced energy bills in just 4.2 years on average” and “a combination of improved efficiency and increased use of low-cost renewable energy could help the pharmaceutical industry reduce the \$1 billion per year it spends each year on energy.” In addition, the Proposal compares the potential relative costs of certain sources of energy, stating that “prices from [wind] contracts executed in the past 3+ years are consistently below the low end of the projected natural gas fuel cost.” In this way, the supporting statement makes clear that the primary focus of the Proposal is on Gilead’s management of its energy expenses.

In addition, the supporting statement emphasizes that the Proposal concerns Gilead’s choice of technologies for use in its operations by stating that Gilead, by implementing the Proposal’s request, could “shift[] from fossil-based to renewable energy sources.” Further, the supporting statement advocates for the use of specific sources of energy, stating that wind energy can cost less than “natural gas . . . , which is typically the next cheapest electricity fuel.” By dictating a type of technology that Gilead must use in its operations going forward, the supporting statement makes

clear that the Proposal concerns Gilead's choice of technologies for use in its operations.

Decisions as to how Gilead manages its energy expenses and chooses technologies for use in its operations are fundamental to Gilead's day-to-day operations and cannot, as a practical matter, be subject to shareholder oversight. Thus, consistent with the precedent described above, the Proposal is excludable under Rule 14a-8(i)(7).

Finally, Gilead recognizes that the Staff has found that some proposals requesting a report on the feasibility of adopting certain goals for increasing the company's renewable energy sourcing and production focus on a significant policy issue and therefore are not excludable under Rule 14a-8(i)(7). In those instances, however, the proposal specifically requested that the report assess the climate benefits of increasing the company's renewable energy sourcing and production. In *Lowe's Companies, Inc.* (Mar. 10, 2017), for example, the Staff did not permit the company to exclude a proposal seeking a report "*assessing the climate benefits and feasibility of adopting enterprise-wide, quantitative, time-bound targets for increasing [the company's] renewable energy sourcing and/or production*" on the basis that the proposal "transcends ordinary business matters and does not seek to micromanage the company to such a degree that exclusion of the proposal would be appropriate" (emphasis added). *See also CVS Health Corp.* (Feb. 22, 2017) ("*CVS II*") (same).

Unlike the proposals in *Lowe's* and *CVS II*, the Proposal does not call for an assessment of climate benefits. In contrast, the Proposal's request that Gilead assess the feasibility of adopting goals for increasing energy efficiency and use of renewable energy, when read together with the supporting statement, focuses primarily on Gilead's management of its energy expenses and also concerns Gilead's choice of technologies for use in its operations, matters that, as described above, are part of Gilead's ordinary business operations.

Accordingly, Gilead believes that the Proposal may be excluded from its 2018 proxy materials pursuant to Rule 14a-8(i)(7) as relating to its ordinary business operations.

V. Conclusion

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if Gilead excludes the Proposal from its 2018 proxy materials.

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Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of Gilead's position, we would appreciate the opportunity to confer with the Staff concerning these matters prior to the issuance of the Staff's response. Please do not hesitate to contact me at (650) 574-3000 or Marc S. Gerber of Skadden, Arps, Slate, Meagher & Flom LLP at (202) 371-7233.

Very truly yours,



Brett A. Pletcher
Executive Vice President, General
Counsel and Chief Compliance Officer

Enclosures

cc: Lauren Compere
Managing Director
Boston Common Asset Management

Steven Heim
Managing Director
Boston Common Asset Management

EXHIBIT A

(see attached)

November 21, 2017

Mr. Brett A. Pletcher
Executive Vice President, General Counsel & Chief Compliance Officer
Gilead Sciences Inc.
333 Lakeside Drive
Foster City, CA 94404

Re: Shareholder Proposal on Energy Productivity & Renewable Energy Targets

Dear Mr. Pletcher:

Boston Common Asset Management, LLC is a global investment manager that specializes in sustainable and responsible global equity strategies. We seek long-term capital appreciation by investing in diversified portfolios of high quality stocks. Boston Common currently manages over \$2.6 billion as of September 30, 2017, with clients that are shareholders in Gilead Sciences. We currently hold 6,090 shares of Gilead Sciences common stock in the Boston Common U.S. Equity Fund (BCAMX).

According to the International Energy Agency (IEA), improved energy efficiency must provide 49 percent and renewables must provide 17 percent of energy-related GHG reductions to stabilize global temperatures. Energy efficiency and renewables often make business sense irrespective of their climate benefits. CDP reports that the efficiency investments of hundreds of global companies paid for themselves from reduced energy bills in just 4.2 years on average.

To capture the environmental and financial benefits of improved energy management, leading pharmaceutical companies have implemented aggressive clean energy goals. For instance, Abbvie, Bristol-Myers Squibb, and Johnson & Johnson have all joined the US Department of Energy's "Better Plants Initiative" in which partners voluntarily set a goal to reduce energy intensity by 25% over a 10-year period across all of their US operations. Likewise, AstraZeneca, Biogen, DSM, Johnson & Johnson and Novo Nordisk have joined the RE100 initiative, committing to shift toward 100 percent renewable electricity usage. By contrast, Gilead Sciences lags behind.

