



DIVISION OF
CORPORATION FINANCE

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

March 7, 2017

Marc S. Gerber
Skadden, Arps, Slate, Meagher & Flom LLP
marc.gerber@skadden.com

Re: General Motors Company
Incoming letter dated February 28, 2017

Dear Mr. Gerber:

This is in response to your letter dated February 28, 2017 concerning the shareholder proposal submitted to GM by John Chevedden. We also have received letters from the proponent dated March 3, 2017, March 5, 2017 and March 7, 2017. 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

March 7, 2017

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: General Motors Company
Incoming letter dated February 28, 2017

The proposal requests that the board take the steps necessary to enable at least 50 shareholders to aggregate their shares for purposes of proxy access.

There appears to be some basis for your view that GM may exclude the proposal under rule 14a-8(i)(10). Based on the information you have presented, it appears that GM's policies, practices and procedures compare favorably with the guidelines of the proposal and that GM has, therefore, substantially implemented the proposal. Accordingly, we will not recommend enforcement action to the Commission if GM omits the proposal from its proxy materials in reliance on rule 14a-8(i)(10).

We note that GM did not file its statement of objections to including the proposal in its proxy materials at least 80 calendar days before the date on which it will file definitive proxy materials as required by rule 14a-8(j)(1). Noting the circumstances of the delay, we do not waive the 80-day requirement.

Sincerely,

Evan S. Jacobson
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 matters 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 proposal 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 and rules administered by the Commission, including arguments as to whether or not activities proposed to be taken would violate 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 adversarial procedure.

It is important to note that the staff'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 shareholder 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 company's management omit the proposal from the company's proxy materials.

JOHN CHEVEDDEN

FISMA & OMB Memorandum M-07-16

March 7, 2017

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

5 Rule 14a-8 Proposal
General Motors Company (GM)
Year Old Proxy Access Recycled
John Chevedden

Ladies and Gentlemen:

This responds to the February 28, 2017 no-action request.

From the attached article it seems that stock ownership record keeping is so problematic that a prudent proxy access aggregator would need to plan for obtaining comfortably more than what he or she calculates to be 3%.

I do not believe that any company will come forward to say that if there is a dispute on what constitutes 3% – the shareholders win.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2017 proxy.

Sincerely,


John Chevedden

cc: Rick E. Hansen <rick.hansen@gm.com>

Laster: Remove the Cobwebs From Stock Record-Keeping

▀ Delaware judge takes up antiquated stock record-keeping and voting system in Dole case

David Marcus Mar 3, 2017 6:00 AM EST

 **TheStreet Video**

Travis Laster has become a forceful advocate for reform of the system for voting corporate stock and tracking share ownership, and in a Feb. 15 decision he confronted yet another drawback of that system. The Delaware vice chancellor presided over a case in which Dole Food Co. agreed to pay stockholders an additional \$2.74 a share plus interest to settle claims that the controlling stockholder David Murdock violated his fiduciary duties to minority stockholders in buying Dole for \$1.2 billion, or \$13.50 a share, in 2013.

There were 36.8 million shares eligible for the settlement, but claimants submitted "facially valid claims" for 49.2 million shares, a discrepancy that the settlement administrator and class counsel could not resolve because the Depository Trust Co. and Cede Co., which keep the stockholder ledger for public companies, did not receive information about trades made in the three trading days before the deal closed on Nov. 1, 2013, a period in which 32 million Dole shares changed hands. Nor could the DTC/Cede system track short sales made in those three days.

There is no cost-effective way to determine who did own the shares at closing, Laster wrote. Instead, he held that the counsel for stockholders, who were led by Stuart Grant of Grant & Eisenhofer PA in Wilmington and Randall Baron of Robbins Geller Rudman & Dowd LLP should distribute the settlement consideration to Cede and thereby to the custodial banks and brokers whose clients are the economic owners of the shares and let those institutions sort the problem out.

Laster wrote at the end of the opinion that the Dole case raises broader issues: "The problems raised by short sales and trades during the three days before closing appear endemic to the depository system and hence likely infect every claims process. Nothing about either factor was unique to Dole. The only difference was the magnitude of the discrepancy, which made the issues visible."

The markets may be unpredictable, but Jim Cramer can show you how to navigate it like a pro. Follow his blue-chip portfolio of stocks at Action Alerts PLUS. [Join today and try it for 14 days—FREE!](#)

The judge grappled with another drawback of the current depository system last year when he found that mutual funds sponsored by T. Rowe Price & Associates Inc. could not seek appraisal on the 27 million Dell Inc. shares they owned because the funds had inadvertently voted for the deal, thanks to a clerical error that ended up costing the mutual fund company's investors over \$100 million. The error stemmed from the byzantine way in which stock is owned and voted—a "daisy chain," as Laster called it.

He offered a way to untangle the daisy chain in "The Block Chain Plunger: Using Technology to Clean Up Proxy Plumbing and Take Back the Vote," a paper he delivered last fall to the Council of Institutional Investors. Like almost all shareholders, the T. Rowe funds did not own their Dell stock directly. Instead, they were beneficial owners, holding their shares through a custodial bank, State Street Bank & Trust Co., which in turn is a member of the Depository Trust Co., whose nominee Cede was the stockholder of record, as it is for most public companies. State Street in turn used Broadridge Financial

Solutions Inc. to collect and implement voting instructions from account holders. Laster noted in his speech that Broadridge "controls over 98% of the U.S. market for proxy vote processing services." T. Rowe added yet another intermediary, since it uses Institutional Shareholder Services Inc. to notify its funds about upcoming votes, provide voting recommendations, collect voting instructions and deliver them to Broadridge.

Laster argued in his speech that the contorted way in which shares are held and voted makes precise vote counting impossible. He noted that one prominent Wilmington lawyer estimated that in a corporate election closer than 55% to 45%, "There is no verifiable answer to the question, 'Who won?'"

Many lawyers have also warned that the number of shares on which appraisal could be sought is theoretically infinite because of the oddities of the DTC/Cede system, but those fears had never been borne out until the Dole case, which gives Laster one more powerful example to argue for a much-needed reform of the system.

JOHN CHEVEDDEN

FISMA & OMB Memorandum M-07-16

March 6, 2017

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

4 Rule 14a-8 Proposal
General Motors Company (GM)
Year Old Proxy Access Recycled
John Chevedden

Ladies and Gentlemen:

This responds to the February 28, 2017 no-action request.

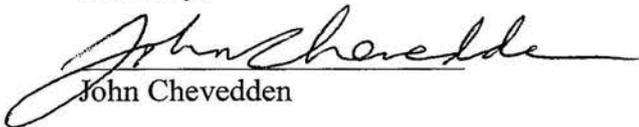
The company request was devoid of any analysis of the impact of the trading volatility in shrinking the eligible shares held by large shareholders on page 7 (attached).

This bring to mind whether the company did any investigation on whether Institutional Shareholder Services or Glass Lewis ever recommended against a rule 14a-8 proposal, like this proposal, that asks that the proxy access ceiling be raised beyond 20-participants. A proposal like this proposal came to a vote on February 28, 2017 at a major company and received a significant percentage vote.

It seems that ISS would know something about whether large holders typically own their stock for an ironclad continuous 3-years. The company provided no analysis of the trading volatility of its stock.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2017 proxy.

Sincerely,


John Chevedden

cc: Rick E. Hansen <rick.hansen@gm.com>

3-YEAR VOLATILITY ?

Based on data from regulatory filings by institutional investors, as of December 31, 2016, the largest 20 institutional shareholders of GM each hold at least 0.7% of GM's voting shares and hold in the aggregate approximately 46% of GM's voting shares. In addition, five of GM's institutional shareholders each own more than 3% of GM's voting shares. Further, any 20 holders of at least 0.15% of GM's voting shares may aggregate their holdings to meet the 3% ownership threshold. There are currently 67 shareholders that own at least 0.15% of GM's outstanding voting shares. Thus, assuming institutional ownership has been relatively stable for three years, several of GM's existing shareholders could, on their own or in combination with only a few fellow shareholders, currently satisfy the existing 3% ownership criteria. Moreover, any shareholder seeking to form a group to nominate a candidate, regardless of the size of its holdings, could combine with one or a small number of the 20 largest shareholders to form a group that would satisfy the ownership threshold, thereby allowing proxy access to be utilized by a wide range of shareholders. As such, there are innumerable combinations that would allow GM's shareholders to form 20-shareholder groups (or smaller groups) to qualify to submit a proxy access nomination. Therefore, GM's 20-shareholder aggregation limit provides abundant opportunities for all holders of less than 3% of GM's voting shares to combine with other shareholders to reach the 3% minimum ownership requirement.

Further, the Proposal provides no evidence that increasing the shareholder aggregation limit from 20 to at least 50 would meaningfully enhance the existing ability of GM's shareholders to form nominating groups to use the Proxy Access Provision. To the contrary, a 20-shareholder aggregation limit has been determined by many companies like GM to provide a meaningful proxy access right and thus has been a widely embraced standard among those that have adopted proxy access. In particular, of the more than 380 companies that have adopted proxy access since the beginning of 2014, more than 90% of companies have adopted a 20-shareholder aggregation limit. In addition, BlackRock, T. Rowe Price Group, Inc. and State Street Corporation, the publicly traded parent companies of some of the largest U.S. institutional shareholders, each have adopted proxy access bylaws that contain a 20-shareholder aggregation limit.

As described above, the Proxy Access Provision, including the 20-shareholder aggregation limit, provides GM shareholders with a meaningful proxy access right and, therefore, satisfies the Proposal's essential objective of providing GM shareholders with a meaningful proxy access right. Accordingly, consistent with the precedent described above, including the Proxy Access Aggregation Letters, GM believes that the Proposal is excludable under Rule 14a-8(i)(10).

JOHN CHEVEDDEN

FISMA & OMB Memorandum M-07-16

March 5, 2017

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

3 Rule 14a-8 Proposal
General Motors Company (GM)
Year Old Proxy Access Recycled
John Chevedden

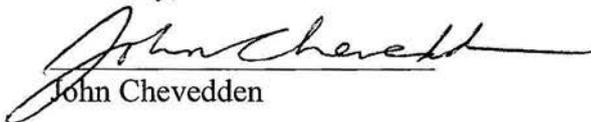
Ladies and Gentlemen:

This responds to the February 28, 2017 no-action request.

The analysis in the attached rebuttal to the Amazon no-action request would seem to also apply to the issues in the General Motors no-action request.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2017 proxy.

Sincerely,


John Chevedden

cc: Rick E. Hansen <rick.hansen@gm.com>

Corporate Governance

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VIA EMAIL: shareholderproposals@sec.gov
Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

March 5, 2017

Re: Amazon.com, Inc.
Shareholder Proposal of James McRitchie
SEC Rule 14a-8

To SEC Staff:

This is in response to the February 21, 2017 letter submitted to the Securities and Exchange Commission (SEC) on behalf of Amazon.com, Inc. ("Amazon" or the "Company"), which seeks assurance that Staff of the Division of Corporation Finance (the "Staff") will not recommend an enforcement action if the Company excludes my shareholder proposal (the "Proposal") from its proxy statement for the 2017 annual meeting.

Because the Company has failed to demonstrate substantial implementation of the 2016 proposal, the Proposal may not be excluded under Rule 14a-8(i)(10).

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

Companies seeking to establish the availability of subsection (i)(10) have the burden of showing both the insubstantiality of any revisions made to the shareholder proposal and the actual implementation of the company alternative.¹

¹ The exclusion originally applied to proposals deemed moot. See Exchange Act Release No. 12999 (Nov. 22, 1976) (noting that mootness "has not been formally stated in Rule 14a- 8 in the past but which has informally been deemed to exist."). In 1983, the Commission determined that a proposal would be "moot" if substantially implemented. Exchange Act Release No. 20091 (August 16, 1983) ("The Commission proposed an interpretative change to permit the omission of proposals that have been 'substantially implemented by the issuer.' While the new interpretative position will add more subjectivity to the application of the provision, the Commission has determined that the previous formalistic application of this provision defeated its purpose."). The rule was changed to reflect this administrative interpretation in 1997. See Exchange Act Release No. 39093 (Sept. 18, 1997) (proposing to alter standard

Where the shareholder specifies a range of percentages (10% to 25%), Staff has generally agreed the company "substantially" implements the proposal when it selects a percentage within the range, even if at the upper end.² Likewise the Staff has found substantial implementation when the shareholder proposal includes no percentage³ or merely "favors" a particular percentage.⁴ Implementation must "compare favorably with the guidelines of the proposal." (*Texaco, Inc.*, Mar. 28, 1991).

2016 No-Action Decisions

SEC Staff makes a distinction between substantial implementation as applied to initial bylaws and those seeking amendments to adopted bylaws. No-action letters issued by Staff have consistently denied exclusions of proposals to amend the terms of previously adopted bylaws, until recently. See *H&R Block* (July 21, 2016), *Microsoft* (September 27, 2016), *Apple* (October 27, 2016) and others. Amazon cites a number of poorly defended proxy access proposal, which received no-action relief earlier this year.

According to Staff Legal Bulletin 14 (July 13, 2001, at part B.5. and B.6.,

"The company has the burden of demonstrating that it is entitled to exclude a proposal, and [the Staff] will not consider any basis for exclusion that is not advance by the company." Further, the Staff will "consider the specific arguments asserted by the company and the shareholder, the way in which

² In cases where the staff allowed for the exclusion of a proposal, the shareholder proposal provided a range of applicable percentages and the company selected a percentage within the range. See *Citigroup Inc.* (Feb. 12, 2008) (range of 10% to 25%; company selected 25%); *Hewlett-Packard Co.* (Dec. 11, 2007) (range of 25% or less; company selected 25 %). In *General Dynamics*, the proposal sought a bylaw that would permit shareholders owning 10% of the voting shares to call a special meeting. The management bylaw provided that a single 10% shareholder or a group of shareholders holding 25% could call special meetings. As a result, the provision implemented the proposal for a single shareholder but "differ[ed] regarding the minimum ownership required for a group of stockholders." *General Dynamics Corp.* (Feb. 6, 2009).

³ *Borders Group, Inc.* (Mar. 11, 2008) (no specific percentage contained in proposal; company selected 25%); *Allegheny Energy, Inc.* (Feb. 19, 2008) (no percentage stated in proposal; company selected 25%).

⁴ *Johnson & Johnson* (Feb. 19, 2009) (allowing for exclusion where company adopted bylaw setting percentage at 25% and where proposal called for a "reasonable percentage" to call a special meeting and stating that proposal "favors 10%"); *3M Co.* (Feb. 27, 2008) (same).

the proposal is drafted and how the arguments and our prior no-action responses apply to the specific proposal and company at issue. Based on these considerations, [the Staff] may determine that company X may exclude a proposal but company Y cannot exclude a proposal that addresses the same or similar subject matter.”

Most of the no-action decisions on proxy access proposals were decided based arguments asserted by companies without benefit of meaningful counter-arguments from proponents. Shareholders cannot rely on Staff to make counter-arguments on our behalf where prior precedent is scarce.

For example, proponents offered *no* rebuttal in the case of *Oracle Corp.* (Aug. 11, 2016). In the case of *NVR, Inc* (Mar. 25, 2016), although the proponent provided many counter-arguments to NVR’s qualifying stock ownership threshold of 5%, they did nothing to counter NVR’s arguments concerning potential use by “certain interest groups to the detriment of shareholders generally,” made with regard to the 20-shareholder group limit. Therefore, when NVR amended its bylaws to lower the ownership threshold to 3%, proponents had little or nothing in way substantive arguments left standing. Similarly, Amazon could probably obtain no-action relief in the subject case by amending its bylaws to allow shareholders of unlimited numbers to form proxy access groups.

Limit on Aggregation of Eligible Shareholders

The Company argues their existing bylaw provisions, which limit nominating groups to 20 shareholders, “achieves the Proposal’s essential purpose of providing the Company’s shareholders with a meaningful proxy access right.” The actual Proposal says its purpose is to “raise the current ‘eligible Stockholder’ aggregation limit of 20 ‘stockholders and beneficial owners’ to a limitation of 40 or 50 stockholders and beneficial owners..,” since the 20 member limitation “makes implementation problematic and less attractive.” That comes from the actual Proposal, not from some made up statement by the Company. The Company has not raised the aggregation limit. Therefore, it has not meant the essential purpose of the Proposal.

The Company writes that placing a twenty-shareholder limit on the size of a nominating group, is appropriate because “it is a widely embraced standard among companies that have adopted proxy access.” However, Rule 14a-8(i)(10) says a proposal can be excluded from the proxy if it has been “substantially implemented,” not because a company has chosen a popular alternative to the Proposal. The Proposal has not been substantially implemented.

No-action “relief” in this case is not predicated on whether or not companies can restrict shareholder-nominating groups to twenty members but on whether of not a proposal to revise such existing restrictions can be excluded from the proxy because raising the cap to 40 or 50 would have *insubstantial consequences*.

The Council of Institutional Investors (CII) researched the evidence and found the following (Proxy Access: Best Practices, August 2015):

We note that without the ability to aggregate holdings even CII's largest members would be unlikely to meet a 3% ownership requirement to nominate directors. Our review of current research found that even if the 20 largest public pension funds were able to aggregate their shares they would not meet the 3% criteria at most of the companies examined.

CII's position is generally consistent with the view of the SEC. In 2010, the SEC considered, but rejected imposing a cap on the permitted number of members in a nominating group. The SEC found that individual shareowners at most companies would not be able to meet the minimum threshold of 3% ownership for proxy access unless they could aggregate their shares with other shareowners.

Amazon dismisses those findings, stating "the generic data cited in the Proposal is irrelevant to the Company's shareholder base." The list of CII members can easily be applied to Amazon, removing the "generic" argument. (list of CII members is online at http://www.cii.org/files/about_us/members/01_23_17_general_members.pdf) See column G in attached Table 1. Thirteen CII members (identified in blue) owned 1.31% of Amazon's outstanding stock at the end of the last quarter, not enough to file for proxy access. (SEC filing data obtained from FactSet Research.)

Lifting Aggregation Makes a Substantial Difference

CII members are the most likely funds to initiate filing for proxy access. Its members meet frequently with each other and set policies, including the *Best Practices* cited above. Several members of CII, most notably the New York City Comptroller, have filed proxy access proposals. Although Amazon touts the idea that its 20 largest institutional investors own 36.85% of the Company's shares, they provide no evidence that any of these shareholders have shown any intention to file for proxy access or have ever even filed a shareholder proposal. They appear highly unlikely to initiate formation of a nominating group.

Amazon claims their bylaw "achieves the Proposal's essential purpose of providing the Company's shareholders with a meaningful proxy access right." However, as the Proposal notes, the 20-member limit "makes implementation problematic and less attractive." The Proposal seeks bylaw amendments that would make implementation at Amazon more likely, not just theoretically possible.

As indicated above, 13 CII members own 1.31% of Amazon stock. They would most likely try to recruit group members from the 22 non-CII activists that have participated in at least two activist campaigns (a FactSet activism score of 3 or more in column F of Table 1). If CII members can convince T. Rowe Price to join them, they have a viable group. However, let us assume activists with the smallest holdings are most

likely to join. Moving up from the smallest activist shareholder to the largest, it would take 20 activists added to 13 CII members to reach the 3% requirement.

Amazon claims there is “no evidence that increasing the shareholder aggregation limit from 20 to 40 or 50 shareholders would meaningfully enhance the existing the existing ability of the Company’s shareholders to form nominating groups...”

That count in the above example is 13 members beyond Amazon’s current 20-member limit and demonstrates that increasing the shareholder aggregation limit from 20 to 40 or 50 shareholders *would* meaningfully enhance the ability of Company shareholders to form a nominating group. Raising the cap to 40 or 50 would not have insubstantial consequences, as Amazon claims.

Data Limitations Reduce Group Formation

The SEC’s [adopting release](https://www.sec.gov/rules/final/2010/33-9136.pdf) for proxy access rules (Rule 14a-11, available at <https://www.sec.gov/rules/final/2010/33-9136.pdf>), in discussing its determination to use a 3% eligibility threshold and the possibilities of aggregation, relied principally on data relating to institutional investors. That discussion referred extensively to a [Memorandum](https://www.sec.gov/comments/s7-10-09/s71009-576.pdf) from the Division of Risk, Strategy, and Financial Innovation regarding the Share Ownership and Holding Period Patterns in 13F data (November 24, 2009, <https://www.sec.gov/comments/s7-10-09/s71009-576.pdf>) (the “Memo”), which analyzed the ownership and holding period data regarding institutional investment managers.

The Memo identified several limitations concerning datasets based on Form 13F filings, which are likely to be referenced by companies, such as Amazon, in challenges to shareholders seeking to invoke proxy access.

Differences in Ownership Definitions

On Form 13F, investment managers report holdings over which they exercise “investment discretion”. Institutional investment managers must report on Form 13F if they “exercise discretion” over \$100 million or more in 13F securities, even though another person is responsible for the investment decisions. By contrast, ownership under proposed Rule 14a-11 is based on direct or indirect voting or investment power. Many institutional investment managers, such as mutual funds, pension plans, and broker dealers, with respect to their proprietary accounts, are also beneficial owners of securities reported on Form 13F; many others, such as investment advisers and broker-dealers managing private accounts and bank trust departments are not beneficial owners of reported securities.

For example, Table B showing four years of ownership data includes top owners such as Goldman Sachs, Susquehanna Financial Group and Bank of America Merrill Lynch that are broker-dealers and may not hold voting rights to Amazon.

Ambiguities Resulting from Aggregation of Multiple Accounts

Institutional investment managers aggregate the accounts of multiple account holders in their reports on Form 13F. This can overstate eligibility. There is no way to tell from the data whether an institutional investment manager reporting a holding level above the applicable threshold appears eligible merely because it is aggregating smaller holdings represented by individual accounts.

Possible Double-Counting

Since two or more reporting institutional investment managers can serve as advisers sharing investment discretion over shares held in the same account, it is possible that both institutional investment managers are reporting the same equity holdings on their respective 13F filings. While both co-advisers may report positions for the same account holder on Form 13F, both advisers are not allowed to vote the shares. Equity lending can cause double-counting as well, since the lending owner and the borrower of the shares may both report ownership of the same position on Form 13F.

Ineligibility of Activist Funds

The first proxy access campaign was terminated by GAMCO Asset Management Inc. (affiliated with activist investor Mario Gabelli) after their eligibility under National Fuel Gas Company (“NFG”) bylaws was challenged. GAMCO has indeed had a history of clearly trying to “influence” NFG. The Gabelli funds’ practice of reporting their share ownership on a Schedule 13D instead of Schedule 13G caused NFG to doubt the Gabelli funds’ claim that they lacked an intent to change or influence control of NFG.

Like NFG, Amazon’s bylaws preclude use proxy access by shareholders seeking to change control of the Company. (Bylaw 2.16.3(a)) Many of the funds cited in statistics cited by Amazon (as well as those we cite in the attached tables) may be ineligible to participate in proxy access under these provisions.

Although we have not analyzed the impact of each of these issues, they result in over reporting of holdings available for proxy access. Therefore, claims by the Company of eligible candidates for forming a group of 20 nominating shareholders are exaggerated even beyond what we demonstrate in the discussion below.

Owning for Three Years is *Not* the Same as Continuously Owning the Required Shares

Keep in mind the following single sentence of Amazon’s proxy access bylaw:

(b) To qualify as an “Eligible Stockholder,” a stockholder must own and have owned (as defined below in subsection 2.16.2(c)) *continuously for at least*

three years as of the date of the Stockholder Notice, or must be acting on behalf of a group of no more than 20 stockholders and beneficial owners each of whom owns and has owned (as defined below in subsection 2.16.2(c)) *continuously for at least three years* as of the date of the Stockholder Notice, a *number of shares* (as adjusted to account for any stock dividend, stock split, subdivision, combination, reclassification, or recapitalization) *that* (in the case of a group, in the aggregate) *represents at least three percent (3%) of the shares of the corporation entitled to vote in the election of Directors outstanding as of the date of the Stockholder Notice (the “Required Shares”)*, and must thereafter continue to own the Required Shares through such annual meeting of stockholders; provided that in the case of a group of stockholders and beneficial owners (i) any and all requirements and obligations for an Eligible Stockholder set forth in Section 2.16 must be satisfied by and as to each such stockholder or beneficial owner (except that shares that a stockholder or beneficial owner has owned continuously for at least three years may be aggregated as specified above in this subsection 2.16.2(b)), and (ii) a group of any two or more funds that are (A) under common management and investment control, or (B) part of a family of funds, meaning a group of publicly-offered investment companies (whether organized in the U.S. or outside the U.S.) that hold themselves out to investors as related companies for purposes of investment and investor services, shall be treated as one stockholder or beneficial owner. No stockholder or beneficial owner, alone or together with any of its affiliates, may be a member of more than one group of stockholders or beneficial owners constituting an Eligible Stockholder under this Section 2.16, and no shares may be treated as owned by more than one stockholder or beneficial owner. (My emphasis.)

The key point of this rambling compound sentence is that in order to use the proxy access bylaw, a shareholder or each member of a shareholder group must own and have held *continuously* for at least three years, three percent of the company's shares or their proportionate shares. Watch how that keyword *continuously* drops out of Amazon's arguments.

Amazon's Specious Arguments

Amazon claims “19 of the current top 20 largest institutional shareholders have held more than 0.5% for at least three years.” The Company provides no data to support any of the figures cited in their no-action request, even though it is the Company that has the burden of proof under Rule 14a-8(g).

Using Ipreo's database of SEC filings, we compiled Table 2 using twelve quarters data, 12/31/2013 – 12/31/2016. As evidenced in Column D of Table 2 (highlighted in yellow), only 13 funds have held 0.5% or over during the last three years, not 19 as Amazon claims.

The Company then argues the following:

To further illustrate the ease of forming a nominating group with 20 or fewer shareholders, we note that, as of December 31, 2016, 73 different shareholders owned at least one-twentieth of 3%, or 0.15%, of the Company's outstanding shares. Any one of these shareholders can combine their shares with up to 19 other similarly situated shareholders and satisfy the 3% threshold, provided that (as with any other shareholder seeking to utilize proxy access) the other requirements set forth in the Proxy Access Bylaw are satisfied.

Of course, one of those "other requirements" is that each shareholder forming a group must have individually held their required share proportion continuously for the entire 12 quarters. Again, looking at Column D of Table 2, only 46 investors have held one-twentieth of 3%, or 0.15%, of the Company's outstanding shares for the required three years, not 73 investors, as implied by Amazon.

The Company also argues:

As well, it appears that all but 6 of the Company's 50 largest institutional shareholders as of December 31, 2016 have owned Company shares over the past three years.

That statement is irrelevant, since Amazon provides no information on how many shares each owned or if each are capable of combining with all or any 19 of the other 49 largest institutional shareholders to form a group nominating group.

Raising the Group Limit to 50

Amazon's notes that any 20 shareholders, each holding 0.15% of the Company's outstanding shares for the required three years can form a group. We have shown that number to be 46 investors, although that number is likely to be exaggerated by the factors discussed above under the heading "Data Limitations Reduce Group Formation."

What would the impact be of raising the group limit to 50, each holding 0.06% (3%/50)? There are 95 funds that have held 0.06% for each quarter of the last three years, more than doubling the number needed to form a similar group under Amazon's current 20 shareholder group standard. (See column D of Table 2) *More than doubling the number of shareholders that can form a nominating group under this method cannot be considered insubstantial, as claimed by Amazon.*

Amazon has failed to show that raising the cap from 20 to 40 or 50 would have insubstantial consequences

The Company provides no substantive evidence that a standard limiting nominating groups to 20 members meets the essential purpose of the Proposal, which is to allow shareholders to combine in groups of 40 or 50 to achieve the required holdings.

The Company has not met the burden of proof required by Rule 14a-8(g) for their several unsubstantiated claims.

Conclusion

There is a huge difference between a group of twenty, which research by the Council of Institutional investors concludes cannot be reached by its members at most companies (or as our data has shown at Amazon), and a group of 40 or 50. Bylaws with the proposed amendments could actually be implemented, while implementing the current provisions would be nearly impossible. Amazon's proxy access bylaws provide the illusion of proxy access, just like foods labeled with unregulated terms like "natural" provide the illusion of being healthy.

Based on the facts, as stated above and Amazon's failure to document what appear to be largely baseless claims, Amazon has not met the burden of demonstrating objectively that the Company has substantially implemented the Proposal. The SEC must therefore conclude it is unable concur that Amazon may exclude the Proposal under Rule 14a-8(i)(10).

Sincerely,

A handwritten signature in black ink, appearing to read "J. McRitchie". The signature is fluid and cursive, with a long horizontal stroke at the end.

James McRitchie

Attachments 1 and 2

cc: Mark Hoffman <markhoff@amazon.com>

Pages 20 through 31 redacted for the following reasons:

Copyrighted Material Omitted

U.S. Trust, Bank of America Private Wealth Management	117,973.79	0.20%	0.11%	475,167,000	521,217	940,590	807,324	742,973	696,437	626,992	599,715	585,126	585,854	577,435	657,371	690,992	619,353	521,217
Thrivent Asset Management, LLC	23,611.67	0.11%	0.11%	475,167,000	514,030	544,010	541,693	569,363	555,950	514,030	568,735	572,518	529,748	528,258	551,458	565,408	524,158	548,208
MFS Investment Management	253,458.24	0.35%	0.11%	475,167,000	508,783	1,682,560	1,820,278	1,613,168	1,625,538	1,678,138	1,466,950	1,059,950	508,783	581,476	580,281	652,495	708,679	766,737
Parametric Portfolio Associates, LLC	78,702.56	0.17%	0.11%	475,167,000	505,905	826,624	837,717	845,634	876,737	785,475	766,092	678,936	621,086	513,439	505,905	520,309	551,350	527,078
UBS Asset Management (Americas) Inc.	26,352.12	0.11%	0.11%	475,167,000	499,938	499,938	695,319	687,411	735,186	791,202	880,863	1,067,059	1,277,920	1,396,766	1,113,497	1,372,886	1,394,291	1,150,935
Quantitative Management Associates, LLC	62,469.42	0.15%	0.10%	475,167,000	491,815	692,755	904,475	810,134	783,734	962,844	905,989	516,310	502,240	491,815	510,235	570,197	602,599	547,684
Florida State Board of Administration	34,293.13	0.12%	0.10%	475,167,000	470,882	566,816	568,067	570,162	470,882	478,587	485,878	486,203	493,531	543,652	549,541	558,410	555,973	620,648
Principal Global Investors, LLC	84,687.86	0.17%	0.09%	475,167,000	445,860	797,167	736,784	721,242	686,519	629,170	587,273	550,492	525,299	483,169	468,350	457,635	453,581	445,860
Waddell & Reed Investment Management Company	53,205.37	0.09%	0.09%	475,167,000	445,462	445,462	915,192	985,846	1,103,397	1,135,673	1,218,258	1,204,660	1,125,141	1,085,940	2,729,474	1,817,334	1,712,267	1,247,356
Fred Alger Management, Inc.	18,600.98	0.27%	0.09%	475,167,000	444,464	1,268,533	1,215,949	1,243,278	1,022,751	1,350,609	1,158,354	957,987	543,970	444,464	647,584	884,676	997,329	977,638
TD Asset Management, Inc.	88,635.07	0.10%	0.09%	475,167,000	435,002	475,238	463,971	435,002	458,632	448,788	483,247	444,747	463,797	497,912	490,124	1,146,028	1,905,213	1,887,142
First Trust Advisors, L.P.	36,280.83	0.11%	0.09%	475,167,000	426,754	531,704	551,832	508,810	623,720	879,990	838,598	801,966	669,083	544,209	511,386	531,564	550,536	426,754
UBS Financial Services, Inc. (Investment Advisor)	141,700.94	0.14%	0.09%	475,167,000	423,233	688,050	615,214	571,156	537,052	631,213	423,784	442,590	513,960	652,503	462,346	423,233	473,049	471,343
USAA Asset Management Company	30,326.42	0.11%	0.09%	475,167,000	403,949	500,842	532,607	515,138	496,696	523,945	524,013	523,553	491,831	422,887	403,949	410,232	413,051	436,471
BlackRock Japan Company, LTD	53,597.22	0.11%	0.08%	475,167,000	396,893	543,143	551,389	543,781	528,525	515,347	528,573	473,402	448,140	472,633	426,717	396,893	409,645	417,977
New Jersey Division of Investment	31,699.10	0.10%	0.08%	475,167,000	394,100	491,200	420,200	420,200	440,000	415,200	394,100	412,000	413,000	474,200	443,800	454,500	429,000	398,000
William Blair & Company, LLC (Investment Management)	47,499.27	0.14%	0.08%	475,167,000	391,895	643,127	641,663	652,310	680,648	535,689	603,106	596,161	556,656	589,783	584,073	566,342	475,881	391,895
Wells Fargo Advisors, LLC	141,820.70	0.12%	0.08%	475,167,000	387,558	585,111	519,340	499,681	519,666	516,509	422,877	402,237	387,558	423,345	409,057	399,659	476,109	461,097
Capital International, Inc. (Singapore)	4,549.30	0.08%	0.08%	475,167,000	384,650	384,650	430,150	430,150	446,900	446,900	446,900	446,900	446,900	446,900	446,900	446,900	446,900	446,900
Dimensional Fund Advisors, L.P. (U.S.)	326,075.86	0.19%	0.08%	475,167,000	365,237	919,687	876,715	814,568	813,728	758,995	642,705	607,826	561,336	538,961	501,330	447,630	416,988	365,237
APG Asset Management N.V.	137,115.95	0.16%	0.08%	475,167,000	357,959	781,589	735,359	691,459	590,359	516,107	551,577	579,280	565,909	618,623	580,803	480,468	369,554	357,959
Schweizerische Nationalbank (Bank)	63,975.21	0.24%	0.07%	475,167,000	354,941	1,122,441	1,112,341	1,121,841	1,035,041	722,541	709,841	636,841	599,541	365,141	374,741	380,441	354,941	389,541
State of Wisconsin Investment Board	25,835.31	0.07%	0.07%	475,167,000	351,230	351,230	416,057	404,057	409,307	436,767	460,687	412,577	385,277	393,087	393,867	415,907	417,408	417,078
PanAgora Asset Management, Inc.	22,743.52	0.09%	0.07%	475,167,000	347,857	424,626	423,978	437,521	438,583	436,236	444,370	377,411	347,857	373,463	406,466	415,221	720,216	813,315
Credit Suisse Securities (USA), LLC (Broker)	44,666.88	0.08%	0.07%	475,167,000	346,952	383,667	625,014	540,105	474,423	459,868	346,952	480,914	465,133	676,970	739,823	498,562	577,507	765,702
State Teachers Retirement System of Ohio	26,840.43	0.08%	0.07%	475,167,000	346,948	379,051	380,693	395,153	384,059	383,539	388,680	395,194	392,415	396,609	346,948	356,748	366,647	373,447
Wells Fargo Bank N.A. (Asset Management)	70,792.31	0.11%	0.07%	475,167,000	337,434	526,966	1,023,096	606,006	409,218	372,676	420,994	455,320	337,434	364,480	345,414	341,100	420,686	430,059
Adage Capital Management, L.P.	36,654.36	0.12%	0.07%	475,167,000	324,861	578,983	574,283	660,383	556,083	603,483	598,483	520,683	573,383	324,861	339,983	489,183	499,283	531,027
Citigroup Global Markets, Inc. (Broker)	50,723.51	0.10%	0.07%	475,167,000	312,336	484,595	353,288	357,411	381,548	312,336	347,416	332,677	431,878	450,268	397,797	442,292	454,827	610,778
Russell Investment Management Company	52,474.57	0.10%	0.07%	475,167,000	310,401	487,845	624,213	670,025	630,378	733,253	663,225	700,892	710,860	659,323	658,068	486,753	534,552	310,401
J.P. Morgan Private Bank	82,445.71	0.12%	0.06%	475,167,000	302,428	581,470	627,256	750,721	716,095	664,980	664,161	708,567	615,202	434,574	302,428	592,859	624,530	609,069
HSBC Global Asset Management (U.K.), LTD	53,762.55	0.07%	0.06%	475,167,000	280,050	330,055	280,050	298,960	303,966	340,595	481,043	631,489	883,884	561,311	551,804	500,586	488,428	375,647
TCW Investment Management Company	13,331.80	0.06%	0.06%	475,167,000	278,655	299,764	279,529	281,719	278,655	291,797	295,474	296,334	411,061	588,526	1,064,411	1,047,440	1,136,248	1,131,471
Pictet Asset Management S.A.	54,578.30	0.06%	0.06%	475,167,000	276,735	276,735	290,293	282,484	298,656	293,856	330,579	331,385	306,511	306,788	306,759	312,981	295,976	321,067
Retirement Systems of Alabama	17,333.21	0.06%	0.06%	475,167,000	276,105	276,105	300,974	299,305	307,966	331,724	346,171	344,950	346,679	356,583	321,242	320,988	312,878	310,550
Susquehanna Financial Group, LLLP (Broker)	20,647.83	0.32%	0.06%	475,167,000	273,473	1,502,406	628,130	273,473	768,504	630,140	665,001	941,174	407,502	847,594	475,002	764,110	1,125,691	305,757
Chevy Chase Trust Company	18,855.41	0.08%	0.06%	475,167,000	272,534	378,165	376,663	377,745	370,683	359,621	354,804	332,752	320,548	301,542	303,309	274,503	273,435	272,534
Luther King Capital Management Corporation	10,512.06	0.06%	0.06%	475,167,000	269,745	304,201	304,041	298,062	269,745	284,281	292,489	296,471	293,009	331,669	333,359	330,401	311,655	279,689
AP 7/Siunde AP-Fonden	33,321.49	0.08%	0.06%	475,167,000	267,061	366,490	347,816	341,295	331,295	332,795	316,090	326,665	318,408	307,778	298,209	296,509	267,061	267,061
State Street Global Advisors, LTD	111,346.27	0.07%	0.06%	475,167,000	262,610	335,345	360,933	262,610	324,736	435,175	324,838	330,616	344,000	393,308	401,626	349,990	320,407	311,353
Ohio Public Employees Retirement System	20,807.58	0.06%	0.06%	475,167,000	262,587	273,735	269,833	269,833	262,587	282,634	282,453	279,048	273,744	272,807	272,977	286,848	289,744	313,960
Tybourne Capital Management (Hong Kong), LTD	2,836.73	0.09%	0.05%	475,167,000	260,125	412,500	394,903	361,303	505,337	356,647	504,001	501,398	429,325	447,925	412,725	583,225	448,325	260,125
Coatue Management, LLC	8,440.91	0.06%	0.05%	475,167,000	258,027	273,298	297,090	308,134	566,785	637,270	647,770	760,722	296,131	258,027	258,027	258,027	288,394	1,448,597
Neuberger Berman Investment Advisers, LLC	76,683.42	0.06%	0.05%	475,167,000	253,070	263,082	257,764	260,159	253,070	305,679	279,589	305,980	316,047	386,815	907,349	741,484	850,242	911,749
BlackRock Advisors (U.K.), LTD	148,588.83	0.05%	0.05%	475,167,000	248,982	261,023	261,054	273,881	270,396	264,455	282,705	248,982	322,712	647,984	742,430	757,994	659,946	693,483
Credit Suisse AG (Asset Management)	74,760.15	0.07%	0.05%	475,167,000	245,172	322,329	328,592	320,341	328,190	323,827	297,706	289,923	284,528	299,957	296,106	299,282	251,547	245,172
UBS Asset Management (U.K.), LTD	66,126.59	0.09%	0.05%	475,167,000	243,741	407,255	410,285	331,159	335,998	265,090	260,799	243,741	291,602	312,522	283,048	283,630	275,030	266,668
Gateway Investment Advisers, LLC	10,697.95	0.05%	0.05%	475,167,000	230,193	230,193	245,689	260,014	271,721	280,828	285,105	284,824	288,858	292,232	368,722	402,365	394,792	385,154
Deutsche Bank Trust Company Americas	48,691.50	0.06%	0.05%	47														

Schroder Investment Management North America, Inc.	19,356.84	0.05%	0.04%	475,167,000	171,215	215,616	291,786	266,886	275,072	341,864	216,885	210,827	248,311	263,679	258,031	259,356	178,599	171,215
State Street Global Advisors France S.A.	28,781.27	0.05%	0.04%	475,167,000	169,985	231,880	246,944	241,132	236,676	235,416	243,575	170,644	173,329	170,465	170,215	176,415	169,985	172,685
Tennessee Consolidated Retirement System	18,918.07	0.06%	0.04%	475,167,000	166,800	268,948	357,014	324,958	266,109	324,407	315,183	314,314	276,530	166,800	288,932	328,919	349,790	257,100
Colorado Public Employee Retirement Association	13,302.17	0.06%	0.03%	475,167,000	161,189	271,539	267,766	263,768	267,589	222,052	194,713	192,034	195,002	196,949	167,928	170,312	170,032	161,189
British Columbia Investment Management Corporation	35,323.61	0.04%	0.03%	475,167,000	160,006	184,847	160,006	204,723	202,121	179,530	176,386	185,316	194,266	194,238	189,581	202,956	201,576	221,899
Geneva Advisors, LLC	5,127.75	0.05%	0.03%	475,167,000	159,322	241,117	241,951	244,965	242,708	245,937	228,609	164,629	159,322	161,189	167,434	167,375	202,539	311,254
ProFund Advisors, LLC	11,288.51	0.04%	0.03%	475,167,000	158,732	200,038	158,732	219,757	232,285	270,597	259,066	230,879	279,593	288,187	238,780	207,274	233,367	213,668
Key Private Bank (Asset Management)	16,015.29	0.04%	0.03%	475,167,000	158,101	175,451	164,171	158,101	162,351	176,094	179,784	184,014	192,688	206,812	224,302	251,428	288,209	298,423
Fiduciary Trust Company International (Asset Management)	9,708.73	0.04%	0.03%	475,167,000	157,035	167,841	157,035	157,539	158,177	160,172	164,440	185,388	220,432	233,628	251,964	301,784	268,373	234,178
Aviva Investors Global Services, LTD (U.K.)	45,442.47	0.05%	0.03%	475,167,000	156,111	252,357	244,878	229,614	203,748	198,229	189,930	198,446	203,617	161,984	162,427	160,251	160,168	156,111
Security Investors, LLC	26,077.67	0.04%	0.03%	475,167,000	150,833	197,302	192,775	181,656	214,723	243,782	150,833	203,564	243,484	232,942	257,157	249,905	252,174	259,682
Deutsche Asset Management Investment GmbH	102,903.20	0.05%	0.03%	475,167,000	150,591	250,431	271,067	246,366	227,377	228,927	225,322	206,128	216,956	204,363	162,551	170,933	150,591	166,874
Sunamerica Asset Management, LLC	26,839.24	0.03%	0.03%	475,167,000	148,717	148,717	151,024	153,915	172,951	174,334	171,377	173,627	173,972	169,983	171,612	167,301	164,247	162,733
Michigan Department of Treasury Bureau of Investments	12,592.28	0.04%	0.03%	475,167,000	146,850	189,802	198,650	198,950	202,950	270,450	298,450	148,050	146,850	156,350	271,050	229,450	228,550	278,750
AMP Capital Investors, LTD	26,127.27	0.04%	0.03%	475,167,000	145,326	196,290	210,634	174,312	172,506	180,967	173,988	183,590	160,601	145,326	152,381	154,346	150,494	283,603
RBC Capital Markets, LLC	32,565.68	0.07%	0.03%	475,167,000	145,238	311,285	292,092	280,458	310,901	287,033	269,232	261,466	175,854	322,811	201,468	145,238	261,310	404,777
Kentucky Teachers' Retirement System	7,852.18	0.03%	0.03%	475,167,000	137,208	137,208	146,677	150,149	152,249	155,349	163,589	180,399	189,029	176,809	196,639	195,180	168,380	174,790
RBC (Channel Islands), LTD	1,405.84	0.03%	0.03%	475,167,000	135,279	135,279	141,379	160,868	194,229	194,148	191,648	199,343	225,926	225,926	222,796	209,893	202,189	202,189
Holland Capital Management, LLC	2,378.84	0.03%	0.03%	475,167,000	135,168	135,168	140,228	172,927	265,834	269,518	278,449	339,454	357,009	368,790	475,854	458,972	468,361	488,997
Primecap Management Company	104,381.73	0.07%	0.03%	475,167,000	134,550	309,638	291,238	291,238	291,238	278,870	278,870	278,470	241,065	220,580	220,280	134,550	141,350	142,500
Criterion Capital Management, LLC	2,375.97	0.04%	0.03%	475,167,000	133,886	185,303	173,195	191,125	225,704	236,431	279,043	302,773	308,284	133,886	269,008	444,148	336,691	354,291
John W. Bristol & Company	3,550.85	0.03%	0.03%	475,167,000	131,411	131,411	136,559	141,555	178,208	184,608	225,116	307,831	334,325	369,654	374,305	388,639	308,640	314,026
The Dreyfus Corporation	29,145.27	0.07%	0.03%	475,167,000	129,966	325,222	383,286	422,249	408,141	411,678	394,107	428,667	130,767	129,966	130,045	353,512	422,842	434,983
AGF Investments, Inc.	12,515.59	0.03%	0.03%	475,167,000	120,996	144,641	152,290	159,256	163,406	155,303	157,791	156,653	162,750	169,503	130,218	129,026	128,090	120,996
BMO Global Asset Management (U.K.)	15,530.33	0.03%	0.03%	475,167,000	120,687	121,258	125,350	121,869	121,064	123,201	120,687	122,919	122,156	185,821	270,163	270,671	284,478	293,597
Schroder Investment Management, LTD	100,011.05	0.06%	0.03%	475,167,000	119,603	283,812	292,287	281,814	251,028	316,544	414,679	368,500	322,192	353,819	290,506	346,864	130,283	119,603
Texas Permanent School Fund	7,508.63	0.02%	0.02%	475,167,000	118,145	118,145	121,180	125,236	133,072	135,455	136,761	139,025	142,560	144,370	147,146	155,393	163,249	171,675
Nuveen Asset Management, LLC	23,216.95	0.03%	0.02%	475,167,000	116,856	160,252	140,395	145,695	139,877	147,322	149,676	141,351	137,967	124,028	119,953	119,903	116,856	117,666
INVESCO Asset Management, LTD (U.K.)	78,201.42	0.02%	0.02%	475,167,000	113,369	113,369	121,884	117,910	118,614	129,323	125,576	164,447	181,456	199,968	196,452	150,058	167,898	162,862
Cornerstone Capital Management Holdings, LLC	14,416.08	0.04%	0.02%	475,167,000	111,901	200,000	204,824	172,963	178,022	174,055	169,032	143,224	116,394	111,904	111,901	115,675	155,251	134,062
Comerica Bank (Asset Management)	12,475.26	0.02%	0.02%	475,167,000	109,851	117,537	116,567	109,851	115,023	110,733	115,213	117,580	120,990	113,608	113,016	118,005	144,562	144,259
USS Investment Management, LTD	10,252.58	0.02%	0.02%	475,167,000	107,000	107,000	194,000	194,000	194,000	194,000	255,000	255,000	255,000	255,000	255,000	255,000	163,000	163,000
Amundi Asset Management S.A.	82,648.96	0.03%	0.02%	475,167,000	105,991	151,243	158,018	156,610	174,135	210,579	162,282	144,869	152,465	158,342	105,991	110,838	143,210	148,941
Asset Management One Company, LTD	139,630.62	0.16%	0.02%	475,167,000	105,652	757,253	140,525	130,020	127,798	132,076	114,594	105,652	112,789	117,371	130,731	646,773	624,417	641,750
Brighton Jones, LLC	265.00	0.03%	0.02%	475,167,000	105,075	131,594	170,154	179,310	162,861	162,813	164,356	105,075	119,104	126,635	127,524	127,560	127,293	127,748
Deka Investment GmbH	38,187.60	0.03%	0.02%	475,167,000	103,172	155,595	158,586	137,861	127,821	136,770	141,294	134,301	139,710	130,491	131,186	132,682	103,172	105,997
Employees Retirement System of Texas	10,474.26	0.02%	0.02%	475,167,000	102,776	102,776	105,300	105,300	107,100	106,500	105,400	104,400	103,400	116,400	121,400	123,400	132,500	137,500
BNP Paribas Arbitrage S.A. (U.S.)	20,569.60	0.02%	0.02%	475,167,000	100,997	107,833	230,889	100,997	348,265	343,922	494,266	426,160	682,256	848,017	645,231	383,319	580,759	880,253
BlackRock Investment Management (Australia), LTD	16,193.20	0.03%	0.02%	475,167,000	100,712	140,991	123,993	130,941	125,149	126,133	133,657	121,726	122,839	128,402	109,959	114,510	104,458	100,712
NISA Investment Advisors, LLC	8,010.59	0.02%	0.02%	475,167,000	100,400	106,400	106,095	103,980	99,595	99,945	101,165	100,490	104,790	103,990	105,590	105,340	108,840	108,990
Gulf International Bank (U.K.), LTD	7,790.04	0.03%	0.02%	475,167,000	98,704	123,423	122,233	121,113	119,813	118,208	114,583	114,083	112,820	109,596	107,389	106,839	99,687	98,704
Delaware Investments	51,630.17	0.03%	0.02%	475,167,000	98,300	141,743	153,260	157,743	148,779	145,600	138,000	127,000	111,300	98,300	110,600	124,550	119,050	114,650
Arizona State Retirement System	6,791.55	0.02%	0.02%	475,167,000	94,922	97,522	96,922	94,922	104,722	103,322	104,922	106,222	106,222	106,222	105,422	103,822	105,622	106,022
Hartford Investment Management Company	5,348.08	0.02%	0.02%	475,167,000	94,783	99,780	97,910	94,783	96,684	95,766	97,174	95,748	101,597	109,120	97,910	99,482	100,574	102,707
U.S. Bank Private Asset Management	27,718.39	0.04%	0.02%	475,167,000	94,486	178,519	164,227	161,556	144,477	132,130	126,480	100,675	99,437	98,783	101,574	101,515	100,259	94,486
Fidelity International Limited - FIL Investment Services (U.K.), LTD	88,648.12	0.02%	0.02%	475,167,000	92,312	92,312	151,049	142,454	150,375	134,408	152,304	274,327	319,003	289,517	309,162	327,055	309,987	310,639
AXA Investment Managers (U.K.), LTD	24,011.02	0.03%	0.02%	475,167,000	89,831	141,687	144,254	143,313	145,391	138,393	116,095	99,849	89,831	95,941	204,577	210,060	188,511	131,148
Piedmont Investment Advisors, LLC	4,913.94	0.02%	0.02%	475,167,000	89,635	114,258	124,345	136,017	132,171	141,668	156,072	155,321	89,635	104,020	132,141	120,517	109,895	99,668
SEI Investments Management Corporation	20,775.77	0.04%	0.02%	475,167,000	87,727	194,982	235,341	225,225	211,241	220,846	151,834	115,281	96,216	87,727	184,909	250,934	288,646	