Therefore, Boston Common Asset Management, LLC (Boston Common) hereby submits the enclosed shareholder proposal (Proposal) with Gilead Sciences for inclusion in the 2018 proxy statement and in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934 (17 C.F.R. § 240.14a-8). Per Rule 14a-8, the Boston Common U.S. Equity Fund holds more than \$2,000 of Gilead Sciences common stock, acquired

more than one year prior to today's date and held continuously for that time. Verification of ownership will follow. Boston Common Asset Management will continue to hold the required shares through the date of the 2018 annual meeting. We will send a representative to the stockholders' meeting to move the shareholder proposal as required by the SEC rules.

We are the primary filer for this proposal. We would welcome a dialogue with Gilead Sciences especially given how rapidly its peers are adopting energy productivity and renewable energy targets.

We would appreciate receiving a confirmation of receipt of this letter via email to lcompere@bostoncommonasset.com.

Sincerely,



Lauren Compere, Managing Director



Steven Heim, Managing Director

Gilead Sciences, Inc.
Shareholder Proposal

Resolved: To increase the benefits to society and to our company associated with usage of clean energy resources, shareholders request that Gilead Sciences senior management, with oversight from the Board of Directors, issue a report assessing the feasibility of adopting time-bound, quantitative, company-wide goals for increasing energy efficiency and use of renewable energy. The report should be issued within one year of this filing at reasonable cost, and omitting proprietary information.

Supporting Statement:

Clean energy management involves using energy more efficiently and shifting from fossil-based to renewable energy sources. By assessing adoption of clean energy goals, our company could lay the ground to reduce energy costs, hedge against risks of volatile energy prices, enhance U.S. energy security, and reduce greenhouse gas (GHG) emissions.

According to the International Energy Agency (IEA), improved energy efficiency must provide 49 percent and renewables must provide 17 percent of energy-related GHG reductions to stabilize global temperatures. Fortuitously, energy efficiency and renewables often make business sense irrespective of their climate benefits. CDP reports that the efficiency investments of hundreds of global companies paid for themselves from reduced energy bills in just 4.2 years on average. According to a 2016 report from the US Department of Energy “[P]rices from [wind] contracts executed in the past 3+ years are consistently below the low end of the projected natural gas fuel cost”, which is typically the next cheapest electricity fuel. A combination of improved efficiency and increased use of low-cost renewable energy could help the pharmaceutical industry reduce the \$1 billion per year it spends each year on energy required to keep its facilities running.

To capture the environmental and financial benefits of improved energy management, leading pharmaceutical companies have implemented aggressive clean energy goals. For instance, Abbvie, Bristol-Myers Squibb, and Johnson & Johnson have all joined the US Department of Energy’s “Better Plants Initiative” in which partners voluntarily set a goal to reduce energy intensity by 25% over a 10-year period across all of their US operations. Likewise, AstraZeneca, Biogen, DSM, Johnson & Johnson and Novo Nordisk have joined the RE100 initiative, committing to shift toward 100 percent renewable electricity usage.

By contrast, Gilead Sciences lags behind.

The company’s most recent sustainability report provides anecdotal information about a range of discrete initiatives to improve energy efficiency at facilities in five countries. Yet the report is silent on energy management in two dozen other countries where the company operates. The report highlights how much energy is used and how much greenhouse gas is emitted at large

facilities in the five countries, yet its disclosures are silent on specific, time-bound, company-wide goals to improve efficiency, increase renewables, or curb greenhouse gas emissions.

To maintain parity with its competitors, Gilead Sciences shareholders should vote to assess the adoption of company-wide efficiency and renewable energy goals.



777 East Wisconsin Avenue
Milwaukee, WI 53202

usbfs.com

November 22, 2017

Mr. Brett A. Pletcher
Executive Vice President, General Counsel and Chief Compliance Officer
Gilead Sciences Inc.
333 Lakeside Drive
Foster City, CA 94404

Re: Gilead Sciences Inc. Stockholder Proposal

Dear Mr. Pletcher,

U.S. Bancorp is the custodian and record holder for the Boston Common U.S. Equity Fund (BCAMX).

We are writing to affirm that the Boston Common U.S. Equity Fund (BCAMX) currently holds 6,090.00 shares of Gilead Sciences Inc. common stock and has held at least \$2,000 in market value of Gilead Sciences Inc. shares continuously for at least the one-year period prior to and including the date of the submission of the Stockholder Proposal, November 21, 2017.

Sincerely,

A handwritten signature in cursive script that reads "Melissa Breitzman". The signature is written in black ink and is positioned above the printed name and title.

Melissa Breitzman
Mutual Funds Administrator