J.P. Morgan Asset Management (UK), LTD	95,242.05	0.04%	0.02%	475,167,000	72,940	182,966	192,613	209,771	156,720	156,672	181,642	470,556	218,499	72,940	302,348	488,259	402,946	513,960
Raymond James & Associates, Inc.	51,086.12	0.07%	0.01%	475,167,000	69,971	354,751	319,659	228,734	214,694	189,167	152,458	96,711	75,991	69,971	77,763	82,553	79,521	76,038
BlackRock Asset Management (Deutschland) AG	38,874.24	0.02%	0.01%	475,167,000	69,787	87,731	87,244	83,171	81,942	84,666	69,787	82,000	85,528	82,054	84,343	91,898	94,886	86,971
Capital Guardian Trust Company (U.S.)	23,086.55	0.05%	0.01%	475,167,000	68,760	235,641	153,520	105,640	81,154	82,549	68,760	70,408	76,188	78,552	88,057	93,697	120,516	126,256
Peregrine Capital Management, LLC	3,840.99	0.01%	0.01%	475,167,000	68,608	68,608	68,608	68,608	79,602	88,704	102,385	103,626	104,989	101,731	101,731	111,130	119,698	125,283
Golden Capital Management, LLC	7,700.65	0.02%	0.01%	475,167,000	67,425	112,347	116,668	94,213	85,594	85,734	77,897	74,142	73,936	75,848	67,425	78,812	88,284	79,131
PNC Bank, N.A. (Asset Management)	59,583.92	0.02%	0.01%	475,167,000	65,974	84,495	85,293	83,290	86,528	82,899	103,336	104,035	105,808	89,980	79,509	69,897	65,974	66,523
Utah Retirement Systems	3,973.17	0.02%	0.01%	475,167,000	65,053	71,353	71,353	71,353	68,653	68,453	68,353	67,953	67,253	65,053	65,053	65,253	66,053	65,553
Silvant Capital Management, LLC	1,246.94	0.02%	0.01%	475,167,000	64,199	72,244	71,251	67,229	67,844	66,932	66,727	65,709	64,199	69,250	67,618	67,975	75,423	96,948
Tocqueville Asset Management, L.P.	8,198.54	0.03%	0.01%	475,167,000	63,571	148,773	155,683	160,210	164,481	162,495	168,748	174,928	174,144	170,772	124,067	121,987	69,569	63,571
Lazard Asset Management, LLC (U.S.)	80,137.85	0.01%	0.01%	475,167,000	62,497	62,497	62,497	82,961	89,255	114,783	130,651	226,923	396,704	440,326	473,151	521,504	582,227	615,217
PSP Investments	10,616.12	0.02%	0.01%	475,167,000	62,452	102,152	103,252	73,352	62,452	98,152	101,052	131,452	132,152	153,532	179,632	140,332	136,210	137,910
J.P. Morgan Securities, LLC (Broker)	42,216.61	0.01%	0.01%	475,167,000	61,186	66,732	61,186	235,826	272,734	443,564	92,723	496,203	584,253	470,901	509,408	485,798	337,746	507,954
Amundi Japan, LTD	8,381.48	0.02%	0.01%	475,167,000	61,025	106,235	114,665	95,095	92,695	114,850	74,905	66,275	63,975	61,025	95,225	91,925	92,525	93,025
Mitsubishi UFJ Kokusai Asset Management Company, LTD	36,214.75	0.02%	0.01%	475,167,000	60,321	100,329	98,022	98,520	92,465	81,646	74,227	60,321	65,308	81,805	77,733	94,866	89,560	77,875
Birch Hill Investment Advisors, LLC	1,101.03	0.01%	0.01%	475,167,000	58,634	60,155	59,616	59,247	58,634	60,861	67,762	68,950	68,740	67,285	67,459	66,048	63,243	60,009
FoxHaven Asset Management, L.P.	1,356.85	0.03%	0.01%	475,167,000	57,138	132,450	145,762	145,762	145,762	157,578	162,505	151,010	126,505	90,174	90,174	90,174	80,633	57,138
Deutsche Investment Management Americas, Inc.	22,894.69	0.07%	0.01%	475,167,000	56,706	334,964	331,460	293,281	283,524	415,679	414,203	303,747	306,051	183,100	185,948	200,728	56,706	58,171
Oak Associates, LTD	1,012.06	0.01%	0.01%	475,167,000	55,154	59,182	64,931	55,154	60,510	60,215	60,874	65,063	66,263	66,536	67,426	72,378	73,605	92,087
Davenport & Company, LLC (Asset Management)	6,995.27	0.01%	0.01%	475,167,000	54,616	54,616	54,906	55,102	55,410	110,180	142,604	139,708	177,840	172,347	173,327	173,785	155,350	122,955
Fideuram Asset Management (Ireland), LTD	8,061.03	0.01%	0.01%	475,167,000	53,775	53,775	54,151	68,387	77,637	72,113	83,110	83,677	95,452	107,166	111,624	109,932	99,035	88,162
Storebrand Asset Management AS	12,929.26	0.01%	0.01%	475,167,000	52,919	63,812	57,840	55,062	52,919	60,683	59,123	58,930	70,465	70,465	68,576	67,110	63,281	64,601
ClearArc Capital, Inc.	13,046.07	0.03%	0.01%	475,167,000	52,719	120,528	104,369	100,188	96,425	93,302	87,330	82,541	79,384	79,958	81,870	73,019	52,719	58,087
M&G Investment Management, LTD	57,334.71	0.01%	0.01%	475,167,000	51,286	52,066	58,804	84,795	77,353	51,286	73,273	92,080	176,264	211,737	204,839	105,100	80,267	89,694
First Republic Investment Management, Inc.	11,497.26	0.02%	0.01%	475,167,000	50,631	90,127	85,503	84,571	63,967	54,052	50,631	54,872	60,385	89,542	77,532	71,213	61,093	60,545
Irish Life Investment Managers, LTD	7,646.88	0.01%	0.01%	475,167,000	50,267	61,300	62,155	61,179	59,365	63,029	60,550	60,198	56,075	55,362	54,860	52,431	50,267	177,967
Rathbone Investment Management, LTD	15,791.39	0.02%	0.01%	475,167,000	50,098	83,940	78,420	73,315	71,566	68,229	64,358	67,804	68,007	68,751	67,276	67,669	60,892	50,098
Polar Capital, LLP	9,664.23	0.02%	0.01%	475,167,000	49,395	96,110	97,500	78,367	86,653	78,251	71,387	97,873	86,900	49,395	72,144	114,600	66,824	66,700
Virginia Retirement System	7,449.76	0.02%	0.01%	475,167,000	49,244	82,200	107,400	110,900	105,661	113,853	123,736	86,730	61,099	51,982	53,646	51,958	49,826	49,244
Mason Street Advisors, LLC	3,695.11	0.01%	0.01%	475,167,000	49,050	53,951	53,230	52,113	51,428	50,216	49,626	49,170	49,050	127,067	129,065	161,966	173,601	155,695
Cornerstone Capital Management, LLC	634.63	0.01%	0.01%	475,167,000	48,825	48,825	48,825	157,609	232,201	207,525	237,717	308,641	285,798	279,702	243,372	201,126	264,361	281,430
The Ayco Company, L.P.	4,220.28	0.01%	0.01%	475,167,000	48,515	52,891	55,024	56,511	56,923	48,515	48,878	90,879	91,562	91,656	91,980	91,772	90,353	112,470
Nomura Asset Management Company, LTD	111,403.41	0.01%	0.01%	475,167,000	48,074	54,219	56,447	54,377	56,702	54,393	55,904	54,318	51,996	52,138	55,057	52,345	49,097	48,074
KLP Kapitalforvaltning AS	11,323.05	0.01%	0.01%	475,167,000	47,400	62,971	60,271	58,471	54,571	54,271	52,400	51,900	51,600	52,600	53,700	51,500	48,600	47,400
R.H. Bluestein & Company	1,533.11	0.01%	0.01%	475,167,000	46,517	64,057	58,851	56,701	56,612	90,406	84,029	97,167	78,711	76,781	76,872	77,011	46,517	47,306
Mutual of America Capital Management	5,299.96	0.01%	0.01%	475,167,000	46,227	51,183	49,291	47,510	50,658	49,331	49,086	48,514	48,237	47,749	47,452	46,227	47,179	46,579
Barton Investment Management, LLC	300.35	0.01%	0.01%	475,167,000	45,960	48,464	48,826	48,907	68,929	51,439	49,677	49,874	51,319	51,052	51,217	47,136	45,960	46,511
Coöperatieve Media Pensioen Diensten U.A.	779.21	0.01%	0.01%	475,167,000	45,790	50,690	50,690	50,690	50,690	45,790	50,790	50,790	50,790	48,570	48,570	58,570	58,570	59,200
Whittier Trust Company	3,293.95	0.01%	0.01%	475,167,000	45,493	46,839	46,504	46,478	46,148	45,884	45,493	54,476	51,585	50,091	51,907	50,587	49,550	46,920
Handelsbanken Asset Management (Sweden)	33,537.16	0.02%	0.01%	475,167,000	43,372	105,910	175,999	113,596	43,372	107,191	114,592	111,785	78,009	64,327	63,497	53,367	52,065	51,083
Advance Asset Management, LTD	5,418.74	0.02%	0.01%	475,167,000	43,133	103,509	123,184	128,211	91,170	91,170	69,083	43,133	51,646	70,539	61,033	56,864	66,854	45,855
CIBC Asset Management, Inc.	18,039.81	0.01%	0.01%	475,167,000	43,114	60,997	58,677	57,205	56,380	55,401	49,947	49,349	46,482	43,114	51,195	50,778	52,445	49,946
Logan Capital Management, Inc.	1,244.73	0.01%	0.01%	475,167,000	41,622	41,622	42,017	42,808	43,250	43,968	45,811	49,773	54,731	56,647	82,409	83,107	83,081	84,397
Edge Asset Management, Inc.	13,280.42	0.01%	0.01%	475,167,000	40,742	40,742	48,922	48,967	61,244	51,691	60,807	72,705	67,205	63,865	62,477	62,556	60,000	60,000
Oregon State Treasury	4,871.21	0.02%	0.01%	475,167,000	40,042	84,030	84,118	61,176	62,565	61,952	72,552	71,934	42,634	41,634	40,542	40,042	56,442	56,342
Telemark Asset Management, LLC	458.23	0.01%	0.01%	475,167,000	40,000	60,000	70,000	70,000	70,000	90,000	100,000	100,000	100,000	60,000	70,000	40,000	80,000	110,000
Sequoia Capital Operations, LLC	723.81	0.01%	0.01%	475,167,000	40,000	43,000	55,000	40,000	100,000	60,000	91,500	115,000	75,000	90,000	100,000	282,106	332,106	262,106
New Mexico Educational Retirement Board	2,160.92	0.01%	0.01%	475,167,000	39,965	42,065	39,965	45,065	42,565	41,665	43,065	40,265	44,065	45,865	49,765	49,365	48,465	51,465
Columbia Threadneedle Investments (U.K.)	51,987.12	0.07%	0.01%	475,167,000	39,775	320,617	345,697	350,872	363,701	299,977	367,962	355,687	220,515	77,185	39,775	93,702	62,261	273,194
ACTIAM N.V.	13,240.40	0.02%	0.01%	475,167,000	39,766	101,750	100,458	94,506	87,818	72,796	63,287	53,234	39,766	52,845	51,694	53,953	48,104	46,812
Bridgeway Capital Management, Inc.	7,666.03	0.01%	0.01%	475,167,000	39,298	39,327	39,298	50,210	57,940	53,645	54,010	54,265	58,120	69,420	63,840	60,090	56,430	59,225

BP Investment Management, LTD	6,448.51	0.01%	0.01%	475,167,000	35,000	47,000	48,400	48,400	42,500	57,000	55,000	60,000	57,000	57,000	42,000	40,000	35,000	35,000
Frost Investment Advisors, LLC	2,910.85	0.01%	0.01%	475,167,000	34,032	47,082	48,103	48,766	48,672	48,677	45,557	46,796	40,061	38,614	34,804	34,032	37,712	36,931
Fiera Capital, Inc.	2,333.24	0.01%	0.01%	475,167,000	33,850	33,850	38,188	39,651	46,962	54,245	58,445	70,692	229,201	229,201	229,201	229,201	229,201	229,201
Jacobs Levy Equity Management, Inc.	5,172.80	0.02%	0.01%	475,167,000	33,430	105,347	110,380	85,777	118,668	134,084	120,041	123,111	172,559	160,965	139,605	51,711	172,941	33,430
Advantus Capital Management, Inc.	3,665.15	0.01%	0.01%	475,167,000	32,985	39,777	39,380	38,358	37,911	37,344	36,180	36,301	35,658	34,378	33,538	33,124	33,161	32,985
Norinchukin Zenkyoren Asset Management Company, LTD	3,591.33	0.01%	0.01%	475,167,000	32,892	43,946	40,928	39,878	39,269	37,372	41,197	40,772	41,598	41,819	34,504	32,892	36,792	35,315
Rathbone Unit Trust Management, LTD	3,179.10	0.01%	0.01%	475,167,000	32,400	43,860	43,250	41,700	41,900	41,900	41,900	41,900	41,900	42,400	42,400	42,400	37,400	32,400
Waverton Investment Management, LTD	2,605.86	0.01%	0.01%	475,167,000	31,238	64,506	48,369	37,677	31,238	38,542	50,869	50,840	50,940	50,970	50,940	50,870	71,380	71,084
Mediolanum Asset Management, LTD	3,732.67	0.01%	0.01%	475,167,000	31,134	31,134	31,372	31,362	32,032	32,810	32,565	32,785	32,599	34,586	33,441	34,141	36,289	39,307
Sampension Administrationselskab A/S	6,453.57	0.01%	0.01%	475,167,000	31,019	45,367	45,367	45,362	42,239	42,239	37,477	37,477	37,477	37,477	31,019	31,019	35,836	35,836
Envestnet Asset Management, Inc.	27,567.09	0.01%	0.01%	475,167,000	30,770	36,319	37,723	47,287	43,028	44,129	44,492	41,934	41,203	30,770	37,036	36,673	36,405	36,483
Storebrand Asset Management AS (Sweden)	4,003.60	0.01%	0.01%	475,167,000	30,533	31,079	31,094	32,527	32,527	31,362	32,397	32,397	32,397	33,439	33,439	32,014	31,530	30,533
Kentucky Retirement Systems	2,015.61	0.01%	0.01%	475,167,000	29,475	41,388	51,573	48,523	52,942	43,593	39,130	38,223	37,873	41,713	29,475	43,662	43,662	43,741
INTECH Investment Management, LLC	39,379.38	0.12%	0.01%	475,167,000	28,387	555,923	580,375	631,544	678,849	199,049	111,349	44,956	33,387	44,187	68,587	152,787	126,987	28,387
Centre Asset Management, LLC	530.84	0.01%	0.01%	475,167,000	27,920	27,920	38,370	39,754	44,294	41,474	36,114	35,184	37,374	36,614	37,460	34,200	35,480	34,120
Granite Investment Partners, LLC	1,405.25	0.01%	0.01%	475,167,000	27,913	28,078	27,913	30,958	30,937	35,263	35,259	35,377	35,106	29,266	31,386	32,900	33,431	37,281
LMCG Investments, LLC	5,647.60	0.01%	0.01%	475,167,000	27,542	27,825	27,542	29,173	32,727	33,382	34,035	38,504	42,119	40,082	39,934	39,390	43,598	45,224
RBC Global Asset Management, Inc.	83,834.99	0.07%	0.01%	475,167,000	26,849	347,229	213,936	249,971	221,600	184,782	237,610	162,551	149,887	29,320	90,223	134,921	26,849	196,372
Öhman Fonder AB	4,722.21	0.01%	0.01%	475,167,000	26,440	39,369	37,190	36,149	27,500	28,000	27,700	28,300	28,600	28,800	27,140	26,940	26,440	27,000
Ameritas Investment Partners, Inc.	1,989.54	0.01%	0.01%	475,167,000	25,636	28,295	25,636	26,332	26,224	27,567	27,505	28,026	27,618	27,770	27,699	28,477	29,367	30,749
Thornburg Investment Management, Inc.	27,770.74	0.01%	0.01%	475,167,000	24,903	24,903	25,816	25,816	35,558	29,451	35,521	120,950	176,225	176,889	150,414	171,804	163,833	146,885
Louisiana State Employees Retirement System	3,055.80	0.01%	0.01%	475,167,000	24,800	24,800	25,000	25,400	25,800	26,900	28,000	27,800	27,400	28,600	29,100	29,300	29,500	29,900
Ashfield Capital Partners, LLC	1,021.38	0.01%	0.01%	475,167,000	24,561	24,561	29,737	32,726	36,524	29,047	33,517	35,997	36,950	86,680	96,179	99,794	105,496	69,519
State Street Global Advisors (Japan) Company, LTD	5,136.45	0.01%	0.01%	475,167,000	24,536	24,804	24,804	24,804	24,804	24,804	24,536	27,166	27,166	26,200	26,200	27,100	27,100	28,100
Columbia Partners, LLC Investment Management	1,128.85	0.01%	0.01%	475,167,000	24,427	24,427	25,775	26,535	31,807	34,425	34,336	34,862	39,543	40,685	41,338	56,713	61,266	61,394
Baron Capital Management, Inc.	19,765.42	0.01%	0.01%	475,167,000	23,794	56,481	75,849	76,872	63,073	62,928	64,617	60,036	61,111	56,655	23,794	41,040	41,428	34,660
Sterling Capital Management, LLC	15,948.61	0.01%	0.00%	475,167,000	23,493	39,264	38,267	37,976	35,545	33,705	29,619	24,164	25,753	23,493	34,212	29,896	32,606	35,225
Zürcher Kantonalbank (Asset Management)	30,462.00	0.03%	0.00%	475,167,000	23,069	158,876	189,732	154,634	122,267	121,173	109,056	45,702	40,866	26,934	33,411	28,647	32,979	23,069
La Banque Postale Asset Management	11,459.33	0.01%	0.00%	475,167,000	22,809	25,713	44,350	36,945	46,819	47,233	42,203	42,039	42,047	22,809	24,716	23,100	27,400	34,400
MacGuire, Cheswick & Tuttle Investment Counsel, LLC	485.21	0.01%	0.00%	475,167,000	22,742	25,981	25,378	25,808	25,338	24,509	22,814	23,019	23,124	23,049	23,044	22,794	22,742	23,567
GLG Partners, L.P.	13,034.52	0.02%	0.00%	475,167,000	22,608	74,178	38,846	27,588	32,864	37,407	143,901	125,510	43,629	41,903	22,608	39,965	39,208	39,375
Martingale Asset Management	7,094.76	0.01%	0.00%	475,167,000	22,339	56,204	76,158	77,587	80,116	72,650	62,288	42,606	22,653	23,989	22,339	32,899	50,732	35,289
Capstone Asset Management Company	3,488.88	0.01%	0.00%	475,167,000	21,749	26,678	26,864	25,624	29,981	29,906	26,854	25,483	23,697	23,597	22,277	21,749	27,428	32,229
Allianz Global Investors GmbH	65,926.43	0.07%	0.00%	475,167,000	21,711	323,964	244,076	223,297	209,899	172,088	21,711	24,880	50,230	90,965	47,687	43,713	43,271	41,244
Creative Planning, Inc.	16,412.85	0.01%	0.00%	475,167,000	21,500	64,245	56,072	50,289	47,310	49,597	37,609	32,388	30,210	33,467	28,398	24,767	22,944	21,500
Sentry Investment Management, LLC	2,379.07	0.01%	0.00%	475,167,000	21,143	32,257	32,005	30,206	29,734	29,615	33,479	32,217	27,458	21,143	22,183	24,394	21,890	21,690
Meiji Yasuda Asset Management Company, LTD	2,750.73	0.01%	0.00%	475,167,000	20,520	24,302	24,735	23,612	23,200	21,947	21,815	20,988	20,520	21,044	22,021	24,201	24,003	25,694
Gabelli Funds, LLC	16,964.58	0.01%	0.00%	475,167,000	20,500	44,990	44,990	44,990	44,990	39,800	36,900	34,700	33,500	33,200	33,200	28,200	20,500	20,500
Fort Washington Investment Advisors, Inc.	5,978.45	0.04%	0.00%	475,167,000	20,077	198,018	184,496	184,309	186,587	187,499	184,534	185,915	166,037	156,130	20,077	54,542	21,238	22,643
Commonwealth Equity Services, Inc.	13,536.82	0.01%	0.00%	475,167,000	19,816	67,827	59,128	53,407	46,352	39,289	31,912	26,678	27,724	29,686	27,361	30,715	25,400	19,816
Capital International, LTD (U.K.)	3,386.49	0.01%	0.00%	475,167,000	19,260	27,640	24,250	23,300	28,310	28,560	19,260	19,460	26,960	28,360	31,460	32,260	35,960	35,900
AP 3/Tredje AP-Fonden	11,874.02	0.01%	0.00%	475,167,000	18,620	26,516	33,929	37,763	38,155	28,874	27,508	18,620	47,577	47,577	56,197	56,197	26,180	36,180
Northeast Investment Management, Inc.	1,041.91	0.01%	0.00%	475,167,000	18,518	35,261	33,146	30,919	29,412	28,182	24,275	19,004	18,518	19,906	33,936	35,700	35,726	33,427
BMO Asset Management U.S.	26,551.34	0.04%	0.00%	475,167,000	18,141	199,210	197,456	139,300	141,475	93,635	18,378	18,141	19,937	19,743	18,666	21,580	20,097	19,903
Badgley Phelps & Bell, Inc.	1,152.40	0.01%	0.00%	475,167,000	17,725	25,425	25,507	25,980	26,604	26,206	25,550	26,248	27,099	29,358	23,629	23,327	17,725	17,751
Delta Lloyd Asset Management N.V.	6,561.27	0.01%	0.00%	475,167,000	17,666	37,004	67,747	64,008	68,886	65,589	64,411	62,877	21,245	21,658	20,480	23,193	19,795	17,666
Davis Selected Advisers, L.P.	24,113.75	0.40%	0.00%	475,167,000	17,313	1,911,921	2,031,382	2,235,410	2,662,030	2,803,142	3,126,309	4,497,620	4,631,023	4,670,390	3,320,506	2,341,553	1,096,136	17,313
Fiduciary Trust Company (U.S.)	3,086.01	0.01%	0.00%	475,167,000	16,857	28,256	21,203	21,080	22,326	17,206	17,065	16,857	17,374	19,736	20,442	21,272	20,389	20,038
Stifel, Nicolaus & Company, Inc.	13,234.11	0.01%	0.00%	475,167,000	16,758	56,906	42,871	39,097	37,403	35,176	159,294	19,609	16,758	18,627	32,749	35,251	39,753	21,090
BMO Capital Markets	37,408.24	0.04%	0.00%	475,167,000	16,660	210,857	172,668	148,970	16,660	44,265	225,418	117,382	500,186	394,037	272,342	244,136	282,743	345,596
Capital One Asset Management, LLC	1,334.39	0.01%	0.00%	475,167,000	15,893	27,252	27,175	27,323	26,722	25,031	23,075	22,144	20,658	18,331	18,094	15,893	15,900	16,133
JAG Capital Management, LLC	450.06	0.01%	0.00%	475,167,000	15,160	26,809	27,319	27,842	29,190	37,085	38,294	39,216	19,821	15,160	30,480	30,615	48,233	48,980
BlackRock International, LTD	17,708.66	0.01%	0.00%	475,167,000	14,929	50,352	62,911	71,503	68,960	58,138	77,348	60,086	42,869	42,367	23,216	41,653	39,647	14,929
MFS Investment Management Canada, LTD	9,233.25	0.01%	0.00%	475,167,000	14,892	34,876	41,665	43,926	44,461	41,664	15,640	14,892	17,265	21,500	22,528	20,521	17,343	19,962
AQR Capital Management, LLC	83,802.37	0.11%	0.00%	475,167,000	14,228	531,218	547,459	499,712	540,278	497,385	435,442	104,567	22,583	14,228	95,427	191,750	355,850	363,050
ABN AMRO Investment Solutions S.A.	8,434.31	0.01%	0.00%	475,167,000	14,080	33,957	29,410	31,065	31,261	51,338	58,482	51,283	32,371	19,983	14,962	19,481	23,350	14,080
LMM, LLC	1,879.81																	

Suffolk Capital Management, LLC	731.09	0.01%	0.00%	475,167,000	9,838	29,935	27,345	28,434	24,491	27,193	27,672	30,841	40,429	9,838	34,096	21,942	21,997	29,560
Amalgamated Bank of New York	2,212.32	0.01%	0.00%	475,167,000	9,397	42,274	34,885	34,765	15,180	11,564	14,489	13,943	13,153	10,092	11,574	10,822	9,397	9,580
SG Americas Securities, LLC	11,134.10	0.02%	0.00%	475,167,000	9,110	71,557	9,110	547,556	545,066	711,336	204,243	196,403	229,332	282,213	483,076	421,784	477,684	489,665
RBC Dominion Securities, Inc.	28,586.36	0.04%	0.00%	475,167,000	8,690	206,952	150,109	121,297	112,975	39,493	38,857	43,906	39,347	23,865	16,879	18,191	10,589	8,690
Boston Private Wealth, LLC	2,418.34	0.01%	0.00%	475,167,000	8,548	26,921	22,837	23,560	26,187	26,665	27,185	24,087	23,736	22,952	8,548	8,557	9,750	11,265
Banque Lombard Odier & Cie S.A.	13,015.42	0.01%	0.00%	475,167,000	8,387	25,826	23,101	22,955	11,165	11,165	9,340	9,674	10,382	12,215	14,276	13,801	11,183	8,387
Ladenburg Thalmann Asset Management, Inc.	7,194.76	0.01%	0.00%	475,167,000	8,322	45,980	38,730	33,507	30,181	30,182	25,871	27,889	26,979	21,840	11,264	12,970	12,189	8,322
BBVA Compass Bank (Asset Management)	1,419.74	0.01%	0.00%	475,167,000	7,948	28,107	28,293	28,927	28,968	27,985	26,273	23,567	20,852	17,434	15,494	9,301	8,820	7,948
Personal Capital Advisors Corporation	3,359.49	0.01%	0.00%	475,167,000	7,802	34,422	33,132	33,411	30,721	31,352	29,478	30,187	29,637	23,737	18,771	14,708	9,818	7,802
Bradley Foster & Sargent, Inc.	2,355.69	0.01%	0.00%	475,167,000	7,711	31,507	29,796	29,506	31,476	34,389	32,195	47,661	47,790	48,020	48,810	7,711	8,495	53,737
Pioneer Investment Management, Inc.	29,708.42	0.15%	0.00%	475,167,000	7,322	714,471	490,197	399,719	9,731	11,052	7,961	7,509	7,622	7,322	215,695	230,865	229,854	233,296
Van Eck Associates Corporation	30,692.89	0.01%	0.00%	475,167,000	7,273	47,929	50,339	52,048	32,444	37,366	49,677	52,567	79,080	195,847	149,733	122,228	7,273	9,078
Twin Capital Management, Inc.	1,554.18	0.01%	0.00%	475,167,000	7,150	25,195	24,910	20,850	19,180	23,900	21,970	13,850	13,000	7,210	7,150	7,810	9,880	9,860
Regions Investment Management, Inc.	8,167.96	0.01%	0.00%	475,167,000	6,933	28,731	26,061	18,197	19,350	18,754	19,977	18,603	15,579	6,933	25,128	27,020	27,441	24,842
Riverbridge Partners, LLC	4,821.32	0.01%	0.00%	475,167,000	6,920	51,965	52,962	53,739	55,226	56,959	55,419	54,262	54,970	55,111	6,920	9,224	9,043	7,253
Los Angeles Capital Management and Equity Research, Inc.	12,987.36	0.01%	0.00%	475,167,000	6,796	39,667	72,459	81,423	89,957	180,538	70,401	25,711	6,796	13,183	14,240	16,571	93,158	90,950
Guggenheim Partners Investment Management, LLC	7,243.40	0.01%	0.00%	475,167,000	6,335	28,953	30,829	33,819	16,028	15,955	35,508	23,065	25,764	6,335	9,839	10,870	73,886	26,124
BBVA Asset Management, S.A., S.G.I.I.C.	9,340.20	0.01%	0.00%	475,167,000	6,260	25,442	18,068	16,770	13,237	14,746	13,320	14,171	14,366	11,634	9,039	15,859	6,864	6,260
Parallax Volatility Advisers, L.P.	3,405.95	0.02%	0.00%	475,167,000	5,860	88,641	80,000	68,113	64,978	115,666	20,093	44,408	220,555	123,196	41,274	79,275	92,569	5,860
AXA Rosenberg Investment Management, LTD (U.K.)	2,827.85	0.01%	0.00%	475,167,000	5,800	29,307	33,665	31,424	34,804	38,357	28,737	18,634	7,600	5,800	7,400	7,000	14,623	13,161
Fischer Francis Trees & Watts, Inc. (U.S.)	5,068.99	0.02%	0.00%	475,167,000	5,182	99,721	102,216	97,318	91,848	90,908	149,130	155,417	144,195	71,264	5,182	8,247	38,721	93,256
QS Investors, LLC	14,452.12	0.01%	0.00%	475,167,000	5,175	52,988	50,266	49,669	50,918	83,261	88,543	48,518	9,011	9,043	6,323	11,423	5,475	5,175
DNB Asset Management AS	12,240.18	0.01%	0.00%	475,167,000	5,034	37,254	35,456	32,856	32,151	20,521	19,634	19,434	19,234	19,434	16,834	16,034	5,334	5,034
BT Investment Management	7,491.52	0.01%	0.00%	475,167,000	4,852	28,164	37,290	26,788	35,923	34,555	26,969	4,852	12,342	15,504	22,239	23,265	31,811	19,532
Morgan Stanley & Co. International, PLC	2,481.01	0.01%	0.00%	475,167,000	4,835	38,319	10,335	8,022	5,480	5,935	104,426	4,835	6,938	4,887	9,461	12,997	9,711	13,714
First Quadrant Corporation	4,889.58	0.01%	0.00%	475,167,000	4,578	28,437	35,767	43,453	31,986	42,198	12,531	5,601	4,578	5,078	5,078	5,078	22,478	45,078
Oppenheimer & Co., Inc. (Broker)	3,435.48	0.01%	0.00%	475,167,000	4,296	37,295	35,667	34,512	35,884	35,976	14,862	4,296	18,115	25,407	29,072	24,156	19,206	15,376
Credit Suisse International	3,529.17	0.01%	0.00%	475,167,000	4,284	59,247	28,854	42,086	20,042	15,245	28,424	4,284	18,023	73,804	81,876	89,635	15,994	24,998
1919 Investment Counsel, LLC	6,139.45	0.01%	0.00%	475,167,000	4,007	26,262	13,708	12,062	10,351	10,917	4,530	4,751	4,888	4,765	4,007	4,397	7,110	7,620
Northwestern Mutual Wealth Company (Wisconsin)	9,214.52	0.01%	0.00%	475,167,000	3,959	40,077	32,593	30,926	30,502	10,408	8,512	6,728	6,444	6,261	5,490	4,819	3,959	4,244
AT Investment Advisers, Inc.	15,124.96	0.08%	0.00%	475,167,000	3,952	361,985	314,852	306,742	301,028	323,370	320,444	315,649	313,264	307,354	225,656	151,245	114,748	3,952
MFS International (U.K.), LTD	49,697.80	0.01%	0.00%	475,167,000	3,242	45,088	50,982	49,421	52,129	51,369	19,930	13,903	3,242	3,404	3,739	4,365	4,011	4,132
ING Bank N.V. (Netherlands)	5,317.96	0.02%	0.00%	475,167,000	2,993	98,426	25,946	33,644	39,240	83,317	10,397	2,993	17,691	27,741	20,599	175,073	98,913	89,435
Williams Jones & Associates, LLC	3,499.48	0.01%	0.00%	475,167,000	2,770	55,742	26,230	24,801	20,205	9,126	7,756	4,711	2,770	3,180	3,950	3,900	7,650	3,525
Kames Capital PLC	19,976.15	0.02%	0.00%	475,167,000	2,618	93,160	114,939	96,303	97,457	195,801	3,408	2,618	2,790	2,790	2,790	2,790	3,081	3,081
Migdal Mutual Funds, LTD	4,343.68	0.01%	0.00%	475,167,000	2,600	43,880	2,900	2,600	3,096	3,286	2,996	2,996	2,996	2,996	2,629	4,254	4,459	4,494
Great Lakes Advisors, LLC	4,030.72	0.01%	0.00%	475,167,000	2,588	24,431	27,931	33,463	28,904	34,423	34,725	25,725	9,412	2,588	3,327	3,483	3,963	3,803
Marshall Wace North America, L.P.	15,182.23	0.05%	0.00%	475,167,000	2,428	260,257	102,363	135,186	138,579	111,587	19,753	16,650	142,239	54,821	65,804	96,204	2,428	2,428
CPR Asset Management S.A.	6,350.58	0.01%	0.00%	475,167,000	2,400	37,630	42,830	41,230	38,100	33,700	34,300	34,400	28,000	4,700	2,400	3,500	3,200	3,200
Bessemer Investment Management, LLC	22,557.88	0.08%	0.00%	475,167,000	2,086	359,867	357,388	74,922	4,002	4,237	3,344	3,368	3,508	3,215	2,800	3,152	2,116	2,086
Assenagon GmbH	14,200.99	0.03%	0.00%	475,167,000	1,961	155,397	83,682	138,622	10,564	109,028	103,104	22,600	172,232	1,961	1,961	14,231	50,954	46,016
Evercore Wealth Management, LLC	2,406.18	0.01%	0.00%	475,167,000	1,926	57,856	46,100	34,599	2,720	2,725	2,397	2,597	1,926	1,976	2,356	2,216	2,337	8,947
KBC Asset Management N.V.	17,489.34	0.02%	0.00%	475,167,000	1,744	99,225	67,083	53,688	59,483	53,580	46,568	94,903	32,993	23,993	1,744	24,342	23,773	27,811
Baldwin Brothers, Inc.	553.60	0.01%	0.00%	475,167,000	1,555	28,200	37,146	34,948	39,027	42,388	48,001	45,691	45,933	46,404	1,555	1,755	5,163	5,365
CastleArk Management, LLC	3,153.37	0.01%	0.00%	475,167,000	1,490	38,160	66,830	60,670	37,740	64,360	90,360	64,690	1,490	1,490	1,490	1,490	101,000	64,811
Nomura Securities Company, LTD (Broker)	11,693.06	0.01%	0.00%	475,167,000	1,324	47,718	13,347	13,716	5,700	1,324	8,331	52,115	25,235	141,257	90,858	153,567	113,523	123,619
Acadian Asset Management, LLC	31,830.05	0.01%	0.00%	475,167,000	1,308	28,280	332,176	117,216	107,576	230,787	9,494	4,224	4,679	4,657	1,612	1,308	1,308	1,524
Neptune Investment Management, LTD	4,351.60	0.02%	0.00%	475,167,000	1,200	72,441	72,441	74,441	47,435	63,785	57,700	58,200	1,200	1,200	51,200	166,200	201,200	211,200
Peak6 Capital Management, LLC	2,249.52	0.01%	0.00%	475,167,000	1,024	26,851	19,369	33,565	78,121	1,024	60,484	16,272	22,796	112,871	64,327	27,630	28,781	3,318
Scotia Capital, Inc. (Broker)	5,787.50	0.01%	0.00%	475,167,000	1,004	34,709	27,682	27,061	25,565	16,371	10,055	2,909	1,004	6,750	15,328	12,009	3,096	36,213
Everett Harris & Company, Inc.	2,828.18	0.01%	0.00%	475,167,000	863	35,427	34,372	30,070	24,676	31,724	18,565	2,697	2,123	1,973	1,773	1,483	1,373	863
Lyxor Asset Management S.A.	52,048.44	0.02%	0.00%	475,167,000	726	118,252	115,967	42,479	3,145	3,273	864	726	9,102	9,102	726	726	810	1,054
Barclays Bank PLC (Wealth and Investment Management)	14,144.55	0.01%	0.00%	475,167,000	703	25,914	24,930	20,965	17,666	1,242	1,317	1,085	985	978	1,246	830	703	1,000
Mirae Asset Global Investments (U.S.A.), LLC	1,751.01	0.02%	0.00%	475,167,000	672	77,626	83,785	41,712	4,722	1,506	1,567	1,603	1,600	672	702	44,244	151,371	222,734
Spinnaker Capital, LLC	1,533.05	0.01%	0.00%	475,167,000	633	26,251	18,176	12,876	4,733	633	633	633	633	633	633	633	633	633
Kimelman & Baird, LLC	568.79	0.01%	0.00%	475,167,000	600	28,775	28,775	29,139	29,124	19,466	21,450	21,450	17,960	18,120	18,550	18,640	600	600
Santander Asset Management, S.A., S.G.I.I.C.	7,504.81	0.01%	0.00%	475,167,000	587	30,715	4,186	3,862	6,085	1,474	2,045	1,997	2,037	2,351	2,351	12,769	3,721	587
Washington Trust Investors	1,545.10	0.01%	0.00%	475,167,000	551	40,624	42,052	43,713	45,202	42,805	43,280	40,333	39,983	38,487	40,489	39,587		

TD Securities (USA), LLC (Singapore Branch)	1,196.30	0.11%	0.00%	475,167,000	0	540,000	540,000	0	0	540,000	540,000	0	545,000	895,000	895,000	895,000	895,000	895,000	895,000	
Carmignac Gestion	22,219.46	0.11%	0.00%	475,167,000	0	529,345	1,219,502	1,457,043	1,599,549	1,765,405	2,174,368	2,576,653	2,133,687	0	0	0	0	0	0	0
Discovery Capital Management, LLC	6,241.63	0.10%	0.00%	475,167,000	0	478,182	219,587	228,437	558,028	218,495	521,948	64,000	240,800	0	0	0	0	691,401	1,108,301	
Vontobel Asset Management, Inc. (U.S.)	23,454.06	0.10%	0.00%	475,167,000	0	459,390	452,060	403,115	399,841	161,319	0	0	0	0	1,854	4,539	43,097	69,563	0	
Ruane, Cunniff & Goldfarb, Inc.	12,340.46	0.09%	0.00%	475,167,000	0	447,506	0	0	0	0	0	0	0	0	0	0	0	0	0	
Artisan Partners, L.P.	76,211.47	0.09%	0.00%	475,167,000	0	411,996	434,968	438,613	34,802	0	0	0	0	0	131,624	289,427	218,029	176,424	0	
Blue Ridge Capital, LLC	7,991.60	0.08%	0.00%	475,167,000	0	361,700	407,900	343,000	233,000	0	0	0	0	0	0	675,000	810,000	810,000	800,000	
Nationwide Asset Management, LLC	24,055.10	0.06%	0.00%	475,167,000	0	304,414	322,119	285,463	283,996	344,158	340,216	288,118	173,986	161,381	162,879	241,984	0	317,215	0	
Carnegie Asset Management																				
Fondsmæglerlskabet A/S	7,329.58	0.06%	0.00%	475,167,000	0	281,551	291,710	0	0	0	0	0	0	0	0	0	0	0	0	
Sustainable Growth Advisers, L.P.	5,017.34	0.06%	0.00%	475,167,000	0	277,349	272,112	254,744	314,014	298,744	400,284	445,288	436,275	528,606	565,019	527,409	322,837	0	0	
Arrowstreet Capital, L.P.	36,191.70	0.06%	0.00%	475,167,000	0	273,197	632,851	30,900	1,500	110,900	0	168,500	0	3,776	0	0	0	0	0	
National Pension Service (Korea)	95,657.30	0.05%	0.00%	475,167,000	0	259,062	241,894	222,487	191,606	183,898	172,701	145,624	124,974	108,054	111,422	0	0	0	0	
Standard Life Investments (USA), LTD	10,592.17	0.05%	0.00%	475,167,000	0	255,774	243,295	220,653	222,827	333,412	355,178	82,300	0	0	223,360	223,360	223,561	7,279	0	
Hosking Partners, LLP	3,425.52	0.05%	0.00%	475,167,000	0	249,943	268,553	235,975	204,926	187,474	185,037	0	0	0	0	0	0	0	0	
Sarsin & Partners, LLP	10,557.04	0.05%	0.00%	475,167,000	0	228,814	323,420	347,395	385,407	377,947	489,620	484,785	479,942	493,342	419,774	0	0	0	0	
Hitchwood Capital Management, L.P.	2,564.18	0.05%	0.00%	475,167,000	0	220,000	280,000	310,000	500,000	170,000	0	300,000	390,000	51,000	0	0	0	0	0	
Investec Asset Management, LTD (U.K.)	36,400.32	0.05%	0.00%	475,167,000	0	216,756	0	0	0	0	0	0	0	0	0	0	0	0	0	
Royal London Asset Management, LTD	31,964.25	0.04%	0.00%	475,167,000	0	213,648	213,648	213,648	92,000	218,216	214,382	153,370	0	0	0	198,762	132,802	88,368	0	
Vanguard Investments Australia, LTD	27,730.24	0.04%	0.00%	475,167,000	0	213,503	245,768	226,745	247,932	230,312	235,109	140,453	144,653	140,853	139,353	138,853	134,513	0	0	
Westfield Capital Management Company, L.P.	11,418.18	0.04%	0.00%	475,167,000	0	210,628	230,246	179,719	209,050	288,023	283,277	0	0	0	0	0	4,411	422,322	0	
Columbus Circle Investors	7,663.50	0.04%	0.00%	475,167,000	0	210,276	287,221	302,230	253,151	418,043	431,032	436,414	371,660	0	0	310,919	526,425	507,988	0	
Arrowgrass Capital Partners, LLP	755.54	0.04%	0.00%	475,167,000	0	205,532	0	0	0	0	0	0	0	0	0	0	50,000	50,000	0	
Harding Loevner, L.P.	27,079.42	0.04%	0.00%	475,167,000	0	197,412	340,194	341,656	343,672	352,596	401,545	417,021	405,192	0	0	0	1,040	661,322	0	
Federated Global Investment Management Corporation	11,265.85	0.04%	0.00%	475,167,000	0	182,355	174,246	205,115	218,917	201,638	222,650	231,461	210,739	251,300	248,600	240,900	0	0	0	
Marsico Capital Management, LLC	2,435.25	0.04%	0.00%	475,167,000	0	178,979	194,256	196,211	158,379	277,340	374,454	0	0	0	0	0	362,882	309,467	0	
1832 ASSET MANAGEMENT U.S. INC.	37,784.75	0.04%	0.00%	475,167,000	0	175,425	174,343	243,815	275,409	211,135	243,860	127,015	171,077	0	0	0	187,250	225,172	0	
The Boston Company Asset Management, LLC	20,652.61	0.04%	0.00%	475,167,000	0	175,307	237,178	237,797	200,158	201,323	282,112	312,397	0	0	1,150	231,820	329,990	324,395	0	
Whale Rock Capital Management, LLC	1,212.14	0.04%	0.00%	475,167,000	0	173,355	188,173	176,116	152,113	199,193	140,145	146,436	106,105	0	0	24,768	107,154	129,862	0	
Jane Street Capital, LLC	8,773.49	0.04%	0.00%	475,167,000	0	172,214	170,465	46,066	12,824	83,988	62,429	21,398	70,114	30,518	14,985	58,793	0	556	0	
Senator Investment Group, L.P.	6,744.49	0.04%	0.00%	475,167,000	0	170,000	170,000	170,000	255,000	0	0	0	0	0	0	0	0	0	0	
Temasek Holdings Pte., LTD	90,290.34	0.04%	0.00%	475,167,000	0	169,255	0	0	0	0	0	0	0	0	0	0	0	0	0	
Green Valley Investors, LLC	1,904.74	0.03%	0.00%	475,167,000	0	161,015	164,953	239,071	321,509	210,000	0	0	0	0	0	0	0	0	0	
Generation Investment Management, LLP	9,657.51	0.03%	0.00%	475,167,000	0	159,969	0	0	0	0	0	386,314	585,953	675,797	572,779	493,047	0	0	0	
Banque Pictet & Cie S.A.	4,370.26	0.03%	0.00%	475,167,000	0	154,469	124,687	119,935	110,034	84,838	100,349	0	131,426	148,858	149,085	126,825	97,235	90,937	0	
NWI Management, L.P.	1,205.71	0.03%	0.00%	475,167,000	0	150,000	0	0	0	0	0	0	0	0	0	0	0	0	0	
Henderson Geneva Capital Management	5,110.37	0.03%	0.00%	475,167,000	0	144,721	0	0	0	0	0	0	0	0	0	0	0	0	0	
Three Bays Capital, L.P.	1,223.45	0.03%	0.00%	475,167,000	0	126,200	0	0	0	0	0	0	0	0	0	0	0	0	0	
Alkeon Capital Management, LLC	4,141.25	0.03%	0.00%	475,167,000	0	123,492	149,010	147,600	0	0	0	0	0	86,936	168,806	272,446	296,536	241,896	0	
Capital Fund Management S.A.	5,579.52	0.03%	0.00%	475,167,000	0	121,463	107,031	22,411	107,709	748	13,636	6,416	21,011	0	3,368	0	10,322	0	0	
Southpoint Capital Advisors, L.P.	2,174.34	0.03%	0.00%	475,167,000	0	120,000	80,000	130,000	50,000	0	0	0	0	220,000	0	0	0	0	0	
Stockbridge Investors	2,056.73	0.03%	0.00%	475,167,000	0	119,881	57,569	0	0	0	0	0	0	0	0	0	0	0	0	
Rockefeller & Company, Inc.	5,036.97	0.02%	0.00%	475,167,000	0	108,721	108,913	114,723	522	123	123	0	50	0	0	0	0	0	0	
Fidelity Management & Research (Hong Kong), LTD	11,983.51	0.02%	0.00%	475,167,000	0	107,395	82,366	70,366	45,200	16,500	34,900	152,000	107,200	54,000	0	0	5,100	143,277	0	
CIBC World Markets Corp.	9,177.72	0.02%	0.00%	475,167,000	0	107,109	65,170	31,665	28,232	38,869	53,628	32,364	83,381	70,000	70,000	0	0	0	0	
RBC Global Asset Management (UK), LTD	12,798.88	0.02%	0.00%	475,167,000	0	106,672	100,672	101,075	102,617	95,737	100,763	105,963	105,163	65,844	117,915	57,515	15,065	0	0	
Lord, Abnett & Co., LLC (Asset Management)	35,837.17	0.02%	0.00%	475,167,000	0	102,356	171,343	183,494	99,460	175,548	199,335	139,199	32,621	0	1,827	4,727	6,279	35,651	0	
Axiom Investors	4,749.21	0.02%	0.00%	475,167,000	0	100,545	88,499	56,780	53,628	103,193	106,833	68,040	0	0	91,888	95,448	90,436	0	0	
Dorsal Capital Management, LLC	1,593.02	0.02%	0.00%	475,167,000	0	100,000	160,000	150,000	90,000	0	0	0	0	0	0	0	0	0	0	
PIMCO - Pacific Investment Management Company	8,587.76	0.02%	0.00%	475,167,000	0	98,521	0	38,760	21,301	4,468	0	18,703	16,500	61,613	15,149	0	0	0	0	
ClariVest Asset Management, LLC	3,880.79	0.02%	0.00%	475,167,000	0	98,011	98,370	100,573	100,420	126,063	126,790	98,780	77,480	0	7,631	12,731	17,631	25,431	0	
HSBC Global Asset Management Deutschland GmbH	3,905.90	0.02%	0.00%	475,167,000	0	92,862	87,089	86,056	8,729	475	69,068	94,419	72,060	71,619	63,151	38,429	22,700	0	0	
PPM America, Inc.	14,619.43	0.02%	0.00%	475,167,000	0	92,410	72,335	57,585	28,385	48,795	535	0	0	4,800	4,800	4,800	0	0	0	
Valiant Capital Management, L.P.	885.44	0.02%	0.00%	475,167,000	0	92,250	92,250	92,250	98,100	168,800	207,500	201,778	289,278	238,000	0	0	0	0	0	
EMS Capital, L.P.	988.53	0.02%	0.00%	475,167,000	0	90,000	90,000	90,000	36,000	0	0	0	30,000	0	48,000	0	96,000	96,000	0	
CA Indosuez Wealth Management	3,631.92	0.02%	0.00%	475,167,000	0	89,537	85,844	71,200	0	4,214	1,519	1,519	1,497	1,497	1,456	1,456	1,629	1,629	0	
Sumway Development, LTD		0.02%	0.00%	475,167,000	0	88,810	88,250	35,650	35,650	0	0	0	0	0	0	0	0	0	0	
Boston Advisors, LLC	4,211.88	0.02%	0.00%	475,167,000	0	85,049	78,099	52,691	52,587	107,172	22,906	21,551	0	0	0	0	0	0	0	
Contour Asset Management, LLC	1,103.84	0.02%	0.00%	475,167,000	0	82,213	47,342	63,179	78,268	159,494	0	0	0	0	0	0	0	100,772	0	
Immersion Capital, LLP	319.61	0.02%	0.00%	475,167,000	0	78,256	78,256	78,256	152,256	236,256	0	0	0	0	0	0	0	0	0	
Blackstone Equity Managed Account Platform	2,202.38	0.02%	0.00%	475,167,000	0	78,147	130,752	196,448	154,830	216,066	0	0	0	0	0	0	0	0	0	
Rovida Advisory Services, LLC	449.60	0.02%	0.00%	475,167,000	0	76,820	0	0	127,425	62,700	0	0	0	0	0	0	0	0	0	
Light Street Capital Management, LLC	732.88	0.02%	0.00%	475,167,000	0	75,000	80,000	75,000	90,000	65,000	60,000	23,568	48,071	50,000	0	0	0	0	0	
Standard Life Investments, LTD (U.K.)	72,364.87	0.02%																		

Soros Fund Management, LLC	4,349.61	0.01%	0.00%	475,167,000	0	28,100	39,510	12,537	41,140	106,363	77,877	0	0	0	0	15,000	0	32,500
The Cypress Funds, LLC	404.11	0.01%	0.00%	475,167,000	0	27,500	31,700	31,700	40,000	30,000	0	0	0	0	0	0	0	0
Aviva Investors France S.A.	4,562.03	0.01%	0.00%	475,167,000	0	26,928	23,414	22,225	22,225	22,225	23,429	23,429	26,164	39,164	26,164	19,664	15,900	0
Quoniam Asset Management GmbH	4,657.73	0.01%	0.00%	475,167,000	0	26,845	0	0	0	0	0	0	0	0	0	0	0	0
Manulife Asset Management (Hong Kong), LTD	3,052.15	0.01%	0.00%	475,167,000	0	26,638	26,452	25,734	26,645	26,396	0	0	0	0	0	0	0	0
Stacey Braun Associates, Inc.	1,522.15	0.01%	0.00%	475,167,000	0	26,557	27,030	26,543	26,835	28,633	392	9,847	0	0	0	24,912	34,421	35,275
Tikvah Management, LLC	205.20	0.01%	0.00%	475,167,000	0	26,222	26,222	26,222	26,222	26,222	26,222	26,222	26,222	0	0	0	0	0
Oak Ridge Investments, LLC	3,084.95	0.01%	0.00%	475,167,000	0	26,211	34,881	35,100	36,202	36,437	36,161	36,034	35,987	36,098	7,565	7,786	0	0
Standard Life Wealth, LTD	1,146.04	0.01%	0.00%	475,167,000	0	26,110	26,068	25,274	24,206	0	0	0	0	0	0	0	0	0
CTC, LLC	88.26	0.01%	0.00%	475,167,000	0	26,096	5,416	0	0	40,111	0	3,716	1,787	0	0	0	1,244	0
Ardevora Asset Management, LLP	3,955.02	0.01%	0.00%	475,167,000	0	26,000	27,700	29,400	28,800	21,500	9,800	6,900	0	0	0	0	0	0
Seaward Management Limited Partnership	1,870.87	0.01%	0.00%	475,167,000	0	25,839	23,265	22,428	18,551	839	778	732	760	1,250	1,195	1,195	1,060	0
Schroder Investment Management (Australia), LTD	4,861.97	0.01%	0.00%	475,167,000	0	25,800	25,400	0	0	0	0	0	0	0	0	0	0	0
Union Investment Privatfonds GmbH	41,511.78	0.01%	0.00%	475,167,000	0	25,218	213,415	201,784	193,794	205,051	160,483	170,271	15,250	10,000	9,500	9,500	0	0
Friess Associates, LLC	1,018.68	0.01%	0.00%	475,167,000	0	25,171	24,780	40,420	40,420	32,814	42,082	42,082	0	0	0	0	0	0
Ilmarinen Mutual Pension Insurance Company	10,034.82	0.01%	0.00%	475,167,000	0	25,000	25,000	25,000	25,000	25,000	0	0	0	0	0	0	0	0
Greenbrier Partners Capital Management, LLC	396.97	0.01%	0.00%	475,167,000	0	25,000	20,000	20,000	0	0	0	0	0	0	0	0	0	0
Chilton Capital Management, LLC	955.52	0.01%	0.00%	475,167,000	0	24,649	26,921	29,974	32,510	43,738	57,600	59,818	60,213	16,560	0	0	0	50
Crestwood Capital Management, L.P.	267.78	0.01%	0.00%	475,167,000	0	24,610	28,095	18,941	18,375	0	0	0	0	0	0	0	0	0
Quantitative Investment Management, LLC	3,974.50	0.01%	0.00%	475,167,000	0	24,500	49,400	73,900	43,800	37,000	2,500	0	32,200	0	0	0	0	0
Zacks Investment Management, Inc.	3,483.43	0.01%	0.00%	475,167,000	0	24,186	25,119	13,317	12,382	12,343	6,141	0	0	0	0	11,354	14,791	0
BNP Paribas Investment Partners UK, LTD	6,589.56	0.00%	0.00%	475,167,000	0	17,010	15,919	15,231	15,258	0	0	0	0	0	0	0	0	7,866

JOHN CHEVEDDEN

FISMA & OMB Memorandum M-07-16

March 3, 2017

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

1 Rule 14a-8 Proposal
General Motors Company (GM)
Year Old Proxy Access Recycled
John Chevedden

Ladies and Gentlemen:

This responds to the February 28, 2017 no-enforcement request.

The company tries to shift the burden of proof to the proponent by claiming that the 500-word proposal does not provide “evidence” of a material benefit of 50 shareholder proxy access participants (page7).

At this late waiver request date, with the burden of proof on the company, the company 9-page letter failed to provide “evidence” that each exaggerated figure on page 7 is backed up by an ironclad 3-years of continuous stock ownership by each individual large shareholder.

The company the request was devoid of any analysis of the impact of the trading volatility in shrinking the eligible shares held by large shareholders.

The company also failed to address whether stock lending by institutions is prevalent and may disrupt its raw figures or even whether stock lending is counted as continuous ownership.

The company provides no data or opinion from a proxy solicitor to support the conclusion from its raw figures.

And any thorough evidence the company might provide at this late date (for the first time) may take time to review.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2017 proxy.

Sincerely,


John Chevedden

cc: Rick E. Hansen <rick.hansen@gm.com>



Based on data from regulatory filings by institutional investors, as of December 31, 2016, the largest 20 institutional shareholders of GM each hold at least 0.7% of GM's voting shares and hold in the aggregate approximately 46% of GM's voting shares. In addition, five of GM's institutional shareholders each own more than 3% of GM's voting shares. Further, any 20 holders of at least 0.15% of GM's voting shares may aggregate their holdings to meet the 3% ownership threshold. There are currently 67 shareholders that own at least 0.15% of GM's outstanding voting shares. Thus, assuming institutional ownership has been relatively stable for three years, several of GM's existing shareholders could, on their own or in combination with only a few fellow shareholders, currently satisfy the existing 3% ownership criteria. Moreover, any shareholder seeking to form a group to nominate a candidate, regardless of the size of its holdings, could combine with one or a small number of the 20 largest shareholders to form a group that would satisfy the ownership threshold, thereby allowing proxy access to be utilized by a wide range of shareholders. As such, there are innumerable combinations that would allow GM's shareholders to form 20-shareholder groups (or smaller groups) to qualify to submit a proxy access nomination. Therefore, GM's 20-shareholder aggregation limit provides abundant opportunities for all holders of less than 3% of GM's voting shares to combine with other shareholders to reach the 3% minimum ownership requirement.

Further, the Proposal provides no evidence that increasing the shareholder aggregation limit from 20 to at least 50 would meaningfully enhance the existing ability of GM's shareholders to form nominating groups to use the Proxy Access Provision. To the contrary, a 20-shareholder aggregation limit has been determined by many companies like GM to provide a meaningful proxy access right and thus has been a widely embraced standard among those that have adopted proxy access. In particular, of the more than 380 companies that have adopted proxy access since the beginning of 2014, more than 90% of companies have adopted a 20-shareholder aggregation limit. In addition, BlackRock, T. Rowe Price Group, Inc. and State Street Corporation, the publicly traded parent companies of some of the largest U.S. institutional shareholders, each have adopted proxy access bylaws that contain a 20-shareholder aggregation limit.

As described above, the Proxy Access Provision, including the 20-shareholder aggregation limit, provides GM shareholders with a meaningful proxy access right and, therefore, satisfies the Proposal's essential objective of providing GM shareholders with a meaningful proxy access right. Accordingly, consistent with the precedent described above, including the Proxy Access Aggregation Letters, GM believes that the Proposal is excludable under Rule 14a-8(i)(10).

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TORONTO

BY EMAIL (shareholderproposals@sec.gov)

February 28, 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: General Motors Company –
2017 Annual Meeting
Omission of Shareholder Proposal of
John Chevedden

Ladies and Gentlemen:

Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), we are writing on behalf of our client, General Motors Company (“GM”), a Delaware corporation, to request that the Staff of the Division of Corporation Finance (the “Staff”) of the U.S. Securities and Exchange Commission (the “Commission”) concur with GM’s view that, for the reasons stated below, it may exclude the shareholder proposal and supporting statement (the “Proposal”) submitted by John Chevedden from the proxy materials to be distributed by GM in connection with its 2017 annual meeting of shareholders (the “2017 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 GM’s intent to omit the Proposal from the 2017 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 it submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to GM.

I. The Proposal

The Proposal is entitled “Shareholder Proxy Access Reform” and states, in relevant part:

Shareholders request that our board of directors take the steps necessary to enable at least 50 shareholders to aggregate their shares to equal 3% of our stock owned continuously for 3-years in order to make use of shareholder proxy access.

Even if the 20 largest public pension funds were able to aggregate their shares, they would not meet the 3% criteria for a continuous 3-years at most companies examined by the Council of Institutional Investors. Additionally many of the largest investors of major companies are routinely passive investors who would be unlikely to be part of the proxy access shareholder aggregation process.

Under this proposal it is unlikely that the number of shareholders who participate in the aggregation process would reach an unwieldy number due to the rigorous rules our management adopted for a shareholder to qualify as one of the aggregation participants. Plus it is easy for our management to screen aggregating shareholders because management simply needs to find one item lacking from a list of typical proxy access requirements.

II. Basis for Exclusion

We hereby respectfully request that the Staff concur in GM’s view that it may exclude the Proposal from the 2017 proxy materials pursuant to Rule 14a-8(i)(10) because GM has substantially implemented the Proposal.

III. Background

On December 2, 2016, GM received the Proposal, accompanied by a cover letter from the Proponent. On December 14, 2016, GM sent a letter to the Proponent (the “Deficiency Letter”) requesting a written statement from the record owner of the Proponent’s shares verifying that he had beneficially owned the requisite number of shares of the Company’s common stock continuously for at least one year as of the date of submission of the Proposal. On December 20, 2016, GM received a letter

from Fidelity Investments (the “Broker Letter”) verifying the Proponent’s stock ownership as of such date. Copies of the Proposal, cover letter, the Deficiency Letter and the Broker Letter are attached hereto as Exhibit A.

IV. The Proposal May be Excluded Under Rule 14a-8(i)(10) Because the Company Has Substantially Implemented the Proposal.

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

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if the company has already substantially implemented the proposal. The Commission adopted the “substantially implemented” standard in 1983 after determining that the “previous formalistic application” of the rule defeated its purpose, which is to “avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management.” *See* Exchange Act Release No. 34-20091 (Aug. 16, 1983) (the “1983 Release”) and Exchange Act Release No. 12598 (July 7, 1976). Accordingly, the actions requested by a proposal need not be “fully effected” provided that they have been “substantially implemented” by the company. *See* 1983 Release.

Applying this standard, the Staff has permitted exclusion under Rule 14a-8(i)(10) when the company’s policies, practices and procedures compare favorably with the guidelines of the proposal. *See, e.g., Exxon Mobil Corp.* (Mar. 17, 2015) (permitting exclusion of a proposal requesting that the company commit to increasing the dollar amount authorized for capital distributions to shareholders through dividends or share buybacks where the company’s long-standing capital allocation strategy and related “policies practices and procedures compare[d] favorably with the guidelines of the proposal and...therefore, substantially implemented the proposal”); *Walgreen Co.* (Sept. 26, 2013) (permitting exclusion of a proposal requesting elimination of certain supermajority vote requirements where the company’s elimination from its governing documents of all but one such requirement “compare[d] favorably with the guidelines of the proposal”); *General Dynamics Corp.* (Feb. 6, 2009) (permitting exclusion of a proposal requesting a 10% ownership threshold for special meetings where the company planned to adopt a special meeting bylaw with an ownership threshold of 10% for special meetings called by one shareholder and 25% for special meetings called by a group of shareholders).

In addition, the Staff has permitted exclusion under Rule 14a-8(i)(10) when a proposal has not been implemented exactly as proposed by the shareholder proponent so long as the company has satisfied the proposal’s essential objective. *See, e.g., AGL Resources Inc. (granted on recon., Mar. 5, 2015)* (permitting exclusion of a proposal seeking to grant holders of 25% of the company’s outstanding shares the power to call a special meeting where the board approved, and

undertook to submit for shareholder approval, an amendment to the articles of incorporation to grant shareholders holding for at least one year 25% of the outstanding shares the power to call a special meeting); *Textron, Inc.* (Jan. 21, 2010) (permitting exclusion of a proposal requesting immediate board declassification where the board submitted a phased-in declassification proposal for shareholder approval); *Hewlett-Packard Co.* (Dec. 11, 2007) (permitting exclusion of a proposal requesting the ability for shareholders to call special meetings where the board had proposed a bylaw amendment allowing shareholders to call a special meeting unless the business to be proposed at that meeting recently had been, or soon would be, addressed at an annual meeting).

B. The Proxy Access Provision of the Company's Bylaws Satisfies the Proposal's Essential Objective

On March 4, 2016, the Board of Directors (the "Board") of GM approved amendments to the Company's bylaws (as amended and restated, the "Amended Bylaws") to, among other things, adopt a proxy access provision (the "Proxy Access Provision"). Set forth in new Article 1.11.4 of the Amended Bylaws, the Proxy Access Provision permits a shareholder, or a group of up to 20 shareholders, owning at least 3% of GM's outstanding voting shares continuously for at least three years to nominate and include in GM's annual meeting proxy materials director candidates constituting up to the greater of two individuals or 20% of the Board, provided that the shareholder(s) and the nominee(s) satisfy the requirements specified in the Amended Bylaws. The Amended Bylaws, which were effective immediately, are included as an exhibit to GM's Current Report on Form 8-K filed with the Commission on March 8, 2016, and are attached hereto as Exhibit B.

The Proposal requests that the Proxy Access Provision be amended to increase from 20 to at least 50 the number of shareholders allowed to aggregate their shares to reach the 3% minimum ownership requirement. As discussed below, the Proxy Access Provision satisfies the Proposal's essential objective of providing a meaningful proxy access right to GM shareholders. The meaningful proxy access right provided to GM shareholders, and the facts supporting the analysis that the Proxy Access Provision substantially implements the Proposal, are substantially similar to those provided by other companies that substantially implemented proposals similar to the Proposal. See *Raytheon Co.* (Feb. 21, 2017); *Eastman Chemical Co.* (Feb. 14, 2017); *The Dun & Bradstreet Corp.* (Feb. 10, 2017); *General Dynamics Corp.* (Feb. 10, 2017); *NextEra Energy, Inc.* (Feb. 10, 2017); *PPG Industries, Inc.* (Feb. 10, 2017); *Reliance Steel & Aluminum Co.* (Feb. 10, 2017); *United Continental Holdings, Inc.* (Feb. 10, 2017) (collectively, the "Proxy Access Aggregation Letters").

A company need not change its existing policies, practices or procedures or, when the proposal relates to rights set forth in a bylaw provision, amend its bylaws

in order to satisfy a proposal's essential objective. *See, e.g.*, the Proxy Access Aggregation Letters; *Wal-Mart Stores, Inc.* (Mar. 25, 2015) (permitting exclusion of a proposal requesting the company include in its executive compensation metrics a metric related to employee engagement, where the company already used a metric related to employee engagement for its compensation determinations); *ConAgra Foods, Inc.* (Jun. 20, 2005) (permitting exclusion of a proposal requesting the company disclose its social, environmental and economic performance by issuing annual sustainability reports, when the company already prepared such a report annually).

The Staff's no-action decisions demonstrate that including a 20-shareholder aggregation limit in a proxy access bylaw is not inconsistent with the essential objective of providing shareholders a meaningful proxy access right. In *Huntington Ingalls Industries, Inc.* (Feb. 12, 2016), for example, the proposal requested that the company adopt a proxy access bylaw to allow a stockholder or an unrestricted number of stockholders forming a group that have beneficially owned 3% or more of the company's outstanding common stock continuously for at least three years to nominate for election to the board of directors up to the greater of two director candidates or one-quarter of the number of directors then serving. The company adopted the proxy access bylaw as requested except it implemented a 20-shareholder aggregation limit rather than permit an unrestricted number of stockholders from forming a group. In permitting exclusion, the Staff specifically noted that the company's proxy access bylaw addressed the proposal's "essential objective." *See also Oracle Corp.* (Aug. 11, 2016); *Leidos Holdings, Inc.* (May 4, 2016); *Equinix, Inc.* (Apr. 7, 2016); *Amphenol Corp. (granted on recon., Mar. 29, 2016)*; *Omnicom Group Inc.* (Mar. 22, 2016); *General Motors Co.* (Mar. 21, 2016); *Quest Diagnostics Inc.* (Mar. 17, 2016); *Chemed Corp.* (Mar. 9, 2016); *Alaska Air Group, Inc.* (Feb. 12, 2016); *Baxter Int'l Inc.* (Feb. 12, 2016); *Capital One Financial Corp.* (Feb. 12, 2016); *General Dynamics Corp.* (Feb. 12, 2016); *Illinois Tool Works, Inc.* (Feb. 12, 2016). Similarly, in *WD-40 Co.* (Sept. 27, 2016), the proposal requested that the company adopt a proxy access bylaw and emphasized that the adoption of an "unrestricted number of shareholders forming a group" was one of the "essential elements for substantial implementation." In permitting exclusion, the Staff concurred with the view that the subsequently adopted proxy access bylaw addressed the proposal's "essential objective" notwithstanding the inclusion of a 20-shareholder aggregation limit. *See also Cisco Systems, Inc.* (Sept. 27, 2016) (same); *Celgene Corp.* (Feb. 22, 2017) (permitting exclusion of a proposal seeking adoption of a proxy access bylaw with no aggregation limit below 50 as an essential element where the company's adoption of a proxy access bylaw with an aggregation limit of 20 shareholders addressed the proposal's essential objective).

The Staff's no-action decisions also demonstrate that a proposal seeking to amend a proxy access bylaw can be substantially implemented so long as the elements of the proposal, if any, that materially affect shareholders' proxy access

right have been addressed by the company, and that it is unnecessary to amend a proxy access bylaw to address changes requested by a proposal that would not materially affect shareholders' proxy access right. In *Oshkosh Corp.* (Nov. 4, 2016), for example, the shareholder proposal requested six changes to the company's proxy access bylaw, including, among other changes, a reduction in the minimum ownership requirement from 5% to 3% and an elimination of the 20-shareholder aggregation limit. The company subsequently amended its proxy access bylaw to implement three of the six requested changes, including the reduction in the share ownership requirement, but did not implement the proposal's request that the bylaw amendment eliminate the 20-shareholder aggregation limit. The Staff nevertheless concluded that the company substantially implemented the proposal. Likewise, in *NVR, Inc. (granted on recon., Mar. 25, 2016)*, the staff permitted exclusion of a shareholder proposal requesting that the company amend its proxy access bylaw to, among other changes, reduce the minimum ownership requirement from 5% to 3% and eliminate the 20-shareholder aggregation limit. The company subsequently amended its bylaw to address two of the four requested changes, including a reduction in the share ownership requirement, but did not eliminate the 20-shareholder aggregation limit.

An aggregation limit is designed to minimize the burden on a company in reviewing and verifying the information and representations that each member of a shareholder group must provide to establish a group's eligibility, while ensuring that all shareholders have a fair and reasonable opportunity to nominate director candidates by forming groups with like-minded shareholders that also own less than the minimum required shares. GM's 20-shareholder aggregation limit satisfies these dual objectives by ensuring that any shareholder may form a group owning more than 3% of the outstanding voting shares by combining with any of a large number of other shareholders, while avoiding the imposition on GM and its other shareholders of the cost of processing nominations from a larger, more unwieldy group of shareholders.

The only amendment to the Proxy Access Provision requested by the Proposal is an increase in GM's aggregation limit of 20 shareholders to at least 50 shareholders. In an attempt to overstate the aggregation limit's importance to proxy access, the Proposal refers to an analysis by the Council of Institutional Investors that states that "[e]ven if the 20 largest public pension funds were able to aggregate their shares, they would not meet the 3% criteria for a continuous 3-years at most companies examined by the Council of Institutional Investors." This statement, however, is irrelevant to the composition of GM's shareholders. As discussed below, based on an analysis of GM's shareholder base, the Proxy Access Provision, including the 20-shareholder aggregation limit, provides GM shareholders with a meaningful proxy access right.

Based on data from regulatory filings by institutional investors, as of December 31, 2016, the largest 20 institutional shareholders of GM each hold at least 0.7% of GM's voting shares and hold in the aggregate approximately 46% of GM's voting shares. In addition, five of GM's institutional shareholders each own more than 3% of GM's voting shares. Further, any 20 holders of at least 0.15% of GM's voting shares may aggregate their holdings to meet the 3% ownership threshold. There are currently 67 shareholders that own at least 0.15% of GM's outstanding voting shares. Thus, assuming institutional ownership has been relatively stable for three years, several of GM's existing shareholders could, on their own or in combination with only a few fellow shareholders, currently satisfy the existing 3% ownership criteria. Moreover, any shareholder seeking to form a group to nominate a candidate, regardless of the size of its holdings, could combine with one or a small number of the 20 largest shareholders to form a group that would satisfy the ownership threshold, thereby allowing proxy access to be utilized by a wide range of shareholders. As such, there are innumerable combinations that would allow GM's shareholders to form 20-shareholder groups (or smaller groups) to qualify to submit a proxy access nomination. Therefore, GM's 20-shareholder aggregation limit provides abundant opportunities for all holders of less than 3% of GM's voting shares to combine with other shareholders to reach the 3% minimum ownership requirement.

Further, the Proposal provides no evidence that increasing the shareholder aggregation limit from 20 to at least 50 would meaningfully enhance the existing ability of GM's shareholders to form nominating groups to use the Proxy Access Provision. To the contrary, a 20-shareholder aggregation limit has been determined by many companies like GM to provide a meaningful proxy access right and thus has been a widely embraced standard among those that have adopted proxy access. In particular, of the more than 380 companies that have adopted proxy access since the beginning of 2014, more than 90% of companies have adopted a 20-shareholder aggregation limit. In addition, BlackRock, T. Rowe Price Group, Inc. and State Street Corporation, the publicly traded parent companies of some of the largest U.S. institutional shareholders, each have adopted proxy access bylaws that contain a 20-shareholder aggregation limit.

As described above, the Proxy Access Provision, including the 20-shareholder aggregation limit, provides GM shareholders with a meaningful proxy access right and, therefore, satisfies the Proposal's essential objective of providing GM shareholders with a meaningful proxy access right. Accordingly, consistent with the precedent described above, including the Proxy Access Aggregation Letters, GM believes that the Proposal is excludable under Rule 14a-8(i)(10).

V. The 80-Day Filing Requirement Set Forth in Rule 14a-8(j) Should be Waived for Good Cause.

GM also requests that the Staff waive the 80-day filing requirement set forth in Rule 14a-8(j) for good cause. Under Rule 14a-8(j)(1), if a company “intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission.” However, Rule 14a-8(j)(1) also allows the Staff, in its discretion, to permit a company to file its submission later than 80 days before the filing of its definitive proxy statement if the company demonstrates good cause for missing the deadline.

As noted in the precedent described above, the Staff has recently responded to proposals substantially similar to the Proposal under Rule 14a-8(i)(10). The first of the Proxy Access Aggregation Letters were posted to the Commission’s website on or about February 15, 2017, which is less than 80 days before April 21, 2017, the date GM intends to file its definitive proxy statement. The Proxy Access Aggregation Letters indicate that the Staff has permitted the exclusion of proposals substantially similar to the Proposal. Based on the timing of the posting of the Proxy Access Aggregation Letters, GM believes that it has good cause for its inability to meet the 80-day requirement. GM acted in good faith and in a timely manner following the posting of the Proxy Access Aggregation Letters to minimize any delay. Accordingly, GM respectfully requests that the Staff waive the 80-day requirement with respect to this letter.

VI. Conclusion

Based on the foregoing analysis, GM respectfully requests that the Staff concur that it will take no action if GM excludes the Proposal from its 2017 proxy materials.

Should the Staff disagree with the conclusions set forth in this letter, or should any additional information be desired in support of GM'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 the undersigned at (202) 371-7233.

Very truly yours,



Marc S. Gerber

Enclosures

cc: Jill E. Sutton
Deputy General Counsel and Corporate Secretary
General Motors Company

Rick E. Hansen
Assistant Corporate Secretary and Lead Counsel, Securities
General Motors Company

John Chevedden

EXHIBIT A

(see attached)

JOHN CHEVEDDEN

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

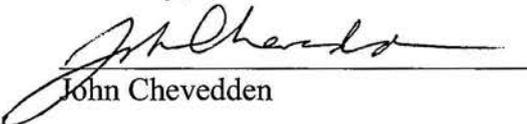
Ms. Jill Sutton
Corporate Secretary
General Motors Company (GM)
300 Renaissance Center
Detroit, MI 48265
PH: 313-556-5000

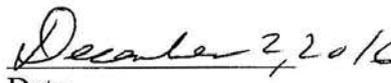
Dear Ms. Sutton,

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company. This Rule 14a-8 proposal is intended as a low-cost method to improve company performance. This proposal is for the next annual shareholder meeting. Rule 14a-8 requirements will be met including the continuous ownership of the required stock value until after the date of the respective shareholder meeting and presentation of the proposal at the annual meeting. This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

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 this proposal by email to john.chevedden@gm.com.
***FISMA & OMB Memorandum M-07-16 ***

Sincerely,


John Chevedden


Date

cc: Jill Sutton stockholder.services@gm.com
Rick E. Hansen <rick.hansen@gm.com>
Asst. Corporate Secretary
Sheena M. Bailey <sheena.m.bailey@gm.com>
Corporate Governance Legal Staff
PH: 313-667-1430
FX: 313-665-4976

[GM – Rule 14a-8 Proposal, December 2, 2016]
[This line and any line above it *is not* for publication.]

Proposal [4] - Shareholder Proxy Access Reform

Shareholders request that our board of directors take the steps necessary to enable at least 50 shareholders to aggregate their shares to equal 3% of our stock owned continuously for 3-years in order to make use of shareholder proxy access.

Even if the 20 largest public pension funds were able to aggregate their shares, they would not meet the 3% criteria for a continuous 3-years at most companies examined by the Council of Institutional Investors. Additionally many of the largest investors of major companies are routinely passive investors who would be unlikely to be part of the proxy access shareholder aggregation process.

Under this proposal it is unlikely that the number of shareholders who participate in the aggregation process would reach an unwieldy number due to the rigorous rules our management adopted for a shareholder to qualify as one of the aggregation participants. Plus it is easy for our management to screen aggregating shareholders because management simply needs to find one item lacking from a list of typical proxy access requirements.

This proposal has added importance to our company because nearly 40% of shareholders rejected Say on Pay at GM's 2016 annual meeting according to GMI Analyst. Shareholders were likely opposed to the significant discretionary options given to executives in July 2015. Also, the chairs of the Executive Pay and the Governance and Corporate Responsibility committees received significant negative votes – up to 17% negative. The board's decision to recombine the roles of Chair and CEO may have contributed to the 2016 dissent.

In contrast to the 40% rejection in 2016 – over the past 5 years, Say on Pay averaged only 2% in negative votes. High dissent on Say on Pay was also likely driven by the Executive Pay Committee's July 2015 decision to give \$23 million in discretionary options to GM's top 5 named executive officers, including \$11 million to CEO Mary Barra. Additionally performance-vesting was based on only one-year performance periods, which forced executives to focus on short-term growth.

Practices like these make a case for at least 50 shareholders to aggregate their shares to replace directors.

Please vote to enhance shareholder value:
Shareholder Proxy Access Reform – Proposal [4]
[The above line *is* for publication.]

John Chevedden,
proposal.

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

sponsors this

Notes:

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 ***



Rick E. Hansen
General Motors Company
300 Renaissance Center
MC: 482-C23-D24
Detroit, MI 48265-3000
313-667-2258
rick.hansen@gm.com

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

December 14, 2016

Mr. John Chevedden

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

Re: Rule 14a-8 Shareholder Proposal, "Shareholder Proxy Access Reform"

Dear Mr. Chevedden,

On December 2, 2016, we received your letter, dated December 2, 2016, submitting a shareholder proposal for inclusion in General Motors Company's ("GM") proxy statement and proxy for its 2017 annual meeting of shareholders. By way of Rule 14a-8 adopted pursuant to the Securities Exchange Act of 1934, the U.S. Securities and Exchange Commission (the "SEC") has prescribed certain procedural and eligibility requirements for the submission of proposals to be included in a company's proxy materials. I write to provide notice of a deficiency in your submission, specifically the required proof of your ownership of GM common stock.

Pursuant to Rule 14a-8(b), to be eligible to submit a proposal, you must be a GM shareholder, either as a registered holder or as a beneficial holder (*i.e.*, a street name holder), and must have continuously held at least \$2,000 in market value or 1% of GM's shares entitled to be voted on the proposal at the annual meeting for at least one year as of the date the proposal is submitted. GM's records for its registered holders do not indicate that you are a registered holder. Rule 14a-8(b)(2) and SEC staff guidance provide that if you are not a registered holder then you must prove your share position and eligibility as a beneficial holder by submitting to GM either:

1. a written statement from the "record" holder of your shares (usually a broker or bank) verifying that you have continuously held the required value or number of shares for at least the one-year period preceding and including the date the proposal was submitted (December 2, 2016); or
2. a copy of a filed Schedule 13D, Schedule 13G, Form 3, Form 4, Form 5, or amendments to those documents or updated forms, reflecting your ownership of the required value or number of shares as of or before the date on which the one-year eligibility period begins and any subsequent amendments reporting a change in ownership level, along with a written statement that you have owned the required value or number of shares continuously for at least one year as of the date the proposal was submitted (December 2, 2016).

Mr. John Chevedden
December 14, 2016
Page 2

Your letter indicated that that the "Rule 14a-8 requirements will be met including the continuous ownership of the required stock value until after the date of the respective shareholder meeting and presentation of the proposal at the annual meeting." However, we have not separately received the required proof of your ownership of GM stock. By this letter, I am requesting that you provide to us acceptable documentation that you held the required value or number of shares to submit the proposal continuously for at least the one-year period preceding and including the date the proposal was submitted (December 2, 2016).

In this regard, I direct your attention to the SEC's Division of Corporation Finance Staff Legal Bulletin No. 14 (at C(1)(c)(1)), which indicates that, for purposes of Rule 14a-8(b)(2), written statements verifying ownership of shares "must be from the record holder of the shareholder's securities, which is usually a broker or bank." Further, please note that most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency that acts as a securities depository (DTC is also known through the account name of Cede & Co.), and the Division of Corporation Finance advises that, for purposes of Rule 14a-8(b)(2), only DTC participants or affiliates of DTC participants "should be viewed as 'record' holders of securities that are deposited at DTC" (see Staff Legal Bulletin No. 14F at B(3) and No. 14G at B(1)-(2); copies of these and other Staff Legal Bulletins containing useful information for proponents when submitting proof of ownership to companies can be found on the SEC's website at: <http://www.sec.gov/interps/legal.shtml>). You can confirm whether your broker or bank is a DTC participant by asking such broker or bank or by checking DTC's participant list, which is available at <http://www.dtcc.com/client-center/dtc-directories.aspx>.

Please note that if your broker or bank is not a DTC participant (in such case sometimes called an "introducing" or "clearing" broker), then you need to submit proof of ownership from the DTC participant through which the shares are held verifying that you have continuously held the requisite number of GM shares for at least the one-year period preceding and including the date the proposal was submitted (December 2, 2016). You should be able to find out the identity of the DTC participant by asking your introducing or clearing broker. If the DTC participant that holds your shares is not able to confirm your individual holdings but is able to confirm the holdings of your introducing or clearing broker, then you need to satisfy the proof of ownership requirements by obtaining and submitting two proof of ownership statements verifying that, for at least the one-year period preceding and including the date the proposal was submitted (December 2, 2016), the requisite number of GM shares were continuously held. The first statement should be from your introducing or clearing broker confirming your ownership. The second statement should be from the DTC participant confirming the introducing or clearing broker's ownership.

Consistent with the above, if you intend to demonstrate ownership by submitting a written statement from the "record" holder of your shares, please provide to us a written statement from the DTC participant record holder verifying the following:

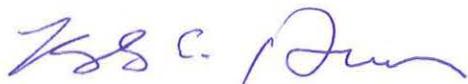
1. that the DTC participant is the record holder;
2. the number of shares held in your name; and
3. that you have continuously held the required value or number of GM shares for at least the one-year period preceding and including the date the proposal was submitted (December 2, 2016).

Your response may be sent to my attention by U.S. Postal Service or overnight delivery at the address above or by email (rick.hansen@gm.com). Pursuant to Rule 14a-8(f), your response must be postmarked or transmitted electronically no later than 14 days from the date you receive this letter.

Mr. John Chevedden
December 14, 2016
Page 3

Copies of Exchange Act Rule 14a-8 and Staff Legal Bulletin No. 14F are enclosed for your convenience. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "K. C. Dunne".

Assistant Corporate Secretary and
Lead Securities Counsel

Enclosures

cc: Jill E. Sutton

§ 240.14a-8

17 CFR Ch. II (4-1-13 Edition)

information after the termination of the solicitation.

(e) The security holder shall reimburse the reasonable expenses incurred by the registrant in performing the acts requested pursuant to paragraph (a) of this section.

NOTE 1 TO § 240.14A-7. Reasonably prompt methods of distribution to security holders may be used instead of mailing. If an alternative distribution method is chosen, the costs of that method should be considered where necessary rather than the costs of mailing.

NOTE 2 TO § 240.14A-7. When providing the information required by § 240.14a-7(a)(1)(ii), if the registrant has received affirmative written or implied consent to delivery of a single copy of proxy materials to a shared address in accordance with § 240.14a-3(e)(1), it shall exclude from the number of record holders those to whom it does not have to deliver a separate proxy statement.

[57 FR 48292, Oct. 22, 1992, as amended at 59 FR 63684, Dec. 8, 1994; 61 FR 24657, May 15, 1996; 65 FR 65750, Nov. 2, 2000; 72 FR 4167, Jan. 29, 2007; 72 FR 42238, Aug. 1, 2007]

§ 240.14a-8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) *Question 1:* What is a proposal? A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is

placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2:* Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible? (1) In order to be eligible to submit a proposal, you must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§ 240.13d-101), Schedule 13G (§ 240.13d-102), Form 3 (§ 249.103 of this chapter), Form 4 (§ 249.104 of this chapter) and/or Form 5 (§ 249.105 of this

chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) *Question 3:* How many proposals may I submit? Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) *Question 4:* How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5:* What is the deadline for submitting a proposal? (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§ 249.308a of this chapter), or in shareholder reports of investment companies under § 270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous

year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section?

(1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under § 240.14a-8 and provide you with a copy under Question 10 below, § 240.14a-8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7:* Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8:* Must I appear personally at the shareholders' meeting to present the proposal? (1) Either you, or your representative who is qualified

under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9: If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal?* (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

NOTE TO PARAGRAPH (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

NOTE TO PARAGRAPH (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including § 240.14a-9, which pro-

hibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority:* If the company would lack the power or authority to implement the proposal;

(7) *Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Director elections:* If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) *Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

NOTE TO PARAGRAPH (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented:* If the company has already substantially implemented the proposal;

NOTE TO PARAGRAPH (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant

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to Item 402 of Regulation S-K (§229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by §240.14a-21(b) of this chapter a single year (i.e., one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by §240.14a-21(b) of this chapter.

(11) *Duplication*: If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions*: If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends*: If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10*: What procedures must the company follow if it intends to exclude my proposal? (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its de-

finitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11*: May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12*: If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13*: What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may

express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, §240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under §240.14a-6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan. 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan. 4, 2008; 76 FR 6046, Feb. 2, 2011; 75 FR 56782, Sept. 16, 2010]

§ 240.14a-9 False or misleading statements.

(a) No solicitation subject to this regulation shall be made by means of any proxy statement, form of proxy, notice of meeting or other communication, written or oral, containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading

with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading.

(b) The fact that a proxy statement, form of proxy or other soliciting material has been filed with or examined by the Commission shall not be deemed a finding by the Commission that such material is accurate or complete or not false or misleading, or that the Commission has passed upon the merits of or approved any statement contained therein or any matter to be acted upon by security holders. No representation contrary to the foregoing shall be made.

(c) No nominee, nominating shareholder or nominating shareholder group, or any member thereof, shall cause to be included in a registrant's proxy materials, either pursuant to the Federal proxy rules, an applicable state or foreign law provision, or a registrant's governing documents as they relate to including shareholder nominees for director in a registrant's proxy materials, include in a notice on Schedule 14N (§240.14n-101), or include in any other related communication, any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to a solicitation for the same meeting or subject matter which has become false or misleading.

NOTE: The following are some examples of what, depending upon particular facts and circumstances, may be misleading within the meaning of this section.

a. Predictions as to specific future market values.

b. Material which directly or indirectly impugns character, integrity or personal reputation, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation.

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U.S. Securities and Exchange Commission

Division of Corporation Finance Securities and Exchange Commission

Shareholder Proposals

Staff Legal Bulletin No. 14F (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 18, 2011

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://tts.sec.gov/cgi-bin/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- Brokers and banks that constitute "record" holders under Rule 14a-8 (b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- Common errors shareholders can avoid when submitting proof of ownership to companies;
- The submission of revised proposals;
- Procedures for withdrawing no-action requests regarding proposals submitted by multiple proponents; and
- The Division's new process for transmitting Rule 14a-8 no-action responses by email.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: [SLB No. 14](#), [SLB No. 14A](#), [SLB No. 14B](#), [SLB No. 14C](#), [SLB No. 14D](#) and [SLB No. 14E](#).

B. The types of brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Eligibility to submit a proposal under Rule 14a-8

To be eligible to submit a shareholder proposal, a shareholder must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. The shareholder must also continue to hold the required amount of securities through the date of the meeting and must provide the company with a written statement of intent to do so.¹

The steps that a shareholder must take to verify his or her eligibility to submit a proposal depend on how the shareholder owns the securities. There are two types of security holders in the U.S.: registered owners and beneficial owners.² Registered owners have a direct relationship with the issuer because their ownership of shares is listed on the records maintained by the issuer or its transfer agent. If a shareholder is a registered owner, the company can independently confirm that the shareholder's holdings satisfy Rule 14a-8(b)'s eligibility requirement.

The vast majority of investors in shares issued by U.S. companies, however, are beneficial owners, which means that they hold their securities in book-entry form through a securities intermediary, such as a broker or a bank. Beneficial owners are sometimes referred to as "street name" holders. Rule 14a-8(b)(2)(i) provides that a beneficial owner can provide proof of ownership to support his or her eligibility to submit a proposal by submitting a written statement "from the 'record' holder of [the] securities (usually a broker or bank)," verifying that, at the time the proposal was submitted, the shareholder held the required amount of securities continuously for at least one year.³

2. The role of the Depository Trust Company

Most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency acting as a securities depository. Such brokers and banks are often referred to as "participants" in DTC.⁴ The names of these DTC participants, however, do not appear as the registered owners of the securities deposited with DTC on the list of shareholders maintained by the company or, more typically, by its transfer agent. Rather, DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants. A company can request from DTC a "securities position listing" as of a specified date, which identifies the DTC participants having a position in the company's securities and the number of securities held by each DTC participant on that date.⁵

3. Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

In *The Hain Celestial Group, Inc.* (Oct. 1, 2008), we took the position that an introducing broker could be considered a "record" holder for purposes of

Rule 14a-8(b)(2)(i). An introducing broker is a broker that engages in sales and other activities involving customer contact, such as opening customer accounts and accepting customer orders, but is not permitted to maintain custody of customer funds and securities.⁶ Instead, an introducing broker engages another broker, known as a "clearing broker," to hold custody of client funds and securities, to clear and execute customer trades, and to handle other functions such as issuing confirmations of customer trades and customer account statements. Clearing brokers generally are DTC participants; introducing brokers generally are not. As introducing brokers generally are not DTC participants, and therefore typically do not appear on DTC's securities position listing, *Hain Celestial* has required companies to accept proof of ownership letters from brokers in cases where, unlike the positions of registered owners and brokers and banks that are DTC participants, the company is unable to verify the positions against its own or its transfer agent's records or against DTC's securities position listing.

In light of questions we have received following two recent court cases relating to proof of ownership under Rule 14a-8⁷ and in light of the Commission's discussion of registered and beneficial owners in the Proxy Mechanics Concept Release, we have reconsidered our views as to what types of brokers and banks should be considered "record" holders under Rule 14a-8(b)(2)(i). Because of the transparency of DTC participants' positions in a company's securities, we will take the view going forward that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as "record" holders of securities that are deposited at DTC. As a result, we will no longer follow *Hain Celestial*.

We believe that taking this approach as to who constitutes a "record" holder for purposes of Rule 14a-8(b)(2)(i) will provide greater certainty to beneficial owners and companies. We also note that this approach is consistent with Exchange Act Rule 12g5-1 and a 1988 staff no-action letter addressing that rule,⁸ under which brokers and banks that are DTC participants are considered to be the record holders of securities on deposit with DTC when calculating the number of record holders for purposes of Sections 12(g) and 15(d) of the Exchange Act.

Companies have occasionally expressed the view that, because DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants, only DTC or Cede & Co. should be viewed as the "record" holder of the securities held on deposit at DTC for purposes of Rule 14a-8(b)(2)(i). We have never interpreted the rule to require a shareholder to obtain a proof of ownership letter from DTC or Cede & Co., and nothing in this guidance should be construed as changing that view.

How can a shareholder determine whether his or her broker or bank is a DTC participant?

Shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC's participant list, which is currently available on the Internet at <http://www.dtcc.com/~media/Files/Downloads/client-center/DTC/alpha.ashx>.

What if a shareholder's broker or bank is not on DTC's participant list?

The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held. The shareholder should be able to find out who this DTC participant is by asking the shareholder's broker or bank.⁹

If the DTC participant knows the shareholder's broker or bank's holdings, but does not know the shareholder's holdings, a shareholder could satisfy Rule 14a-8(b)(2)(i) by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of securities were continuously held for at least one year – one from the shareholder's broker or bank confirming the shareholder's ownership, and the other from the DTC participant confirming the broker or bank's ownership.

How will the staff process no-action requests that argue for exclusion on the basis that the shareholder's proof of ownership is not from a DTC participant?

The staff will grant no-action relief to a company on the basis that the shareholder's proof of ownership is not from a DTC participant only if the company's notice of defect describes the required proof of ownership in a manner that is consistent with the guidance contained in this bulletin. Under Rule 14a-8(f)(1), the shareholder will have an opportunity to obtain the requisite proof of ownership after receiving the notice of defect.

C. Common errors shareholders can avoid when submitting proof of ownership to companies

In this section, we describe two common errors shareholders make when submitting proof of ownership for purposes of Rule 14a-8(b)(2), and we provide guidance on how to avoid these errors.

First, Rule 14a-8(b) requires a shareholder to provide proof of ownership that he or she has "continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal" (emphasis added).¹⁰ We note that many proof of ownership letters do not satisfy this requirement because they do not verify the shareholder's beneficial ownership for the entire one-year period preceding and including the date the proposal is submitted. In some cases, the letter speaks as of a date *before* the date the proposal is submitted, thereby leaving a gap between the date of the verification and the date the proposal is submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the shareholder's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Second, many letters fail to confirm continuous ownership of the securities. This can occur when a broker or bank submits a letter that confirms the shareholder's beneficial ownership only as of a specified date but omits any reference to continuous ownership for a one-year period.

We recognize that the requirements of Rule 14a-8(b) are highly prescriptive and can cause inconvenience for shareholders when submitting proposals. Although our administration of Rule 14a-8(b) is constrained by the terms of

the rule, we believe that shareholders can avoid the two errors highlighted above by arranging to have their broker or bank provide the required verification of ownership as of the date they plan to submit the proposal using the following format:

“As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least one year, [number of securities] shares of [company name] [class of securities].”¹¹

As discussed above, a shareholder may also need to provide a separate written statement from the DTC participant through which the shareholder's securities are held if the shareholder's broker or bank is not a DTC participant.

D. The submission of revised proposals

On occasion, a shareholder will revise a proposal after submitting it to a company. This section addresses questions we have received regarding revisions to a proposal or supporting statement.

1. A shareholder submits a timely proposal. The shareholder then submits a revised proposal before the company's deadline for receiving proposals. Must the company accept the revisions?

Yes. In this situation, we believe the revised proposal serves as a replacement of the initial proposal. By submitting a revised proposal, the shareholder has effectively withdrawn the initial proposal. Therefore, the shareholder is not in violation of the one-proposal limitation in Rule 14a-8 (c).¹² If the company intends to submit a no-action request, it must do so with respect to the revised proposal.

We recognize that in Question and Answer E.2 of SLB No. 14, we indicated that if a shareholder makes revisions to a proposal before the company submits its no-action request, the company can choose whether to accept the revisions. However, this guidance has led some companies to believe that, in cases where shareholders attempt to make changes to an initial proposal, the company is free to ignore such revisions even if the revised proposal is submitted before the company's deadline for receiving shareholder proposals. We are revising our guidance on this issue to make clear that a company may not ignore a revised proposal in this situation.¹³

2. A shareholder submits a timely proposal. After the deadline for receiving proposals, the shareholder submits a revised proposal. Must the company accept the revisions?

No. If a shareholder submits revisions to a proposal after the deadline for receiving proposals under Rule 14a-8(e), the company is not required to accept the revisions. However, if the company does not accept the revisions, it must treat the revised proposal as a second proposal and submit a notice stating its intention to exclude the revised proposal, as required by Rule 14a-8(j). The company's notice may cite Rule 14a-8(e) as the reason for excluding the revised proposal. If the company does not accept the revisions and intends to exclude the initial proposal, it would also need to submit its reasons for excluding the initial proposal.

3. If a shareholder submits a revised proposal, as of which date must the shareholder prove his or her share ownership?

A shareholder must prove ownership as of the date the original proposal is submitted. When the Commission has discussed revisions to proposals,¹⁴ it has not suggested that a revision triggers a requirement to provide proof of ownership a second time. As outlined in Rule 14a-8(b), proving ownership includes providing a written statement that the shareholder intends to continue to hold the securities through the date of the shareholder meeting. Rule 14a-8(f)(2) provides that if the shareholder "fails in [his or her] promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of [the same shareholder's] proposals from its proxy materials for any meeting held in the following two calendar years." With these provisions in mind, we do not interpret Rule 14a-8 as requiring additional proof of ownership when a shareholder submits a revised proposal.¹⁵

E. Procedures for withdrawing no-action requests for proposals submitted by multiple proponents

We have previously addressed the requirements for withdrawing a Rule 14a-8 no-action request in SLB Nos. 14 and 14C. SLB No. 14 notes that a company should include with a withdrawal letter documentation demonstrating that a shareholder has withdrawn the proposal. In cases where a proposal submitted by multiple shareholders is withdrawn, SLB No. 14C states that, if each shareholder has designated a lead individual to act on its behalf and the company is able to demonstrate that the individual is authorized to act on behalf of all of the proponents, the company need only provide a letter from that lead individual indicating that the lead individual is withdrawing the proposal on behalf of all of the proponents.

Because there is no relief granted by the staff in cases where a no-action request is withdrawn following the withdrawal of the related proposal, we recognize that the threshold for withdrawing a no-action request need not be overly burdensome. Going forward, we will process a withdrawal request if the company provides a letter from the lead filer that includes a representation that the lead filer is authorized to withdraw the proposal on behalf of each proponent identified in the company's no-action request.¹⁶

F. Use of email to transmit our Rule 14a-8 no-action responses to companies and proponents

To date, the Division has transmitted copies of our Rule 14a-8 no-action responses, including copies of the correspondence we have received in connection with such requests, by U.S. mail to companies and proponents. We also post our response and the related correspondence to the Commission's website shortly after issuance of our response.

In order to accelerate delivery of staff responses to companies and proponents, and to reduce our copying and postage costs, going forward, we intend to transmit our Rule 14a-8 no-action responses by email to companies and proponents. We therefore encourage both companies and proponents to include email contact information in any correspondence to each other and to us. We will use U.S. mail to transmit our no-action response to any company or proponent for which we do not have email contact information.

Given the availability of our responses and the related correspondence on the Commission's website and the requirement under Rule 14a-8 for companies and proponents to copy each other on correspondence submitted to the Commission, we believe it is unnecessary to transmit copies of the related correspondence along with our no-action response. Therefore, we intend to transmit only our staff response and not the correspondence we receive from the parties. We will continue to post to the Commission's website copies of this correspondence at the same time that we post our staff no-action response.

¹ See Rule 14a-8(b).

² For an explanation of the types of share ownership in the U.S., see Concept Release on U.S. Proxy System, Release No. 34-62495 (July 14, 2010) [75 FR 42982] ("Proxy Mechanics Concept Release"), at Section II.A. The term "beneficial owner" does not have a uniform meaning under the federal securities laws. It has a different meaning in this bulletin as compared to "beneficial owner" and "beneficial ownership" in Sections 13 and 16 of the Exchange Act. Our use of the term in this bulletin is not intended to suggest that registered owners are not beneficial owners for purposes of those Exchange Act provisions. See Proposed Amendments to Rule 14a-8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982], at n.2 ("The term 'beneficial owner' when used in the context of the proxy rules, and in light of the purposes of those rules, may be interpreted to have a broader meaning than it would for certain other purpose[s] under the federal securities laws, such as reporting pursuant to the Williams Act.").

³ If a shareholder has filed a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5 reflecting ownership of the required amount of shares, the shareholder may instead prove ownership by submitting a copy of such filings and providing the additional information that is described in Rule 14a-8(b)(2)(ii).

⁴ DTC holds the deposited securities in "fungible bulk," meaning that there are no specifically identifiable shares directly owned by the DTC participants. Rather, each DTC participant holds a pro rata interest or position in the aggregate number of shares of a particular issuer held at DTC. Correspondingly, each customer of a DTC participant – such as an individual investor – owns a pro rata interest in the shares in which the DTC participant has a pro rata interest. See Proxy Mechanics Concept Release, at Section II.B.2.a.

⁵ See Exchange Act Rule 17Ad-8.

⁶ See Net Capital Rule, Release No. 34-31511 (Nov. 24, 1992) [57 FR 56973] ("Net Capital Rule Release"), at Section II.C.

⁷ See *KBR Inc. v. Chevedden*, Civil Action No. H-11-0196, 2011 U.S. Dist. LEXIS 36431, 2011 WL 1463611 (S.D. Tex. Apr. 4, 2011); *Apache Corp. v. Chevedden*, 696 F. Supp. 2d 723 (S.D. Tex. 2010). In both cases, the court concluded that a securities intermediary was not a record holder for purposes of Rule 14a-8(b) because it did not appear on a list of the

company's non-objecting beneficial owners or on any DTC securities position listing, nor was the intermediary a DTC participant.

⁸ *Techne Corp.* (Sept. 20, 1988).

⁹ In addition, if the shareholder's broker is an introducing broker, the shareholder's account statements should include the clearing broker's identity and telephone number. See Net Capital Rule Release, at Section II.C.(iii). The clearing broker will generally be a DTC participant.

¹⁰ For purposes of Rule 14a-8(b), the submission date of a proposal will generally precede the company's receipt date of the proposal, absent the use of electronic or other means of same-day delivery.

¹¹ This format is acceptable for purposes of Rule 14a-8(b), but it is not mandatory or exclusive.

¹² As such, it is not appropriate for a company to send a notice of defect for multiple proposals under Rule 14a-8(c) upon receiving a revised proposal.

¹³ This position will apply to all proposals submitted after an initial proposal but before the company's deadline for receiving proposals, regardless of whether they are explicitly labeled as "revisions" to an initial proposal, unless the shareholder affirmatively indicates an intent to submit a second, *additional* proposal for inclusion in the company's proxy materials. In that case, the company must send the shareholder a notice of defect pursuant to Rule 14a-8(f)(1) if it intends to exclude either proposal from its proxy materials in reliance on Rule 14a-8(c). In light of this guidance, with respect to proposals or revisions received before a company's deadline for submission, we will no longer follow *Layne Christensen Co.* (Mar. 21, 2011) and other prior staff no-action letters in which we took the view that a proposal would violate the Rule 14a-8(c) one-proposal limitation if such proposal is submitted to a company after the company has either submitted a Rule 14a-8 no-action request to exclude an earlier proposal submitted by the same proponent or notified the proponent that the earlier proposal was excludable under the rule.

¹⁴ See, e.g., Adoption of Amendments Relating to Proposals by Security Holders, Release No. 34-12999 (Nov. 22, 1976) [41 FR 52994].

¹⁵ Because the relevant date for proving ownership under Rule 14a-8(b) is the date the proposal is submitted, a proponent who does not adequately prove ownership in connection with a proposal is not permitted to submit another proposal for the same meeting on a later date.

¹⁶ Nothing in this staff position has any effect on the status of any shareholder proposal that is not withdrawn by the proponent or its authorized representative.

<http://www.sec.gov/interps/legal/cfs1b14f.htm>

Personal Investing

P.O. Box 770001
Cincinnati, OH 45277-0045



December 20, 2016

John R. Chevedden

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

GM Post-it® Fax Note 7671		Date 12-21-16	# of pages ▶
To Rick Henson	From John Chevedden		
Co./Dept.	Co.		
Phone #	***FISMA & OMB Memorandum M-07-16 ***		
Fax # 313-665-4976	Fax #		

To Whom It May Concern:

This letter is provided at the request of Mr. John R. Chevedden, a customer of Fidelity Investments.

Please accept this letter as confirmation that as of the date of this letter, Mr. Chevedden has continuously owned no fewer than the share quantity listed in the following table in each of the following securities, since July 1, 2015:

Security name	CUSIP	Trading symbol	Share quantity
General Motors Company	37045V100	GM	100
Pacific Gas and Electric Company	69331C108	PCG	80
UnitedHealth Group, Inc.	91324P102	UNH	70
Target Corp.	87612E106	TGT	60
Alaska Air Group, Inc.	011659109	ALK	500

The securities referenced in the preceding table are registered in the name of National Financial Services LLC, a DTC participant (DTC number: 0226) and Fidelity Investments subsidiary.

I hope you find this information helpful. If you have any questions regarding this issue, please feel free to contact me by calling 800-397-9945 between the hours of 8:30 a.m. and 5:00 p.m. Central Time (Monday through Friday) and entering my extension 15838 when prompted.

Sincerely,

George Stasinopoulos
Client Services Specialist

Our File: W097977-20DEC16

EXHIBIT B

(see attached)

**GENERAL MOTORS COMPANY
AMENDED AND RESTATED BYLAWS**

AS OF MARCH 4, 2016

**ARTICLE I
MEETINGS OF SHAREHOLDERS**

1.1 Annual Meetings.

The annual meeting of shareholders for the election of directors, ratification or rejection of the selection of auditors, and the transaction of such other business as may properly be brought before the meeting shall be held on such date and at such time and place (if any) as the chairman of the board or the board of directors shall designate. If any annual meeting shall not be held on the day designated or the directors shall not have been elected at such meeting or at any adjournment thereof, thereafter the board shall cause a special meeting of the shareholders to be held as soon as practicable for the election of directors. At such special meeting, the shareholders may elect directors and transact other business with the same force and effect as at an annual meeting of the shareholders duly called and held.

1.2 Special Meetings.

(a) Call of Special Meeting. Special meetings of shareholders may be called at any time by the chairman of the board of directors or by a majority of the members of the board of directors or as otherwise provided by Delaware law, the certificate of incorporation or these bylaws. Any such special meeting shall be held on the date and at the time and place (if any) and for the purposes that are designated by the chairman or board in calling the meeting. Subject to paragraph (b) of this section, the board shall call a special meeting upon the written request (the "Meeting Request") of the record holders of at least 25 percent, in the aggregate, of the voting power of the outstanding shares of all classes of shares entitled to vote at such a meeting, delivered to the secretary of the Company, and shall designate a date for such special meeting not more than 90 days after the date that the secretary received the Meeting Request (the "Request Delivery Date"). In fixing a date and time for any special meeting requested by shareholders, the board may consider such factors as it deems relevant, including without limitation, the nature of the matters to be considered, the facts and circumstances related to any request for a meeting, and any plan of the board to call an annual meeting or special meeting.

(b) Shareholder Request for Special Meeting.

(i) Any Meeting Request shall be signed by one or more shareholders, or their duly authorized agent, that request the special meeting and shall set forth: (A) a statement of the specific purpose of the meeting and the matters proposed to be acted on at the meeting and the reasons for conducting such business at the meeting; (B) the name and address of each signing shareholder and date of signature; (C) the number of shares of each class of voting shares owned of record and beneficially by each such shareholder; (D) a description of all arrangements or understandings between any signing shareholder and any other person regarding the meeting and the matters proposed to be acted on at the meeting; (E) all information relating to each signing shareholder that would be required to be disclosed in solicitations of proxies for election of directors in an election contest (even if an election contest is not the subject of the Meeting Request) or would otherwise be required, in each case pursuant to Section 14 of the Securities

Exchange Act of 1934, as amended (the "Exchange Act"), and the rules and regulations promulgated thereunder (or any successor provision of the Exchange Act or the rules or regulations promulgated thereunder), whether or not Section 14 of the Exchange Act is then applicable to the Company; and (F) all of the information regarding the shareholders making the Meeting Request that would be required by section 1.11 of these bylaws if the shareholder were intending to make a nomination or to bring any other matter before a shareholder meeting. A shareholder may revoke its request for a special meeting at any time by written revocation delivered to the secretary of the Company.

(ii) The board shall have the authority to determine not to call a special meeting requested by shareholders if (A) the board has called or calls an annual or special meeting of shareholders to be held not more than 90 days after the Request Delivery Date and the purpose of such shareholder meeting includes (among any other matters properly brought before the meeting) the purpose specified in the Meeting Request; (B) within 12 months prior to the Request Delivery Date, an annual or special meeting was held that considered the purpose specified in the Meeting Request, except for the election of one or more directors; (C) the Meeting Request relates to an item of business that is not a proper subject for shareholder action under applicable law; or (D) such request was made in violation of Regulation 14A under the Exchange Act, to the extent applicable, or other applicable law. The board is authorized to determine in good faith the purpose of a shareholder meeting.

(c) Conduct of Special Meeting. Business transacted at a special meeting requested by shareholders shall be limited to the purpose stated in the Meeting Request; provided, however, that the board shall be able to submit additional matters to shareholders at any such special meeting.

1.3 Notice of Meetings.

Written notice (including notification by electronic means as permitted by the rules of the Securities and Exchange Commission (the "SEC")) of each meeting of shareholders shall be given by the chairman of the board and/or the secretary in compliance with the provisions of Delaware law and these bylaws.

1.4 List of Shareholders Entitled to Vote.

The secretary shall prepare or have prepared before every meeting of shareholders a complete list of the shareholders entitled to vote at the meeting in compliance with the provisions of Delaware law and the certificate of incorporation.

1.5 Quorum.

(a) At each annual or special meeting of shareholders, except where otherwise provided by law or the certificate of incorporation or these bylaws, holders of a majority of the voting power of the outstanding shares entitled to vote at the meeting, present in person or by proxy, shall constitute a quorum. Where a separate vote by a class or classes or series of shares is required, the holders of a majority of the voting power of the shares of such class or classes or series of shares present in person or represented by proxy shall constitute a quorum for the purposes of such matter on which a separate vote is required.

(b) In the absence of a quorum pursuant to this section of the bylaws, a majority of the voting power

of the outstanding shares entitled to vote and present in person or by proxy, or any officer, may adjourn the meeting from time to time in the manner and to the extent provided in section 1.9 of these bylaws until a quorum shall attend.

(c) Shares of the Company belonging to the Company or to another entity, a majority of whose ownership interests entitled to vote in the election of directors of such other entity is held, directly or indirectly, by the Company, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Company to vote shares of its own stock that it is entitled to vote in a fiduciary capacity.

1.6 *Conduct and Place of Meeting.*

The chairman of the board or, if the chairman or the board of directors so designates, the chief executive officer, the president, the vice chairman or a vice president of the Company shall preside at each meeting of the shareholders. The secretary of the Company shall record the proceedings of meetings of the shareholders, but in the absence of the secretary, the person presiding over the meeting shall designate any person to record the proceedings. The person presiding over any meeting of shareholders shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion. The date and time of the opening and closing of the polls for each matter upon which the shareholders will vote at the meeting shall be announced at the meeting.

The chairman of the board or the board of directors may designate any place, either within or without the State of Delaware, as the location for any meeting of shareholders, and may, in their sole discretion, determine that a virtual meeting of shareholders by means of remote communication shall be held in addition to or instead of a physical meeting as permitted by Delaware law.

1.7 *Voting; Proxies.*

Each shareholder entitled to vote must be entitled to vote in accordance with the number of shares and voting powers of the voting shares held of record by such shareholder. Each shareholder entitled to vote at a meeting of shareholders may authorize another person or persons to act for such shareholder at such meeting by proxy, but such proxy, whether revocable or irrevocable, must comply with the applicable requirements of Delaware law. Voting at meetings of shareholders, on matters other than the election of directors, need not be by written ballot unless the holders of a majority of the voting power of the outstanding shares entitled to vote at the meeting present in person or by proxy at such meeting shall so determine. All elections and questions shall, unless otherwise provided by law, rule or regulation, including any stock exchange rule or regulation, applicable to the Company, the certificate of incorporation, or section 2.2 or any other provision of these bylaws, be decided by the vote of the holders of a majority of the voting power of the shares entitled to vote thereon present in person or by proxy at the meeting. Votes cast "for" or "against" and "abstentions" with respect to a matter shall be counted as shares of the Company entitled to vote on such matter, while "broker non-votes" (or other shares of the Company similarly not entitled to vote) shall not be counted as shares entitled to vote on such matter.

1.8 *Fixing Date for Determination of Shareholders of Record.*

To determine the shareholders of record for any purpose, the board of directors may fix a record date; provided that the record date shall not precede the date upon which the board adopts the resolution fixing the record

date; and provided further that the record date shall be: (a) in the case of determination of shareholders entitled to receive notice of or to vote at any meeting of shareholders or adjournment thereof, not more than 60 nor less than ten days before the date of such meeting; (b) in the case of determination of shareholders entitled to express consent to corporate action in writing without a meeting, in accordance with section 1.12 of these bylaws; and (c) in the case of any other action, not more than 60 days prior to such other action. A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting; provided, however, that the board may choose to fix a new record date for the adjourned meeting.

1.9 Adjournments.

The person presiding over any meeting of shareholders, annual or special (other than a special meeting requested by shareholders in accordance with section 1.2(a) of these bylaws in the absence of a quorum), whether or not a quorum is present, may adjourn the meeting from time to time to reconvene at the same or some other place. At the adjourned meeting, the Company may transact any business which might have been transacted at the original meeting. Notice need not be given of any such adjourned meeting if the time and place, if any, thereof, and the means of remote communication, if any, by which shareholders and proxy holders may be deemed to be present and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken, except that if the adjournment is for more than 30 days or if, after the adjournment, a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting.

1.10 Judges.

All votes by ballot at any meeting of shareholders shall be conducted by one or more judges appointed for the purpose, either by the board of directors or by the person presiding over the meeting. The judges shall decide upon the qualifications of voters, count the votes, and report the result in writing to the secretary of the meeting.

1.11 Notice of Shareholder Nomination and Shareholder Business.

1.11.1 General

At a meeting of the shareholders, only such business shall be conducted as shall have been properly brought before the meeting. Nominations for the election of directors may be made by the board of directors in accordance with the Stockholders Agreement dated October 15, 2009 among the Company and the other parties thereto or by any shareholder entitled to vote for the election of directors who complies with the notice and other requirements set forth in this section 1.11. Matters to be properly brought before the meeting must be: (a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the board, including, as applicable, matters covered by Rule 14a-8 under the Exchange Act; (b) otherwise properly brought before the meeting by or at the direction of the board; or (c) otherwise properly brought before the meeting by a shareholder pursuant to the notice and other requirements of this section 1.11.

1.11.2 Shareholder's Notice of Intent

- (a) A shareholder who intends to make a nomination for the election of directors or to bring any

other matter before a meeting of shareholders must give notice of such intent in writing or by electronic transmission. Such notice must be received by the secretary, in the case of an annual meeting not more than 180 days and not less than 120 days before the anniversary date of the prior year's annual meeting, or in the case of a special meeting, not more than 10 days after the day on which public announcement of the date of such meeting is first made by the Company; provided, however, in the case of an annual meeting, in the event that the date of the annual meeting is more than 30 days before or more than 60 days after the anniversary date of the prior year's annual meeting, notice by the shareholder must be so delivered not earlier than the close of business on the 180th day prior to the date of such annual meeting and not later than the close of business on the later of the 120th day prior to the date of such annual meeting or, if the first public announcement of the date of such annual meeting is less than 130 days prior to the date of such annual meeting, the 10th day following the day on which public announcement of the date of such meeting is first made by the Company. Notwithstanding the preceding sentence, requests for inclusion of proposals in the Company's proxy statement made pursuant to Rule 14a-8 under the Exchange Act, if applicable, shall be deemed to have been delivered in a timely manner if delivered in accordance with such Rule. In no event shall any adjournment or postponement of an annual meeting, or the public announcement thereof, commence a new time period for the giving of a shareholder's notice as described above.

(b) Notwithstanding anything in section 1.11.2(a) to the contrary, in the event that the number of directors to be elected to the board of directors is increased by the board of directors, and there is no public announcement by the Company naming all of the nominees for director or specifying the size of the increased board of directors at least 130 days prior to the first anniversary of the preceding year's annual meeting, a shareholder's notice required by this section 1.11.2 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Company not later than the close of business on the 10th day following the day on which such public announcement is first made by the Company.

1.11.3 Proposals under Rule 14a-8

As to matters sought to be included in any proxy statement of the Company pursuant to Rule 14a-8, shareholders shall comply with Rule 14a-8 under the Exchange Act, if applicable, rather than this section 1.11 to the extent that any of the requirements of this section 1.11 conflict with Rule 14a-8.

1.11.4 Proxy Access Nominations

(a) The Company shall include in the proxy statement for an annual meeting of shareholders following the 2016 annual meeting the name, together with the Required Information (as hereinafter defined), of any person nominated for the election of directors in compliance with the requirements of this section 1.11.4 (a "Shareholder Nominee") by a single shareholder that satisfies, or by a group of no more than 20 shareholders that together satisfy, the prerequisites of this section 1.11.4 (such qualifying single shareholder or qualifying group of shareholders collectively, the "Eligible Shareholder"), if the Eligible Shareholder provides notice within the time period for shareholder nominations set forth in section 1.11.2 and expressly elects at the time of providing the notice to have its nominee included in the Company's proxy materials pursuant to this section 1.11.4; provided, however, that a shareholder who has a contractual right, or has contractually limited such shareholder's right, to designate one or more nominees for director shall not be, and any Shareholder Associated Persons of such shareholder shall not be, an Eligible Shareholder, and shall not be eligible to participate in a group of shareholders constituting an Eligible Shareholder. The Company shall have no obligation to include in the proxy statement for an

annual meeting nominees of shareholders that have complied with 1.11.2 but have not also complied with this section 1.11.4. For purposes of this section 1.11.4, the “Required Information” that the Company will include in its proxy statement is (i) the information concerning the Shareholder Nominee and the Eligible Shareholder that is required to be disclosed in the Company’s proxy statement by the Exchange Act and the rules and regulations promulgated thereunder; and (ii) if the Eligible Shareholder so elects, one Statement (defined in section 1.11.4(c)(vi)).

(b) The maximum number of Shareholder Nominees submitted by Eligible Shareholders for inclusion in the Company’s proxy statement pursuant to this section 1.11.4 appearing in the Company’s proxy statement for an annual meeting of shareholders shall not exceed the greater of: (i) two persons and (ii) 20% of the number of directors in office as of the last day on which notice of a nomination may be delivered in accordance with the procedures pursuant to section 1.11.4, or if such amount is not a whole number, the closest whole number below 20%; provided, however, that this maximum number shall be reduced by (i) any director candidate who had been a Shareholder Nominee at any of the preceding two annual meetings of shareholders and whose reelection at the upcoming annual meeting is being recommended by the board of directors and (ii) any Shareholder Nominee who was submitted by an Eligible Shareholder but either is subsequently withdrawn or that the board of directors decides to nominate as a board of director nominee. In the event that the number of Shareholder Nominees submitted by Eligible Shareholders pursuant to this section 1.11.4 exceeds this maximum number, each Eligible Shareholder will select one Shareholder Nominee for inclusion in the Company’s proxy statement until the maximum number is reached, going in descending order of the amount of the Company’s voting shares each Eligible Shareholder has disclosed as owned in the written notice of the nomination submitted to the Company, as validated to be true and correct by the Secretary. If the maximum number is not reached after each Eligible Shareholder has selected one Shareholder Nominee, this selection process will continue as many times as necessary, following the same order each time, until the maximum number is reached.

(c) Each Eligible Shareholder’s notice of intent shall include:

(i) one or more written statements from the record holder of the shares (and from each intermediary through which the shares are or have been held during the requisite three-year holding period) providing evidence verifying that, as of a date within seven calendar days prior to the date the written notice of the nomination is delivered to or mailed and received by the Company, the Eligible Shareholder owns, and has owned continuously for the preceding three years, at least 3% of the issued and outstanding voting shares of the Company (the “Required Shares”). In the case of a group of shareholders who together hold the Required Shares, each individual shareholder must present such evidence verifying continuous ownership, for the preceding three years, of the shares held by such shareholder contributing to the Required Shares, and only such individually and continuously held shares shall be deemed to contribute to the Required Shares;

(ii) the Eligible Shareholder’s agreement to provide, within five business days after the record date for the annual meeting, written statements from the record holder and intermediaries verifying the Eligible Shareholder’s continuous ownership of the Required Shares through the record date. In the case of a group of shareholders who together hold the Required Shares, each such shareholder must agree to provide such written statements;

(iii) a written statement from the Eligible Shareholder indicating whether the Eligible Shareholder intends to hold at least a majority of the Required Shares for at least one year after the annual meeting at which the Eligible Shareholder's Shareholder Nominee will be submitted for election to the board of directors (subject to any mandatory fund rebalancing required by such shareholder's pre-existing governing instruments and written investment policies). In the case of a group of shareholders who together hold the Required Shares, each such shareholder must provide the required statement;

(iv) the information required to be set forth in the shareholder's notice of nomination pursuant to section 1.11.5(d);

(v) the Shareholder Nominee's consent pursuant to section 1.11.6(a);

(vi) if the Eligible Shareholder so elects, one written statement (the "Statement") for inclusion in the Company's proxy statement for the annual meeting, not to exceed five hundred words, in support of the candidacy of the Shareholder Nominee(s). The Company may omit from its proxy materials information or such statement that it, in good faith, believes is materially false or misleading, omits any material fact, or would violate any applicable law or regulation;

(vii) a representation that the Eligible Shareholder (or, as applicable, each shareholder included within a group comprising an Eligible Shareholder):

(A) acquired the Required Shares in the ordinary course of business and not with the intent to change or influence control at the Company, and does not presently have any such intent;

(B) has not nominated and will not nominate for election to the board of directors at the annual meeting any person other than the Shareholder Nominee(s) being nominated pursuant to this section 1.11.4;

(C) has not engaged and will not engage in, and has not and will not be a "participant" in another person's, "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the annual meeting other than its Shareholder Nominee or a nominee of the board of directors;

(D) will not distribute to any shareholder any form of proxy for the annual meeting other than the form distributed by the Company;

(E) will hold the Required Shares through the date of the annual meeting at which the Eligible Shareholder's Shareholder Nominee will be submitted for election to the board of directors (subject to any mandatory fund rebalancing required by such shareholder's pre-existing governing instruments and written investment policies); and

(F) will provide facts, statements and other information in all communications with the Company and its shareholders that are and will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and will otherwise comply with all applicable laws, rules and regulations in connection with any actions taken pursuant to this section 1.11.4;

(viii) an undertaking that the Eligible Shareholder (or, as applicable, each shareholder included within a group comprising an Eligible Shareholder) agrees to:

(A) assume all liability stemming from, and indemnify and hold harmless the Company and each of its directors, officers and employees individually against any liability, loss or damages in connection with, any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Company or any of its directors, officers or employees arising out of any legal or regulatory violation arising out of the Eligible Shareholder's communications with the shareholders of the Company or out of the information that the Eligible Shareholder provided to the Company;

(B) comply with all other laws and regulations applicable to any solicitation in connection with the annual meeting; and

(C) provide to the Company prior to the election of directors such additional information as necessary with respect thereto;

(ix) with respect to a group comprising an Eligible Shareholder, each shareholder's agreement designating one of the members of the group as the exclusive member to interact with the Company for purposes of this section 1.11.4 on behalf of all members and authorized to act on behalf of all such members with respect to the nomination and matters related thereto, including withdrawal of the nomination; and

(x) if the Eligible Shareholder did not submit the name(s) of the Shareholder Nominees to the Governance and Corporate Responsibility Committee prior to submitting a notice of intent pursuant to this section 1.11.4, a brief explanation of why the Eligible Shareholder elected not to do so.

(d) The Company shall not be required to include any Shareholder Nominee in its proxy materials pursuant to this section 1.11.4 for any annual meeting of shareholders:

(i) if the Eligible Shareholder (or, as applicable, each shareholder included within a group comprising an Eligible Shareholder):

(A) has nominated for election to the board of directors at the annual meeting any person other than the Shareholder Nominee(s) being nominated pursuant to this section 1.11.4;

(B) has engaged in a, or has been or is a "participant" in another person's, "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the annual meeting other than its Shareholder Nominee or a nominee of the board of directors; or

(C) does not comply with the undertaking in section 1.11.4(c)(viii), as determined by the board of directors;

(ii) who is not independent under the Applicable Independence Standards (as defined in section 1.11.4(h)), as determined by the board of directors;

- (iii) whose election as a member of the board of directors would cause the Company to be in violation of these bylaws, the certificate of incorporation, the listing standards of any stock exchange applicable to the Company on which the Company's capital stock is traded, or any applicable state or federal law, rule or regulation;
- (iv) whose service as a member of the board of directors would present significant and unresolvable conflicts of interest, as determined by the board of directors;
- (v) who is or has been, within the past three years, an officer or director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914;
- (vi) who is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted in such a criminal proceeding within the past ten years;
- (vii) who is subject to any order of the type specified in Rule 506(d) of Regulation D promulgated under the Securities Act of 1933, as amended;
- (viii) if such Shareholder Nominee or the applicable Eligible Shareholder shall have provided information to the Company in respect of such nomination that (A) was untrue in any material respect or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or (B) directly or indirectly impugns the character, integrity or personal reputation of, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation, with respect, to any person, in each case as determined by the Board;
- (ix) if the Eligible Shareholder or applicable Shareholder Nominee otherwise contravenes any of the agreements or representations made by such Eligible Shareholder or Shareholder Nominee or fails to comply with its obligations pursuant to this section 1.11.4.

The board of directors shall have the exclusive power and authority to interpret the provisions of this section 1.11.4(d).

(e) For the avoidance of doubt and any other provisions of these bylaws notwithstanding, nothing in this section 1.11.4 or these bylaws shall limit the Company's ability to solicit against and include in its proxy materials its own statements or information relating to any Eligible Shareholder or Shareholder Nominee, including any information provided to the Company with respect to the foregoing.

(f) For the purposes of section 1.11.4, the Eligible Shareholder shall be deemed to "own" only those outstanding voting shares when the shareholder possesses both (i) the full voting and investment rights pertaining to the shares and (ii) the full economic interest in (including the opportunity for profit and risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (i) and (ii) shall not include any shares (w) sold by such shareholder or any of its affiliates in any transaction that has not been settled or closed, (x) borrowed by such shareholder or any of its affiliates for any purposes, (y) purchased by such shareholder or any of its affiliates pursuant to an agreement to resell or (z) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such shareholder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of the outstanding voting shares of the Company, in any such case which instrument or agreement has, or is intended to have, the purpose

or effect of (1) reducing in any manner, to any extent or at any time in the future, such shareholder's or affiliates' full right to vote or direct the voting of any such shares, and/or (2) hedging, offsetting or altering to any degree gain or loss arising from the full economic ownership of such shares by such shareholder or affiliate.

A shareholder shall "own" shares held in the name of a nominee or other intermediary so long as the shareholder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. A shareholder's ownership of shares shall be deemed to continue during any period in which (i) the shareholder has delegated any voting power by means of a proxy, power of attorney or other instrument or arrangement which is revocable at any time by the shareholder and has in fact revoked such proxy, power of attorney or other instrument or arrangement as of the time the notice of intent is submitted to the secretary and through the annual meeting date (subject to delegating such voting power to the Company's proxies with respect to the annual meeting and registering such shareholder's vote or direction to vote thereby); or (ii) the shareholder has loaned such shares, provided that the person has the power to recall such loaned shares on five business days' notice and has in fact recalled the loaned shares as of the time the notice of intent is submitted to the secretary and through the annual meeting date. The terms "owned," "owning" and other variations of the word "own" shall have correlative meanings. Whether outstanding voting shares of the Company are "owned" for these purposes shall be determined by the board of directors.

(g) For the purposes of determining the aggregate number of shareholders that together may constitute an Eligible Shareholder pursuant to section 1.11.4, two or more collective investment funds that are under common management and funded primarily by a single employer shall be treated as one shareholder. No shareholder may be a member of more than one group of shareholders constituting an Eligible Shareholder under this section 1.11.4, and no shares may be attributed to more than one Eligible Shareholder for purposes of this section 1.11.4. A record holder acting on behalf of one or more beneficial owners will not be counted separately as a shareholder with respect to the shares owned by beneficial owners on whose behalf such record holder has been directed in writing to act, but each such beneficial owner will be counted separately, subject to the other provisions of this section 1.11.4, for purposes of determining the number of shareholders whose holdings may be considered as part of an Eligible Shareholder's holdings.

(h) Within the time period specified in section 1.11.2 of these bylaws for providing notice of a nomination in accordance with the procedures set forth in section 1.11.4, a Shareholder Nominee must deliver to the Company:

(i) an irrevocable letter of resignation signed by the Shareholder Nominee providing that such resignation shall become effective upon a determination by the board of directors or any committee thereof that (A) the information provided to the Company with respect to such Shareholder Nominee pursuant to this 1.11.4 was untrue in any material respect or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or (B) such Shareholder Nominee, or the Eligible Shareholder who nominated such Shareholder Nominee, failed to comply with any obligation owed to or breached any representation made under or pursuant to these bylaws; and

(ii) a written representation and agreement that such person (A) is not and will not become a party to any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director

of the Company, will act or vote on any issue or question that has not been disclosed to the Company, (B) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Company with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed to the Company and (C) will comply with all of the Company's corporate governance, conflict of interest, confidentiality, stock ownership and trading policies and guidelines, and any other Company policies and guidelines applicable to non-employee directors.

At the request of the Company, the Shareholder Nominee must submit all completed and signed questionnaires required of Company directors and officers. The Company may request such additional information as necessary to permit the board of directors to determine if each Shareholder Nominee is independent under the listing standards of the principal U.S. exchange upon which the common stock is listed, any applicable rules of the SEC and any publicly disclosed standards used by the Board in determining and disclosing the independence of the Company's directors (the "Applicable Independence Standards") and to assess the eligibility of such proposed nominee to serve as a director of the Company or that could be material to a reasonable shareholder's understanding of the independence, or lack thereof, of such nominee.

(i) Any Shareholder Nominee who is included in the Company's proxy materials for a particular annual meeting of shareholders but either (i) withdraws from or becomes ineligible or unavailable for election at the annual meeting, or (ii) does not receive votes cast in favor of the Shareholder Nominee's election, in an amount equal to at least 25% of the shares present and entitled to vote at the annual meeting, will be ineligible to be a Shareholder Nominee pursuant to section 1.11.4 for the next two annual meetings.

1.11.5 Information Required from Proponents

Except for matters sought to be covered under Rule 14a-8, a shareholder's notice shall state:

(a) the name and address and principal employment or occupation of the shareholder of the Company who intends to make a nomination or bring up any other matter and the name and address of any Shareholder Associated Person covered by clauses (c), (d), or (e) below;

(b) a representation that the shareholder is a holder of the Company's voting shares and intends to appear in person or by proxy at the meeting to make the nomination or bring up the matter specified in the notice;

(c) as to the shareholder and any Shareholder Associated Person of the shareholder,

(i) the class, series, number, principal amount, and the date of acquisition, as applicable, of all securities of the Company which are owned of record by such shareholder or by any such Shareholder Associated Person as of the date of the notice,

(ii) the class, series, number and principal amount, and the date of acquisition, as applicable, of, and the nominee holder for, all securities of the Company owned beneficially but not of record by such shareholder or by any such Shareholder Associated Person as of the date of the notice, and

- (iii) a description of all Derivative Interests that have been entered into as of the date of the notice by, or on behalf of, such shareholder or by any such Shareholder Associated Person, such description to include (A) the class, series, and actual or notional number, principal amount or dollar amount of all securities of the Company underlying or subject to such Derivative Interests, (B) the material economic terms of such Derivative Interests, and (C) the contractual counterparty for such Derivative Interests;
- (d) if the shareholder intends to make a nomination for the election of directors,
 - (i) the name, age, business address and residence address and principal employment or occupation of each nominee proposed by such shareholder (a "Proposed Nominee") and the name and address of any Proposed Nominee Associated Person covered by any of subclauses (ii) through (v) of this section 1.11.5(d),
 - (ii) the class, series, number, principal amount, and date of acquisition, as applicable, of all securities of the Company that are beneficially owned or owned of record by such Proposed Nominee and by any such Proposed Nominee Associated Person,
 - (iii) a description of all Derivative Interests that have been entered into, as of the date of the notice, by or on behalf of such Proposed Nominee or any such Proposed Nominee Associated Person, such description to include (1) the class, series, and actual or notional number, principal amount or dollar amount of all securities of the Company underlying or subject to such Derivative Interests, (2) the material economic terms of such Derivative Interests, and (3) the contractual counterparty for such Derivative Interests,
 - (iv) a description of all arrangements or understandings between the shareholder or any Shareholder Associated Person, on the one hand, and any Proposed Nominee or any other person or persons (naming such person or persons), on the other hand, pursuant to which the nomination or nominations are to be made by the shareholder, and any other arrangements or understandings between the shareholder or any Shareholder Associated Person, on the one hand, and any Proposed Nominee, on the other hand, over the three years immediately preceding the date of the notice of shareholder nomination,
 - (v) all other information relating to any Proposed Nominee, any Proposed Nominee Associated Person, the shareholder or any Shareholder Associated Person that would be required to be disclosed in filings with the SEC in connection with the solicitation of proxies by the shareholder pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (or any successor provision of the Exchange Act or the rules or regulations promulgated thereunder), whether or not Section 14 of the Exchange Act is then applicable to the Company,
 - (vi) a written representation that the Proposed Nominee is not and will not become party to any agreement, arrangement or understanding with, and has not given any commitment or assurance to any person or entity as to how the Proposed Nominee, if elected as a director of the Company, will act or vote on any issue or question that has not been disclosed to the Company,
 - (vii) a written representation that the Proposed Nominee is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Company with respect to any direct or indirect compensation, reimbursement or indemnification

- in connection with service or action as a director that has not been disclosed to the Company,
- (viii) an agreement in writing by the Proposed Nominee to comply with all the Company's corporate governance, conflict of interest, confidentiality, stock ownership and trading policies and guidelines, any other Company policies and guidelines applicable to non-employee directors,
 - (ix) an agreement to provide, at the request of the Company, completed and signed questionnaires required of Company directors and officers, within the time prescribed by Section 1.11.6(a), and
 - (x) an agreement to provide such additional information as the Company may request as necessary to permit the board of directors to determine if the Proposed Nominee is independent under any of the Applicable Independence Standards.
- (e) if the shareholder intends to make a proposal other than a nomination,
- (i) a description of the matter,
 - (ii) the reasons for proposing such matter at the meeting,
 - (iii) a description of any material interest of the shareholder or any Shareholder Associated Person, individually or in the aggregate, in the matter, including any anticipated benefit to the shareholder or any Shareholder Associated Person therefrom,
 - (iv) a description of all arrangements or understandings between the shareholder or any Shareholder Associated Person, on the one hand, and any other person or persons (naming such person or persons), on the other hand, regarding the proposal, and
 - (v) all other information relating to the proposal, the shareholder or any Shareholder Associated Person that would be required to be disclosed in filings with the SEC in connection with the solicitation of proxies by the shareholder pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (or any successor provision of the Exchange Act or the rules or regulations promulgated thereunder), whether or not Section 14 of the Exchange Act is then applicable to the Company;
- (f) to the extent known by the shareholder, the name and address of any other security holder of the Company who owns, beneficially or of record, any securities of the Company and who supports any nominee proposed by such shareholder or any other matter such shareholder intends to propose; and
- (g) a representation as to whether the shareholder intends or is part of a group that intends to (i) deliver a proxy statement and/or form of proxy to holders of at least the percentage of the voting power of the Company's outstanding voting shares required to approve or adopt the proposal or to elect the Proposed Nominee and/or (ii) otherwise to solicit proxies from shareholders in support of such proposal or nomination.

1.11.6 Nominee Consent and Other Information

- (a) Notice of intent to make a nomination shall be accompanied by the written consent of each Proposed Nominee to serve as director of the Company and by each Proposed Nominee's agreement to

comply with all applicable laws and regulations (including stock exchange rules) regarding service as a director of the Company and with the Company's policies applicable to similarly situated directors, including but not limited to retirement age, limits on number of outside board memberships, codes of conduct, conflicts of interest, confidentiality, and share ownership and trading policies, if elected. Upon the Company's request, each Proposed Nominee will complete a written questionnaire in the form provided by the Secretary of the Company with respect to the Proposed Nominee's background and qualifications and deliver it within the time prescribed by delivery of notice in this section 1.11.

(b) If, after the submission of a shareholder's notice, any material change occurs in the information set forth in the shareholder's notice to the Company or the written questionnaire of the Proposed Nominee required by this section 1.11, including, but not limited to, any material increase or decrease in the percentage of the class or series of securities of the Company held or beneficially owned (including actual or notional number, principal amount or dollar amount of any securities underlying or subject to Derivative Interests), the shareholder shall promptly provide further written notice to the Company of that change and a statement updating all changed information as of the date of the further written notice. An acquisition or disposition of beneficial ownership of any number or principal amount of any securities of the Company (including an increase or decrease in actual or notional number, principal amount or dollar amount of any securities underlying or subject to Derivative Interests) in an aggregate amount equal to one percent or more of the class or series of securities outstanding shall be deemed "material" for purposes of this section 1.11; acquisitions or dispositions or increases or decreases of less than those amounts may be material, depending upon the facts and circumstances.

1.11.7 Nominations and Other Matters Not Complying with this Section

At the meeting of shareholders, the presiding officer may declare out of order and disregard any nomination or other matter not presented in accordance with this section 1.11.

1.11.8 If Proponent Fails to Appear

Notwithstanding the foregoing provisions of this section 1.11, unless otherwise required by law, if the shareholder proposing a nomination or other matter (or a qualified representative of such shareholder) does not appear at the annual or special meeting of shareholders of the Company to make its nomination or propose any other matter, such nomination shall be disregarded and such other proposed matter shall not be transacted, even if proxies in respect of such vote have been received by the Company. For purposes of this section 1.11, to be considered a "qualified representative" of the shareholder, a person must be a duly authorized officer, manager or partner of such shareholder or must be authorized by a writing executed by such shareholder or an electronic transmission delivered by such shareholder to act for such shareholder as proxy at the meeting of shareholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the commencement of the meeting of shareholders.

1.11.9 Certain Definitions

For purposes of this section 1.11:

(a) "Shareholder Associated Person" of any shareholder shall mean (i) any person acting in concert with such shareholder, (ii) any beneficial owner of securities of the Company owned of record or beneficially by such shareholder and (iii) any person directly or indirectly controlling, controlled by or under common control with such shareholder or a Shareholder Associated Person;

(b) “Proposed Nominee Associated Person” of any Proposed Nominee shall mean (i) any person acting in concert with such Proposed Nominee, (ii) any beneficial owner of securities of the Company owned of record or beneficially by such Proposed Nominee and (iii) any person directly or indirectly controlling, controlled by or under common control with such Proposed Nominee or a Proposed Nominee Associated Person; and

(c) “Derivative Interest” shall mean (i) any option, warrant, convertible security, appreciation right or similar right with an exercise, conversion or exchange privilege, or a settlement payment or mechanism, related to any security of the Company, or any similar instrument with a value derived in whole or in part from the value of any security of the Company, in any such case whether or not it is subject to settlement in any security of the Company or otherwise and (ii) any arrangement, agreement or understanding (including any short position or any borrowing or lending of any securities) which includes an opportunity for the shareholder, Shareholder Associated Person, Proposed Nominee, or Proposed Nominee Associated Person (as applicable), directly or indirectly, to profit or share in any profit derived from any increase or decrease in the value of any security of the Company, to mitigate any loss or manage any risk associated with any increase or decrease in the value of any security of the Company or to increase or decrease the number of securities of the Company which such person is or will be entitled to vote or direct the vote, in any case whether or not it is subject to settlement in any security of the Company or otherwise; provided, however, that Derivative Interests shall not include: (a) rights of a pledgee under a bona fide pledge of any security of the Company; (b) rights applicable to all holders of a class or series of securities of the Company to receive securities of the Company pro rata, or obligations to dispose of securities of the Company, as a result of a merger, exchange offer or consolidation involving the Company; (c) rights or obligations to surrender any number or principal amount of securities of the Company, or have any number or principal amount of securities of the Company withheld, upon the receipt or exercise of a derivative security or the receipt or vesting of any securities, in order to satisfy the exercise price or the tax withholding consequences of receipt, exercise, or vesting; (d) interests in broad-based index options, broad-based index futures, and broad-based publicly traded market baskets of stocks approved for trading by the appropriate federal governmental authority; (e) interests or rights to participate in employee benefit plans of the Company held by current or former directors, employees, consultants or agents of the Company; or (f) options granted to an underwriter in a registered public offering for the purpose of satisfying over-allotments in such offering.

1.12 Shareholder Action by Written Consent.

(a) Request for Record Date. The record date for determining shareholders entitled to express consent to corporate action in writing without a meeting shall be as fixed by the board of directors or as otherwise established under this section. Any person seeking to have the shareholders authorize or take corporate action by written consent without a meeting shall, by written notice addressed to the secretary of the Company and delivered to the Company and signed by a shareholder of record, request that a record date be fixed for such purpose. The written notice must contain the information set forth in paragraph (b) of this section. Following receipt of the notice, the board shall have ten days to determine the validity of the request, and if appropriate, adopt a resolution fixing the record date for such purpose. The record date for such purpose shall be no more than ten days after the date upon which the resolution fixing the record date is adopted by the board and shall not precede the date such resolution is adopted. If the board fails within ten days after the Company receives such notice to fix a record date for such purpose, the record date shall be the day on which the first written consent is delivered to the Company in the manner described in paragraph (d) of this section; except that, if prior action by the board is required under the provisions of Delaware law, the record date shall be at the close of business on the

day on which the board adopts the resolution taking such prior action.

(b) Notice Requirements. Any shareholder's notice required by paragraph (a) of this section must describe the action that the shareholder proposes to take by consent. For each such proposal, every notice by a shareholder must state (i) the information required by section 1.11 as though such shareholder was intending to make a nomination or to bring any such other matter before a meeting of shareholders, and as though such shareholder was not seeking to include any such nomination or other matter in the proxy statement of the Company and (ii) the text of the proposal (including the text of any resolutions to be effected by consent and the language of any proposed amendment to the bylaws of the Company).

In addition to the foregoing, the notice must state as to the shareholder giving the notice and the beneficial owner, if any, on whose behalf the notice is given a representation whether the shareholder or the beneficial owner, if any, intends or is part of a group which intends to (i) deliver a proxy statement and/or consent solicitation statement to shareholders of at least the percentage of the Company's outstanding shares required to effect the action by consent either to solicit consents or to solicit proxies to execute consents, and/or (ii) otherwise solicit proxies or consents from shareholders in support of the action to be taken by consent. The Company may require the shareholder of record and/or beneficial owner requesting a record date for proposed shareholder action by consent to furnish such other information as it may reasonably require to determine the validity of the request for a record date.

(c) Date of Consent. Every written consent purporting to take or authorize the taking of corporate action (each such written consent is referred to in this paragraph and in paragraph (d) as a "Consent") must bear the date of signature of each shareholder who signs the Consent, and no Consent shall be effective to take the corporate action referred to therein unless, within 60 days of the earliest dated Consent delivered in the manner required by this section, Consents signed by a sufficient number of shareholders to take such action are so delivered to the Company.

(d) Delivery of Consent. Consent must be delivered to the Company by delivery to its registered office in the State of Delaware or its principal place of business. Delivery must be made by hand or by certified or registered mail, return receipt requested.

In the event of the delivery to the Company of Consents, the secretary of the Company, or such other officer of the Company as the board of directors may designate, shall provide for the safe-keeping of such Consents and any related revocations and shall promptly conduct such ministerial review of the sufficiency of all Consents and any related revocations and of the validity of the action to be taken by shareholder consent as the secretary of the Company, or such other officer of the Company as the board may designate, as the case may be, deems necessary or appropriate, including, without limitation, whether the shareholders of a number of shares having the requisite voting power to authorize or take the action specified in Consents have given consent; provided, however, that if the corporate action to which the Consents relate is the removal or replacement of one or more members of the board, the secretary of the Company, or such other officer of the Company as the board may designate, as the case may be, shall promptly designate two persons, who shall not be members of the board, to serve as inspectors ("Inspectors") with respect to such Consent and such Inspectors shall discharge the functions of the secretary of the Company, or such other officer of the Company as the board may designate, as the case may be, under this section. If after such investigation the secretary of the Company, such other officer of the Company as the board may designate or the Inspectors, as the case may be, shall determine that the action purported to have been taken is duly authorized by the Consents, that fact shall be certified on the records of the Company kept for the purpose of recording the proceedings of meetings of shareholders

and the Consents shall be filed in such records.

In conducting the investigation required by this section, the secretary of the Company, such other officer of the Company as the board may designate or the Inspectors, as the case may be, may, at the expense of the Company, retain special legal counsel and any other necessary or appropriate professional advisors as such person or persons may deem necessary or appropriate and shall be fully protected in relying in good faith upon the opinion of such counsel or advisors.

(e) Effectiveness of Consent. No action by written consent without a meeting shall be effective until such date as the secretary of the Company, such other officer of the Company as the board may designate, or the Inspectors, as applicable, certify to the Company that the consents delivered to the Company in accordance with paragraph (d) of this section, represent at least the minimum number of votes that would be necessary to take the corporate action in accordance with Delaware law and the certificate of incorporation, which will be all the outstanding shares entitled to vote thereon.

(f) Challenge to Validity of Consent. Nothing contained in this section 1.12 shall in any way be construed to suggest or imply that the board of directors of the Company or any shareholder shall not be entitled to contest the validity of any Consent or related revocations, whether before or after such certification by the secretary of the Company, such other officer of the Company as the board may designate or the Inspectors, as the case may be, or to take any other action (including, without limitation, the commencement, prosecution, or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

ARTICLE II BOARD OF DIRECTORS

2.1 Responsibility and Number.

The business and affairs of the Company shall be managed by, or under the direction of, a board of directors. Subject to the provisions of the certificate of incorporation and any certificates of designation for preferred stock, the board of directors shall consist of such number of directors as may be determined from time to time by resolution adopted by a vote of a majority of the entire board of directors. No board vacancy shall exist as long as the number of directors in office is equal to the number of directors designated by the board in a resolution in accordance with the certificate of incorporation and this bylaw.

2.2 Term; Election; Resignation; Vacancies.

(a) Term. Each nominee elected by the shareholders to serve as a director shall hold office for a term commencing on the date of the shareholder meeting at which the director was elected, or such later date as shall be determined by the board of directors, and ending on the next annual meeting of shareholders. Each elected director shall hold office until his or her successor is elected and qualified, unless the director dies, resigns or otherwise leaves the board before then.

(b) Election of Directors. Nominations of candidates for election as directors at any shareholder meeting at which directors will be elected may be made (i) by the board, or (ii) by any shareholder entitled to vote at such meeting who has complied with section 1.11 of these bylaws.

(c) Majority Voting. Except as provided in paragraph (d) below, to be elected a director at any

shareholder meeting, a nominee must receive the affirmative vote of a majority of the votes cast with respect to that director's election at a meeting at which a quorum is present. For purposes of this section 2.2, a majority of votes cast means that the number of votes "for" a nominee must exceed 50 percent of the votes cast with respect to the election of that nominee (excluding any abstentions).

(d) Contested Elections. The nominees for director who receive a plurality of the votes cast in a "Contested Election" at a meeting at which a quorum is present will be elected. An election of directors will be considered a "Contested Election" if (i) the secretary receives proper notice under section 1.11 of these bylaws that a shareholder (the "Nominating Shareholder") intends to make a nomination at such meeting, (ii) the number of nominated individuals including the Nominating Shareholder's nominees would exceed the number of directors to be elected, and (iii) the notice has not been withdrawn by the 14th day before the date that the Company begins mailing its notice of such meeting to shareholders, unless the Board determines in its reasonable judgment that the Nominating Shareholder's nominee or nominees are likely to receive less than 0.01 percent of the votes cast in such election. Such a determination may be based on a variety of factors, including but not limited to the number of votes received by candidates nominated by the Nominating Shareholder at previous shareholder meetings.

(e) Resignation and Replacement of Unsuccessful Incumbents.

(i) Before the board can nominate any incumbent director for reelection to the board by majority voting under paragraph (c) of this section, such director must submit an irrevocable resignation that will become effective if:

(A) Such director does not receive a majority of the votes cast, as calculated pursuant to paragraph (c) above; and

(B) The board accepts such director's resignation in accordance with this paragraph (e).

(ii) Within 90 days of receiving the certified vote pertaining to any election of directors by shareholders by majority voting in which an incumbent director failed to receive a majority of the votes cast, the board shall consider the recommendation of the governance and corporate responsibility committee and determine whether to accept the resignation of the unsuccessful incumbent. The board shall accept the resignation of any unsuccessful incumbent unless it determines that for compelling reasons it is in the best interests of the Company for such incumbent to continue serving as a director. The committee in making its recommendation and the board in making its determination may consider any factors they determine appropriate. Unless the board makes such a determination, the board shall not elect or appoint any unsuccessful incumbent to the board for at least one year after such annual meeting.

(iii) If the board accepts the resignation of an unsuccessful incumbent, the governance and corporate responsibility committee shall promptly recommend a candidate to the board to fill any resulting vacancy (or may recommend decreasing the size of the board), and the board shall promptly consider and act upon that recommendation.

(f) Other Resignations. Any director may resign at any time upon notice given in writing or by electronic transmission to the chairman of the board or to the secretary. A resignation is effective when the resignation is delivered unless the resignation specifies (i) a later effective date or (ii) an effective date determined upon the occurrence of a specified event.

(g) Removal. Any director may be removed from office, with or without cause, by the affirmative vote of the holders of at least a majority of the voting power of the outstanding shares of all classes of shares entitled to vote at the election of directors.

(h) Filling a Vacancy. Any vacancy occurring in the board for any reason may be filled by a majority of the members of the board then in office, even if they do not constitute a quorum. Each director so elected shall hold office for a term expiring at the same time as the terms of the directors serving at the time the director joins the board. Each such director shall hold office until his or her successor is elected and qualified, unless the director dies, resigns or otherwise leaves the board before then.

2.3 Regular Meetings.

Unless otherwise determined by resolution of the board of directors, a meeting of the board for the election of officers and the transaction of such other business as may come before it shall be held as soon as practicable following the annual meeting of shareholders, and other regular meetings of the board shall be held as designated by the chairman of the board.

2.4 Special Meetings.

Special meetings of the board of directors may be called by the chairman of the board, or the chairman of the board may by written designation appoint the chief executive officer, the president, the vice chairman, or a vice president of the Company to call such meeting. Special meetings may also be called by the lead director, or if there is no lead director, the chairman of the governance and corporate responsibility committee or by written request of a majority of the directors then in office. The place, date, and time of a special meeting shall be fixed by the person or persons calling the special meeting. Notice of a special meeting of the board of directors shall be sent by the secretary of the Company to each director who does not waive written notice (either in writing or by attendance at such meeting) either by first class United States mail at least four days before such meeting, or by overnight mail, courier service, electronic transmission, or hand delivery at least 24 hours before the special meeting or such shorter period as is reasonable under the circumstances. Unless such notice indicates otherwise, any business may be transacted at a special meeting.

2.5 Quorum; Vote Required for Action.

At all meetings of the board of directors, a majority of the total number of directors then in office, shall be necessary to constitute a quorum for the transaction of business. Except in cases in which applicable law, the certificate of incorporation, or these bylaws provide otherwise, the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board.

2.6 Election of Chairman; Conduct of Board Meetings.

In its sole discretion based on current circumstances, the board of directors shall annually elect one of its members to be chairman of the board and shall fill any vacancy in the position of chairman of the board with a director at such time and in such manner as the board shall determine. A director may be removed from the position of chairman of the board at any time by the affirmative vote of a majority of the board. The chairman of the board may but need not be an officer or employed in an executive or any other capacity by the Company. If the chairman of the board is not an Independent Director, the board of directors shall designate a lead director, elected by and from the Independent Directors, with such responsibilities as the board may determine.

The chairman of the board shall preside at meetings of the board and lead the board in fulfilling its responsibilities as defined in section 2.1.

In the absence of the chairman of the board, the lead director or, if there is no lead director, the chairman of the governance and corporate responsibility committee or, in his or her absence, a member of the board selected by the members present, shall preside at meetings of the board. The secretary of the Company shall act as secretary of the meetings of the board but, in his or her absence, the presiding director may appoint a secretary for the meeting.

2.7 Ratification.

Any transaction questioned in any shareholders' derivative suit on the grounds of lack of authority, defective or irregular execution, adverse interest of director, officer or shareholder, non-disclosure, miscalculation, or the application of improper principles or practices of accounting may be ratified before or after judgment, by the board of directors or by the shareholders in case less than a quorum of directors are qualified; and, if so ratified, shall have the same force and effect as if the questioned transaction had been originally duly authorized, and said ratification shall be binding upon the Company and its shareholders and shall constitute a bar to any claim or execution of any judgment in respect of such questioned transaction.

2.8 Written Action by Directors.

Unless otherwise restricted by the certificate of incorporation or these bylaws, any action required or permitted to be taken at any meeting of the board of directors, or of any committee thereof, may be taken without a meeting if all members of the board or such committee, as the case may be, consent thereto in writing or by electronic transmission, and written evidence of such consent is filed with the minutes of proceedings of the board or committee.

2.9 Telephonic Meetings Permitted.

Members of the board of directors, or any committee of the board, may participate in a meeting of such board or committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this bylaw shall constitute presence in person at such meeting.

2.10 Independent Directors.

Two-thirds of the individuals nominated as candidates for election to the board by the shareholders at the next annual meeting of shareholders shall qualify to be Independent Directors (as defined in this section).

If the board elects directors between annual meetings of shareholders, two-thirds of all directors holding office immediately after such election shall be Independent Directors.

For purposes of this section, the term "Independent Director" shall mean a director who qualifies as independent within the meaning of Rule 303A.02 of the New York Stock Exchange's Listed Company Manual (or any successor provision).

The board may establish additional standards for independence in its Corporate Governance Guidelines and in the individual board committee charters, or as otherwise deemed appropriate by the board.

2.11 Access to Books and Records.

The records, books, and accounts of the Company maintained by or under the supervision of the chief financial officer, the secretary, or any other officer shall be open, during the usual hours for business of the Company, to the examination of any director for any purpose reasonably related to his or her role as a director.

ARTICLE III COMMITTEES

3.1 Committees of the Board of Directors.

The board of directors may, by resolution passed by a majority of the total number of directors then in office (and not by a committee thereof), designate one or more committees, consisting of one or more of the directors of the Company, to be committees of the board. To the extent provided in any resolution of the board, these bylaws, or any charter adopted by such committee and approved by the board, and to the extent permissible under Delaware law and the certificate of incorporation, any such committee shall have and may exercise all the powers and authority of the board in the management of the business and affairs of the Company.

The standing committees of the board shall include the audit committee, the governance and corporate responsibility committee, the executive compensation committee, the finance committee, the risk committee and the executive committee. The board (but not a committee thereof) may designate additional committees of the board and may prescribe for each committee such powers and authority as may properly be granted to such committees in the management of the business and affairs of the Company. The board of directors may establish by resolution, adopted by a majority of the whole board, an administrative committee with the authority and responsibility to act on behalf of the board with regard to matters submitted to the board that, pursuant to any statement of delegation of authority adopted by the board from time to time, do not constitute issues within the sole jurisdiction of the board or any committee thereof and are not otherwise significant.

3.2 Election; Vacancies.

The members and the chairman of each committee described in sections 3.4 through 3.9 shall be elected annually by the board at its first meeting after each annual meeting of shareholders or at any other time the board shall determine. The members of other committees of the board may be designated at such time as the board may determine. Vacancies in any committee may be filled at such time and in such manner as the board shall determine.

3.3 Procedure; Quorum.

Except to the extent otherwise provided in these bylaws or any resolution of the board of directors, each committee of the board may fix its own rules and procedures.

At all meetings of any committee of the board, a majority of the members thereof shall constitute a quorum for the transaction of business. The vote of a majority of the members present at a meeting of a committee of the board at which a quorum is present shall be the act of the committee unless the certificate of incorporation, these bylaws, or a resolution of the board requires the vote of a greater number.

3.4 Finance Committee.

The finance committee shall be responsible for assisting the board of directors in its oversight of the Company's financial policies, strategies and capital structure.

3.5 *Audit Committee.*

The audit committee shall assist the board of directors in its oversight of the quality and integrity of the Company's financial statements, compliance with legal and regulatory requirements, the qualifications and independence of the external auditors and the scope and performance of the Company's internal audit function and external auditors. The audit committee shall have and may exercise the powers, authority, and responsibilities that are normally appropriate for the functions of an audit committee. The committee shall also annually select the independent auditors for the following calendar year, and that selection shall be submitted to the shareholders for their ratification or rejection at the annual meeting of shareholders.

3.6 *Executive Compensation Committee.*

The executive compensation committee shall oversee and confirm that the Company's compensation policies and practices support the successful recruitment, development, and retention of executive talent in order to achieve the Company's business objectives, optimize long-term financial returns, and carry out the Board's responsibilities relating to the compensation of executive officers. The committee shall be responsible for matters related to executive compensation and development and all other equity-based incentive compensation plans of the Company. The committee shall determine the compensation of the chief executive officer, any Section 16 officer (as determined by the Company in accordance with Rule 16a-1(f) under the Exchange Act), any senior vice president who is a member of the Company's executive leadership team as designated by the chief executive officer and other individuals as recommended from time to time by the chief executive officer. The committee shall have and may exercise the powers and authority granted to it by any incentive compensation plan for employees of the Company.

3.7 *Governance and Corporate Responsibility Committee.*

The governance and corporate responsibility committee shall assist the board of directors by: identifying individuals qualified to serve as members of the board and, where appropriate, recommend individuals to be nominated by the board for election by the shareholders or to be appointed by the board to fill vacancies consistent with the criteria approved by the board; developing and recommending to the board a set of corporate governance guidelines and other corporate governance policies and otherwise performing a leadership role in shaping the Company's corporate governance; overseeing an annual evaluation of the performance of the board and its standing committees; recommending to the board the compensation of directors; and overseeing the Company's policies and/or strategies related to corporate responsibility, sustainability and political contributions.

3.8 *Risk Committee.*

The risk committee shall assist the board in fulfilling its oversight responsibilities with regard to the risk management framework and practices management uses to identify, assess and manage key strategic and operational risks facing the business.

3.9 *Executive Committee*

The executive committee shall function in lieu of the board of directors when the board of directors is not in session. The executive committee shall be delegated all of the authority of the board of directors, however conferred, that can be delegated under these bylaws or applicable law, subject to the limitations set forth in the executive committee charter.

ARTICLE IV OFFICERS

4.1 Election of Officers.

The board of directors shall elect such officers of the Company with the titles and duties that it designates, provided that the Company shall have at least two officers at any time. There may be a chief executive officer, a president, one or more vice chairmen of the Company, one or more vice presidents (which may include one or more executive vice presidents and/or senior vice presidents), a chief financial officer, a secretary, a treasurer, a controller, a general counsel, a general auditor and a chief tax officer. The officers, other than the chief executive officer and the president, shall each have the powers, authority and responsibilities of those officers provided by the bylaws or as the board or the chief executive officer may determine. One person may hold any number of offices. Each officer shall hold office until his or her successor is elected and qualified or until such officer's earlier resignation or removal.

4.2 Chief Executive Officer.

The chief executive officer shall have the general executive responsibility for the conduct of the business and affairs of the Company. Such officer shall exercise such other powers, authority and responsibilities as the board of directors may determine.

In the absence of or during the physical disability of the chief executive officer, the board may designate an officer who shall have and exercise the powers, authority, and responsibilities of the chief executive officer.

4.3 President.

The president shall, subject to the direction and control of the board of directors and the chief executive officer, participate in the supervision of the business and affairs of the Company. The president shall perform all duties incident to the office of president and shall have and exercise such powers, authority and responsibilities as the board of directors may determine.

4.4 Vice Chairman of the Company.

The vice chairman shall, subject to the direction and control of the board of directors and the chief executive officer, participate in the supervision of the business and affairs of the Company. The vice chairman shall have and exercise such powers, authority, and responsibilities as the board of directors may determine.

4.5 Chief Financial Officer.

The chief financial officer shall be the principal financial officer of the Company. Such officer shall render such accounts and reports as may be required by the board of directors or any committee of the board. The financial

records, books and accounts of the Company shall be maintained subject to the chief financial officer's direct or indirect supervision.

4.6 Treasurer.

The treasurer shall have direct or indirect custody of all funds and securities of the Company and shall perform all duties incident to the position of treasurer.

4.7 Secretary.

The secretary shall keep the minutes of all meetings of shareholders and directors and shall give all required notices and have charge of such books and papers as the board of directors may require. The secretary shall perform all duties incident to the office of secretary and shall submit such reports to the board or to any committee as the board or such committee may request. Any action or duty required to be performed by the secretary may be performed by an assistant secretary.

4.8 Controller.

The controller shall exercise general supervision of the accounting staff of the Company. The controller shall perform all duties incident to the position of controller and shall submit reports from time to time relating to the general financial condition of the Company.

4.9 General Counsel.

The general counsel shall be the chief legal officer of the Company and shall have general control of all matters of legal import concerning the Company. The general counsel shall perform all duties incident to the position of general counsel.

4.10 General Auditor.

The general auditor shall have such duties as are incident to the position of general auditor in the performance of an internal audit activity of the Company and shall have direct access to the audit committee. The general auditor shall be the chief risk officer of the Company, unless the chief executive officer designates otherwise.

4.11 Chief Tax Officer.

The chief tax officer shall have responsibility for all tax matters involving the Company, with authority to sign, and to delegate to others authority to sign, all returns, reports, agreements and documents involving the administration of the Company's tax affairs.

4.12 Subordinate Officers.

The board of directors may from time to time appoint one or more assistant officers to the officers of the Company and such other subordinate officers as the board of directors may deem advisable. Such subordinate officers shall have such powers, authority and responsibilities as the board or the chief executive officer may from time to time determine. The board may grant to any committee of the board or the chief executive officer the power and authority to appoint subordinate officers and to prescribe their respective terms of office,

powers, authority, and responsibilities. Each subordinate officer shall hold such officer's position at the pleasure of the board, the committee of the board appointing him or her, the chief executive officer and any other officer to whom such subordinate officer reports.

4.13 Resignation; Removal; Suspension; Vacancies.

Any officer may resign at any time by giving written notice to the chief executive officer or the secretary. Unless stated in the notice of resignation, the acceptance thereof shall not be necessary to make it effective. It shall take effect at the time specified therein or, in the absence of such specification; it shall take effect upon the receipt thereof.

Any officer elected by the board of directors may be suspended or removed at any time by the affirmative vote of a majority of the board. Any subordinate officer of the Company may be suspended or removed at any time by the board, the chief executive officer or any other officer to whom such subordinate officer reports.

Subject to any contractual limitations, the chief executive officer may suspend the powers, authority, responsibilities and compensation of any employee, including any elected officer or appointed subordinate officer, for a period of time sufficient to permit the board or the appropriate committee of the board a reasonable opportunity to consider and act upon a resolution relating to the reinstatement, further suspension or removal of such person.

As appropriate, the board, a committee of the board and/or the chief executive officer may fill any vacancy created by the resignation, death, retirement, or removal of an officer in the same manner as provided for the election or appointment of such person.

ARTICLE V INDEMNIFICATION

5.1 Right to Indemnification of Directors and Officers.

Subject to the other provisions of this article, the Company shall indemnify and advance expenses to every director and officer of the Company in the manner and to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, against any and all amounts (including judgments, fines, payments in settlement, attorneys' fees and other expenses) reasonably incurred by or on behalf of such person in connection with any threatened, pending, or completed investigation, action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), in which such director or officer was or is made or is threatened to be made a party or called as a witness or is otherwise involved by reason of the fact that such person is or was a director or officer of the Company, or is or was serving at the request of the Company as a director, officer, employee, fiduciary or member of any other corporation, partnership, joint venture, trust, organization or other enterprise, whether the basis of such proceeding is an alleged action in an official capacity as a director, officer, employee, fiduciary or member or in any other capacity while serving as a director, officer, employee, fiduciary or member. The Company shall not be required to indemnify a person in connection with a proceeding initiated by such person if the proceeding was not authorized by the board of directors of the Company.

5.2 Advancement of Expenses of Directors and Officers.

The Company shall pay the expenses of directors and officers incurred in defending any proceeding in advance of its final disposition (“advancement of expenses”); provided, however, that the payment of expenses incurred by a director or officer in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking by the director or officer to repay all amounts advanced if it should be ultimately determined that by final judicial decision from which there is no further right of appeal the director or officer is not entitled to be indemnified under this article or otherwise.

5.3 *Claims by Officers or Directors.*

If a claim for indemnification or advancement of expenses by a director or officer under this article is not paid in full within 90 days after a written claim therefor has been received by the Company, the claimant may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action, the Company shall have the burden of proving that the claimant was not entitled to the requested indemnification or advancement of expenses under applicable law.

5.4 *Indemnification of Employees.*

(a) Subject to the other provisions of this article, the Company may indemnify and advance expenses to every employee or agent of the Company who is not a director or officer of the Company in the manner and to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, against any and all amounts (including judgments, fines, payments in settlement, attorneys’ fees and other expenses) reasonably incurred by or on behalf of such person in connection with any proceeding, in which such employee or agent was or is made or is threatened to be made a party or called as a witness or is otherwise involved by reason of the fact that such person is or was an employee or agent of the Company. Except as set forth in paragraph (b) below, the ultimate determination of entitlement to indemnification of employees or agents who are not officers and directors shall be made in such manner as is provided by applicable law. The Company shall not be required to indemnify a person in connection with a proceeding initiated by such person if the proceeding was not authorized by the board of the Company.

(b) Subject to the other provisions of this article, the Company shall indemnify and advance expenses to every employee or agent of the Company who is not a director or officer of the Company in the manner and to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, against any and all amounts (including judgments, fines, payments in settlement, attorneys’ fees and other expenses) reasonably incurred by or on behalf of such person in connection with any proceeding, in which such employee or agent was or is made or is threatened to be made a party or called as a witness or is otherwise involved by reason of the fact that such person is or was serving at the request of the Company as a director, officer, employee, fiduciary or member of any other corporation, partnership, joint venture, trust, organization or other enterprise, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee, fiduciary or member or in any other capacity while serving as a director, officer, employee, fiduciary or member. The Company shall not be required to indemnify a person in connection with a proceeding initiated by such person if the proceeding was not authorized by the board of the Company.

5.5 *Advancement of Expenses of Employees.*

The advancement of expenses of an employee or agent who is not a director or officer shall be made by or in the manner provided by resolution of the board of directors or by a committee of the board; provided, however,

that the advancement of expenses required under section 5.4(b) of these bylaws shall be paid by the Company in advance of its final disposition; provided, further that the payment of expenses incurred by an employee or agent pursuant to section 5.4(a) and (b) of these bylaws in advance of the final disposition of the proceeding shall be made only upon receipt of an undertaking by the employee or agent to repay all amounts advanced if it should be ultimately determined by final judicial decision from which there is no further right of appeal the employee or agent is not entitled to be indemnified under this article or otherwise.

5.6 *Claims by Employees.*

If a claim for indemnification or advancement of expenses by an employee or agent pursuant to section 5.4(b) of these bylaws is not paid in full within 90 days after a written claim therefor has been received by the Company, the claimant may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim. In any such action, the Company shall have the burden of proving that the claimant was not entitled to the requested indemnification or advancement of expenses under applicable law.

5.7 *Non Exclusivity of Rights.*

The rights conferred on any person by this article shall not be exclusive of any other rights which such person may have or hereafter acquire under any statute, any provision of the certificate of incorporation or of these bylaws or of any agreement, any vote of shareholders or disinterested directors or otherwise.

5.8 *Other Indemnification.*

The Company's obligation, if any, to indemnify any person who was or is serving at its request as a director, officer or employee of another corporation, partnership, joint venture, trust, organization, or other enterprise shall be reduced by any amount such person collects as indemnification from such other corporation, partnership, joint venture, trust, organization or other enterprise.

5.9 *Insurance.*

The board of directors may, to the fullest extent permitted by applicable law as it presently exists, or may hereafter be amended from time to time, authorize an appropriate officer or officers to purchase and maintain at the Company's expense insurance: (a) to reimburse the Company for any obligation which it incurs under the provisions of this article as a result of the indemnification of past, present or future directors, officers, employees, agents and any persons who have served in the past, are now serving or in the future will serve at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise; and (b) to pay on behalf of or to indemnify such persons against liability in instances in which they may not otherwise be indemnified by the Company under the provisions of this article, whether or not the Company would have the power to indemnify such persons against such liability under this article or under applicable law.

5.10 *Nature of Rights; Amendment or Repeal.*

The rights conferred in this article V shall be contract rights that shall continue as to an indemnitee who has ceased to be a director, officer or employee and shall inure to the benefit of such person's heirs, executors,

administrators, or other legal representatives. Any repeal or modification of the foregoing provisions of this article shall be prospective only and shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.

ARTICLE VI MISCELLANEOUS

6.1 Seal.

The corporate seal shall have inscribed upon it the name of the Company, the year of its organization and the words "Corporate Seal," and "Delaware." The seal and any duplicate of the seal shall be in the charge of the secretary or an assistant secretary.

6.2 Fiscal Year.

The fiscal year of the Company shall begin on January 1 and end on December 31 of each year.

6.3 Notice.

Unless otherwise required by applicable law or elsewhere in these bylaws, any notice required to be given by these bylaws must be given in writing delivered in person, by first class United States mail, overnight mail or courier service, or by facsimile, electronic mail, or other electronic transmission.

6.4 Waiver of Notice.

Whenever any notice is required to be given, a waiver thereof in writing, signed by the person or persons entitled to the notice, whether before or after the time stated therein, shall be deemed equivalent thereto. Such written notice of waiver need not specify the business to be transacted at or the purpose of any regular or special meeting of the shareholders, board of directors, or committee of the board. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except attendance for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened.

6.5 Forum for Adjudication of Disputes

With respect to any action arising out of any act or omission occurring after the adoption of this section 6.5, unless the Company consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if the Court of Chancery lacks jurisdiction, the federal district court for the District of Delaware unless said court lacks subject matter jurisdiction in which case, the Superior Court of the state of Delaware) shall be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Company, (b) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Company to the Company or the Company's shareholders, (c) any action asserting a claim arising under any provision of the Delaware General Corporation Law, the Certificate of Incorporation or these Bylaws or (d) any action asserting a claim governed by the internal affairs doctrine, in each case subject to the Court of Chancery of the State of Delaware having personal jurisdiction over the indispensable parties. If any action the subject matter of which is within the scope of the preceding sentence is filed in a court other than a court located within the State of Delaware (a "Foreign Action") in the name of any shareholder, such

shareholder shall be deemed to have consented to (i) the personal jurisdiction of the state and federal courts located within the State of Delaware in connection with any action brought in any such court to enforce the preceding sentence and (ii) having service of process made upon such shareholder in any such action by service upon such shareholder's counsel in the Foreign Action as agent for such shareholder.

6.6 *Voting of Shares Owned by the Company.*

The board of directors, the finance committee, or the chairman of the board may authorize any person and delegate to one or more officers or subordinate officers the authority to authorize any person to vote or to grant proxies to vote in behalf of the Company at any meeting of shareholders or in any solicitation of consent of any corporation or other entity in which the Company may hold shares or other voting securities.

6.7 *Form of Records.*

Any records maintained by the Company in the regular course of its business, including its stock ledger, books of account and minute books, may be kept on, or by means of, or be in the form of, any information storage device or method, provided that the records so kept can be converted into clearly legible paper form within a reasonable time. Upon the request of any person entitled to inspect records, the Company shall so convert such records.

6.8 *Offices.*

The Company shall maintain a registered office inside the State of Delaware and may also have other offices outside or inside the State of Delaware. The books of the Company may be kept outside or inside the State of Delaware.

6.9 *Amendment of Bylaws.*

Unless otherwise provided in the certificate of incorporation or these bylaws, the board of directors shall have power to adopt, amend, or repeal the bylaws at any regular or special meeting of the board. The shareholders shall also have power to adopt, amend, or repeal the bylaws at any annual or special meeting, subject to compliance with Article Sixth of the certificate of incorporation and the notice provisions provided in section 1.11 of these bylaws.

6.10 *Uncertificated Shares*

Notwithstanding any other provision in these bylaws, the Company may adopt a system of issuance, recordation and transfer of its shares by electronic or other means not involving any issuance of certificates, including provisions for notice to purchasers in substitution for any required statements on certificates that may be required by applicable corporate securities laws.